



DATE: October 8, 2013

CATEGORY: Unfinished Business

DEPT.: Community Development

TITLE: **Prevailing Wage for Affordable Housing Developments**

RECOMMENDATION

1. Discuss and provide direction on whether or not to adopt State prevailing wage standards on all future affordable housing development projects funded by the City of Mountain View.
2. Direct staff to work with the Planning Division to amend Section 36.90(c)(4) of the City Code to require the State prevailing wage for projects using Housing Impact Fees.

BACKGROUND

The subject of requiring prevailing wages on affordable housing construction subsidized by the City of Mountain View has been raised by the City Council on several occasions. In May 2013, the City Council requested staff bring back more information on the subject at a future meeting. Staff has attempted to do that in this report and the Council is asked to provide direction on whether to require prevailing wages for construction workers on City-funded affordable housing projects.

Mountain View is a charter city and is not required to pay prevailing wages on City-funded projects at this time. As a policy, the City has voted to require prevailing wages on all public works projects. Currently, the City of Mountain View only requires the Federal prevailing wage on affordable housing projects if Federal funding, such as Community Development Block Grant (CDBG) or HOME, or if Housing Impact Fees are used to finance the development. In the case of the Housing Impact Fees collected on nonresidential developments, staff believes it makes more sense to require the State prevailing wage if Federal funding is not invested in the development. State wages are equivalent or higher and less burdensome than the Federal prevailing wage. Staff recommends this change and will work with the Planning Division to draft amendments to Section 36.90(c)(4) of the City Code to implement this change if Council

concur. The City Council will have an opportunity to review this change when the comprehensive City Code changes are brought to the City Council later this year. To date, no projects have been funded with the Housing Impact Fees.

The State of California and general law cities in California are required to pay prevailing wages on public works projects. Charter cities, such as the City of Mountain View, are currently exempt from paying prevailing wages on public works projects unless the charter city has self-imposed the requirement. Of the 15 Santa Clara County cities, 6 are charter cities qualifying for the prevailing wage exemption. Of these 6 cities, only the City of San Jose requires that a prevailing wage be paid on all City jobs regardless of funding source. The remaining 5 charter cities only require the prevailing wage be paid on public works projects or any project receiving Federal or State funding. The City of Mountain View has adopted a policy requiring State prevailing wages be paid on all "public works" projects as defined by the State Labor Code.

Whether affordable housing is subject to prevailing wage depends on the funding sources and local requirements. If the development were to receive State tax credits, it would be exempt from prevailing wages based on a California First District Court of Appeals ruling published in April 2008. The ruling was based on the fact that the tax credits do not have a tangible value at the time they are transferred from the State to the affordable developer and, therefore, do not constitute a transfer of State resources. However, if a local jurisdiction were to impose a prevailing wage requirement, the developer would be subject to paying the prevailing wage. If Federal resources, such as Community Development Block Grant (CDBG) or HOME funds, are allocated to an affordable development, then the Davis-Bacon Federal prevailing wage would apply instead.

ANALYSIS

In government contracting, a prevailing wage is defined as the hourly wage, usual benefits, and overtime, paid to the majority of workers, laborers, and mechanics within a particular area. Prevailing wages are established by a regulatory agency for each trade and occupation employed in the performance of "public work." Public works projects are defined as any project that is funded with public funds. The original intent of prevailing wage laws was to prevent public construction projects from undermining a local construction industry.

As background, the State Department of Industrial Relations establishes the prevailing wage rate by looking at large labor markets, such as the San Francisco and Los Angeles areas. The prevailing wage for a particular trade or craft tends to be toward the higher end of the scale in the most expensive labor markets, like the Bay Area. Frequently,

residential developments are subject to the higher commercial prevailing wage rate if the development is four stories or higher due to State law.

There have been a variety of studies conducted by advocacy groups for and against prevailing wage requirements. A sampling of studies are cited below.¹ These studies provide a wide range of estimates on the impact on construction costs of prevailing wage—from 3 percent to an average increase of 21 percent. Because staff is not an authority on the subject of prevailing wage and studies vary, to get a better understanding of the impact, staff contacted BRIDGE Housing, a major nonprofit developer constructing affordable housing throughout California. BRIDGE Housing's Vice President, Tom Earley, stated that the cost increase due to prevailing wage averages about 10 percent. His figure is based on actual projects and direct experience and not from estimates or studies. This is consistent with ROEM's estimate for the Franklin Street Family Apartments, shown in the table below, which compares the prevailing and nonprevailing wage budgets for the recently constructed Franklin Street Family Apartments. In this case, a prevailing wage increased the project cost by 10 percent.

¹ Magalia, Noshing, *Prevailing Wages and Government Contracting Costs: A Review of the Research*, Economic Policy Institute, 2008—Shows that prevailing wage regulations have no effect on the cost of government-contracted public works projects.

The Fiscal Policy Institute, *The Economic Development Benefits of Prevailing Wage*, May, 2006—Shows that prevailing wage in construction means more cost-effective construction and better-paid workers.

Citizens Housing and Planning Council, *Prevailing Wisdom, the Potential Impact of Prevailing Wages on Affordable Housing*, December 2008—Shows imposing prevailing wages on the affordable housing industry reduces the affordability of subsidized housing.

Cornell University ILR School, *The Effects of Prevailing Wage Requirements on the Cost of Low-Income Housing*, October 2005—Shows prevailing wages increase costs in affordable housing developments by an average of 21 percent.

ROEM FRANKLIN STREET FAMILY APARTMENTS COMPARISON

	Nonprevailing Wage	Prevailing Wage
Investor Capital (tax credit proceeds)	\$10,684,249	\$11,814,267
Conventional Loan	2,759,895	2,758,569
City Loan	8,172,000	9,222,000
Accrued Interest on City Loan	652,289	724,932
Lease-Up Income	137,712	137,645
Deferred Developer Fee	<u>601,693</u>	<u>601,824</u>
	<u>\$23,007,838</u>	<u>\$25,259,237</u>

If the City Council chooses to adopt a prevailing wage policy requiring the payment of the State prevailing wage for affordable housing developments, the developer and general contractor would be responsible for implementing the requirement when they issue bid requests for the development. The City would be responsible for monitoring and making sure the correct bidding procedures have been implemented and that the prevailing wage has been paid.

Ultimately, whether or not to pay prevailing wage is a policy issue and value judgment. It could be argued that paying a higher wage to construction workers gives them wages that are more likely to enable them to afford housing in the area. On the other hand, not paying prevailing wage would allow the City to fund additional affordable units in Mountain View.

FISCAL IMPACT

Adoption of a prevailing wage for all affordable housing projects would not impact the City's General Fund. A portion of the increase in construction costs would be paid for with the City's affordable housing funds. How much depends on the project size and funding proportions. As shown with the Franklin Street Family Apartments example above, this could add \$1.05 million in City subsidy to a project for 51 units (about \$21,000 per unit). In addition to the increase in the City subsidy, the City might need to hire a labor compliance firm to conduct on-site monitoring ensuring compliance with prevailing wage laws. The increased per-development cost will eventually result in fewer units and/or projects being funded.

ALTERNATIVES

1. Adopt the attached resolution requiring prevailing wage for all future affordable housing projects receiving City funds.
2. Take no action on prevailing wages for affordable housing developments.
3. Require prevailing wage only in certain circumstances (projects over/under a specified cost or unit count).
4. Provide other direction to staff.

PUBLIC NOTICING

The meeting agenda and Council report have been posted on the City's website and announced on Channel 26 cable television. Interested parties have also been sent a copy of the agenda and staff report.

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VG/7/CAM
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- Attachments:
1. Resolution
 2. [May 7, 2013 Staff Report on Prevailing Wages for Public Works Projects](#)

CITY OF MOUNTAIN VIEW
RESOLUTION NO.
SERIES 2013

A RESOLUTION ADOPTING STATE OF CALIFORNIA PREVAILING WAGE
RATES FOR JOB CLASSIFICATIONS UTILIZED ON CONSTRUCTION
OF ALL AFFORDABLE HOUSING DEVELOPMENTS

WHEREAS, California adopted a prevailing wage law in 1931 to require contractors and subcontractors on public projects to pay construction workers wages at least equal to the wages prevailing in local labor markets; and

WHEREAS, the prevailing wage law serves important public purposes, including protecting workers from exploitation, allowing union contractors and nonunion contractors to bid for public work on a level playing field, protecting the wage base in local labor markets, providing opportunities for training skilled workers, attracting the most skilled workers to public projects, and avoiding the strain on public resources that occurs when workers are not provided health and pension benefits; and

WHEREAS, the City of Mountain View only requires the payment of a prevailing wage on affordable housing developments funded with housing impact fees or when required by outside funding source;

NOW, THEREFORE, BE IT RESOLVED that the City of Mountain View shall require the payment of State prevailing wages on all affordable housing developments funded by the City of Mountain View. Furthermore, the City shall pay Federal prevailing wages if required by other funding sources.

BE IT FURTHER RESOLVED that this Resolution shall be effective 60 days from adoption, on December 7, 2013.

VG/7/RESO
894-10-08-13Res-E