

**COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF LOS ANGELES
LIVING WAGE POLICY**

Findings.

The Community Redevelopment Agency ("Agency") awards many contracts to private firms to provide services to the public and to itself. In addition, many lessees or licensees of Agency property perform services that affect the proprietary interests of the Agency in that their performance impacts the success of Agency operations. The Agency also provides financial assistance and funding to others for the purpose of economic development or job growth. Furthermore, the Agency expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and similar goals of the City and the Agency. The Agency intends that the goals underlying this Living Wage Policy ("Policy") serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established, as well as guiding the expenditure of other Agency funds.

Furthermore, experience indicates that procurement by contract of services has all too often resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. Such minimal compensation tends to inhibit the quantity and quality of services rendered by such employees to the Agency and to the public. Underpaying employees in this way fosters high turnover, absenteeism, and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this Policy the Agency intends to require service contractors to provide a minimum level of compensation that will improve the level of services rendered to and for the Agency.

The inadequate compensation typically paid today also fails to provide service employees with resources sufficient to afford life in Los Angeles. It is unacceptable that contracting decisions involving the expenditure of Agency funds, or other funds available to the Agency, should foster conditions placing a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this Policy benefits that interest.

Nothing less than the living wage should be paid by the recipients of Agency financial assistance themselves. Whether they be engaged in manufacturing or some other line of business, the Agency does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor. The same

adverse social consequences from such inadequate compensation emanate just as readily from manufacturing, for example, as service industries. This Policy is meant to protect these employees as well.

The Agency holds a proprietary interest in the work performed by many employees employed by lessees and licensees of Agency property and by their service contractors and subcontractors. In a very real sense, the success or failure of Agency operations may turn on the success or failure of these enterprises, for the Agency has a genuine stake in how the public perceives the services rendered for it by such businesses. Inadequate compensation of these employees adversely impacts the performance by the Agency's lessee or licensee and thereby does the same for the success of City and Agency operations. This Policy is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the Agency.

Finally, it is acknowledged that fundamental purposes of redevelopment, as set forth in state law, include the provision of decent housing and genuine employment opportunities, expansion of the supply of low- and moderate-income housing, expansion of employment opportunities for jobless, underemployed, and low-income persons, and provision of an environment for the social, economic, and psychological growth and well-being of all citizens. The payment of at least a living wage helps to further accomplish this purpose. Moreover, state law provides for the payment of prevailing wages for work performed under specific contracts let for redevelopment work in redevelopment project areas. The payment of a living wage is a logical extension of the intent of that portion of state law.

LEGISLATIVE BASIS

California Community Redevelopment Law, Sections 33070 and 33071.

Sec. 1. Definitions.

The following definitions shall apply throughout this Policy:

- a) **"Agency"** means The Community Redevelopment Agency of the City of Los Angeles, California.
- b) **"Awarding Authority"** means that subordinate or component entity or Person of the Agency (such as a department) or of the Financial Assistance Recipient that awards or is otherwise responsible for the administration of a Service Contract or Public Lease or License, or, where

there is no such subordinate or component entity or Person, then the Agency or the Agency Financial Assistance Recipient.

- c) **“City”** means the City of Los Angeles.
- d) **“Contractor”** means any Person that enters into:
 - (1) a Service Contract with the Agency,
 - (2) a Service Contract with a proprietary lessee or licensee or sub-lessee or sub-licensee, or
 - (3) a contract with an Agency Financial Assistance Recipient to assist the recipient in performing the work for which the assistance is being given. Vendors, such as service contractors, of Agency Financial Assistance Recipients shall not be regarded as Contractors except to the extent provided in Subsection (f).
- e) **“Designated Administrative Agency (DAA)”** means that City department or office designated by Council resolution to bear administrative responsibilities under Section 10.37.7 of the City Living Wage Ordinance and Section 7. of this Policy. The City Clerk shall maintain a record of such designations.
- f) **“Employee”** means any individual - who is not a managerial, supervisory, or confidential employee and who is not required to possess an occupational license - who is employed
 - (1) as a service employee of a Contractor or Subcontractor on or under the authority of one or more Service Contracts and who expends any of his or her time thereon, including but not limited to: hotel employees, restaurant, food service or banquet employees; janitorial employees; security guards; parking attendants; nonprofessional health care employees; gardeners; waste management employees; and clerical employees;
 - (2) as a service employee - of a public lessee or licensee, of a sub-lessee or sub-licensee, or of a service Contractor or Subcontractor of a public lessee or licensee, or sub-lessee or sub-licensee - who works on the leased or licensed premises;
 - (3) by an Agency Financial Assistance Recipient who expends at least half of his or her time on the funded project; or
 - (4) by a service Contractor or Subcontractor of an Agency Financial Assistance Recipient and who expends at least half of his or her time on

the premises of the Agency Financial Assistance Recipient directly involved with the activities funded by the Agency.

g) **“Employer”** means any Person who is an Agency Financial Assistance Recipient, Contractor, Subcontractor, public lessee, public sub-lessee, public licensee, or public sub-licensee and who is required to have a business tax registration certificate by Los Angeles Municipal Code §§ 21.00 - 21.198 or successor ordinance or, if expressly exempted by the Code from such tax, would otherwise be subject to the tax but for such exemption; provided, however, that corporations organized under §501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight (8) times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers.

h) **“Financial Assistance Recipient”** means any Person who receives from the Agency discrete financial assistance for economic development or job growth expressly articulated and identified in writing by the Agency, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of one million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this Policy for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated in writing at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance reaches the one-hundred thousand dollar (\$100,000) threshold. These thresholds shall be adjusted annually at the Consumer Price Index for the Los Angeles – Long Beach Area at the same time as the living wage is adjusted under section 10.37.2 (a) of the City Living Wage Ordinance or successor ordinance. For the purpose of determining whether a particular Financial Assistance Recipient qualifies under these thresholds, financial assistance provided by the City and financial assistance provided by the Agency shall both be counted; however, financial assistance provided by the City and administered or otherwise channeled through the Agency shall not be counted more than one time.

Categories of such assistance include, but are not limited to: Agency approved bond financing; Agency planning assistance which results in a discrete monetary benefit to the Financial Assistance Recipient such as a fee reduction or fee waiver; tax increment financing exclusively by the Agency; construction of off-site public improvements by the Agency that would otherwise be the responsibility of the Financial Assistance Recipient; land write-downs and tax credits; and shall not include assistance provided by the Community Development Bank. Agency

staff assistance shall not be regarded as financial assistance for purposes of this Policy. A loan shall not be regarded as financial assistance; however, the forgiveness of a loan shall be regarded as financial assistance. The previous sentence notwithstanding, a loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sub-lessees.

A recipient shall be exempted from application of this Policy if:

- (1) it is in its first year of existence, in which case the exemption shall last for one (1) year,
- (2) it employs fewer than five (5) Employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or
- (3) it obtains a waiver as provided herein.

A recipient - who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions, and who claims that compliance with this Policy would cause an economic hardship - may apply in writing to the Agency, which shall consider and act upon such application. Waivers shall be effected by resolution of the Agency Board of Commissioners.

i) **“Ordinance”** means the Living Wage Ordinance of the City of Los Angeles, codified as Section 10.37 of the City Administrative Code, as it may be from time to time amended as provided therein.

j) **“Person”** means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.

k) **“Public Lease or License”**.

(a) Except as provided in (k)(b), **“Public Lease or License”** means a lease or license of Agency property on which services are rendered by Employees of the public lessee or licensee or sub-lessee or sub-licensee, or of a Contractor or Subcontractor, 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 (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities); or

(2) Any of the services could feasibly be performed by Agency employees if the awarding authority had the requisite financial and staffing resources; or

(3) The DAA has determined in writing that coverage would further the proprietary interests of the Agency.

(b) A public lessee or licensee will be exempt from the requirements of this Policy subject to the following limitations:

(1) The lessee or licensee has annual gross revenues of less than the annual gross revenue threshold, three hundred fifty thousand dollars (\$350,000), from business conducted on Agency property;

(2) The lessee or licensee employs no more than seven (7) people total in the company on and off Agency property;

(3) To qualify for this exemption, the lessee or licensee must provide proof of its gross revenues and number of people it employs in the company's entire workforce to the Awarding Authority as required by regulation established by the DAA for the equivalent section of the Living Wage Ordinance;

(4) Whether annual gross revenues are less than three hundred fifty thousand dollars (\$350,000) shall be determined based on the gross revenues for the last tax year prior to application or such other period as may be established by regulation;

(5) The annual gross revenue threshold shall be adjusted annually at the Consumer Price Index for the Los Angeles – Long Beach Area at the same rate and at the same time as the living wage is adjusted under section 10.37.2 (a) of the City Living Wage Ordinance or successor ordinance;

(6) A lessee or licensee shall be deemed to employ no more than seven (7) people if the company's entire workforce worked an average of no more than one thousand two-hundred fourteen (1,214) hours per month for at least three-fourths (3/4) of the time period that the revenue limitation is measured;

(7) Public Leases and Licenses shall be deemed to include public subleases and sublicenses;

(8) If a Public Lease or License has a term of more than two (2) years, the exemption granted pursuant to this Section shall expire after two (2) years but shall be renewable in two-year increments upon meeting

the requirements therefore at the time of the renewal application or such period established by regulation.

- (c) A Public Lease or License does not include a permit to enter.

- l) “**Service Contract**” means a contract let to a Contractor by the Agency primarily for the furnishing of services to or for the Agency (as opposed to the purchase of goods or other property or the leasing or renting of property) and that involves an expenditure in excess of twenty-five thousand dollars (\$25,000) and a contract term of at least three (3) months; but only where any of the following applies:
 - (1) at least some of the services rendered are rendered by employees whose work site is on property owned by the Agency;
 - (2) the services could feasibly be performed by Agency employees if the Awarding Authority had the requisite financial and staffing resources, or
 - (3) the DAA has determined in writing that coverage would further the proprietary interests of the Agency.

- m) “**Subcontractor**” means any Person not an Employee that enters into a contract (and that employs Employees for such purpose) with:
 - (1) a Contractor or Subcontractor to assist the Contractor in performing a Service Contract; or
 - (2) a Contractor or Subcontractor of a proprietary lessee or licensee or sub-lessee or sub-licensee to perform or assist in performing services on the leased or licensed premises. Vendors, such as service contractors or subcontractors, of Agency Financial Assistance Recipients shall not be regarded as Subcontractors except to the extent provided in Subsection (f) of this Section 1 (Definitions).

- n) “**Willful Violation**” means that the Employer knew of his, her, or its obligations under this Policy and deliberately failed or refused to comply with its provisions.

Sec. 2. Payment of Minimum Compensation to Employees.

- a) **Wages.** Employers shall pay Employees a wage of no less than the hourly rates set by the City pursuant to the City's Living Wage Ordinance (Article 10.37 et. Seq. of the City Administrative Code) as it may be amended from time to time. The initial rates were seven dollars and twenty-five cents (\$7.25) per hour with health benefits, as described in the Ordinance, or otherwise eight dollars and fifty cents (\$8.50) per hour. With the annual adjustment effective July 1, 1998, such rates were adjusted to seven dollars and thirty-nine cents (\$7.39) per hour with health benefits and eight dollars and sixty-four cents (\$8.64) without. At the time of approval of this Policy by the Agency (May 2003), the rates were eight dollars and twenty-six cents (\$8.26) per hour with health benefits and nine dollars and fifty-two cents (\$9.52) per hour without, and were scheduled to rise to eight dollars and fifty-three cents (\$8.53) per hour with health benefits and nine dollars and seventy-eight cents (\$9.78) per hour without on July 1, 2003. Such rates shall continue to be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the Los Angeles City Employees Retirement System ("LACERS"), made by the CERS Board of Administration under § 4.1040 of the Los Angeles Administrative Code. The Office of the City Administrative Officer shall so advise the DAA of any such change by June 1 of each year and of the required new hourly rates, if any, and the DAA in turn shall notify the Agency within 15 calendar days of any such change. On the basis of such report the DAA shall publish a bulletin announcing the adjusted rates, which shall take effect upon such publication.

- b) **Compensated Days Off.** Employers shall provide at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the Employee's request. Employers shall also permit Employees to take at least an additional ten (10) days a year of uncompensated time to be used for sick leave for the illness of the Employee or a member of his or her immediate family where the Employee has exhausted his or her compensated days off for that year.

Sec. 3. Health Benefits.

Health benefits required by this Policy shall consist of the payment of at least one dollar and twenty-five cents (\$1.25) 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 in Section 2. (a) for Employees with health benefits.

Sec. 4. Notifying Employees of their Potential Right to the Federal Earned Income Credit.

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 Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. Section 32, and shall make available to Employees forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

Sec. 5. Retaliation Prohibited.

Neither an Employer, as defined in this Policy, nor any other Person employing individuals shall discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the Agency or the City with regard to the Employer’s compliance or anticipated compliance with this Policy, for opposing any practice proscribed by this Policy, for participating in proceedings related to this Policy, for seeking to enforce his or her rights under this Policy by any lawful means, or for otherwise asserting rights under this Policy.

Sec. 6. Enforcement.

- a) Compliance with this Policy shall be required in all Agency contracts to which it applies, and such contracts shall provide (i) that the contract is subject to the provisions of this Policy and (ii) that violation of this Policy shall constitute a material breach thereof and entitle the Agency to terminate the contract and otherwise pursue legal remedies that may be available. Such contracts shall also include a pledge that there shall be compliance with federal law proscribing retaliation for union organizing.
- b) An Employee claiming violation of this Policy may report such claimed violation to the DAA which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the DAA has determined that an Employer has violated this Policy, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten (10) days. In the event that the Employer has not demonstrated to the DAA within such period that it has cured such violation, the DAA may then:
 - (1) Request the Awarding Authority to declare a material breach of the service contract, public lease or license, or financial assistance agreement and exercise its contractual remedies thereunder, which are to include, but not be limited to, termination of the Service Contract, Public Lease or License, or financial

assistance agreement and the return of monies paid by the Agency for services not yet rendered.

(2) Request the City Council to debar the Employer from future City 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 to the extent permitted by, and under whatever procedures may be required by, law.

(3) For itself, request the Agency to debar the Employer from future Agency 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 to the extent permitted by, and under whatever procedures may be required by, law.

(3) Request the City Attorney to bring a civil action against the Employer seeking:

- (i) Where applicable, payment of all unpaid wages or health premiums prescribed by this Policy; and/or
- (ii) A fine payable to the Agency in the amount of up to one hundred dollars (\$100.00) for each violation for each day the violation remains uncured.

Where the alleged violation concerns non-payment of wages or health premiums, the Employer will not be subject to debarment or civil penalties if it pays the monies in dispute into a holding account maintained by the Agency for such purpose. Such disputed monies shall be presented to a neutral arbitrator for binding arbitration. The arbitrator shall determine whether such monies shall be disbursed, in whole or in part, to the Employer or to the Employee(s) in question. Regulations promulgated by the DAA shall establish the framework and procedures of such arbitration process. The cost of arbitration shall be borne by the Agency, unless the arbitrator determines that the Employer's position in the matter is frivolous, in which event the arbitrator shall assess the Employer for the full cost of the arbitration. Interest earned by the Agency on monies held in the holding account shall be added to the principal sum deposited, and the monies shall be disbursed in accordance with the arbitration award. A service charge for the cost of account maintenance and service may be deducted therefrom.

- c) Notwithstanding any provision of this Policy or any other ordinance, law or policy to the contrary, no criminal penalties shall attach for violation of this Policy.

Sec. 7. Administration.

The City Council has by resolution designated the Office of the City Administrative Officer as the office which shall promulgate rules for implementation of the Ordinance and otherwise coordinate administration of the requirements of the Ordinance (“**Designated Administrative Agency**” - DAA). The Agency, by the adoption of this Policy, shall also designate the Office of the City Administrative Officer as the office for implementation of this Policy and to otherwise coordinate administration of the requirements of this Policy. The DAA shall monitor compliance, including the investigation of claimed violations, and shall promulgate implementing regulations consistent with this Policy, which shall be consistent with those promulgated for the administration of the Ordinance. The DAA shall also issue determinations that persons are Agency Financial Assistance Recipients, that particular contracts shall be regarded as “**Service Contracts**” for purposes of this Policy, and that particular leases and licenses shall be regarded as “**Public Leases**” or “**Public Licenses**” for purposes of this Policy, when it receives an application for a determination of non-coverage or exemption as provided for in Section 13. The DAA shall also establish Employer reporting requirements on Employee compensation and on notification about and usage of the federal Earned Income Credit referred to in Section 4. The DAA shall report on compliance to the Agency Board of Commissioners no less frequently than annually.

During the years it is required to do so under the Ordinance, the Office of the City Administrative Officer and the Chief Legislative Analyst shall conduct or commission an evaluation of this Policy’s operation and effects. The evaluation shall specifically address at least the following matters:

- a) how extensively affected Employers are complying with the Policy;
- b) how the Policy is affecting the workforce composition of affected Employers;
- c) how the Policy is affecting productivity and service quality of affected Employers;
- d) how the additional costs of the Policy have been distributed among workers, their Employers, the Agency and City. Within ninety days of the adoption of this Policy, these offices, in consultation with the Agency Chief Executive Officer or designee, shall develop detailed plans for evaluation, including a determination of what current and future data will be needed for effective evaluation.

Sec. 8. Exclusion of Service Contracts from Competitive Bidding Requirement.

Service contracts otherwise subject to competitive bid shall be let by competitive bid if they involve the expenditure of at least two-million dollars (\$2,000,000).

Sec. 9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This Policy shall not be construed to limit an Employee's right to bring legal action for violation of other minimum compensation laws.

Sec. 10. Expenditures Covered.

This Policy shall apply to the expenditure - whether through aid to Agency Financial Assistance Recipients, Service Contracts let by the Agency, or Service Contracts let by its Financial Assistance Recipients - of funds entirely within the Agency's control and to other funds, such as federal or state grant funds, where the application of this Policy is consonant with the laws authorizing the Agency to expend such other funds.

Sec. 11. Timing of Application.

This Policy shall apply to all contracts or agreements, and all amendments to such contracts or agreements, which are defined herein as being subject to this Policy, which are executed beginning 31 days following the approval of this Policy by the Los Angeles City Council.

Sec. 12. Supersession by Collective Bargaining Agreement.

Parties subject to this Policy may by collective bargaining agreement provide that such agreement shall supersede the requirements of this Policy.

Sec. 13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "**Financial Assistance Recipient**" in Section (1)(h), of "**Public Lease or License**" in Section (1)(k), and of "**Service Contract**" in Section (1)(l) shall be liberally interpreted so as to further the intent of this Policy. All recipients of Agency financial assistance meeting the monetary thresholds of Section (1)(h), all Agency leases and licenses (including subleases and sublicenses) where the Agency is the lessor or licensor, and all Agency contracts providing for services that are more than incidental, shall be presumed to meet the corresponding definition just mentioned, subject, however, to a determination by the DAA of non-coverage or exemption on

any basis allowed by this Policy, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the Agency of their opportunity to apply for a determination of non-coverage or exemption and procedures for making determinations on such applications. In cases where a Person is subject to both this Policy and the Ordinance, the Ordinance shall prevail. However, in cases where the City's assistance alone would not require a Financial Assistance Recipient, a public lessee or public licensee to comply with the Ordinance, but the Agency's assistance, combined with the City's assistance, meets the thresholds of this Policy, then the provisions of this Policy shall apply.

Sec. 14. Severability.

If any provision of this Policy is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec. 15. Amendment.

This Policy may be amended by the Agency Board of Commissioners at any time upon due notice, and subject to City Council review and approval. In addition, if the City Council at any time amends the Ordinance as set forth in Article 11 of Chapter 1 of Division 10 of the City Administrative Code, Agency staff shall, within 60 days of the effective date of any such amendment, inform the Agency Board of any such amendment and provide to the Board a proposed amendment to this Policy to bring the Policy into conformance with the Ordinance as so amended. The Agency Board of Commissioners shall consider a corresponding amendment to this Policy at a duly noticed meeting not less than seven nor more than 45 days following the presentation of the proposed amendment to the Agency Board by Agency staff. If the Agency Board adopts any such amendment to bring the Policy into conformance with the amended Ordinance, it shall be deemed approved ten days following transmittal to the City Council of notice of the Board's action. If the Agency Board approves any amendment to the Policy that does not bring the Policy into conformance with the amended Ordinance, such amendment to the Policy shall be subject to City Council review and approval, and shall take effect 31 days after said approval by the City Council.

Adopted by the Community Redevelopment Agency Board of Commissioners May 29, 2003
Amended June 19, 2003
Approved by the Los Angeles City Council September 26, 2003
Effective October 28, 2003