

## RESOLUTION NO. 14-072

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE REPEALING POLICY 800-1 EXEMPTING LOCALLY FUNDED PUBLIC WORKS PROJECTS FROM PREVAILING WAGE REQUIREMENTS**

WHEREAS, the State prevailing wage law requires contractors on public works projects to be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed;

WHEREAS, under California Constitution, Article XI, Section 5, the laws of charter cities supersede State law with respect to municipal affairs of the city;

WHEREAS, the City of Pacific Grove (City) is a charter city duly organized and validly existing under the laws of the State of California;

WHEREAS, on February 3, 1988, the City Council approved Resolution 5874 adopting Council Policy No. 800-1, which restated the City's established policy that wage rates paid on public works projects undertaken by the City were not governed by the prevailing wage law under California Labor Code §1770 et seq.;

WHEREAS, California Senate Bill No. 7 (SB 7), approved October 13, 2013, provides the State has limited financial resources and resolves only to extend financial assistance to construction projects of those charter cities that require compliance with the prevailing wage law on all their municipal construction projects;

WHEREAS, SB 7, codified in Labor Code 1782, provides "[a] charter city shall not receive or use state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor to not comply with the provisions of this article on any public works contract";

WHEREAS, a recent legal action to challenge SB 7's applicability to charter cities was not successful;

WHEREAS, notwithstanding the City's Constitutional right to exempt locally funded projects from prevailing wage, the City finds its financial interests are best served by compliance with California's prevailing wage law as delineated in California SB 7;

WHEREAS, the City Council finds the introduction and adoption of this resolution is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:**

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The purpose of this Council Resolution is to establish compliance with SB 7.

SECTION 3. Council Policy No. 800-1 is hereby repealed and of no further effect.

SECTION 4. The City will comply with California's prevailing wage law to continue to receive State funding for construction projects pursuant to SB 7.

SECTION 5. If SB 7 is, for any reason, held to be invalid or inapplicable to charter cities by any court of competent jurisdiction or is otherwise repealed, this resolution, shall automatically sunset and be of no further effect and immediately thereafter, Resolution No. 5874 shall again take effect without further action by the City Council.

SECTION 6. The provisions of this resolution do not restrict the City from receiving or using State funding or financial assistance awarded prior to January 1, 2015, or from receiving or using State funding or financial assistance to complete a contract awarded prior to January 1, 2015. Further, this ordinance does not disqualify or amend any contracts awarded prior to January 1, 2015.

SECTION 7. This resolution shall become effective immediately following passage and adoption.

**PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE**  
this 19<sup>th</sup> day of November, 2014, by the following vote:

AYES: Mayor Kampe, Councilmembers Cohen, Cuneo, Fischer, Lucius

NOES: None

ABSENT: Councilmembers Huitt, Miller

APPROVED:

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BILL KAMPE, Mayor

ATTEST:

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SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

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DAVID C. LAREDO, City Attorney