

ORDINANCE NO. _____

An ordinance adding Article 10 to Chapter XVIII of the Los Angeles Municipal Code to establish protections for freelance workers.

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

Section 1. A new Article 10 is added to Chapter XVIII of the Los Angeles Municipal Code to read as follows:

ARTICLE 10

FREELANCE WORKER PROTECTIONS ORDINANCE

SEC. 189.100. PURPOSE.

Freelance workers are an essential part of today's economy and one of the fastest growing sectors of the workforce. However, freelance workers, who are not employees but independent contractors, typically do not receive the same protections as employees, including protections against wage theft. Freelance workers face challenges with payment for their services, including delayed payment, less than full payment, and non-payment. The City has an interest in ensuring that freelance workers are treated fairly and receive the compensation they are due.

SEC. 189.101. DEFINITIONS.

The following definitions shall apply to this article:

A. **"City"** means the City of Los Angeles.

B. **"DAA"** means the Office of Wage Standards of the Bureau of Contract Administration within the Department of Public Works.

C. **"Freelance Worker"** means an individual or entity composed of no more than one person, regardless of corporate form or method of organizing the person's business, which is hired by a Hiring Party as a bona fide independent contractor to perform services in exchange for compensation. A Freelance Worker does not include an individual or entity that:

1. Is required by the California Business and Professions Code or other law to have a written agreement to provide services in exchange for compensation;

2. Is an Employee of the Hiring Entity under Los Angeles Municipal Code Section 187 et seq.;

3. Agrees to perform services for a Hiring Entity for no pay; or
4. Has employees.

D. **“Hiring Entity”** means an entity regularly engaged in business or commercial activity. A hiring entity is regularly engaged in business or commercial activity if the hiring entity owns or operates any trade or business, including a not for profit business, or represents itself as engaging in any trade, or business. A “Hiring Entity” does not include an entity that hires app-based transportation and delivery drivers to provide prearranged services.

SEC. 189.102. APPLICATION OF THIS ARTICLE

The provisions of this article shall apply:

- A. To a written or oral contract between a Freelance Worker and a Hiring Entity entered into on or after July 1, 2023; and
- B. When a Freelance Worker performs over \$600 of work in a calendar year in the City for the same Hiring Entity.

SEC. 189.103. WRITTEN CONTRACT REQUIRED FOR WORK PERFORMED IN THE CITY.

- A. Any contract between a Hiring Entity and a Freelance Worker valued at \$600 or more, either by itself or when aggregated with previous written or oral contracts between the Hiring Entity and the Freelance Worker in the same calendar year, must be in writing.
- B. The written contract shall include, at a minimum, all of the following information:
 1. The name, mailing address, phone number, and email address of both the Hiring Entity and the Freelance Worker;
 2. An itemization of all services to be provided by the Freelance Worker, the value of the services to be provided pursuant to the contract, and the rate and method of compensation; and
 3. The date by which the hiring entity must pay the contracted compensation or the manner by which such date will be determined.

SEC. 189.104. TIMELY PAYMENT.

A Hiring Entity must provide full payment to the Freelance Worker on or before the date specified in the written contract or, if the written contract does not specify a due date or if there is no written contract, no later than 30 calendar days after all services are rendered.

SEC. 189.105. RECORDKEEPING.

A Hiring Entity and Freelance Worker shall each retain written records related to this article for no less than four years, including contracts, payment records, and any other written or electronic records to demonstrate compliance.

SEC. 189.106. NO WAIVER OF RIGHTS.

A waiver by a Freelance Worker of any provision in this article shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 189.107. RETALIATORY ACTION PROHIBITED.

No Hiring Entity shall discriminate or take any adverse action against a Freelance Worker that penalizes the Freelance Worker for, or is reasonably likely to deter a Freelance Worker from 1) opposing any practice proscribed by this article; 2) participating in proceedings related to this article; 3) seeking to enforce rights under this article by any lawful means; or 4) otherwise asserting or attempting to assert rights under this article.

SEC. 189.108. COMPLAINTS TO THE DAA.

A. Reporting Violations. A Freelance Worker shall file a complaint with the DAA no later than one year from the date of any alleged violation of this article. A Freelance Worker is not required to file a complaint with the DAA before filing a civil action for any violation of this article.

B. DAA's Response. The DAA may contact the Hiring Entity named in the complaint to inform the Hiring Entity on the requirements of this article and to request information and documents relating to the complaint. The DAA shall provide to the Freelance Worker all the relevant documentation received from the Hiring Entity. The DAA may provide information and resources to assist the Freelance Worker, including but not limited to:

1. Information on court procedures for filing claims in small claims court.
2. Information on obtaining translation and interpretation services, and other courtroom services.

3. A list of organizations that can identify and refer attorneys.
4. A list of organizations that provides outreach and education, and legal assistance to Freelance Workers.

SEC. 189.109. REBUTTABLE PRESUMPTION.

If a Hiring Entity fails to respond to the DAA's request for information and/or documents pursuant to Section 189.108.B within 20 calendar days, there shall be a rebuttable presumption in any civil action that the Hiring Entity committed the alleged violations.

SEC. 189.110. ENFORCEMENT.

A. A Freelance Worker alleging a violation of this article may bring an action in a court of competent jurisdiction for damages as described in this section.

B. A Freelance Worker who prevails on a claim alleging a violation of this article shall be awarded damages as described in the Section 189.111, reasonable attorney's fees and costs, injunctive relief, and other remedies deemed appropriate by a Court.

SEC. 189.111. DAMAGES AND REMEDIES TO FREELANCE WORKER.

A. If the Freelance Worker requested pursuant to section 189.103.A, a written contract prior to commencing work under the contract and the Hiring Entity refused, the Freelance Worker shall be awarded \$250.

B. If the Hiring Entity fails to pay the Freelance Worker the amount agreed to under the contract by the time specified in Section 189.104, the Freelance Worker shall be awarded damages up to twice the amount that remains unpaid under the contract.

C. If the Hiring Entity violates any other provision in the article, the Freelance Worker shall be awarded damages equal to the value of the contract.

SEC. 189.112. ADMINISTRATION.

The DAA may promulgate guidelines and rules consistent with this article. Any guidelines or rules shall have the force and effect of law and may be relied upon by a Freelance Worker or a Hiring Entity to determine their rights and responsibilities under this article.

SEC 189.113. SEVERABILITY.

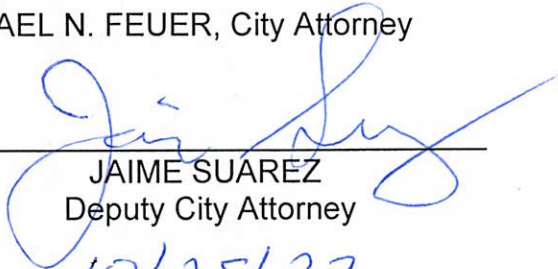
If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council declares that it would have adopted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

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By



JAIME SUAREZ
Deputy City Attorney

Date

10/25/22

File No.

21-0107

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____