

# **University of Utah Study on Government-Mandated Construction Wage Rate (“Prevailing Wage”) Policies in Five California Cities: Not a Reliable Tool for Policymakers**



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## Executive Summary

Representatives of construction trade unions and other backers of state-mandated prevailing wage rates are circulating a University of Utah study throughout the country to support their claim that prevailing wage laws do not increase the cost of public works projects for taxpayers. Published in October 2012, this study was cited repeatedly by legislators and lobbyists during consideration in 2013 of California's Senate Bill 7, now enacted into law by Governor Jerry Brown. Senate Bill 7 cuts off state funding to construction projects in any charter city that deviates in any way from state prevailing wage and public works law.

Obviously the scholarly authorship of this study and its publication in an academic journal provides the study with credibility. But can policymakers depend on it to make decisions?

This report examines its data and its conclusions. It identifies at least 17 fundamental flaws that disqualify this study as a useful tool for policymakers.

1. The Study's Records of Palo Alto Construction Contracts Do Not Match City Records of Its Construction Contracts
2. The Study Inaccurately Describes How the State of California Determines Prevailing Wage Rates for Construction Trades
3. The Study Errs When It Claims the Five Cities Are in the Same County and Therefore Have the Same Prevailing Wage Rates
4. The Study Ignores Subcontracting and the Union or Non-Union Affiliation of Subcontractor Employees
5. The Study Does Not Clarify Definitions of "Union Contractor" or "Non-Union Contractor"
6. The Study Does Not Credibly Succeed in Isolating the Variable of Prevailing Wage Mandates from Other Influences in Bidding Choice
7. The Study Assumes that the City of Palo Alto Did Not Require Its Construction Contractors to Pay State-Mandated Construction Wage Rates on Eighteen Projects
8. Researchers Neglected to Confirm That Cities Actually Awarded the Contracts to Apparent Low Bidders
9. The Study Does Not Provide Sufficient Background about the Bidding Culture for Public Works Contracts in These Five Cities
10. The Study Seems to Assume That Engineers' Estimates Occur in a Vacuum
11. The Study Never Investigates Whether Non-Union Contractors Consider Presence or Absence of State-Mandated Construction Wage Rates Before Choosing to Bid or Not Bid on Projects

12. The Study Exaggerates in Describing the San Francisco Bay Area as a “Heavily Unionized Area” in Construction
13. The Study Incorrectly Portrays a Union-Affiliated Organization as a Government Enforcement Unit
14. The Study Gets Carried Away with Its Condemnation of Construction Contractors
15. The Author of the Study Is Biased, and So is the Academic Journal That Published It
16. The Study Is Ideologically Oriented Against the Constitutional Concept of Federalism
17. The Study Isn’t Relevant to the Debate: Who in California Ever Claimed that Charter Cities Establish Their Own Prevailing Wage Policies for the Purpose of Increasing Bidding from Non-Union Contractors?

Supporters of government-mandated prevailing wage policies tend to reduce the issue to simple concepts, without acknowledging the complicated realities of the issue. Authors of the University of Utah study tried to reduce the issue to a simple conclusion, without recognition of how the State of California determines prevailing wage rates in actual practice, without understanding the construction industry in the San Francisco Bay Area, and even without becoming familiar with the geography of the Peninsula between San Francisco and San José.

## **Background**

Mandates and restrictions imposed by the State of California often confound local governments seeking ways to provide public services at a reasonable cost to taxpayers. However, 121 California cities exercise their right under Article XI, Section 3 of the California Constitution to operate with a degree of “home rule” under the authority of their own city charters.

For example, charter cities have the flexibility to establish their own policies concerning construction wage rates for purely municipal projects and private projects that receive any assistance of financial value from the city. As of March 3, 2014, 70 California charter cities fully abided by state prevailing wage law, eight generally abided by state prevailing wage law but deviated from the law on some matters, and 43 did not impose any sort of wage rates for construction contractors.

One of those 43 cities is Palo Alto, where the city council established a policy in 1981 to allow its construction contractors to pay market wage rates when working on purely municipal projects. This policy is opposed by regional construction trade unions, which want all wages, fringe benefits, and other employee payments on public work projects to match amounts indicated in their Master Labor Agreements.

At a September 10, 2007 meeting of the Palo Alto City Council, representatives of the Santa Clara & San Benito Counties Building and Construction Trades Council objected to a staff recommendation to award a \$859,000 contract to a non-union construction company for a recycled water pump station upgrade at the Palo Alto Regional Water Quality Control Plant. Union officials asked the city council to rebid the project with a prevailing wage requirement.

After extensive discussion among city council members with multiple motions and three failed votes, the city council voted to delay a decision until the September 17, 2007 meeting.

A September 17, 2007 staff report to the Palo Alto City Council stated “When preparing the invitation for bids for the pump station upgrade project, staff did not require prevailing wage because the pump station project was being funded by local funds. The low bidder, Anderson Pacific, has voluntarily submitted a letter stating that it will be paying prevailing wage on this project and is willing to provide certified payroll.” Although union officials once again asked the city council to reject the bids and rebid the project with a prevailing wage requirement, the city council voted 9-0 to award the contract to the non-union company, under the condition that the company submit certified payroll records to the city to confirm it was paying prevailing wage rates to its employees.

For the next 2½ years, the Santa Clara & San Benito Counties Building and Construction Trades Council lobbied the city council to change their policy and require all city contractors to pay state-mandated prevailing wage rates set by the California Department of Industrial Relations.

At its December 9, 2008 meeting, the Palo Alto City Council’s four-member Policy and Services Committee considered such a proposal. A staff report presented a strong fiscal position against imposing prevailing wage mandates and recommended against it.

A University of Utah economics professor named Peter Philips then made a presentation on behalf of the Santa Clara & San Benito Counties Building and Construction Trades Council about state-mandated construction wage rates. Professor Philips, who is known nationally as a preeminent economist in support of prevailing wage laws, spoke for about ten minutes about how prevailing wage does not cut bid competition. It was a somewhat inexplicable argument, as no party involved with the Palo Alto prevailing wage debate ever claimed that a state-mandated prevailing wage would discourage any contractors from bidding on city work.

In the end, the Palo Alto City Council maintained its own city construction wage rate policy for municipal projects. Unions responded by widely circulating a working paper produced by Professor Philips about the relationship between prevailing wage mandates and bidding for San Francisco Bay Area cities. This paper was ultimately published in the October 2012 issue of *Industrial Relations: A Journal of Economy and Society* as [The Effect of Prevailing Wage Regulations on Contractor Bid Participation and Behavior: A Comparison of Palo Alto, California with Four Nearby Prevailing Wage Municipalities](#). It reaches this conclusion:

...the presence of prevailing wage regulations does not decrease the number of bidders nor alter the bidding behavior of contractors relative to the engineers estimate of the value of the project. Furthermore...the presence of prevailing wage regulations did not discourage the participation of nonunion contractors nor reduce their chances of winning work.

This issue is not what perplexes or concerns policymakers – cost implications are what makes prevailing wage mandates so controversial. Nevertheless, the University of Utah study has so many problems that even the conclusions it does make are not reliable.

## **1. The Study's Records of Palo Alto Construction Contracts Do Not Match City Records of Its Construction Contracts**

The University of Utah study states that "Data on contractor bids and engineers' estimates for the period April 2006 to December 2007 were gathered from city records for Palo Alto, San Jose, Sunnyvale, Mountain View, and San Carlos." Table 1 in the study shows Palo Alto with a minimum contract award of \$214,666 and a maximum contract award of \$15,950,279 during that 21-month period. Table 2 in the study indicates 18 identified projects in Palo Alto.

This does not agree with statistics obtained through a meticulous analysis of every Palo Alto City Council meeting agenda for the period April 2006 to December 2007. Meeting agendas show 41 contract awards, from a maximum of \$17,217,497 to a minimum of \$227,430. Even if the list is restricted to Capital Improvement Projects and does not include maintenance, there are still 37 identified projects. See Appendix A of this report.

What source did the University of Utah researchers use for its list of Palo Alto projects? What was its definition of contract and project? How were contract amounts identified? Would an analysis of contracts awarded at city council meetings in San Jose, Sunnyvale, Mountain View, and San Carlos also show discrepancies?

This discovery of fundamentally flawed data would alone be sufficient to reject the University of Utah study as unreliable and flawed. But it's just the first of many problems.

## **2. The Study Inaccurately Describes How the State of California Determines Prevailing Wage Rates for Construction Trades**

In its introduction, the University of Utah study claims that "mandated wages are by occupation and locality and are derived from employer surveys." This is not correct.

The California Department of Industrial Relations has not conducted a survey of contractors to determine prevailing wage rates at least since the administration of Governor Pete Wilson began in 1990. In recent years this agency has sought wage information from construction companies on a very few occasions, such as to identify which union Master Labor Agreement should be used as the basis to determine the state-mandated construction wage rate for installation of metal roofs or for truck driving for the purpose of off-site hauling to and from the job site.

In practice, the Department of Industrial Relations assumes that the wage rate in the applicable union Master Labor Agreement for a specific trade in a specific geographical region is always the "modal rate," or most commonly seen rate. Therefore, there is no need for a survey.

In fact, when the administration of Governor Pete Wilson planned in the mid-1990s to survey construction companies to try to determine if the rates in the union Master Labor Agreements were truly the prevailing wage rates, the California State Legislature approved an annual budget that specifically deprived the Department of Industrial Relations of funds to perform that survey.

The University of Utah study also claims that the mandated wage rates are based on locality. This is false, unless the State of California is a “locality” for some trades, including ironworkers. In practice, the Department of Industrial Relations adopts the geographical jurisdiction of the applicable union Master Labor Agreements for each trade as the market regions for wage rates.

Of course, finding this information and reporting it in a study requires an examination of the California Labor Code, the California Code of Regulations, and internal administrative procedures in the California Department of Industrial Relations. Few secondary sources accurately describe the process of calculating prevailing wage rates in California.

### **3. The Study Errs When It Claims the Five Cities Are in the Same County and Therefore Have the Same Prevailing Wage Rates**

San Carlos is in San Mateo County, while Palo Alto, Mountain View, Sunnyvale, and San José are in Santa Clara County. Just by checking the prevailing wage rates for one standard trade (Inside Wireman), one can see that the straight-time total hourly wage in San Mateo County is \$80.53 while the straight-time total hourly wage in Santa Clara County is \$76.94. Why the difference despite the close proximity of San Carlos to the other four cities?

Note that the State of California determines prevailing wage rates by obtaining the union Master Labor Agreements that apply to each trade in that geographic region. Rates are based on the sum total of the employer payments in these union agreements. Surveys of employers are NOT conducted.

San Mateo County falls under the collective bargaining agreement for the International Brotherhood of Electrical Workers (IBEW) Local Union No. 617. Santa Clara County falls under the collective bargaining agreement for the International Brotherhood of Electrical Workers (IBEW) Local Union No. 332. It doesn't matter that San Carlos and Palo Alto are only ten miles apart – the cities are located in different union jurisdictions, so their prevailing wage rates are different.

### **4. The Study Ignores Subcontracting and the Union or Non-Union Affiliation of Subcontractor Employees**

Winning bid amounts for 18 Palo Alto projects considered in the University of Utah study range from \$27,000 to \$15,950,279. The smaller projects are probably specialty contracts involving one or a few companies, while the larger contracts may require work from numerous trades as provided by numerous subcontractors.

Yet this study only accounts for the prime contractor. It does not consider that many of the work hours may have been performed by employees of subcontractors that may or may not have been represented by unions.

For example, a general contractor may self-perform carpentry and cement masonry work under union Master Labor Agreements but subcontract electrical work to a contractor whose employees are not represented by a union. Such a situation is common, but for purposes of this

study, the entire project would be inaccurately regarded as done by a “union contractor.”

For a more accurate study, the researchers should have obtained certified payroll records for each project and determined the percentage of union contracting based on hours worked by employees of each prime contractor and subcontractor. Using the identity of general contractors alone and giving a \$27,000 contractor a status equivalent to a \$16 million contractor is nonsensical.

## **5. The Study Does Not Clarify Definitions of “Union Contractor” or “Non-Union Contractor”**

How did the researchers identify a company as a “union contractor” for purposes of this study? Did they contact company offices and ask the receptionist if the company was signatory to union collective bargaining agreements? How did the researchers confirm the information was correct?

If the researchers obtained the information from unions, how did the researchers confirm the information was correct? And would this method of data collection compromise the neutrality of the study? (The Northern California Chapter of Associated Builders and Contractors – then known as the Golden Gate Chapter of Associated Builders and Contractors – reports that no researchers from the University of Utah contacted the organization to obtain information.)

How did researchers address situations in which a prime contractor (general contractor) was signatory to some union collective bargaining agreements for some self-performed trades but non-union for others?

Were there any prime contractors that did not self-perform any trade work? If so, how were they identified for purposes of this study?

## **6. The Study Does Not Credibly Succeed in Isolating the Variable of Prevailing Wage Mandates from Other Influences in Bidding Choice**

It shouldn't be a surprise that the study found no statistically significant relationships between the presence or absence of state-mandated construction wage rates and bidding practices. No one familiar with the San Francisco Bay Area construction industry ever claimed there would be.

The study does not adequately take into account the likelihood that many other variables besides prevailing wage mandates will influence the decision of a contractor to bid on a particular project or type of project for a particular city. For example, contractors tend to have certain niches of particular success and tend to consider certain local governments as desirable clients. A successful past project completed by a contractor for a specific city bodes well for that contractor to have future successful projects for a specific city. For example, the study indicates that six contractors bid nine times on five projects in Palo Alto but never bid for contracts in the other four cities.

Are the Palo Alto projects truly comparable to projects in the other four cities? As acknowledged in Table 1 and Table 3 of the University of Utah study, the 140 projects considered in the five cities can be classified under nine different types of construction at costs ranging from \$27,000 to \$16 million. Mountain View had 16 contracts related to building structures, but Palo Alto had none.

What DOES the study show? As the University of Utah study points out, Table 10 reveals a pattern: as projects are higher in cost, contractor bids are closer to the engineer's estimate. Also, based on Tables 1-4, another correlation stands out: smaller project size seems to increase the successful low bid rate of non-union contractors. These are interesting observations regarding bidding for public works construction contracts, but nothing is learned about prevailing wage impact.

## **7. The Study Assumes that the City of Palo Alto Did Not Require Its Construction Contractors to Pay State-Mandated Construction Wage Rates on Eighteen Projects**

On December 14, 1981, the City Council exercised its charter city authority when it voted 8-0 for Resolution No. 5981, which states that "it is appropriate to use the Davis-Bacon Act or State Department of Industrial Relations Wage Determinations only when required by federal or state grants and on other jobs considered to be of statewide concern."

Any projects for which the City of Palo Alto accepted contractor bids that included any state government or federal government funding would not be municipal projects. When state or federal funding is involved in a city project, the city must issue bid specifications that include a requirement for the contractor to pay the state-mandated construction wage rates or federally-mandated construction wage rates under the Davis-Bacon Act.

It's possible that bid specifications for some of the 18 projects in Palo Alto included a requirement for the contractors to pay state-mandated construction wage rates. In fact, Appendix A of this report identifies 6 out of 41 Palo Alto projects that should have been subjected to State of California prevailing wage mandates or federal Davis-Bacon prevailing wage mandates because of funding from government entities outside of the city. Did researchers examine the bid specifications of Palo Alto projects to confirm that all 18 City of Palo Alto projects considered in the study did not require contractors to pay prevailing wage rates? The reader would not know.

## **8. Researchers Neglected to Confirm That Cities Actually Awarded the Contracts to Apparent Low Bidders**

The study assumes (in footnote 9) that the cities awarded contracts to the contractors that submitted the lowest bid, because this "typically" happens. Apparently there was no effort to ascertain if that assumption was true for the projects in this study. Some additional research would have eliminated any low bids that were deemed to be unresponsive.



## **9. The Study Does Not Provide Sufficient Background about the Bidding Culture for Public Works Contracts in These Five Cities**

The study does not indicate if the “union contractors” for these projects were comprised of numerous companies or limited to a few companies that tended to bid on all work of a certain type in this region of the San Francisco Bay Area. The study does state that 221 contractors submitted a total of 567 bids (misstated once in the study as 565) for 140 (misstated once in the study as 141) contracts (referred to in the study as “projects”).

It’s possible that a handful of union contractors that dominate the local construction market simply bid on almost all of the projects of one type or almost all of the projects of one city. As the study states, “there are several bidders who bid multiple times on various projects.” And six contractors bid nine times on five projects in Palo Alto but never bid for contracts in the other four cities. Such a situation would seem to make the study virtually useless in making any sort of conclusion about how prevailing wages affect bid competition.

## **10. The Study Seems to Assume That Engineers’ Estimates Occur in a Vacuum**

To make engineer’s estimates meaningful for this study, the researchers apparently assumed that the estimates for Palo Alto municipal projects would not incorporate the knowledge that some prime contractors and subcontractors might pay wage rates lower than the state-mandated construction wage rate. An inquiry to the Palo Alto city staff might have clarified matters.

## **11. The Study Never Investigates Whether Non-Union Contractors Consider Presence or Absence of State-Mandated Construction Wage Rates Before Choosing to Bid or Not Bid on Projects**

Informal discussions with non-union contractors that regularly perform public works construction in the San Francisco Bay Area suggest that these contractors don’t alter bidding choices based on whether or not a city is requiring construction contractors to pay state-mandated construction wage rates to trade workers. These contractors simply incorporate the costs of prevailing wage rates into higher bids, and as a result project costs are higher for cities and their taxpayers. In the case of Anderson Pacific, the contractor based in Santa Clara challenged by unions as the low bidder for a Palo Alto project, the company will bid on projects with and without prevailing wage requirements and pay trade workers the equivalent of prevailing wage as a choice of the company.

However, non-union contractors recognize that prevailing wage rates set by the State of California are artificial and often inflated above the actual market wage rates. They also recognize that when construction projects cost more because of prevailing wage, less work overall is available. “Four schools for the price of five” is a common axiom.

## 12. The Study Exaggerates in Describing the San Francisco Bay Area as a “Heavily Unionized Area” in Construction

While this study describes the San Francisco Bay Area as a “heavily unionized area” with “a high construction unionization rate,” another description in the study as “an area of relatively high union density” is more accurate. The San Francisco-Oakland-San Jose metropolitan area is certainly the most unionized region of California for the construction industry and maintains a high rank for construction industry unionization in the United States. But the percentage of construction workers belonging to a union or represented by a union has dropped dramatically in the region since the 1970s, and now about four-fifths of construction workers in the region are not unionized.

### San Francisco-Oakland-San Jose Metropolitan Area

Year	# of Workers	Union Members	Percentage that are Union Members	Covered by Union Agreement	Percentage Covered by Union Agreement
1986	139,884	72,416	51.8	72,416	51.8
2000	155,118	53,839	34.7	53,839	34.7
2006	205,208	55,579	27.1	55,579	27.1
2007	236,372	51,243	21.7	52,288	22.1
2008	229,711	70,441	30.7	70,441	30.7
2009	158,908	31,685	19.9	32,724	20.6
2010	167,332	19,623	11.7	21,776	13.0
2011	153,608	33,095	21.5	37,044	24.1
2012	179,883	31,373	17.4	32,390	18.0
2013	181,021	40,220	22.2	41,205	22.8

*Source: Union Membership and Coverage Database, available at [www.unionstats.com](http://www.unionstats.com). This is an Internet data resource providing private and public sector labor union membership, coverage, and density estimates compiled from the Current Population Survey (CPS), a monthly household survey, using U.S. Bureau of Labor Statistics methods.*

## 13. The Study Incorrectly Portrays a Union-Affiliated Organization as a Government Enforcement Unit

Perhaps showing bias toward union interests, the study depicts the Foundation for Fair Contracting as a singular quasi-official center for labor standards enforcement. Actually, the Foundation for Fair Contracting is a labor-management cooperation committee funded by employer payments as indicated in union Master Labor Agreements for Laborers and Operating Engineers. This is one of dozens of private organizations – many of them union-affiliated – that monitor and ensure labor law compliance in California.

The clearinghouse for redress for wage violations is the California Division of Labor Standards Enforcement, directed by the California Labor Commissioner.

## 14. The Study Gets Carried Away with Its Condemnation of Construction Contractors

Without any sort of citation, the study claims that “Cheating on prevailing wage rates is not uncommon.” Did the authors attempt to quantify the extent of “cheating?” A more appropriate statement would be “The California Division of Labor Standards Enforcement maintains a list of contractors prohibited from bidding on public works construction projects because of serious violations of law. More frequently, contractors are entangled in the ambiguities and complications of a law that even courts declare to be poorly drafted.”

In fact, one could argue that contractor “cheating” on prevailing wage rates and the unfunded state mandates on local governments to monitor and enforce such laws would discontinue if the government did not impose prevailing wage rates in the first place. By establishing their own policies concerning government-mandated construction wage rates, charter cities can eliminate unnecessary monitoring and enforcement expenses. It’s one less crime to prosecute.

## 15. The Author of the Study Has a Clear Ideological Bias, as Does the Academic Journal That Published It

Peter Philips is a Professor of Economics at the University of Utah. [He specializes in research on construction labor issues](#), with particular attention to California. For example, his study [The Economic and Environmental Impact of the California Environmental Quality Act](#) was unveiled on March 12, 2013 in conjunction with a press conference organized by a broad coalition that opposes changes to the California Environmental Quality Act (CEQA). It was funded by the union-affiliated California Construction Industry Labor-Management Cooperation Trust. Study results were summarized at the press conference by Bob Balgenorth, chairman of the California Construction Industry Labor-Management Cooperation Trust and the former head of the [State Building and Construction Trades Council of California](#).

The study analyzed in this paper, [The Effect of Prevailing Wage Regulations on Contractor Bid Participation and Behavior: A Comparison of Palo Alto, California with Four Nearby Prevailing Wage Municipalities](#), was published in the October 2012 edition of [Industrial Relations: A Journal of Economy and Society](#). This journal is published by the [Institute for Research on Labor and Employment at the University of California](#), an affiliate of the [University of California Miguel Contreras Labor Program](#). It is hosted on the web site of the union-backed [California Construction Academy](#), a project of the [UCLA Labor Center](#) established within the [Institute for Research on Labor and Employment](#), which is an affiliate of the [University of California Miguel Contreras Labor Program](#).

As shown in his *curriculum vitae*, Professor Philips was the keynote speaker at the California International Brotherhood of Electrical Workers (IBEW) conference in 2012. He has spoken repeatedly at conferences about union Project Labor Agreements, including the State Building and Construction Trades Council of California annual conference in 2008.

While this background doesn’t necessarily mean that Professor Philips will have inaccuracies in his research and reports, one should be aware that he holds certain presuppositions and biases about economics and labor relations that may be reflected in his work, including this study.

## **16. The Study Is Ideologically Oriented Against the Constitutional Concept of Federalism**

The introduction to the University of Utah study claims that “certain municipalities may opt out of the state’s prevailing wage regulation if they so choose.” This incorrectly assumes the primacy of the centralized state government in the relationship between state and local authorities.

Actually, voters in 121 California cities have exercised the right in Article XI, Section 3 of the California Constitution to operate under a local home-rule charter (essentially a local constitution) that gives the city control over its municipal affairs. Cities with charters don’t opt-out of state laws; they establish their own policies concerning municipal affairs, including government-mandated wage rates on purely municipal projects. In fact, some cities maintain a government-mandated wage rate policy for municipal projects but implement some provisions that differ from state laws. The study misinterprets and oversimplifies charter authority when it states that “some charter cities, such as Eureka, choose to continue to enforce the state prevailing wage law while others such as Vista exempt municipal construction from prevailing wage requirements.”

It’s telling that the study chooses to cite the opening brief from construction unions in *State Building and Construction Trades Council of California v. City of Vista* as its source for describing the nature of charter city authority under the California Constitution. The State Building and Construction Trades Council of California has continually disparaged the concept of home rule based on charters, as shown through legislation such as Senate Bill 922 (2011), Senate Bill 829 (2012), and Senate Bill 7 (2013); through litigation such as *State Building and Construction Trades Council of California v. City of Vista* (2012) and *City of Long Beach v. Department of Industrial Relations* (2004); and through election-related mail pieces to citizens in Rancho Palos Verdes (2011), Auburn (2012), Grover Beach (2012), and Costa Mesa (2012).

## **17. The Study Isn’t Relevant to the Debate: Who in California Ever Claimed that Charter Cities Establish Their Own Prevailing Wage Policies for the Purpose of Increasing Bidding from Non-Union Contractors?**

Charter cities that establish or seek to establish their own prevailing wage policies do not mention the issue of bid competition in their arguments. Instead, charter cities notice that the State of California is bound to laws that calculate prevailing wage rates inaccurately and define public works inappropriately. Under a charter, a city can establish a policy concerning government-mandated construction wage rates that reflects a more accurate calculation of prevailing wages and a more reasonable definition of public works.

Did the authors of the University of Utah study deliberately intend to insert a red herring into the debate over government-mandated prevailing wage rates? A noteworthy omission from the study is any reference to the leading authoritative source for California charter cities and their prevailing wage policies: [Are Charter Cities Taking Advantage of State-Mandated Construction Wage Rate \(“Prevailing Wage”\) Exemptions?](#)

First published in July 2009 and now in its fourth edition, this guide never mentions how state-mandated construction wage rates might change the number of bidders. Issues highlighted in *Are Charter Cities Taking Advantage...* include the following:

- The accuracy of prevailing wage rates set for a market region.
- The method used by the state to calculate prevailing wages.
- The inclusion of employer payments not related to direct employee compensation within the calculation of prevailing wage rates.
- A definition of public works that encompasses privately-owned and privately-constructed projects and therefore imposes costly government restraints on proposed projects.
- Administrative costs for cities and legal ambiguities that provoke disputes and litigation.
- Two recent California court decisions stating that “As statutes go, Section 1720 is hardly a triumph of the drafter’s art.”

Likewise, the July 6, 2012 article [Memo to All Fiscally Responsible City Council Members in California: Background on Charter Cities Establishing Their Own Policies for Government-Mandated Wage Rates for Municipal Construction Contractors](#) does not mention bid competition as a consideration for charter cities to establish their own prevailing wage rates.

To justify its investigation into the claim that prevailing wage mandates reduce competition from non-union contractors, the University of Utah study cites a 2008 newspaper article from rural Pennsylvania, a 2008 newspaper article from Dayton, Ohio, and a 2001 survey of public works directors at local governments in Kentucky. It does not cite any claims from the San Francisco Bay Area in 2007-2012 that state-mandated construction wage rates reduce bid competition because no such claims were made. Controversy over prevailing wage law primarily focuses on cost.

Why didn't researchers for this study ask city public works staff in the San Francisco Bay Area to assess the impact of prevailing wages on bidding? Is it because local government public works departments know from experience that state-mandated prevailing wage rates increase the cost of projects?

It's possible that the (anonymous) funders and the researchers for the University of Utah study have confused arguments in California against state-mandated construction wage rates with arguments in California against government-mandated Project Labor Agreements, which discourage bid competition from non-union contractors.

## Appendix A

### 41 Construction Contracts Awarded by City of Palo Alto: April 2006 to December 2007

Winning Bid Amount	Bid Award Date	Bid Name / Number	Project	Information Suggesting a Prevailing Wage Mandate
\$17,217,497	June 18, 2007	<b>Capital Improvement Program</b> Project #WQ-04010	First Amended and Restated Contract between the City of Palo Alto and the City of Mountain View, Replace Existing Reclaimed Water Pipe	Joint project Palo Alto & Mountain View; SWRCB grant & loan for design & construction
\$6,854,652	June 5, 2006	<b>Capital Improvement Program</b> Project 18 - Utilities Enterprise Fund Contract – #WC-03003 & #WC-05003	Wastewater Collection System Rehabilitation and Augmentation: replace & rehabilitate sewer mains, manholes, and sewer service laterals	
\$3,835,354	July 23, 2007	<b>Capital Improvement Program</b> Project 16 - Utilities Enterprise Fund Contract – #GS-06001	Gas Main Replacement 16	
\$3,746,646	August 7, 2006	<b>Capital Improvement Program</b> Project #PE-86070	2006 Street Maintenance Program Phase 2 - resurfacing and reconstruction	Includes Surface Transportation Program funding \$788,000 for some work in Phase II
\$3,186,735	July 9, 2007	<b>Capital Improvement Program</b> Project #PE-86070	Phase 2 of the 2007 Street Maintenance Program	California Integrated Waste Management Board grant; Surface Transportation Program grant \$557,000
\$2,648,461	December 18, 2006	<b>Capital Improvement Program</b> Project #PE-05001	Installation of Photovoltaic (Solar) Panels, Trackers and Carports at the Baylands Interpretive Center, Municipal Service Center, and Cubberley Community Center as Part of a Photovoltaic Demonstration Project	US Department of Energy grant of \$1.4 million from Clean Renewable Energy Bonds
\$2,462,081	March 5, 2007	<b>Capital Improvement Program</b> Project – Utilities Enterprise Fund Contract – #EL-03001	Underground District No. 41 - Installation of the Utility Trench and Substructure - Joint Participation of City (\$1,451,256), AT&T (\$462,023) and Comcast (\$548,802) in cost-sharing agreement	

\$2,023,761	February 5, 2007	<b>Capital Improvement Program</b> Project 20 - Utilities Enterprise Fund Contract – #WS-06002	Water Main Replacement Project 20	
\$1,771,481	July 10, 2006	<b>Capital Improvement Program</b> Project 15 #GS-05002	Gas Main Replacement 15	
\$1,584,590	September 18, 2006	<b>Capital Improvement Program</b> Project #EL-05003	Quarry Substation Expansion/Modification by Relocating Alma Substation 22/23 Switchgear Lineup	
\$1,290,000	September 11, 2006	<b>Capital Improvement Program</b> Project #EL- 98003 & #EL-89028 and Distribution Operation and Maintenance Budget	2006–2007 Utility Trench and Substructure Installation	
\$1,278,744	September 11, 2006	<b>Capital Improvement Program</b> Project #VR-01001	Construction of the Municipal Service Center Fuel Storage Tanks and Fuel Storage Island Replacement – install underground fuel tanks, dispensing equipment, piping, electrical systems, leak detection	\$300,000 grant from Santa Clara Valley Transportation Authority
\$1,000,000	September 11, 2006	<b>Capital Improvement Program</b> Project – Utilities Enterprise Fund Contract – #EL-98003 and Distribution Operation and Maintenance Budget	2006-2007 Overhead Construction Services – outsourcing because of lack of staff	
\$989,564	May 15, 2006	<b>Capital Improvement Program</b> Project #PE-86070	2006 Street Maintenance Program Phase 1 #IFB-116005	\$229,725 Grant Funding from the State Bicycle Transportation Account Program – for construction of bike lanes on Hanover Street and Porter Avenue
\$957,306	July 24, 2006	<b>Capital Improvement Program</b> Project #PF-04010	Cubberley Theater and Pavilion -Mechanical and Electrical Upgrades	
\$944,800	August 6, 2007	Wastewater Collection <b>Capital Improvement Program</b> Project – Utilities Enterprise Fund Contract – #WC-06003	Project 19A Sanitary Sewer Rehabilitation – College Terrace Area	
\$859,000	September 17, 2007	Wastewater Treatment Enterprise Fund Contract <b>Capital Improvement Program</b> Project #WQ-80021	Recycled Water Pump Station Upgrade Project at the Regional Water Quality Control Plant	

\$854,156	June 26, 2006	<b>Capital Improvement Program</b> Project – Utilities Enterprise Fund Contract #EL-05020, #EL-05021 & #EL-05022	4 to 12KV Conversion Capital Improvement Program Projects in various areas, replace aging electric system components.	
\$766,279	April 9, 2007	<b>Capital Improvement Program</b> Project #PO-89003	FY 2006-2007 Sidewalk Replacement Phase 2 Project	
\$758,247	September 18, 2006	<b>Capital Improvement Program</b> Project #SD-06103	Extend Gailen/Bibbits Storm Drain Outfall to Adobe Pump Station	
\$737,324	September 18, 2006	<b>Capital Improvement Program</b> Project #PO-89003	FY 2006-2007 Sidewalk Replacement Phase 1	
\$659,000	December 17, 2007	<b>Capital Improvement Program</b> Project #PO-89003	FY 2007-08 Sidewalk Replacement Project – concrete work	
\$644,996	June 11, 2007	<b>Capital Improvement Program</b> Project #PF-06003	Cubberley Community Center Fire Alarm System Replacement – fire code & Title 24	
\$585,034	June 11, 2007	<b>Capital Improvement Program</b> Project #SD-06101	Storm Drain Rehabilitation and Replacement Project Phase 1	
\$556,812	July 9, 2007	<b>Capital Improvement Program</b> Project #PE-86070	Phase 1 of the 2007 Street Maintenance Program	
\$552,798	August 6, 2007	<b>Capital Improvement Program</b> Project #PE-07002	Herbert Hoover Park Improvements – irrigation, drainage, fencing, pathways, furniture installation	
\$514,293	June 11, 2007	N/A	Landscape Maintenance Services	
\$489,008	April 16, 2007	Enterprise Contract <b>Capital Improvement Program</b> Project #WQ-04011	Sewer Cleaning Project at the Regional Water Quality Control Plant	
\$442,572	June 18, 2007	<b>Capital Improvement Program</b> Project #PG-07000	Design, Construction and Installation of Playground Facilities and Other Improvements at Heritage Park – public/private partnership	
\$430,660	May 21, 2007	<b>Capital Improvement Program</b> Project #WQ-04011	Raw Sewage Valve Replacement Project at the Regional Water Quality Control Plant	
\$418,900	July 9, 2007	<b>Capital Improvement Program</b> Project #PE-07003	Don Jesus Ramos Park Improvements	



\$377,000	October 1, 2007	Wastewater Treatment Enterprise Fund Contract <b>Capital Improvement Program</b> Project #WQ-80021	Emergency Replacement of Secondary Clarifier No. 2 at the Regional Water Quality Control Plant	
\$307,779	April 17, 2006	<b>Capital Improvement Program</b> Project #PL-05002	Roadway and Traffic Signal Improvements at Gunn High School/Arastradero Road as Part of the Charleston-Arastradero Corridor Improvements	
\$269,300	October 16, 2006	<b>Capital Improvement Program</b> Project #PE-05002	Palo Alto Main Library Space Reconfiguration – interior remodeling	
\$265,000	April 16, 2007	2006-2007 and 2007-2008 Tree Maintenance Project	2006-2008 Tree Maintenance Project – routine pruning, hazardous tree removal, storm damage cleanup	
\$243,466	August 6, 2007	<b>Capital Improvement Program</b> Project #PE-07006	John Boulware Park Landscape Improvements – paving, irrigation, signage, bench & other installation	
\$238,322	July 23, 2007	<b>Capital Improvement Program</b> Project #PE-04011	Cambridge Parking Structure Maintenance Improvement Project – sealing, patching, striping	
\$234,576	May 21, 2007	Wastewater Enterprise Fund Contract	Provision of Services for Transportation and Disposal of Ash for the Regional Water Quality Control Plant	
\$232,635	July 30, 2007	<b>Capital Improvement Program</b> Project #OS-07002	Resurfacing the Foothill Park Interpretive Center and Maintenance Yard Parking Lots	
\$228,850	August 6, 2007	<b>Capital Improvement Program</b> Project #EL-05003	Trenching and the Installation of Electric Substructures at El Camino Real and Quarry Road for Relocation of Alma Substation	
\$227,430	July 23, 2007	Public Works Department Operations Division	2007-2009 Stump Removal Project	

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