

MODESTO CITY COUNCIL
RESOLUTION NO. 95-458

A RESOLUTION ADOPTING A POLICY RELATING TO THE PAYMENT OF PREVAILING WAGES ONLY ON CONSTRUCTION CONTRACTS ON WHICH THERE ARE STATE OR FEDERAL FUNDS WHICH HAVE PREVAILING WAGE REQUIREMENTS OR FOR PROJECTS HAVING STATEWIDE CONCERN.

WHEREAS, on August 21, 1995, the Financial Policy Committee, after receiving testimony from those interested in the subject, has recommended to the City Council that the City adopt a policy which would eliminate prevailing wage provisions on all locally funded projects, and

WHEREAS, the Council considered this matter at its meeting of September 19, 1995, and desires to establish a policy relating to prevailing wages,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following policy is hereby established:

Prevailing wages, as that term is used in Labor Code Section 1770 et seq., shall hereafter be required only on construction contracts which are funded in whole or in part by State or Federal funds where the receipt of such funding by the City is conditioned upon a prevailing wage requirement, or where the construction contract is for a project which has statewide concern.

BE IT FURTHER RESOLVED that the Council declares its intent to appoint a blue ribbon citizens committee to review the effect this policy has on the local economy over the next year and report back to the Council at the end of that time.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 19th day of September, 1995, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Friedman, McClanahan, Muratore

NOES: Councilmembers: Dobbs, Mayor Lang

ABSENT: Councilmembers: None

ATTEST: *Norrine Coyle*
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Michael D. Milich*
MICHAEL D. MILICH, City Attorney



**CITY OF MODESTO
AGENDA REPORT**

**AGENDA ITEM NO.
COUNCIL MEETING: 09/19/95**

September 11, 1995

TO: City Council
FROM: Financial Policy Committee
SUBJECT: Potential Adjustment to the City's Standard Contract Specification Provisions Regarding Prevailing Wage Requirements

RECOMMENDED COUNCIL ACTION:

Consider adopting a resolution establishing a policy that requires the payment of prevailing wages only on construction contracts that include State or Federal funds which have prevailing wage requirements, or for projects which are of Statewide concern. In effect, this policy would allow locally funded projects to be bid under a non-prevailing wage scenario regardless of the cost of the project.

BACKGROUND

The current City practice requires prevailing wages be paid on all public works contracts exceeding \$5,000 when financing is strictly with local funds. When Federal or State funds are involved in the project, prevailing wages are always required regardless of amount. For locally funded public works contracts less than \$5,000, we do not require prevailing wages.

The Federal prevailing wage program was established by the Davis-Bacon Act in 1931. California prevailing wage legislation was also enacted in 1931. The California Code of Regulations defines prevailing wages as:

"The basic hourly rate being paid to a majority of workers engaged in the particular craft, classification or type of work within the locality and in the nearest labor market area, if a majority of such workers is paid at a single rate; if there is no single rate being paid to a majority, then the single rate (model rate) being paid to the greatest number of workers is prevailing."

Further, in California the Labor Code designates the Director of the Department of Industrial Relations as responsible for determining prevailing wages for public works projects. Attached is a copy of the general prevailing wage determinations for trades in Stanislaus County. A review of the trades we typically encounter on our public works contracts shows that for some trades we pay the same as surrounding Valley communities and the Bay Area (San Francisco, San Jose), and that for some trades, we pay somewhat less than in the Bay Area. We've attached a chart entitled "Prevailing Wage Comparison" that provides further detail.

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DISCUSSION:

The City of Modesto, as a charter city within California, has the authority to exempt itself from State prevailing wage requirements on matters which are purely municipal and are not of statewide concern. The State Constitution does not clearly define what is a "municipal affair" and general law prevails over charter city status on projects of statewide concern. In *Vial v. San Diego* the court indicated that the expenditure of a city's funds on municipal projects are municipal affairs.

A review of the 1995-96 Capital Improvement Program just adopted by the City Council shows there are approximately 50 projects valued at \$18.3 million which are being funded purely with "local funds". That is, they are not projects involving "State or Federal Funds", nor are of Statewide concern. These projects would be eligible to be bid under a non-prevailing wage provision, if the Council elects to adopt the proposed policy.

Similarly, there are 12 projects in the 1995-96 Capital Improvement Program valued at approximately \$6.4 million which do involve some sort of Federal or State funding. These projects would necessarily be bid under a prevailing wage provision.

Well documented figures on possible savings on non-prevailing wage construction contracts are rare. Proponents typically claim savings of about 20% of construction costs. Opponents have stated that wages have been cut by upwards of 45%, but contract costs only by 7%. Exactly how much cost savings can be realized will vary with the type of construction being performed, some being more labor intensive than others.

The Construction Administration Office (CAO) staff reviewed the capital improvement projects that were "accepted as complete" by the City Council during the 1992-95 Fiscal Years. Here's the recap showing work done by non-union contractors during those 3 years:

1. Total projects accepted = 123 with a total value of \$35.3 million.
2. Total "Federal/State funded" projects = 23 with a total value of \$13.3 million.
3. Total "locally funded" projects = 100 with a total value of \$22.0 million.
4. Total projects constructed (both Federal/State and locally funded) by non-union contractors = 67 with a total value of \$20.4 million.
5. "Locally funded" projects constructed by non-union contractors = 57 with a total value of \$12.5 million.

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6. Types of locally funded projects constructed by non-union contractors:

A.	Wastewater	13 with a total value of \$2,460,000
B.	Water	11 with a total value of \$2,117,000
C.	Parks & Recreation	13 with a total value of \$5,261,000
D.	Storm Drain	6 with a total value of \$ 823,000
E.	Streets	9 with a total value of \$1,654,000
F.	Electrical	3 with a total value of \$ 171,000
G.	Airport	1 with a total value of \$ 10,000
H.	Building Reroof	1 with a total value of \$ 25,000

In addition, public improvements constructed within new subdivisions are often times completed by non-union contractors. While those projects are not "public works contracts", they are inspected by our CAQ staff during construction.

Should the Council choose to proceed with the recommended policy, the City's standard contract specifications would be amended to eliminate prevailing wage requirements on locally funded projects. It is important to note that all other provisions would remain the same. That is, contractors would still be required to hold the appropriate license for the work being undertaken, performance and payment bonds along with adequate insurances would still be required and provisions for liquidated damages would still be included for late completion of work. The CAO would continue to provide administrative oversight of the project, including performing inspections to assure compliance with contract plan and specification requirements.

The following are also attached for Council information:

- Overheads presented at the August 21, 1995 FPC Meeting.
- Graphic showing the value of CIP projects in 1995/1996 that involve Federal/State funding and the value of those being funded with local funds.
- Staff memo of August 15, 1995.

COUNCIL COMMITTEE ACTION:

On August 21, 1995, the Financial Policy Committee met in the Council chambers to receive testimony from those interested in the subject. Staff presented a brief oral report at the beginning of the meeting. Options presented by staff for Committee consideration with regard to prevailing wages on locally funded projects were:

1. Keep things as they are.
2. Amend the current \$5,000 limitation on public works contracts that prevailing wages apply to, either up or down.

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3. Eliminate prevailing wage requirements altogether. This can be accomplished by establishing a policy to require prevailing wages only on projects with State or Federal funding or on projects of Statewide concern.

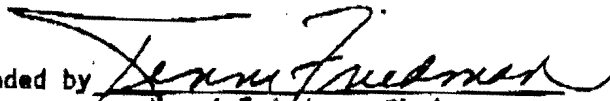
The Committee then received input from those in the audience. Those supporting a non-prevailing wage policy were first to speak. Following that, those opposing such a policy gave their testimony. At the conclusion of the session, having carefully listened to and evaluated the information provided, the Financial Policy Committee voted unanimously to recommend to the full Council that the City adopt a policy which would eliminate prevailing wage provisions altogether on all locally funded projects.

The Committee then established September 19, 1995 as the date on which this recommendation would be considered by the City Council.

STEPS FOLLOWING APPROVAL:

1. Staff will amend the contract specification provisions regarding prevailing wage requirements according to the policy adopted by the City Council, as necessary.
2. Locally funded projects advertised for bids after September 19, 1995 would conform to the policy adopted by the Council.
3. Staff will continue to administer construction contracts according to contract provisions to assure compliance.

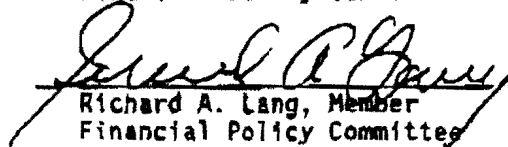
Recommended by



Nenni Friedman, Chair
Financial Policy Committee



David Cogdill, Vice Chair
Financial Policy Committee



Richard A. Lang, Member
Financial Policy Committee

Attachments