

ORDINANCE NO. _____

An ordinance amending Section 10.37 of the Los Angeles Administrative Code relating to the Living Wage Ordinance.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 10.37 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

Sec. 10.37. Legislative Findings.

The City awards many contracts to private firms to provide services to the public and to City government. Many lessees or licensees of City property perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. These expenditures serve to promote the goals established for the grant programs and for similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

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. The minimal compensation tends to inhibit the quantity and quality of services rendered by those employees to the City 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 article, the City intends to require service contractors to provide a minimum level of compensation which will improve the level of services rendered to and for the City.

The inadequate compensation typically paid also fails to provide service employees with resources sufficient to afford life in Los Angeles. Contracting decisions involving the expenditure of City funds should not foster conditions that place 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 article benefits that interest.

In comparison with the wages paid at San Francisco International Airport, the wage for Los Angeles airport workers is often lower even though the airports are similar in the number of passengers they serve and have similar goals of providing a living

wage to the airport workforce. Therefore, the City finds that a higher wage for airport employees is needed to reduce turnover and retain a qualified and stable workforce.

Nothing less than the living wage should be paid by employers that are the recipients of City financial assistance. Whether they be engaged in manufacturing or some other line of business, the City 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.

The City holds a proprietary interest in the work performed by many employees of City lessees and licensees and by their service contractors and subcontractors. In a very real sense, the success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by such businesses. Inadequate compensation of these employees adversely impacts the performance by the City's lessee or licensee and thereby hinders the opportunity for success of City operations. A proprietary interest in providing a living wage is important for various reasons, including, but not limited to: 1) the public perception of the services or products rendered to them by a business; 2) security concerns related to the location of the business or any product or service the business produces; or 3) an employer's industry-specific job classification which is in the City's interest to cover by the living wage. This article is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the City. If an employer does not comply with this article, the City may: 1) declare a material breach of the contract; 2) declare the employer non-responsible and limit its ability to bid on future City contracts, leases or licenses; and 3) exercise any other remedies available.

Sec. 10.37.1. Definitions.

The following definitions shall apply throughout this article:

(a) **"Airport"** means the Department of Airports and each of the airports which it operates.

(b) **"Airport Employer"** means an Employer, as the term is defined in this section, at the Airport.

(c) **"Airport Employee"** means an Employee, as the term is defined in this section, of an Airport Employer.

(d) **"Awarding Authority"** means that subordinate or component entity or person of the City (such as a department) or of the financial assistance recipient that awards or is otherwise responsible for the administration of a

Service Contract, Public Lease or License, or, where there is no such subordinate or component entity or person, then the City or the City Financial Assistance Recipient.

(e) **“City”** means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds.

(f) **“City Financial Assistance Recipient”** means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of \$1,000,000 or more in any 12-month period shall require compliance with this article for five years from the date such assistance reaches the \$1,000,000 threshold. For assistance in any 12-month period totaling less than \$1,000,000 but at least \$100,000, there shall be compliance for one year, with the period of compliance beginning when the accrual of continuing assistance reaches the \$100,000 threshold.

Categories of assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. 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) and 7872(f). A recipient shall not be deemed to include lessees and sublessees.

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

(1) it is in its first year of existence, in which case the exemption shall last for one year;

(2) it employs fewer than five Employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

(3) it obtains a waiver as a recipient who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions. The recipient shall attest that compliance with this article would cause an economic hardship and shall apply in writing to the City department or office administering the assistance. The

department or office shall forward the waiver application and the department's or office's recommended action to the City Council. Waivers shall be effected by Council resolution.

(g) **"Contractor"** means any person that enters into:

(1) a Service Contract with the City;

(2) a Service Contract with a proprietary lessee or licensee or sublessee or sublicensee; or

(3) a contract with a City Financial Assistance Recipient to assist the recipient in performing the work for which the assistance is being given. Vendors, such as service Contractors, of City Financial Assistance Recipients shall not be regarded as Contractors except to the extent provided in Subsection (i).

(h) **"Designated Administrative Agency (DAA)"** means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(i) **"Employee"** means any person who is not a managerial, supervisory or confidential employee and who is working for the Contractor in the United States:

(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 one of the following: a public lessee or licensee, or a sublessee or sublicensee of a public lessee or licensee; a service Contractor or Subcontractor of a public lessee or licensee; or sublessee or sublicensee working on the leased or licensed premises;

(3) as an Employee of a City Financial Assistance Recipient who expends at least half of his or her time on the funded project; or

(4) as an Employee of a service Contractor or Subcontractor of a City Financial Assistance Recipient and who expends at least half of his or her time on the premises of the City Financial Assistance Recipient directly involved with the activities funded by the City.

(j) **“Employer”** means any person who is a City Financial Assistance Recipient, Contractor, Subcontractor, public lessee, public sublessee, public licensee or public sublicensee.

(k) **“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.

(l) **“Public Lease or License”** means, except as provided in Section 10.37.15, a lease or license of City property (including, but not limited to, Non-Exclusive License Agreements, Air Carrier Operating Permits and Certified Service Provider License Agreements) on which services are rendered by Employees of the public lessee or licensee or sublessee or sublicensee, 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 members of the public (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities);

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

(3) The DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(m) **“Service Contract”** means a contract let to a Contractor by the City primarily for the furnishing of services to or for the City (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 \$25,000 and a contract term of at least three months, but only where any of the following applies:

(1) at least some of the services are rendered by Employees whose work site is on property owned or controlled by the City;

(2) the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) the DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(n) "**Subcontractor**" means any person not an Employee who enters into a contract (and who 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 sublessee or sublicensee to perform or assist in performing services on the leased or licensed premises. Vendors, such as service Contractors or Subcontractors, of City Financial Assistance Recipients shall not be regarded as Subcontractors except to the extent provided in Subsection (i).

(o) "**Willful Violation**" means that the Employer knew of its obligations under this article and deliberately failed or refused to comply with its provisions.

Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) **Wages.** An Employer shall pay an Employee for all hours worked on a City contract a wage of no less than the hourly rates set under the authority of this article.

(1) On July 1, 2016, Employee wages shall be no less than \$11.27 per hour with health benefits and no less than \$12.52 per hour without health benefits. On July 1, 2016, the wage for Airport Employees shall be no less than \$11.68 with health benefits and no less than \$16.73 without health benefits. On July 1, 2017, the wage for Airport Employees shall be no less than \$12.08 per hour with health benefits and no less than \$17.26 without health benefits, unless the annual increase provided in Section 10.37.2(a)(2) is higher. On July 1, 2018, the annual increase will continue as provided in Section 10.37.2(a)(2).

(2) The hourly rate with health benefits to be paid to all Employees and the hourly rate without health benefits to be paid to Airport Employees shall 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 LACERS Board of Administration under Section 4.1022. 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. On the basis of such report, the DAA shall publish a bulletin announcing the adjusted rates, which shall take effect on July 1 of each year.

(3) An Employer may not use tips or gratuities earned by an Employee to offset the wages required under this article.

(4) Regulations promulgated by the DAA shall establish the framework and procedures for payment of wages.

(b) **Compensated Time Off.** An Employer shall provide at least 96 compensated hours off per year for sick leave, vacation or personal necessity at the Employee's request. An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, will determine what is unreasonable.

(1) A full-time Employee is someone who works at least 40 hours a week or in accordance with the Employer's policy, if the Employer's established policy is overall more generous.

(2) A part-time Employee must accrue compensated hours off in increments proportional to that accrued by someone who works 40 hours a week.

(3) General Rules for Compensated Time Off.

(i) An Employee must be eligible to use accrued paid compensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, will determine what is unreasonable.

(iii) The DAA may allow an Employer's established compensated time off policy to remain in place even though it does not meet these requirements, if the DAA determines that the Employer's established policy is overall more generous.

(iv) Unused accrued compensated time off will carry over until time off reaches a maximum of 192 hours, unless the Employer's established policy is overall more generous.

(v) After an Employee reaches the maximum accrued compensated time off, an Employer shall provide a cash payment once every 30 days for accrued compensated time off over the maximum. An Employer may provide an Employee with the option of cashing out any portion of, or all of, the Employee's accrued compensated time off, but, an Employer shall not require an Employee to cash out any accrued compensated time off. Compensated time off cashed out shall be paid to the Employee at the wage rate that the Employee is earning at the time of cash out.

(vi) An Employer may not implement any unreasonable employment policy to count accrued compensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(vii) Regulations promulgated by the DAA shall establish the framework and procedures for calculations of compensated time off.

(c) **Uncompensated Time Off.** Employers shall also permit full-time Employees to take at least 80 additional hours per 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 time off for that year.

(1) A full-time Employee is someone who works at least 40 hours a week or in accordance with the Employer's policy, if the Employer's established policy is overall more generous.

(2) A part-time Employee must accrue uncompensated hours off in increments proportional to that accrued by someone who works 40 hours a week.

(3) General Rules for Uncompensated Time Off.

(i) An Employee must be eligible to use accrued uncompensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) An Employer may not unreasonably deny an Employee's request to use the accrued uncompensated time off. The DAA, through regulations, will determine what is unreasonable.

(iii) Unused accrued uncompensated time off will carry over until the time off reaches a maximum of 80 hours, unless the Employer's established policy is overall more generous.

(iv) An Employer may not implement any unreasonable employment policy to count accrued uncompensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(v) Regulations promulgated by the DAA shall establish the framework and procedures for calculations of uncompensated time off.

Sec. 10.37.3. Health Benefits.

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment by an Employer of at least \$1.25 per hour to Employees towards the provision of health care benefits for Employees and their dependents. On July 1, 2016, the health benefit rate for Airport Employees shall be \$5.05 per hour. On July 1, 2017, the health benefit rate for Airport Employees shall be at least \$5.18 per hour, unless the annual increase provided in Section 10.37.3(a)(5) is higher. On July 1, 2018, the annual increase will continue as provided in Section 10.37.3(a)(5).

(1) Proof of the provision of such benefits must be submitted to the Awarding Authority to qualify for the wage rate in Section 10.37.2(a) for Employees with health benefits.

(2) Health benefits include health coverage, dental, vision, mental health and disability income. For purposes of this article, retirement benefits, accidental death and dismemberment insurance, life insurance and other benefits that do not provide medical or health related coverage will not be credited toward the cost of providing Employees with health benefits.

(3) If the Employer's hourly health benefit payment is less than that required under this article, the difference shall be paid to the Employee's hourly wage.

(4) Health benefits are not required to be paid on overtime hours.

(5) Consistent with and as shall be reflected in the hourly rates payable to an Airport Employee as provided in 10.37.2(a) above, the amount of payment for health benefits by an Airport Employer shall 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 LACERS Board of Administration under Section 4.1022. 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 payments, if any. On the basis of such report, the

DAA shall publish a bulletin announcing the adjusted payment, which shall take effect on July 1 of each year.

(6) Regulations promulgated by the DAA shall establish any framework and procedures associated with the administration of this article.

(b) **Periodic Review.** At least once every three years, the City Administrative Officer shall review the health benefit payment by Airport Employers set forth in Section 10.37.3(a) to determine whether the payment accurately reflects the cost of health care and to assess the impacts of the health benefit payment on Airport Employers and Airport Employees and shall transmit a report with its findings to the Council.

Sec. 10.37.4. Employer Reporting and Notification Requirements.

(a) An Employer shall post in a prominent place in an area frequented by Employees a copy of the Living Wage Poster and the Notice Regarding Retaliation, both available from the DAA.

(b) An Employer shall inform an Employee 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 an Employee forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

(c) An Employer is required to retain payroll records pertaining to its Employees for a period of at least four years, unless more than four years of retention is specified elsewhere in the contract or required by law.

(d) Contractors, public lessees and licensees, and City Financial Assistant Recipients are responsible for notifying all Subcontractors, sublessees, and sublicensees of their obligation under this article and requiring compliance with this article. Failure to comply shall be a material breach of the contract.

Sec. 10.37.5. Retaliation Prohibited.

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

Sec. 10.37.6. Enforcement.

(a) An Employee claiming violation of this article may bring an action in the Superior Court of the State of California against an Employer and may be awarded:

(1) For failure to pay wages required by this article, back pay shall be paid for each day during which the violation occurred.

(2) For failure to comply with health benefits requirements pursuant to this article, the Employee shall be paid the differential between the wage required by this article without health benefits and such wage with health benefits, less amounts paid, if any, toward health benefits.

(3) For retaliation the Employee shall receive reinstatement, back pay or other equitable relief the court may deem appropriate.

(4) For Willful Violations, the amount of monies to be paid under Subsections (1) - (3), above, shall be trebled.

(b) The court shall award reasonable attorney's fees and costs to an Employee who prevails in any such enforcement action and to an Employer who prevails and obtains a court determination that the Employee's lawsuit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies. Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the Awarding Authority to terminate the contract and otherwise pursue legal remedies that may be available. Contracts shall also include an agreement that the Employer shall comply with federal law proscribing retaliation for union organizing.

(d) The DAA may audit an Employer at any time to verify compliance. Failure by the Employer to cooperate with the DAA's administrative and enforcement actions, including, but not limited to, requests for information or documentation to verify compliance with this article, may result in a DAA determination that the Employer has violated this article.

(e) An Employee claiming violation of this article may report the claimed violation to the DAA, which shall determine whether this article applies to the claimed violation.

(1) If the claimed violation is valid, the DAA will perform an audit the scope of which will not exceed four years from the date the complaint was received.

(2) If the claimed violation is filed after a contract has expired, and information needed for the review is no longer readily available, the DAA may determine this article no longer applies.

(3) In the event of a claimed violation of requirements relating to compensated time off, uncompensated time off or wages, the DAA may require the Employer to calculate the amount the Employee should have earned and

compensate the Employee. Nothing shall limit the DAA's authority to evaluate the calculation.

(i) If the DAA determines that an Employer is in violation of Section 10.37.2(b), the time owed must be made available immediately. At the Employer's option, retroactive compensated time off in excess of 192 hours may be paid to the Employee at the current hourly wage rate.

(ii) If the DAA determines that an Employer is in violation of Section 10.37.2(c), the Employer shall calculate the amount of uncompensated time off that the Employee should have accrued. This time will be added to the uncompensated time off currently available to the Employee and must be available immediately.

(f) Where the DAA has determined that an Employer has violated this article, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten days or other time period determined appropriate by the DAA.

(g) In the event the Employer has not demonstrated to the DAA within such period that it has cured the 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: (i) termination of the Service Contract, Public Lease or License, or financial assistance agreement; (ii) the return of monies paid by the City for services not yet rendered; and (iii) the return to the City of money held in retention (or other money payable on account of work performed by the Employer) when the DAA has documented the Employer's liability for unpaid wages, health benefits or compensated time off.

(2) Request the Awarding Authority to declare the Employer non-responsible from future City contracts, leases and licenses in accordance with the Contractor Responsibility Ordinance (LAAC Section 10.40 *et seq.*) and institute proceedings in a manner that is consistent with law.

(3) Impose a fine payable to the City in the amount of up to \$100 for each violation for each day the violation remains uncured.

(4) Exercise any other remedies available at law or in equity.

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

Sec. 10.37.7. Administration.

The City Council shall, by resolution, designate a department or office which shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article (Designated Administrative Agency - DAA). The DAA shall monitor compliance, including the investigation of claimed violations, and shall promulgate implementing regulations consistent with this article. The DAA shall also issue determinations that persons are City Financial Assistance Recipients, that particular contracts shall be regarded as "Service Contracts" for purposes of Section 10.37.1(m), and that particular leases and licenses shall be regarded as "Public Leases" or "Public Licenses" for purposes of Section 10.37.1(l), when it receives an application for a determination of non-coverage or exemption as provided for in Section 10.37.14 and 10.37.15.

The DAA may require an Awarding Authority to inform the DAA about all contracts in the manner described by regulation. 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 10.37.4. The DAA shall report on compliance to the City Council no less frequently than annually.

During the first, third and seventh years of this article's operation since May 5, 1997, and every third year thereafter, the City Administrative Officer and the Chief Legislative Analyst shall conduct or commission an evaluation of this article's operation and effects. The evaluation shall specifically address at least the following matters:

- (a) how extensively affected Employers are complying with the article;
- (b) how the article is affecting the workforce composition of affected Employers;
- (c) how the article is affecting productivity and service quality of affected Employers;
- (d) how the additional costs of the article have been distributed among Employees, their Employers and the City.

Sec. 10.37.8. City is a Third Party Beneficiary of Contracts between an Employer and Subcontractor for Purposes of Enforcement.

Any contract an Employer executes with a Subcontractor, as defined in Section 10.37.1(n), shall contain a provision wherein the Subcontractor agrees to comply with this article and designates the City as an intended third party beneficiary for purposes of enforcement directly against the Subcontractor, as provided for in Section 10.37.6, of this article.

Sec. 10.37.9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

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

Sec. 10.37.10. Expenditures Covered.

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

Sec. 10.37.11. Timing of Application.

The provisions of this article shall become operative 90 days following the effective date of the ordinance and are not retroactive.

Sec. 10.37.12. Supersession by Collective Bargaining Agreement.

Parties subject to this article may by collective bargaining agreement provide that such agreement shall supersede the requirements of this article. An Employer seeking supersession must submit the required documentation to the DAA.

Sec. 10.37.13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "City Financial Assistance Recipient" in Section 10.37.1(f), of "Public Lease or License" in Section 10.37.1(l), and of "Service Contract" in Section 10.37.1(m) shall be liberally interpreted so as to further the policy objectives of this article. All City Financial Assistance Recipients meeting the monetary thresholds of Section 10.37.1(f), all City leases and licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services shall be presumed to meet the corresponding definition mentioned above, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this article, 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 City of their opportunity to apply for a determination of non-coverage or exemption and procedures for making determinations on such applications.

Sec. 10.37.14. Contracts, Employers and Employees Not Subject to This Article.

The following contracts are not subject to the Living Wage Ordinance. An Awarding Authority, after consulting with the DAA, may determine whether contracts and/or Employers are not subject to the Living Wage Ordinance due to the following:

- (a) a contract where an employee is covered under the Prevailing Wage requirements of Division 2, Part 7, of the California Labor Code unless the total of the Basic Hourly Rate and hourly Health and Welfare payments specified in the Director of Industrial Relations' General Prevailing Wage Determinations are less than, and are not paid more than, the minimum hourly rate as required by Section 10.37.2(a)(1) of this article.
- (b) a contract with a governmental entity, including a public educational institution or a public hospital.
- (c) a contract for work done directly by a utility company pursuant to an order of the Public Utilities Commission.

Sec. 10.37.15. Exemptions.

Upon the request of an Employer, the DAA may exempt compliance with this article. An Employer seeking an exemption must submit the required documentation to the DAA for approval before the exemption takes effect.

- (a) **Small Business.** A Public Lessee or Licensee shall be exempt from the requirements of this article subject to the following limitations:
 - (1) The lessee or licensee employs no more than seven people total on and off City property. A lessee or licensee shall be deemed to employ no more than seven people if the company's entire workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the previous calendar year;
 - (2) To qualify for this exemption, the lessee or licensee must provide proof of the number of people it employs in the company's entire workforce to the Awarding Authority as required by regulation;
 - (3) Public Leases and Licenses shall be deemed to include public subleases and sublicenses; and
 - (4) If a Public Lease or License has a term of more than two years, the exemption granted pursuant to this section shall expire after two years, but shall be renewable in two-year increments upon meeting the requirements therefor at the time of the renewal application or a period established by regulation.

(b) Non-Profit Organizations. Corporations organized under Section 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 times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers. The Employer must submit documentation to the DAA.

(c) Students. High school and college students employed in a work study or employment program lasting less than three months shall be exempt. Other students participating in a work-study program shall be exempt if the Employer can verify to the DAA that:

(1) The program involves work/training for class or college credit and student participation in the work-study program is for a limited duration, with definite start and end dates; or

(2) The student mutually agrees with the Employer to accept a wage below this article's requirements based on a training component desired by the student.

(d) Nothing in this article shall limit the right of the City Council to waive the provisions herein.

(e) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to and at the request of an individual Employee who is eligible for benefits under a health plan in which the Employee's spouse, domestic partner or parent is a participant or subscriber to another health plan. An Employee who receives this waiver shall not be entitled to the hourly rate without health benefits pursuant to Section 10.37.2.

Sec. 10.37.16. Severability.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By *Basia Jankowski*
BASIA JANKOWSKI
Deputy City Attorney

Date *May 20, 2016*

File No. _____