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**BUREAU OF
CONTRACT ADMINISTRATION**

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Honorable Members of the City Council
c/o Holly L. Wolcott, City Clerk
200 N. Spring Street, Room 395
Los Angeles, CA 90012

April 14, 2016

Honorable Members:

**BUREAU OF CONTRACT ADMINISTRATION – MINIMUM WAGE AND WAGE
THEFT AMENDMENTS (COUNCIL FILES 14-1371-S1 AND 09-2642)**

In June 2015 the City Council passed the Minimum Wage Ordinance and the Wage Enforcement Division Ordinance to raise the standard of living in its communities and establish a program to prevent and penalize wage theft. These historic policies provided a guide for the development and implementation of the minimum wage and wage theft enforcement programs, and the Bureau of Contract Administration (BCA) has worked diligently in the subsequent months to establish the infrastructure necessary to make the City Council’s vision a reality. The BCA has progressed in drafting rules and regulations, investigation and enforcement procedures, and informational material, and has received inquiries and feedback from the business community, community based organizations, and other stakeholders including state and federal enforcement agencies and the City Attorney’s Office. In doing so, the BCA has become aware of several areas of the policy that would benefit from clarifications and updates. Therefore, the BCA has prepared and now transmits for your consideration a list of amendments that will enhance the program’s effectiveness, improve clarity, and strengthen enforcement.

LIST OF AMENDMENTS

Minimum Wage Ordinance

- Add a definition of wage that clarifies that wages are defined by State Labor Code and include piece rates, commissions, etc.
- Change the announcement date of the annual increase to February 1 to allow the increase to be based on the CPI for the full previous calendar year.
- Remove the term “learners” to avoid confusion with the state definition which includes a broader age range. Deleting this term will effectuate the City Council’s intent, which was to



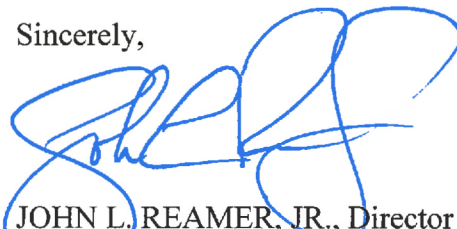
allow 14-17 year old Employees to receive not less than 85% of the minimum wage rounded to the nearest nickel during their first 160 hours of employment.

- Add an exemption for employees holding transitional jobs, as directed by the City Council.
- Clarify that the size of a new business will be determined by the business' first pay period.
- Clarify that for the first five years, while the deferred wage rate schedule for small businesses is in effect, a business will remain on one schedule for the duration of the five year period.
- Clarify that if a non-profit organization (that was previously approved as qualifying for the deferred wage rate) loses its non-profit status, it must comply with the appropriate wage schedule as determined by its size.

Wage Enforcement Division Ordinance

- Change division name to Office of Wage Standards.
- Add language that requires Employers to notify existing employees of the minimum wage to ensure that all employees are informed.
- Clarify that the City shall have access to all business sites and may interview any relevant witnesses.
- Change "Notice of Determination" to "Notice of Correction."
- Change procedures for service of a Notice of Correction to personal service or registered mail so that the City can document that an Employer received the notice.
- Add language that establishes a mechanism for settlement discussions that will enable issues to be resolved more expediently and before a formal hearing process.
- Change the penalty due to an Employee from \$100 for each day to "up to \$120 for each day" and establish criteria including the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, the frequency of past violations, actions taken to mitigate the violation, and the financial burden to the violator. This change is more in line with legal precedents and allows flexibility for a penalty that's appropriate for each violation.
- Remove interest an Employer must pay on unpaid wages and penalties. This will remove a time consuming administrative aspect that will delay collection.
- Add a penalty of up to \$50 per day that is payable from an Employer to the City when wages have been withheld from an Employee. This will provide an additional enforcement tool and is consistent with San Francisco's fees and penalties.

Sincerely,



JOHN L. REAMER, JR., Director
Bureau of Contract Administration

