



## CITY COUNCIL STAFF REPORT

DATE: OCTOBER 1, 2014 LEGISLATIVE

SUBJECT: AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 7.06.030 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO PAYMENT OF PREVAILING WAGES FOR PUBLIC PROJECT CONTRACTS. AMEND MUNICIPAL CODE TO REQUIRE PAYMENT OF PREVAILING WAGES FOR ALL PUBLIC WORKS PROJECTS

FROM: David H. Ready, City Manager

BY: Douglas Holland, City Attorney

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### SUMMARY

Under existing law, the City exempts contracts for locally-funded public works projects from the payment of state-dictated prevailing wages. In October 2013, the Governor approved Senate Bill 7 ("SB 7"), which amended the Labor Code to block state funding for charter cities that do not pay prevailing wages on public works projects. The San Diego Superior Court recently upheld SB 7 against a challenge from several charter cities. This proposed ordinance amends the Palm Springs Municipal Code to require the payment of prevailing wages on all public works projects to ensure continued state financial assistance commencing on January 1, 2015, as required under SB 7.

### RECOMMENDATION:

Waive the reading of the ordinance text in its entirety and read by title only; and Introduce on first reading Ordinance No. \_\_\_\_, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 7.06.030 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO PAYMENT OF PREVAILING WAGES FOR PUBLIC PROJECT CONTRACTS. AMEND MUNICIPAL CODE TO REQUIRE PAYMENT OF PREVAILING WAGES FOR ALL PUBLIC WORKS PROJECTS"

### STAFF ANALYSIS:

Under the California Constitution, Palm Springs, as a charter city, enjoys broad authority to regulate "municipal affairs." One such "municipal affair" is the ability to contract for public works. This constitutional grant of authority supersedes state law and as a general rule, a charter city is exempt from the general laws of the state to require the payment of prevailing wages when the source of funds are local funds. (A charter city is

required to pay prevailing wages when the source of funds include state or federal monies.) In 2012, the California Supreme Court confirmed that the wage levels of contract workers constructing locally-funded public works constitute a municipal affair, exempt from state regulation. Accordingly, Palm Springs Municipal Code §7.06.030 exempts contracts for public works projects from the payment of prevailing wages, as otherwise required by Labor Code §1770 *et seq.*

In 2013 the State Legislature approved SB 7, which added §1782 to the Labor Code. This new law blocks any state funding or financial assistance to any charter city that does not comply with the state's prevailing wage laws. In order to ensure the continued receipt of state funding, a charter city must comply with Labor Code §1782 and adopt a prevailing wage ordinance that will go into effect by January 1, 2015.


On February 20, 2014, several charter cities challenged, *inter alia*, the constitutionality of Senate Bill 7 in the San Diego Superior Court. The City of Palm Springs was not one of these cities. The charter cities argued that SB 7 unlawfully interfered with their constitutional right to control municipal affairs. In August the court upheld Labor Code §1782 as a valid exercise of the State's plenary authority over its budget. The court did not find an issue with the pursuit of state policy objectives using financial incentives, particularly because the amounts at issue were not high enough to be considered coercive. The petitioning charter cities are currently considering filing an appeal.

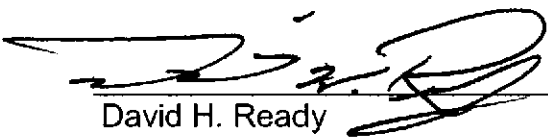
#### RECOMMENDATION

Staff recommends the proposed amendment to Palm Springs Municipal Code §7.06.030. Adoption of this ordinance would bring the City into compliance with the State's prevailing wage law. Consequently, adoption of this ordinance would ensure continued state funding and other financial assistance for construction projects.

The proposed changes to subsection (1) of §7.06.030 subjects all public works projects, to state prevailing wage law, and also includes some language to clarify its scope.

Proposed subsection (2) accounts for the possibility that Labor Code §1782 may be overturned or otherwise repealed. If that occurs, proposed subsection (2) effectively reverts the code back to its current state, exempting public works projects from prevailing wage requirements unless payment of those wages is tied to state or federal funding.

  
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Douglas Holland  
City Attorney

  
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David H. Ready  
City Manager

Attachment: Proposed Ordinance amending §7.06.030

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 7.06.030 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO PAYMENT OF PREVAILING WAGES FOR PUBLIC PROJECT CONTRACTS.

**City Attorney Summary**

*This Ordinance relates to the City's policies for the payment of wages for public project contracts. The current Code expressly exempted public project contracts from paying prevailing wages under Labor Code section 1770 et seq., as permitted by the California Constitution and the City's charter. Recently-enacted state law blocks state funding for construction projects if charter cities do not pay prevailing wages. Accordingly, this Ordinance requires the payment of prevailing wages for all public project contracts.*

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA ORDAINS:**

SECTION 1. Section 7.06.030 of the Palm Springs Municipal Code is amended to read:

**7.06.030 Prevailing Wages and Benefits**

(1) Contracts for public works projects, as defined in Section 1720 of the Labor Code, shall be subject to prevailing wage law (Labor Code Section 1770 et seq., as may be amended from time to time), except as specified in subsection (2) of this section. Any notice inviting bids for such public projects shall include notification of this subsection.

(2) Unless funded in part or whole by state or federal loans or grants conditioned on the payment of prevailing wages, public works projects shall not be subject to prevailing wage law as described in Subsection (1) of this Section if Labor Code Section 1782, as added by Senate Bill 7 (2013), is held to be invalid or inapplicable to charter cities by any court of competent jurisdiction, or is otherwise repealed.

SECTION 2. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect at 6:00 pm on December 31, 2014.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS \_\_\_ DAY OF OCTOBER, 2014.

\_\_\_\_\_  
STEPHEN P. POUQUET, MAYOR

ATTEST:

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JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Ordinance No. \_\_\_\_ is a full, true and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on the \_\_\_ day of October, 2014, and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of October, 2014, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK  
City of Palm Springs, California