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TO: Member James Tate, Chairperson
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FROM: David D. Whitaker, Director 
Legislative Policy Division Staff

DATE: April 8, 2022

RE: **Davis-Bacon Act**

Council President Mary Sheffield requested the Legislative Policy Division to prepare a report providing information regarding the City of Detroit's compliance with the Federal Government's Davis Act (Davis-Bacon), 40 U.S.C. 3141 et seq. After multiple inquiries, it has been determined that the Davis-Bacon is not currently being monitored by the City. Therefore, historical compliance data is not available; however, the following is an overview of the Act.

The Davis-Bacon Act of 1931 is a federal law that establishes the requirement for paying the local prevailing wage on public works projects for laborers and mechanics. It applies to "contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works" in the states and District of Columbia. Davis-Bacon requires employers performing this work to file certified payroll reports to confirm that contractors and subcontractors working on federally funded projects are paying their employees prevailing wages in accordance with the Davis-Bacon and Related Acts. These records must be filed with the U. S. Department of Labor on a weekly basis.

Many states have mimicked the provisions of Davis-Bacon with prevailing wage laws. Michigan followed that trend; however, the Michigan Prevailing wage law was repealed in 2018, making Michigan one of twenty-four states that does not have a prevailing wage law. Currently twenty-six states have prevailing wage legislation while the Davis Bacon remains in effect in the District

of Columbia. Cities of comparable populations as Detroit, located in states with prevailing wage laws like Boston, Portland, Las Vegas, and Baltimore will continue to monitor under the established state legislation in place for projects that fall under their respective state prevailing wage laws.

How the many municipalities across the country monitor the Davis Bacon act and use of ARPA funds depends on the combination of fundings sources used for qualifying projects, as well as, if the state in which the municipality is located has prevailing wage legislation and the provisions of the state law. However, the US Treasury Department's Federal Final Rule encourages community benefits agreements, local hiring provisions and strong labor practices.

Signed into law on March 11, 2021, The American Rescue Plan Act of 2021 ("ARPA") is a \$1.9 trillion federal stimulus bill to aid public health and economic recovery from the COVID-19 pandemic. The plan included \$350 billion in emergency funding for state, local, territorial and tribal governments.

As of January 2022, the US Treasury issued its Final Rule for ARPA State and Local Fiscal Recovery Funds, which directs and outlines eligible uses for the ARPA funding. Municipalities all over the country are still in the process of determining how these funds will be utilized. As a result of this legislation, municipalities across the nation were granted funds eligible for various uses related to recovery from the economic and health effects of the pandemic.

The use of these funds will spur some construction activities. The U. S. Treasury, however, has been clear that federal Davis- Bacon wage requirements are inapplicable to projects whose federal funding is comprised solely with APRA Local Fiscal Recovery Funds. However, in states that have adopted prevailing wages laws the state's prevailing wage still applies.