

**AMENDED
ORDINANCE NO. 2003-082**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF DECEMBER 9, 2003

**AN ORDINANCE ADDING CHAPTER 3.58 TO THE
SACRAMENTO CITY CODE TO ESTABLISH A LIVING
WAGE FOR THE CITY OF SACRAMENTO**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

The Sacramento City Code is amended by adding chapter 3.58 to title 3, to read in its entirety as follows:

Chapter 3.58 LIVING WAGE

3.58.010. Legislative Findings.

The city council finds as follows:

- A. In its proprietary capacity, the city awards many contracts to private businesses that provide services to the public and to the city. While providing such services, these businesses should pay their employees a wage, including health-care benefits, that enables the employees and their families to meet basic needs and avoid economic hardship. Likewise, all career employees of the city should be paid a wage, including health-care benefits, that enables them and their families to meet basic needs and avoid economic hardship.
- B. Payment of such a "living wage" will enhance the quality of services provided to the public and the city by promoting workplace stability. It will also reduce the amount of taxpayer-funded social services that must be provided to employees who are city residents.

3.58.020. Definitions.

The following definitions apply in this chapter:

A. "City Contract" means a contract with the city under which a Covered Employer provides Nonprofessional Services in return for compensation of \$100,000 or more.

(1) "City Contract" includes the following:

- (a) An existing contract for Nonprofessional Services that did not qualify as a City Contract when awarded but is amended after the effective date of this chapter so that the total compensation is \$100,000 or more. Such a contract will be a City Contract beginning on the effective date of the amendment except as provided below in subsection B of section 3.58.030.
- (b) A contract for Nonprofessional Services that, by itself, does not qualify as a City Contract but is awarded under the following circumstances: the aggregate value of that contract and of any other contracts for Nonprofessional Services the city has awarded to the same Person within the previous 12 months is \$100,000 or more. Once a contract qualifies as a City Contract under this subsection A(1)(b), it remains a City Contract until it expires or is terminated.

(2) "City Contract" does not include the following:

- (a) Contracts for professional services of any kind, including but not limited to services rendered by engineers, architects, auditors, banks, consultants, actuaries, and attorneys.
- (b) Contracts awarded by the City Manager in response to an emergency. An emergency exists when the City Manager determines that the services covered by the contract must be provided immediately to safeguard life, health, or property; to permit the continued conduct of city operations or services; or to mitigate further damage.
- (c) Contracts for the purchase or lease of equipment, supplies, or other personal property, even though they include incidental services such as delivery, installation, or maintenance.
- (d) Contracts with nonprofit corporations that are organized under section 501 of the Internal Revenue Code and have fewer than 100 employees, whether full or part time.
- (e) Contracts that are subject to city, state, or federal prevailing-wage

laws.

- (f) Contracts for services provided to city employees and retirees.
- (g) Contracts where, by a two-thirds vote of the members, the Council finds that it is in the best interest of the City not to require compliance with this chapter.

B. "City Manager" means the city manager or his or her designee.

C. "Covered Employee" means an individual who is a full-time or part-time career employee of the city. It also means an individual who performs work directly related to a City Contract, whether the individual works full-time or part-time, is a contingent or contract employee, or is made available to work on the City Contract through a temporary-services agency or similar entity. "Covered Employee" does not include the following:

- (1) Individuals who participate in job-training-and-education programs that have, as their express purpose, the provision of basic job skills and education to participants, with the goal of earning a high-school-equivalency diploma and permanent employment.
- (2) Temporary and seasonal city employees.
- (3) Student interns.
- (4) Individuals participating in specialized-training programs.

D. "Covered Employer" means the following:

- (1) A Person that is a party to a City Contract and has at least 25 employees, whether full or part time, determined by adding the Person's employees and the employees of any Related Person. A Person is a Related Person when any of the following circumstances exists:
 - (a) The Person and the Person that is a party to a City Contract are both corporations and—
 - (i) share a majority of members of their governing boards; or
 - (ii) have two or more officers in common; or

- (iii) are controlled by the same majority shareholder or shareholders (control means more than 50% of the corporation's voting power); or
 - (iv) are in a parent-subsidary relationship (such a relationship exists when one corporation directly or indirectly owns shares possessing more than 50% of another corporation's voting power).
 - (b) The Person otherwise controls and directs, or is controlled and directed by, the Person that is a party to a City Contract, as determined by the City Manager.
- (2) A subcontractor providing services under a City Contract, if the subcontractor has at least 25 employees, whether full or part time, or the amount of the subcontract is at least 25% of the amount of the City Contract.
- (3) The City of Sacramento.
- E. "Nonprofessional Services" means any services of a nonprofessional character, including but not limited to tree-trimming services, janitorial services, repair services for motor vehicles and office equipment, vehicle towing, window washing, security services, and laundry services.
- F. "Person" means any of the following: any individual and any corporation, limited-liability company, partnership, joint venture, association, labor organization, unincorporated organization, or other entity. "Person" does not include any unit of federal, state, or local government except the City of Sacramento.

3.58.030. Living Wage and Health Benefits

- A. Except as provided in subsection B below, a Covered Employer must pay its Covered Employees no less than the following rates for all hours worked for the City or while performing under a City Contract:
 - (1) If health benefits are provided to Covered Employees and the Covered Employer's contribution for the benefits is at least \$1.50 for each hour the Covered Employee is entitled by this chapter to a living wage, then the rates are as follows:

- (a) During 2004, \$9.00 an hour.
 - (b) During 2005, the greater of \$9.33 an hour or \$9.00 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco–Oakland–San Jose area (1982-1984=100) from January 1, 2004, through December 31, 2004.
 - (c) During 2006, the greater of \$9.67 an hour or \$9.00 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco–Oakland–San Jose area (1982-1984=100) from January 1, 2004, through December 31, 2005.
 - (d) During 2007, the greater of \$10.00 an hour or \$9.00 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco–Oakland–San Jose area (1982-1984=100) from January 1, 2004, through December 31, 2006.
- (2) If health benefits are not provided to Covered Employees or if health benefits are provided but the Covered Employer's contribution for the benefits is less than \$1.50 for each hour a Covered Employee is entitled by this chapter to a living wage, then the rates are as follows:
- (a) During 2004, \$10.50 an hour.
 - (b) During 2005, the greater of \$10.87 an hour or \$10.50 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco–Oakland–San Jose area (1982-1984=100) from January 1, 2004, through December 31, 2004.
 - (c) During 2006, the greater of \$11.17 an hour or \$10.50 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco–Oakland–San Jose area (1982-1984=100) from January 1, 2004, through December 31, 2005.
 - (d) During 2007, the greater of \$11.50 an hour or \$10.50 adjusted by the increase in the Consumer Price Index for All Urban Consumers, San Francisco–Oakland–San Jose area (1982-1984=100) from January 1, 2004, through December 31, 2006.
- (3) For each year after 2004, the City Manager shall determine the appropriate rate as practicable. Each city department that has City Contracts shall give

written notice of the rate so determined to the Covered Employers.

- B. Notwithstanding subsection A above, the city council may waive, modify, or alter the requirements of this chapter when amending a contract that has a remaining term of ten years or more.

3.58.040. Use of Funds Paid Under City Contracts.

Covered Employers may not directly use city funds to persuade Covered Employees to support or oppose unionization. In particular, but without limiting the generality of the preceding sentence, Covered Employers may not directly use city funds to schedule or hold meetings related to union representation during Covered Employees' working hours. The restrictions imposed by this section do not apply to expenditures made during good-faith collective bargaining or to expenditures required under bona fide collective-bargaining agreements.

3.58.050. No Reduction in Non-Wage Benefits.

Covered Employers shall not fund wage increases required by this chapter and shall not otherwise respond to this chapter by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of their employees.

3.58.060. No Retaliation.

A Covered Employer shall not take any adverse action against a Covered Employee because the Covered Employee does any of the following:

- A. Exercises or asserts his or her rights under this chapter.
- B. Informs or assists other Covered Employees concerning their rights and the Covered Employer's obligations under this chapter.
- C. Complains about the Covered Employer's failure to comply with this chapter.
- D. Seeks to enforce this chapter in accordance with section 3.58.080.

3.58.070. Notification to Covered Employees.

A Covered Employer shall give each existing employee and (at the time of hire) each new employee a copy of the following written notification of this chapter:

This company may enter into a contract to perform services for the City of Sacramento. If you work on such a contract, then you are entitled to be paid a living wage for each hour so worked. In 2004, the living wage is \$9.00 an hour with health benefits and \$10.50 an hour without health benefits. In 2005, the living wage is at least \$9.33 an hour with health benefits and \$10.87 an hour without health benefits. In 2006, the living wage is at least \$9.67 an hour with health benefits and \$11.17 an hour without health benefits. And in 2007, the living wage is at least \$10.00 an hour with health benefits and \$11.50 an hour without health benefits. For more information, see chapter 3.58 of the Sacramento City Code, which can be viewed at www.cityofsacramento.org.

The notification must be in each language spoken by 10% or more of the Covered Employer's workforce. A Covered Employer shall also inform all employees who earn less than \$12 an hour of their possible right to the federal Earned Income Credit (EIC) and shall make available to those employees any forms required to secure advance EIC payments from the Covered Employer.

3.58.080. Implementation and Enforcement.

- A. Implementation. This chapter augments the city's procedures for administering its contracts. The city will include a summary of the requirements of this chapter in all requests for proposals and solicitations relating to City Contracts to which it applies. Compliance with this chapter shall be required in all City Contracts to which it applies, and such City Contracts shall provide that violation of this chapter will constitute a material breach and authorize the city to terminate the City Contract and pursue all available legal and equitable remedies.
- B. Enforcement.
 - (1) City Enforcement. The city may investigate and address, in its sole discretion, any alleged violation of this chapter's requirements. But the city's failure to investigate an alleged violation or otherwise enforce any of the provisions of this chapter shall not create any right of action or right to recover damages from the city by any person, including but not limited to an aggrieved employee.
 - (2) Investigative Authority. The City Manager shall monitor compliance with this chapter and may require Covered Employers to verify compliance by submitting certified payroll records. The City Manager may take such other steps as necessary to determine whether the requirements of this chapter have been satisfied.

- (3) Private Right of Action. An employee or interested party claiming violation of this chapter is entitled to file an action against an employer in the appropriate court within one year after discovery of the alleged violation. The court may award any employee who files suit under this provision, as to the relevant time period, the following:
 - (a) For failure to pay the living wage required by this chapter, the difference between the minimum wage and the amount actually paid to the employee.
 - (b) For failure to pay medical benefits, the difference between the living wage (with benefits) required by this chapter and the amount actually paid to the employee.
 - (c) For retaliation for exercise of any rights provided for under this chapter, reinstatement, back pay, and/or any other relief that a court may deem appropriate.
 - (d) The court shall award reasonable attorney's fees and costs to an employee who prevails in any such private action.
- (4) No Criminal Penalty. Notwithstanding any contrary provision of this code or any other ordinance, no criminal penalties attach to any violation of this chapter.

3.58.090. Supersession by Collective-Bargaining Agreement.

This chapter does not apply to Covered Employees whose terms and conditions of employment are governed by a bona fide collective-bargaining agreement containing an express waiver of this chapter.

3.58.100. No Reduction in Collective-Bargaining Wage Rates.

This chapter does not require or authorize any Covered Employer to reduce wages set by a collective-bargaining agreement or required under any prevailing-wage law.

3.58.110. Annual Reports.

Beginning in 2005, the City Manager's office shall report to the city council on the following by March 1: the effectiveness of this chapter in carrying out the purposes set forth in

section 3.58.010; the cost to the city of compliance with this chapter; and, beginning in 2006, recommendations for increases or decreases in the rates prescribed by section 3.58.030.


3.58.120 Audit Report After Three Years

The City Manager shall prepare or cause to be prepared, at the end of three years of operation, a report on the costs and benefits of compliance with this chapter. The city council shall review the report at a regular city council meeting.


3.58.130. Effective Date.

This chapter applies to all City Contracts entered into, amended, renewed at the city's discretion, or extended at the city's discretion on or after March 1, 2004.

DATE PASSED FOR PUBLICATION: December 2, 2003
DATE ENACTED: December 9, 2003
DATE EFFECTIVE: March 1, 2004


MAYOR

ATTEST:


CITY CLERK
ASST.