



# City of San Leandro

Meeting Date: October 20, 2014

## Staff Report

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**File Number:** 14-436 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.D.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Rich Pio Roda  
City Attorney

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for an Ordinance Amending San Leandro Municipal Code Section 1-5-400 to Eliminate Provisions Exempting Certain Public Works Contracts from Payment of Prevailing Wages and to Add a Provision Requiring Compliance with California Labor Code Section 1782

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### RECOMMENDATIONS

Staff recommends that the City Council adopt the attached Ordinance amending San Leandro Municipal Code Section 1-5-400 to eliminate provisions of the municipal code that exempt certain public works contracts from paying prevailing wage and to add a provision requiring compliance with California Labor Code Section 1782.

### BACKGROUND AND SUMMARY

The City's existing municipal code generally requires payment of prevailing wages for City contracts for the performance of public works in excess of five thousand dollars (\$5,000) and for certain contracts between private persons for the performance of construction work. However, the municipal code currently exempts the prevailing wage requirement from contracts on: public works performed by City employees; on maintenance contracts; on private contracts for construction work on property owned by the City and subject to a ground lease in effect prior to the effective date of the prevailing wage provision of the municipal code; for any public work performed following the declaration of an emergency.

In 2013, Governor Brown signed Senate Bill 7 into law which added Section 1782 to the California Labor Code. California Labor Code Section 1782 restricts state funding or financial assistance to cities that are not in compliance with California's prevailing wage laws. Specifically, California Labor Code Section 1782 prohibits charter cities from receiving or using state funding or financial assistance for a construction project unless contractors are required to comply with state law prevailing wage requirements on all City public works contracts.

Charter cities are not prohibited from receiving state funding or financial assistance where the local prevailing wage ordinance includes requirements that are equal to or greater than state prevailing wage requirements. Additionally, California Labor Code Section 1782 excludes contracts for projects that are twenty five thousand dollars (\$25,000) or less for construction work or projects that are fifteen thousand dollars (\$15,000) or less for alteration, demolition, repair or maintenance work.

The California Department of Industrial Relations is required to maintain a list of charter cities that comply with California Labor Code Section 1782 and are eligible to use state funding or financial assistance for construction projects. Upon adoption of this Ordinance, staff will forward the revised municipal code section to the California Department of Industrial Relations.

Staff has indicated that it currently complies with California state law prevailing wage requirements despite the provisions in the municipal code. Thus, staff does not anticipate that the elimination of the exemptions under the existing municipal code and the explicit requirement that the City comply with California Labor Code Section 1782 will have a significant impact.

This Ordinance eliminates the provisions of the municipal code that exempt public works projects which are: performed by City employees; for maintenance contracts; for private contracts for construction work on property owned by the City and subject to a ground lease in effect prior to the effective date of the prevailing wage provision of the municipal code; for public works performed following the declaration of an emergency. This Ordinance also amends the municipal code to explicitly require the City to comply with California Labor Code Section 1782 when awarding public works contracts.

**PREPARED BY:** Richard D. Pio Roda, City Attorney, City Attorney's Office

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# City of San Leandro

Meeting Date: October 20, 2014

## Ordinance

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**File Number:** 14-437

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Rich Pio Roda  
City Attorney

**FINANCE REVIEW:** Not Applicable

**TITLE:** ORDINANCE Amending Section 1-5-400 to Eliminate Provisions Exempting Certain Public Works Contracts from Payment of Prevailing Wage Rates and to Add a Provision Requiring Compliance with California Labor Code Section 1782 (provides for eligibility to use state funding or financial assistance for City construction projects)

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**WHEREAS**, in 2013, Governor Brown signed Senate Bill 7 into law, adding Section 1782 to the California Labor Code; and

**WHEREAS**, California Labor Code Section 1782 prohibits charter cities from receiving or using state funding or state financial assistance for a construction project unless the city requires public works contractors to comply with state prevailing wage requirements; and

**WHEREAS**, California Labor Code Section 1782 permits charter cities to continue receiving and using state funding and financial assistance for its construction projects if the charter city's local prevailing wage ordinance includes requirements that are equal to or greater than the requirements under state law; and

**WHEREAS**, San Leandro Municipal Code Section 1-5-400 currently provides that certain public works contracts do not require payment of prevailing wages; and

**WHEREAS**, the City Council of the City of San Leandro desires to comply with California Labor Code Section 1782 by eliminating the exemptions from the prevailing wage requirements for certain public works contracts and explicitly requiring that the City comply with California Labor Code Section 1782.

**NOW, THEREFORE**, the City Council of the City of San Leandro does **ORDAIN** as follows:

**SECTION I:** Section 1-5-400 shall be amended to read as follows:

The provisions of this Article shall apply to the following contracts:

- (a) City contracts for performance of public works valued in excess of Five Thousand Dollars (\$5,000); and
- (b) Contracts between private persons for the performance of construction work under either of the following circumstances:
  - (1) The property subject to the construction work is privately owned, but upon completion of construction more than fifty percent (50%) of the gross leasable area is leased to the City for its use and such construction work is performed according to the plans and specifications of the City; or
  - (2) The property subject to the construction work is owned in fee by the City and is leased for private use or development.

Notwithstanding the other provisions of this section, the City shall comply with the provisions of Section 1782 of the California Labor Code and amendments to that section when awarding all City contracts for the performance of public works.

**SECTION II: SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION III: EFFECTIVE DATE AND PUBLICATION.** This Ordinance shall take effect thirty (30) days after adoption. The title thereof shall be published once and a complete copy thereof shall be posted on the City Council Chamber bulletin board for five (5) days prior to adoption.

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