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November 19, 2002

Law & Legislation Committee  
Sacramento, California

Honorable Members in Session:

**SUBJECT: Proposed Living Wage Ordinance**

**LOCATION/COUNCIL DISTRICT:** Citywide

**RECOMMENDATION:**

Staff recommends that the Law & Legislation Committee refer the proposed Living Wage Ordinance to the City Council, requesting a workshop to be held on January 9, 2003, regarding the proposed Living Wage Ordinance and other programs that assist the working poor in the Greater Sacramento Area.

**CONTACT PERSON:** Michael L. Medema, Special Projects Manager

**FOR LAW & LEGISLATION MEETING OF:** November 19, 2002

**SUMMARY:**

Staff recommends that the Law & Legislation Committee refer the Proposed Living Wage Ordinance to the City Council requesting a workshop to be held on January 9, 2003, regarding the Proposed Living Wage Ordinance and other programs that assist the working poor in the Greater Sacramento Area. Three independent studies recommend that policymakers contemplating the "Living Wage" should give consideration to the alternatives for assisting the working poor. Each suggests that the "Living Wage" is not the most efficient method of accomplishing this goal. In addition, Staff believes that helping the working poor is a regional issue, and the City should encourage other local jurisdictions to consider the issue of assisting the working poor in the Greater Sacramento Area.

## BACKGROUND AND ANALYSIS:

Living Wage Ordinances are laws that have been passed by some local governmental entities requiring firms that have a contractual relationship with the local government to pay workers wages that exceed the prevailing federal or state minimum wage. The living wage movement began with the adoption of a Living Wage Ordinance by Baltimore, Maryland in 1994. Since 1994, over sixty local government entities, including eleven in California have adopted living wage ordinances. The scope, impact and effectiveness of the ordinances vary considerably.

Staff met with members of the Sacramento Living Wage Committee (LW Committee) in the spring of 2001 to discuss a Proposed Living Wage Ordinance. Staff advised the LW Committee that the City considers the effort to assist the working poor a regional issue and should be pursued on a regional basis. Staff indicated that the LW Committee needed to submit a written proposed ordinance for analysis. (See Attachment A - LW Committee Proposed Living Wage Ordinance).

Staff also concluded that an independent economic analysis should be commissioned to study the impacts of the proposal ordinance. Following a request for qualifications process, staff, the LW Committee and the Sacramento Metro Chamber selected Economic Research Associates to conduct that study. Staff, the LW Committee and the Sacramento Metro Chamber agreed to withhold public comment on possible economic impacts of the proposed living wage pending receipt and analysis of this study. Staff received the analysis on November 8, 2002. The three parties to the agreement have not had sufficient time to review the study and prepare comment.

In addition to the initial scope of work, staff requested Economic Research Associates to expand the scope of analysis including an analysis of alternatives to the proposed living wage. Staff reviewed three independent studies that recommend that policymakers contemplating the "Living Wage" should give consideration to alternatives for assisting the working poor. Each suggested that the "Living Wage" is not the most efficient method of accomplishing this goal.

The University of New Hampshire Survey Center for the Employment Policies Institute surveyed 336 labor economists in 2000. The survey rated three proposed policies. The Earned Income Tax Credit was rated the most efficient followed by Grants. The "Living Wage" was judged the least efficient.

A 2002 study conducted by David Neumark for the Public Policy Institute of California concluded, in part, "cautious reading of the evidence, then, suggests that, on net, living wages may provide some assistance to the urban poor. This may dispel fears that living wage laws have the unintended effect of increasing poverty, but it does not necessarily imply that the living wages constitute the best means of helping the urban poor. Policymakers contemplating implementing living wage laws, and policy analysts assessing living wage laws, should give due consideration to comparisons among alternative methods of reducing poverty, such as the Earned Income Tax Credit."

The study recommended that policymakers should consider a number of issues, "including the effects of living wages on municipal budgets, on the extent to which higher labor costs are absorbed by contractors or passed through to cities, on taxes, property values, and local economic

development; on the provision of city services stemming from budgetary considerations or the effect of living wages on productivity; on compliance and enforcement; on equity effects (including their effect on women and minorities); and on overall economic welfare.”

The third study was conducted by California State University, Sacramento Assistant Professor of Economics Suzanne O’Keefe last summer. Professor O’Keefe recommended, “the city should consider other alternatives for reaching the working poor. Other cities have instituted programs similar to an Earned Income Tax Credit; that provide income targeted to families in need. City funded Child Care Services that would also help single working parents provide for their families. When choosing to implement a living wage, the city needs to believe that it is the best feasible means of reaching their goal of helping working poor families.”

Staff believes that helping the working poor is a regional issue and the City should pursue developing a regional solution to resolve this issue. The Sacramento Metro Chamber is developing a program for the Sacramento region businesses to address this issue. The focus of the Chamber’s effort is on education regarding current programs designed to assist the working poor. The City may want to consider using the Chamber’s effort as a base for developing a regional solution to resolve this issue.

#### **FINANCIAL CONSIDERATION:**

Staff is reviewing the Economic Research Associates independent economic analysis study. The analysis has been released to the LW Committee and the Sacramento Metro Chamber for their review. Staff will present the City’s analysis of the study at the recommended City Council workshop if approved, on January 9, 2003.

#### **POLICY CONSIDERATIONS:**

1. Staff recommends that the City Council establish the goal for consideration of the proposed living wage. Staff believes that the goal should be to assist the working poor in the greater Sacramento area.
2. Staff recommends that the City Council conduct a workshop to consider the proposed living wage as one of several methods available to achieve the goal of assisting the working poor in the greater Sacramento area.
3. Staff recommends that this is a regional issue and the City should encourage other local jurisdictions to consider the issue of assisting the working poor in the greater Sacramento area.
4. Staff identified several major policy considerations within the Proposed Living Wage Ordinance. These will be presented for consideration during the recommended City Council workshop on January 9, 2003. They are summarized in Attachment B.

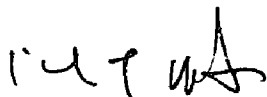
**ENVIRONMENTAL CONSIDERATIONS:**

This report recommends no action that would constitute a project under the California Environmental Quality Act (CEQA).

**ESBD CONSIDERATIONS:**

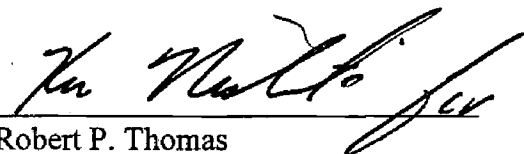
This report recommends no action that involves ESBD consideration.

Respectfully submitted,



Michael L. Medema  
Special Projects Manager

**RECOMMENDATION APPROVED**



Robert P. Thomas  
City Manager

Attachment

## **Sacramento Living Wage, Responsible Contractor and Fair Subsidy Ordinance**

The City of Sacramento awards many contracts to private firms to provide services to the public and to Sacramento government. In addition, many lessees or licensees of Sacramento property perform services that affect the proprietary interests of Sacramento government in that their performance influences the success of Sacramento operations. Further, Sacramento gives outright subsidies to businesses and individuals to enhance economic development.

Experience indicates that procurement by contract of services, the awarding of leases and licenses and the giving of subsidies has all too often resulted in the payment by contractors, lessees, licensees, and subsidy recipients to their employees of wages at or slightly above the minimum required by state and federal minimum wage laws. Such minimal compensation results in hidden costs to Sacramento when employees of Sacramento and such employers seek public assistance. Experience also indicates that many employees of Sacramento contractors, lessees, licensees, and subsidy recipients are unable to afford health insurance for themselves or their families and that as a result many of these individuals utilize public facilities at substantial cost to Sacramento. The provision of minimal compensation and benefits by Sacramento service contractors, lessees, licensees, and subsidy recipients tends to undermine the quality and quantity of services rendered by such employees to Sacramento and the public, since such underpayment tends to result in high turnover, absenteeism, and lackluster performance.

Experience has also demonstrated that Sacramento contractors, proprietary lessees, licensees, and subsidy recipients do not always abide by all applicable federal, state, and local laws. When Sacramento contractors violate labor and employment laws, it has the potential to create hidden costs for Sacramento, both because employees may attempt to hold Sacramento liable for subsidy recipients, and because such violations have a tendency to undermine employee morale and performance.

The decision to contract out services, to award a license, or to replace one contractor or licensee with another does not necessarily include a need to replace workers presently performing services who have useful knowledge about the workplace where services are performed. Instead, the decision to award a new contract or license is often based on anticipated changes in managerial skills, new technology or techniques, new themes or presentations, or lower overhead costs. Sacramento, as a principal provider of social support services, has an interest in the stability of employment for Sacramento workers and for those working under contracts with Sacramento.

Experience has demonstrated that contractors and subsidy recipients receiving Sacramento funds have spent money attempting to influence their employees regarding unionization. Sacramento has an interest in ensuring that money received by service contractors to perform contracts with Sacramento goes toward rendering the services, and not toward other ancillary costs. Moreover, since it is Sacramento policy to remain neutral on questions of unionization, Sacramento has an additional interest in preventing the use of Sacramento funds to influence workers on the question of unionization.

Sacramento has a growing economy. The population is increasing and the city of Sacramento is promoting and investing in new development to supply the economic and population growth. Service, entertainment, hospitality, and tourism jobs are a major portion of this Sacramento economy. New, large, subsidized developments for office, hotel, restaurant, and entertainment businesses are regularly asking the city for financial support. The city is committed to supporting such development because they improve the economy and the quality of life for the city's residents. Such developments also supply the city with significant use, sales, and property tax revenues. However, the city government's investment is jeopardized by labor disruption. The city has experience in projects with and without Labor Peace Agreements. The city and its residents have experienced numerous disruptive work stoppages and street protests in the past two years arising from labor disputes. Labor Peace Agreements protect the city's investments and protect the city from loss of future tax revenue.

The Municipal Code of Sacramento is hereby amended by inserting a new Chapter XX, as follows:

### **Section 1. Title and Purpose.**

#### **(a) Sacramento Living Wage Responsible Contractor and Fair Subsidy Ordinance**

This Chapter shall be known as the "Sacramento Living Wage Ordinance, Responsible Contractor and Fair Subsidy Ordinance". The purpose of this ordinance is to assure that employees of substantial City contractors, subcontractors and beneficiaries of tax, loan, grant and other subsidy assistance provided by the City earn a fair hourly wage. This ordinance is also designed to maximize access for low- and-moderate income Sacramento residents to the jobs that are created, maintained, or subsidized through direct or indirect City assistance.

### **Section 2. Definitions.**

For the purposes of this ordinance, the term:

(a) "Awarding Agency" means that subordinate or component entity or person of Sacramento (such as a department, office, or agency) that is responsible for solicitation of proposals or bids and responsible for the administration of service contracts or financial assistance agreements.

(b) "Assistance" means:

(1) Any grant, loan, tax incentive or abatement, bond financing, subsidy, contract with a not-for-profit social service (pursuant to Section 3(c)), medical care, or labor service provider, contract with a for profit social service, medical care, or labor service provider, or other form of assistance of \$100,000 or more that is realized by or provided to an employer of at least 15 employees [except within custodial, landscape, recycling industries (in such case the minimum number of employees for coverage is 2) by or through the authority or approval of Sacramento including, but not limited to, Tax Increment Financing (TIF) aid, industrial development bonds, Community Development Block Grant (CDBG) loans, Enterprise Zone-related incentives, awarded, modified or amended, after the effective date of this Chapter;

(2) Any contract or subcontract not listed in the previous paragraph of at least \$25,000 with Sacramento that is made by Sacramento with an employer of at least 15 employees, [except janitorial, landscape and recycling industries, in which case the employer must have at least 2 employees] to provide goods or services, awarded, re-negotiated or renewed after the effective date of this Chapter.

(c) "Beneficiary" means any Person or entity that is a recipient of "Assistance," as defined in this Chapter.

(d) "Card Check Agreement" means a written agreement between an Employer and a Labor Organization providing a procedure for determining employee preference on the subject of whether to be represented by a Labor Organization for collective bargaining, and if so, by which Labor Organization to be represented, which provides, at a minimum, the following:

(1) Determining employee preference regarding union representation shall be by a card check procedure conducted by a neutral third party in lieu of a formal election;

(2) All disputes over interpretation or application of the parties' card check agreement, and over issues regarding how to carry out the card check process or specific card check procedures shall be submitted to binding arbitration;

(3) Forbearance by any Labor Organization from economic action against the Employer at the worksite of an organizing drive covered by this Article, and in relation to an organizing campaign only (not to the terms of a Collective Bargaining Agreement), so long as the employer complies with the terms of the Card Check Agreement;

(4) Language and procedures prohibiting the Labor Organization or the Employer from coercing or intimidating employees, explicitly or implicitly, in selecting or not selecting a bargaining representative.

(5) Forbearance by an employment from, in any way, attempting to influence employee preference, the outcome of an election or articulating its views on the subject of whether its employees will be represented by a labor organization for collective bargaining.

(e) "Covered Employer" means a Beneficiary of, or an applicant for, Assistance or the Holder of a proprietary lease or license or the holder of a service contract that has not been granted an exemption from this ordinance.

(f) "Violations made in good faith" means, and hereby incorporates, the liquidated damages provisions of the Fair Labor Standards Act, 29 U.S.C. 216(b) and court decisions and the regulations enforcing such Act that were in effect on December 25, 2000.

(g) "Covered Employee" means a person employed, either full or part time, by a Covered Employer in, on, or for the project or matter for which the Beneficiary has received Assistance. Employees of temporary labor service providers are "covered employees" if they perform any work for the benefit of a covered employer.

(h) "Living Wage" has the meaning stated in Section 3.

(i) "Person" means one or more of the following or their agents, employees, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by this City.

(j) "Sacramento" means the City of Sacramento, its departments, joint powers authorities, offices, agencies, or subdivisions thereof.

(k) "Successor contractor" means a contractor where the services to be performed under the new contract are substantially similar to a contract with a covered employer that has recently been termination, or that will be terminated once the term of the new contract begins.

(l) "Willful violation" means that the employer knew or should have known of his, her, or its obligations under this article and volitionally or negligently failed or refused to comply with its provisions.

(m) "Proprietary lease or license" means a lease or license of City property on which services are rendered by employees of the proprietary lessee or licensee or sublessee or sublicensee, but only where any of the following applies: (1) the services are rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis; or (2) it is anticipated that the proprietary lessee or licensee will employ at least two (15) employees (except janitorial, landscape and recycling industries; in which case, the employer is covered if the employer has at least two employees) and have



annual gross revenues of more than twenty thousand dollars (\$25,000) from business conducted on the premises. Such annual gross revenue floor of \$25,000 shall be adjusted annually at the same rate and at the same time as the living wage is adjusted under section 3(a)(b) and (c) of this article. Proprietary "leases" and "licenses" shall be deemed to include subleases and sublicenses, excluding non-service retail selling, (such as non-food tenants at Arden Fair Mall) and in the grocery industry.

(n) "Service contract" means a contract let to a contractor by Sacramento primarily for the furnishing of services to or for Sacramento (as opposed to the purchase of goods or other property of the leasing or renting of property) and that involves an expenditure in excess of an aggregate of \$25,000 in any twelve (12) month period and a contract term of at least three (3) months;

(o) "Subcontractor" means any person not an employee that enters into a contract (and that employs employees for that purpose) with (1) a contractor or subcontractor to assist the contractor in performing a service contract or to perform duties related in any way to the service contract, provided that such duties are performed on the contractor or subcontractor's premises; or (2) a contractor or subcontractor of a proprietary lessee or licensee or sublessee or sublicensee to perform or assist in performing services on the leased or licensed premises, or (3) a supplier of temporary labor services other than a labor organization.

### **Section 3. Living Wage.**

#### **3. Minimum standards.**

(a) Living Wage: Covered employers shall pay employees a wage of no less than the hourly rates set under the authority of this article. The initial rates shall be ten dollars (\$10.00) per hour with health benefits, as described in this article, or otherwise \$12.84 per hour.

(b) Health benefits: Health benefits described by this article shall consist of the payment of at least \$2.84 per hour towards the provision of health care benefits for employees and their dependents. Proof of the provision of such benefits must be submitted to the awarding authority to qualify for the wage rate set in subsection (a) of this section for employees with health benefits.

(c) An otherwise covered employer which is a nonprofit corporation organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. Section 501(d)(3), whose chief executive officer or highest paid managerial employee earns a salary which, when calculated on an hourly basis, is less than six (6) times the lowest wage paid by the corporation, shall be granted an exemption from subsections (a) and (b) of this section.

4. Worker Retention

(a) When Sacramento decides to contract out services that are being performed by employees, Sacramento shall, at the time it awards such contract, provide the contractor with the name, address, date of hire, and employment occupation classification of each employee who would otherwise be displaced by the service contract.

(b) Where Sacramento has given notice that a contract let to a covered employer has been terminated, or where a covered employer has given notice of such termination, upon receiving or giving such notice, as the case may be, the terminated contractor shall within ten (10) days thereafter provide to the successor contractor the name, address, date of hire, and employment occupation classification of each employee in employment, of itself or subcontractors, who is performing services related to the contract at the time of contract termination. If a successor service contract has not been awarded by the end of the ten (10) day period, the terminated contractor shall provide the required information to the department awarding the service contract. Where a service contract or contracts are being let where the same or similar services were rendered under multiple service contracts, Sacramento shall pool the employees, ordered by seniority within job classification, under such prior contracts.

(c) A successor contractor, or an initial contractor, shall retain for a ninety (90) day transition employment period, employees who have been performing the services to be performed under the service contract whether such employees were employed by Sacramento, a terminated contractor, or a subcontractor, except that the successor contractor need not retain such employees whose initial date of hire by Sacramento or terminated contractor was less than twelve (12) months from the date that the new service contract takes effect. Where pooling of employees has occurred, the successor contractor shall draw from such pools in accordance with rules established under this article. During such ninety (90) day period, employees so hired shall be employed under the terms and conditions established by the successor or initial contractor (or subcontractor), or as required by law.

(d) If at anytime the successor or initial contractor determines that fewer employees are required to perform the new service contract than were previously required to perform the same services, the successor or initial contractor shall retain employees by seniority within job classification.

(e) During the ninety (90) day transition employment period, the successor or initial contractor (or subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered employees which it does not retain, and it shall offer employment to these individuals before making any new hires.

(f) Except as provided in subsection (d) of this Section, during the ninety (90) day transition employment period the successor or initial contractor shall not discharge without cause an employee retained pursuant to this article. "Cause" for this purpose shall include, but not be limited to, the employee's conduct while in the employ of the

terminated contractor or subcontractor that contributed to any decision to terminate the contract or subcontract for fraud or poor performance.

(g) At the end of the ninety (90) day transition employment period, the successor or initial contractor (or subcontractor, where applicable) shall perform a written performance evaluation for each employee retained pursuant to this article. If the employee's performance during such ninety (90) day period is satisfactory, the successor or initial contractor (or subcontractor) shall offer the employee continued employment under the terms and conditions established by the successor or initial contractor (or subcontractor), or as required by law.

## **5. Contractor Standards**

(a) Prior to awarding a service contract or proprietary lease or license, the department awarding the contract shall make a determination that the prospective employer is one which has the capability in all respects to perform fully the contract requirements and the business integrity to justify the award of public tax dollars. Among the factors which shall be considered in making this determination, are (1) financial resources; (2) technical qualifications; (3) experience; (4) organization, material, equipment, facilities and expertise necessary to carry out the work; (5) a satisfactory record of performance; (6) a satisfactory record of compliance with applicable statutes and regulations; and (7) a satisfactory record of business integrity.

(b) As part of its application or proposal for a service contract or proprietary lease or license, a person shall be required to submit under penalty of perjury such information as the department awarding the contract deems necessary to determine whether the contractor meets the standards set forth in paragraph (a) of this section. Sacramento shall make any such information available to the public. If, after awarding the service contract or proprietary lease or license, Sacramento determines that the employer has provided false information, Sacramento may revoke the service contract or proprietary lease or license without penalty.

(c) Each employer shall comply with all applicable labor and employment laws. Each employer shall notify the department awarding the contract within fourteen (14) days upon receiving notification that a government agency has begun an investigation of an employer which may result in a finding that the employer is not in compliance with an applicable labor or employment law.

## **6. Service Disruption/Labor Peace Provision.**

(a) The Council hereby declares that, to the best of its ability, it intends to ensure that essential services and labor for which it contracts and for which it provides subsidies are provided efficiently and without interruption. Therefore, it is necessary to avoid the potential of disruption by labor disputes with all covered employees.

(b) Covered employers shall enter into a Labor Peace Agreement with any labor organization expressing interest in representing that employer's employees.

(c) Such Labor Peace Agreement shall include:

- (1) A procedure for determining employee choice of union representation through a card-check conducted by a neutral third party;
- (2) An expedited procedure for resolving, through binding arbitration, all disputes over the interpretation, or application of the card-check procedure, and the obligations set forth under 1(c). For purposes of the Labor Peace Agreement, absent other agreement between the parties, the arbitrator shall be selected, and the proceedings conducted, in accordance with the American Arbitration Association Labor Arbitration Rules, including its Expedited Labor Arbitration Procedures;
- (3) Forbearance by a labor organization from economic action, including strikes, picketing, boycotts or other such interference with the business of the Contractor regarding its employees performing services under any service contract as defined herein, and by the Contractor from engaging in any lock-outs;
- (4) A procedure for resolving, through binding arbitration, disputes over negotiation, renewal, extension, or modification of any collective bargaining agreement to apply when, or if, the labor organization is, or becomes, the exclusive bargaining representative.
- (5) A card-check agreement.

To facilitate the requirements imposed by this section, the Board shall provide a model recommended Labor Peace Agreement that includes the terms specified above, and make such model agreement available to parties required to enter into a Labor Peace Agreement. The Board may also prepare guidelines establishing standards and procedures related to this Ordinance. Notwithstanding this provision regarding the model agreement, or related guidelines, this Ordinance shall be self-executing, and shall apply in the absence of, or regardless of, such model agreement or guidelines.

#### **7. Restriction on Use of Sacramento Funds**

Payments made by Sacramento pursuant to a covered contract or to a beneficiary shall not be used directly or indirectly to persuade employees to support or oppose unionization, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement.

8. No Retaliation

Neither an employer, as defined in this article, nor any other person employing individuals, shall discharge or otherwise discriminate against any employee for complaining to Sacramento with regard to the employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article, for participating in any proceedings related to this article, for seeking to extend coverage of this article to that person, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article. Where an employer takes adverse action against an employee within sixty (60) days of the employee's assertion of rights under this article, such action will be presumed to be in retaliation for the assertion of those rights.

9. Enforcement

(a) An employee or any member of the public claiming violation of this article may bring an action in the Municipal or Superior Court of the State of California pursuant to the laws of the State of California, as appropriate, against a covered employer, and shall be awarded:

- (1) For failure to pay wages required by this article -- back pay for each day during which the violation continued.
- (2) For failure to pay medical benefits -- the differential between the wage required by this article without benefits and such wage with benefits, less amounts paid, if any, toward medical benefits.
- (3) For failure to allow an employee to take requested compensated or uncompensated time off as required by this article -- damages in an amount equivalent to that employee's wages for the time off requested and not received as well as consequential damages in an amount according to proof.
- (4) For failure to comply with the worker retention provisions, back pay for each day during which the violation continued, which shall be calculated at a rate of compensation not less than the higher of (A) the average rate of pay received by the employee during his/her most recent twenty six weeks work in the same occupation classification, or (B) the final regular rate of pay received by the employee.
- (5) For retaliation -- reinstatement, back pay, and other equitable relief the court may deem appropriate.
- (6) For breach of labor peace provision, equitable relief, including but not limited to, rescission of the covered employers' contract, lease or subsidy,

and a make whole remedy patterned after the California Agricultural Labor Relations Act, Cal. Lab. Code § 1140, et seq.

- (7) Unless the covered employer establishes that the violations were in good faith, the amount of money to be paid out under subsections (1) through (5) shall be doubled.
  - (8) For willful violations, the amount of monies to be paid out under subsections (1) through (5) shall be trebled.
- (b) For any violation in which the employee or member of the public is entitled to remedies under Section 7(a)(6) or (7) of this Article, the Court must:
- (1) Order the awarding department to declare a material breach of the service contract, proprietary lease or license, and exercise its contractual remedies thereunder, which are to include, but not be limited to, termination of the service contract or proprietary lease or license, and the return of monies paid by Sacramento for services not yet rendered.
  - (2) Order the Board of Supervisors to debar the employer from future Sacramento contracts, leases, and licenses for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last. Such debarment shall be the extent permitted by, and under, whatever procedures may be required by law.
    - (i) Order payment of all unpaid wages or health premiums prescribed by this article; and/or
    - (ii) Order fine payable to Sacramento in the amount of \$100 for each violation for each day the violation remains uncured.
- (c) The court shall award reasonable attorneys' fees and costs to an employee who prevails in any such enforcement action
- (d) Sacramento shall include a summary of the requirements of this article in all requests for proposals for contracts to which it applies. Compliance with this article shall be required in all contracts to which it applies, and such contracts, leases, and licenses shall provide that violation of this article shall constitute a material breach thereof and enable Sacramento to terminate the contract and otherwise pursue legal remedies that may be available. Such contracts shall also include a requirement that employers agree to abide by all applicable labor and employment laws.

10. **Limitation of Actions**

All claims asserting rights under this Chapter must be brought within three (3) years of the discovery of the violation.

11. **Coexistence With Other Available Relief**

This article shall not be construed to limit an employee's right to bring legal action for violation of any other law.

12. **Supersession by Collective Bargaining Agreement**

The requirements of this article are superseded for employees whose terms and conditions of employment are governed by a bona fide collective bargaining agreement containing an explicit provision waiving the terms of this ordinance.

13. **Severability**

If any provision of this article, or its application to any person or circumstance is held invalid by any court of competent jurisdiction, the remainder of the article or its application to other persons or circumstances shall not be affected.

14. **No Reduction In Collective Bargaining Wage Rates**

Nothing in this Chapter shall be read to require or authorize any covered employer to reduce wages set by a collective bargaining agreement or required under any prevailing wage law.

15. **Cuts In Non-Wage Benefits Prohibited**

No covered employer will fund wage increases required by this Chapter, or otherwise respond to the provisions of this Chapter, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of its employees.

16. **Living Wage reporting.**

(a) **Payroll record keeping and reporting**

Each Covered Employer shall maintain payrolls for all Covered Employees and basic records relating thereto and shall preserve them for a period of three years. The records shall contain: the zip code of each employee's place of residence, the number of hours worked each day, the gross wages, deduction made, actual wages paid, a record of fringe benefit payments, and any other data as may be required by the City from time to time.

Every six months, each Covered Employer will file with the Designated Department a complete payroll showing the Covered Employer's payroll records for each of its Covered Employees for one payroll period. Upon request by the Designated Department, a Covered Employer shall produce for inspection and copying its payroll records for any or all of its Covered Employees for the prior three year period.

**(b) List of employees**

Where an Awarding Agency has given notice that a contract subject to this ordinance has been terminated, the Awarding Agency shall notify the terminated contractor of the identity of the successor contractor, if known, and the terminated contractor shall within ten days thereafter provide to the successor contractor and the Awarding Agency the name, address, date of hire, and employment occupation classification of each employee, or that of its subcontractors, primarily performing work on the terminated contract at the time of contract termination. If a successor contractor has not been awarded the contract by the end of the ten day period, the Awarding Agency shall provide the employment information to the successor contractor upon award.

**17. Notifying Employees of their Potential Right to the Federal Earned Income Credit**

Covered Employers shall inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit ("EIC") under §32 of the Internal Revenue Code of 1954, 26 U.S.C. §32, and shall make available to employees forms informing them about the EIC and forms required to secure advance EIC payments from the employer. These forms shall be provided to the eligible employees in English, Spanish and other languages spoken by a significant number of the employees within 30 days of employment under the terms of this Ordinance and as required by the Internal Revenue Code.

**18. RFP, Contract and Financial Assistance Agreement Language**

All RFP's, City contracts and assistance agreements, regardless of whether they are subject to this Ordinance shall contain language informing the bidders or recipients that this ordinance may apply to the service, assistance, or bid in question.

**19. Obligations of Covered Employers**

(a) All proposed Beneficiaries subject to the provisions of this Ordinance shall submit a completed Declaration of Compliance form, signed by an authorized representative, along with each proposal. The completed Declaration of Compliance form shall be made a part of the executed contract.

(b) Covered Employers shall require their subcontractors and tenants/leaseholders to comply with the provisions of this Ordinance. Language indicating the subcontractor's or tenants/leaseholders agreement to comply shall be included in the contract between the



contractor and subcontractor or any agreement between a Covered Employer and tenants/leaseholders. A copy of such subcontracts or other such agreements shall be submitted to the City.

(c) Covered Employers shall maintain a listing of the name, address, date of hire, occupation classification, rate of pay and benefits paid for each of its employees, if any, and submit a copy of the list to the City by March 31, June 30, September 30, and December 31 of each year the contract is in effect. Failure to provide this list within five days of the due date will result in a penalty of \$500 per day. Covered Employers shall maintain payrolls for all employees and basic records relating thereto and shall preserve them for a period of three years after termination of their contracts.

(d) Covered Employers shall give written notification to each current and new employee, at time of hire, of his or her rights to receive the benefits under the provisions of this Ordinance. The notification shall be provided in English, Spanish and other languages spoken by a significant number of the employees, and shall be posted prominently in communal areas at the work site. A copy of said notification shall be forwarded to the City.

(e) Covered Employers shall permit access to work sites and relevant payroll records for authorized City representatives for the purpose of monitoring compliance with this Ordinance, investigating employee complaints of non-compliance and evaluating the operation and effects of this Ordinance, including the production for inspection and copying of its payroll records for any or all of its employees for the term of the contract or for five years whichever period of compliance is applicable.

## **20. Ordinance Applicable to New Contracts and City Financial Assistance**

The provisions of this Ordinance shall apply to (a) a contract entered into and financial assistance provided after the effective date of this Ordinance; (b) a contract amendment consummated after the effective date of this Ordinance which itself meets the financial threshold requirement of this Ordinance and (c) supplemental financial assistance provided for after the effective date of this Ordinance which itself meets the requirements of this Ordinance.

## **21. Effective date.**

The law shall be effective from the date of \_\_\_\_\_.

**LW Committee Proposed Living Wage Ordinance  
Policy Considerations:**

The economic analysis to be provided by Economic Research Associates addresses the following major policy issues:

1. Provide an economic definition of a "Living Wage" and identifies the appropriate rate of pay for the "Living Wage" in the Sacramento metropolitan area.
6. Compare the rate of pay identified as the appropriate rate of pay for the "Living Wage" in the Sacramento metropolitan area to the rates proposed in the draft ordinance and the corresponding rates of pay of other "Living Wage" Ordinances currently in effect in California.
7. Review the City staff analysis of the economic cost to the City that would occur if the proposed "Living Wage Ordinance" was adopted and all other factors remain constant.
8. Estimate the amount of any cost increase(s) that might be offset by increased productivity and lower employee turnover under the proposed "Living Wage Ordinance".
9. Determine the number of City residents whose annual income is at or below the federal definition of low income, and the numbers of those that may and may not benefit from a "Living Wage Ordinance".
10. Examine the potential for the termination of lower skilled workers replaced by higher skilled workers due to implementation of the proposed "Living Wage Ordinance".
11. Estimate the economic impact offset for affected employees due to any potential loss of state and federal benefits and/or increased income taxes.
12. Estimate the annual City cost to administer the program.
13. Examine and describe the impact the proposed ordinance may have on the City's Economic Development Program.
14. Address any potential adverse economic impact that may result if the City is the only entity in the region that adopts a Living Wage Ordinance.

In addition, a separate report from Economic Research Associates will identify alternative measures to assist the working poor.