

CITY OF SAN FERNANDO
Living Wage Certification for Providers of Services to the
City of San Fernando
(Fiscal Year 2011-2012)

**TO BE COMPLETED BY ALL CONTRACTORS PROVIDING SERVICES TO
THE CITY OF SAN FERNANDO IN EXCESS OF \$25,000**

The City of San Fernando Municipal Code Sec. 2-896 through Sec. 2-906 Living Wage Ordinance (LWO) establishes a minimum Living Wage of **\$18.13 per hour** for certain employees of Contractors providing services to the City.

The LWO requires a Contractor providing services to the City of San Fernando to pay at least the Living Wage to any Employee working on a contract if the contract for services exceeds \$25,000. The requirements of the LWO do not apply to government agencies, City grantees and other non-profit corporations. An Employee is any person who does not actually work as a manager, supervisor, or confidential employee, and who is not required to possess an occupational license. Contractors with collective bargaining agreements covering those employees assigned to contract are exempt from the wage requirements of the Living Wage Ordinance only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms.

Please complete the following certification if you are a Contractor engaging in a contract for services with the City of San Fernando in excess of \$25,000.

Your signature on this certification grants the City permission to review any and all payroll books and records to assure compliance with the LWO during the term of the contract.

Please direct any questions regarding applicability of the Ordinance to Joseph Lillio, Sr. Accountant, City of San Fernando Finance Department, 117 Macneil Street, San Fernando, CA 91340 or email jlillio@sfcity.org.

IF YOU ARE A SUBMITTING A PROPOSAL FOR SERVICES TO THE CITY UNDER A CONTRACT EXCEEDING \$25,000, YOU ARE REQUIRED TO CERTIFY THAT ALL EMPLOYEES THAT WILL BE WORKING ON THIS CONTRACT ARE PAID AT LEAST THE LIVING WAGE.

A signed LWO Certification form must be included with your proposal. If you are exempt for a reason noted on the form, please provide an explanation of why you are exempt, sign the certification form, and include it with the proposal.

LIVING WAGE CERTIFICATION

Please read, complete, and sign the following:

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE.

THIS CONTRACT IS **NOT** SUBJECT TO THE LIVING WAGE ORDINANCE.

Contractor is exempt as a (please check one)

- (a) _____ Government agency
- (b) _____ City grantee
- (c) _____ Non-profit corporation
- (d) _____ Employees covered by a bona fide collective bargaining agreement where the waiver is explicitly set forth in an agreement in clear and unambiguous terms (Please provide a copy of the collective bargaining agreement.)

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of San Fernando's Living Wage Ordinance (LWO), and the applicability of the LWO, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the LWO, as mandated in the San Fernando Municipal Code, Sec. 2-896 through Sec. 2-906. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify **the Finance Department** in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract, which shall be grounds for termination. City shall have the right to examine all books and records of the Contractor as they relate to compliance with the LWO. Payroll records shall at a minimum include full name of each employee performing labor or providing services under the contract, job classification and rate of pay.

These statements are made under penalty of perjury under the laws of the State of California.

Company Name: _____

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Service Description: _____

Adjusted annually each July 1 by an amount corresponding to the previous year's change (January to January) in the Consumer Price Index for Urban Wage Earners and Clerical Workers 1967=100 for Los Angeles-Riverside-Orange County, California

SAN FERNANDO MUNICIPAL CODE

Subdivision IV. Living Wage

Sec. 2-896. Purpose and short title.

This article is enacted for the purpose of improving the quantity and quality of services received by the city from its service Contractors. It is also the purpose of this article to promote an economic environment that protects public resources devoted to social support services. This article shall be known as the "Living Wage Ordinance of the City."

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-897. Definitions.

For the purpose of this part, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

Aid recipient. Any person that is awarded a grant by the city.

Contractor. Any person that enters into a service contract with the city.

Employee. Any person that both: (i) is employed by an employer or a temporary employment agency; and (ii) expends any of his or her time in the performance of work related to a service contract. "Employee" shall not include managerial, supervisory, and confidential personnel. "Employee" also shall not include persons required to possess an occupational license.

Employer. Any Contractor or subContractor. "Employer" shall not include government entities, exempt non-profit organizations or temporary employment agencies.

Exempt non-profit organization. A corporation that both: (i) is organized under 26 USCS 501(c)(3); and (ii) has a chief executive officer who earns a salary that, when calculated on an hourly basis, is less than eight times the lowest wage paid by the corporation.

Grant. Any discrete financial assistance awarded by the city in connection with a program funded by the federal or state government.

Service contract. A contract that: (i) is let to a Contractor by the city primarily for the furnishing of services to, or for, the city; (ii) involves an expenditure in excess of \$25,000.00 and (iii) has a term of at least six months.

SubContractor. Any person that enters into a contract with a Contractor to assist the Contractor in the performance of a service contract. "SubContractor" shall not include any person that is an employee of a Contractor.

Temporary employment agency. A Contractor that, on a temporary basis, provides the city with one or more employees that work under the city's direction.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-898. Payment of living wage and benefits.

(a) *Wages.* Employers shall pay employees a wage of no less than the living wage set pursuant to paragraph (d) of this section. Temporary employment agencies shall pay employees a wage of no less than \$7.25 per hour.

(b) *Compensated days off.* Employers shall provide at least six compensated days off per year for sick leave, vacation, or personal necessity at the employee's request.

(c) *Uncompensated days off.* Employers shall provide employees at least six uncompensated days off per year 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.

(d) *Living wage rate.* The initial rate of the living wage shall be: (i) \$7.25 per hour with health benefits, as described in paragraph (e) of this section; or (ii) \$8.50 per hour without health

benefits, as described in paragraph (e) of this section. As necessary, the purchasing agent shall annually adjust the rate of the living wage to correspond with any adjustments to retirement benefits paid to members of the California Public Employment Retirement System. The adjustment of the living wage rate shall be effective upon publication by the purchasing agent of a bulletin announcing such adjustment and shall apply prospectively.

(e) *Health benefits.* Health benefits required by this article shall consist of the payment of at least \$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 purchasing agent to qualify for the wage rate in paragraph (d) of this section for employees with health benefits.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-899. Federal earned income credit notification.

Employers shall inform employees making less than \$12.00 per hour of their possible right to the federal Earned Income Credit ("EIC") provided for in 26 USCS 32. Employers shall make available to employees forms describing the EIC, as well as forms required to secure advance EIC payments from the employer.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-900. Grounds for contract termination.

All service contracts shall provide that violation of this article shall entitle the city to terminate the contract and otherwise pursue legal remedies that may be available.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-901. Compliance by aid recipients.

Aid recipients who are awarded a grant in excess of \$25,000.00 shall comply with the requirements for employers that are set forth in this article.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-902. Applicability.

(a) *General.* Except as provided in this section, the provisions of this article shall apply to: (i) employers and temporary employment agencies with whom the city executes a service contract after the effective date of this article; (ii) employers and temporary employment agencies with whom the city executes an amendment to a service contract existing on the effective date of this article; and (iii) aid recipients to whom the city awards a grant after the effective date of this article.

(b) *Inapplicable to employers when waiver issued.* This article shall not apply to any person that has been issued a waiver pursuant to paragraph (c) of this section.

(c) *Waiver authorization.* The purchasing agent, with the consent of the city council, may issue a waiver of the requirements of this article to any person submitting a proposal for a service contract upon making a finding that such waiver is necessary to allow the person to compete fairly in the proposalding process.

(d) *Inapplicable to recipients of restricted grants.* This article shall not apply to aid recipients unless the city attorney either: (i) determines that application of this article is consonant with the laws governing the award of the particular grant; or (ii) receives a judgment from a court of law, or other tribunal, that indicates application of this article is consonant with the laws governing the award of the particular grant.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-903. Administration.

(a) *Implementation regulations.* The purchasing agent shall promulgate implementing regulations consistent with this article. At a minimum, such regulations shall include the following: (i) a list of contracts that shall be regarded as service contracts for purposes of section 2-897; and (ii) requirements for employer reporting of employee compensation.

(b) *Compliance monitoring.* The purchasing agent shall monitor compliance with this article. Such monitoring shall include investigation of complaints of claimed violations by employees. The purchasing agent shall annually submit to the city council a written report on compliance with this article.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-904. Notifying employees.

Employers shall give written notification to each current and new employee of his or her rights to receive the benefits set forth in this article. The notification shall be provided in English, Spanish, and other languages spoken by a significant number of employees, and shall be posted prominently in communal areas at the work site.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-905. Enforcement.

(a) Any aggrieved person may enforce the provisions of this article by means of a civil action.

(b) Any person who violates the provisions of this article or who aids in the violation of any provisions of this article shall be liable for, and the court shall award to the individual whose rights are violated, the following: actual damages; costs; attorney's fees; and not less than \$250.00 but not more than \$10,000.00 in addition thereto. In addition, the court may award punitive damages in a proper case.

(c) Actions to enforce the provisions of this article must be filed within one year of the alleged violation.

(d) Nothing in this article shall preclude any aggrieved person from seeking any other remedy provided by law.

(e) Nothing in this article shall be construed to limit any aggrieved person's right to bring legal action for violation of other minimum compensation laws.

(Ord. No. 1514, § 2, 4-3-2000)

Sec. 2-906. No criminal penalty.

Notwithstanding any provision of this Code or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

(Ord. No. 1514, § 2, 4-3-2000)