

LEGISLATIVE DIGEST

[Administrative Code - Local Hire and Prevailing Wages for Construction Projects on City-Owned Property and Prevailing Wages Pursuant to California Law]

Ordinance amending the Administrative Code to provide that the City's Local Hiring Policy apply to construction projects on property owned by the City and payment of Prevailing Wages pursuant to California law.

Existing Law

Local Hire

The San Francisco Local Hire Policy for Construction ("Policy") was approved on December 23, 2010. The Policy requires that each City public works contract in excess of the Threshold Amount (currently \$400,000) issued by the City includes the requirement that the contractor hire local residents at a specific percentage of each trade (currently 30%) to the exclusion of other California residents. The Policy does not affect the ability of a contractor to hire non-California residents, even if the contractor ends up with a workforce consisting entirely of out-of-state workers.

Prevailing Wages

The San Francisco Prevailing Wage law requires that each public works contract issued by the City requires all contractors and subcontractors performing a public work or improvement for the City to pay its workers on the prevailing rate of wages. The San Francisco Prevailing Wage law applies to public works projects, as defined by our Administrative Code, trade work performed at any stage of construction (including preconstruction work), to construction paid for by the City with "the equivalent of money," and to certain projects on private property where the City leases the property with the intent to use the property for City purposes.

Amendments to Current Law

Local Hire

As to Local Hire, the amendment would expand the class of construction projects ("Covered Projects") beyond those included in the current Policy (which is limited to construction contracts entered into by the City that are larger than the Threshold Amount). The definition of Covered Project would be expanded to include all construction projects on property owned by the City that are larger than the Threshold Amount, including construction contracts that are issued by an entity or individual other than the City.

AMENDED IN COMMITTEE

5/21/14

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All grants, agreements, leases, development agreements and other contracts entered into by the City that allow for construction projects that cost in excess of the Threshold Amount (currently \$400,000) on property owned by the City would be required to contain a provision that such construction comply with the Policy, and hire the specified percentage of local residents.

The amendment would apply only to construction projects to be done under new grants, agreements, leases, development deals and other contracts. It would not apply to existing grants, agreements, leases, development deals and other contracts, unless those agreements are amended on or after the amendment becomes operative. Accordingly, construction that takes place in the future under existing grants, agreements, leases, development deals and other contracts would not be required to comply with the Policy.

The following types of projects would be exempted from the expanded class of construction projects following under the Policy: (1) tenant improvement projects estimated to cost less than \$750,000 per building permit, where the project is undertaken and contracted for by the tenant; (2) projects for special events where the special event is three or fewer consecutive or non-consecutive days within a two (2) week period; and (3) construction projects for which the construction work is fully funded and performed by a donor or donor's agent as a gift-in-place donation, where the gift agreement does not require City funds to be used for the construction and where the gift agreement includes a requirement that workers be paid the same prevailing rate of wages as would be required a public work project

Prevailing Wages

As to Prevailing Wages, the amendment would expand the requirement for payment of prevailing wages to include all projects for which prevailing wages are required to be paid on "public works" pursuant to California Labor Code section 1782. The amendment would be operative when compliance is required under California Labor Code section 1782.

Background Information

This legislative digest reflects amendments adopted by the Budget and Finance Committee on April 16, 2014 and May 21, 2014.

The Local Policy currently applies only to contracts that are issued by the City. As to those contracts, The San Francisco Local Hiring Policy for Construction 2012-2013 Annual Report shows that the Policy has proven to be a highly effective tool in guaranteeing good-paying jobs for Local Residents on Covered Projects, which includes public works construction projects completed under city contracts.

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The 2012-2013 Report is evidence that a true partnership between the City, CityBuild and its community-based partners, contractors, labor organizations, and state-certified apprenticeship programs has increased local hiring on projects covered by the Policy by an average of 35% as of 2013. This compares to an average of 20% under the "good faith efforts" policy it replaced.

The City has a proprietary interest in the construction contracts it issues, and also has a proprietary interest in the leases and development agreements that it enters that all allow for construction on city-owned property.

The amendment would expand the category of construction projects, that cost in excess of the Threshold Amount, to include the construction that takes place on city-owned property where the City authorizes that construction under a grant agreement, lease, development agreement, or other contract.

Expanding the Policy to include construction projects on city-owned property promotes an equitable share of job opportunities for San Francisco residents to pursue a career in construction; and provides the opportunity for the use state-certified apprenticeship that expands the local construction workforce pipeline to support the continued success of local hiring on public works projects.

The exemptions for specified tenant improvement projects, certain special events, and qualifying gift-in-place donations were added following a meeting of the Mayor's Construction Task Force Advisory Committee which recommended the exemptions in consultation with City Departments. The exemption for qualifying projects that have a term sheet approved by the Board of Supervisors by the effective date of the ordinance, and enter into a binding enforceable agreement to abide by the Policy at 30% participation level, and the addition of authority of OEWD to issue regulations and provide off-ramps in certain instances to projects where the construction contract is issued by a person or entity other than the City, was added to address additional concerns raised following the Mayor's Task Force Advisory Committee meeting.

The changes to prevailing wages is intended to bring the City in compliance with Senate Bill 7 which requires that all Charter Cities meet or exceed the prevailing wage requirements of the California Labor Code to be eligible to apply for or spend state money on construction projects. San Francisco prevailing wage regime is largely aligned to California law, but this bill would close the gap by adding the requirement that in addition to any public work project for which prevailing wage is currently required under San Francisco law, prevailing wages would be required for a public work as defined by California law as well. SB7 enacted California Labor Code section 1782, which requires compliance by January 1, 2015. This portion of the amendment would become operative when the compliance period begins for section 1782.

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This updated legislative digest includes changes made at the April 16, 2014 and May 21, 2014 Budget & Finance Committee hearings, to include the above-mentioned exemptions from the Local Hire Policy, and to amend the prevailing wage provisions from those projects on City land to compliance with California Labor Code section 1782.