

ORDINANCE NO.

AN ORDINANCE ADDING CHAPTER 42, ARTICLE I TO THE MOUNTAIN VIEW CITY CODE TO REQUIRE PAYMENT OF PREVAILING WAGES FOR LOCALLY FUNDED PUBLIC WORKS PROJECTS

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 42, Article II of the Mountain View City Code is hereby added to read as follows:

**“ARTICLE I.
PREVAILING WAGES REQUIRED IN COMPLIANCE WITH SB 7**

SEC. 42.1. Purpose and findings.

The state prevailing wage law requires contractors on public works projects to be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed. Under California Constitution, Article XI, Section 5, the laws of charter cities supersede state law with respect to municipal affairs of the city. The City of Mountain View is a charter city duly organized and validly existing under the laws of the State of California, and thus the city may exempt itself from prevailing wage requirements.

California Senate Bill No. 7 (“SB 7”), approved October 13, 2013, provides that the state has limited financial resources and resolves only to extend financial assistance to construction projects of those charter cities that require compliance with the prevailing wage law on all their municipal construction projects. Effective January 1, 2015, unless the contract was advertised for bid prior to that date, charter cities are additionally disqualified under SB 7 if the city has awarded, within the prior two (2) years, a public works contract without requiring the contractor to comply with prevailing wage requirements. Charter cities that have charter provisions exempting city projects from prevailing wage requirements may adopt a local prevailing wage ordinance with requirements equal to or greater than state prevailing wage law in order to avoid disqualification.

The city council in 2000 approved a policy directing staff to require prevailing wages to be paid on all capital improvement projects in the city. The city council reaffirmed the policy in 2005. Compliance with SB 7, however, requires the adoption of an ordinance and the payment of prevailing wages beyond capital improvement

projects to include maintenance and repair work. Notwithstanding the city's constitutional right to exempt locally funded projects from prevailing wage, the city finds its financial interests are best served by complying with California's prevailing wage law as delineated in California SB 7.

SEC. 42.2. Compliance.

The city will comply with California's prevailing wage law to continue to receive state funding for construction projects pursuant to SB 7.

SEC. 42.3. Prevailing wage requirements.

The city hereby requires prevailing wages to be paid on all public works contracts awarded by the city within the meaning of SB 7. Public works contracts do not include contracts for projects of twenty-five thousand dollars (\$25,000) or less when the project is for construction work, or projects of fifteen thousand dollars (\$15,000) or less when the project is for alteration, demolition, repair or maintenance work.

SEC. 42.4. State funding.

The provisions of this ordinance do not restrict the city from receiving or using state funding or financial assistance awarded prior to January 1, 2015, or from receiving or using state funding or financial assistance to complete a contract awarded prior to January 1, 2015. Further, this ordinance does not disqualify or amend any contracts awarded prior to January 1, 2015.

SEC. 42.5. SB 7 status.

If SB 7 is, for any reason, held to be invalid or inapplicable to charter cities by any court of competent jurisdiction or is otherwise repealed, this ordinance shall automatically sunset and be of no further effect immediately thereafter."

Section 2. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The city council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 3. Effective Date. The provisions of this ordinance shall be effective on December 31, 2014.

Section 4. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5. Publication. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the city and that a single publication be made to the official newspaper of the city of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

KC/3/ORD
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