CITY OF SAN DIEGO

RULES IMPLEMENTING THE LIVING WAGE ORDINANCE

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LIVING WAGE PROGRAM
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RULES IMPLEMENTING THE LIVING WAGE ORDINANCE

The purpose of these Rules Implementing the Living Wage Ordinance [Rules] is to provide guidance for *covered employers* to comply fully with the requirements of the City of San Diego's Living Wage Ordinance, Chapter 2, Article 2, Division 42 of the San Diego Municipal Code (SDMC) [the Living Wage Ordinance or simply "LWO"]. These Rules are intended as an administrative aide to carry out the intent of the LWO and should not be construed to extend, modify, or otherwise alter the substantive provisions of the LWO.

A. DEFINITIONS

In addition to the definitions in SDMC §22.4205, the following definitions shall apply in these Rules (several terms found in Section 22.4205 are duplicated here for convenience):

Bidder means a person or firm who submits a bid, proposal, or other document to the City seeking award of a contract.

Business means any corporation, partnership, limited liability corporation, joint venture, sole proprietorship, association, or trust, other than a public entity.

City means the City of San Diego, its organizational subdivisions, agencies, offices, or boards, but does not include independent agencies, such as the Housing Authority and the Retirement Board, each of which is encouraged to adopt its own living wage policy.

City facility means any of the following facilities that are owned, operated, managed, or leased by the *City*:

(a) Petco Park;

(b) Qualcomm Stadium;

(c) San Diego Sports Arena;

(d) San Diego Convention Center;

(e) San Diego City Concourse; or

(f) Civic Theatre, including the portion of the Civic Center Plaza directly adjacent to the Civic Theatre when theatre-related activities are held there. This subsection is not intended to extend the Living Wage Ordinance to other structures located in the Civic Center Plaza.

City facility agreement means an agreement between the *City* and a *business* for the lease, use, or management of a *City facility*. *City facility agreement* includes:

(a) subleases or other agreements for use of the *City facility* for 30 days or more in any

calendar year; and

(b) subcontracts and concession agreements for *services* at the *City facility* with a combined annual value of payments in excess of $25,000 for any single subcontractor or concessionaire, and with a term of more than 90 days.

City facility employer means any *business* that has entered into a *City facility agreement.* For the purposes of this Division, *City facility employer* includes any sublessee, subcontractor, or concessionaire that retains employees to provide *services* at a *City facility.*

City Manager means the City Manager and his/her delegates and representatives.

Compensated leave means any paid sick leave, vacation leave, or personal leave provided by a *covered employer* to a *covered employee*. *Compensated leave* does not include paid holidays that are provided by a *covered employer* under the *covered employer's* established policy.

Complaint means a report of an alleged violation of the LWO whether from a *covered employee* or otherwise alleged.

Covered employee means:

(a) any individual employed on a full-time, part-time, temporary, or seasonal basis by:

(1) a *service contractor* with regard to any hours worked in performance of a *service contract*;

(2) a *financial assistance recipient* who works at least 20 hours a month at the site that is the subject of the *financial assistance agreement* or at least 20 hours a month on the program that is the subject of the *financial assistance agreement*; or

(3) a *City facility employer* with regard to any hours worked at a *City facility*.

(b) *Covered employee* does not include:

(1) a supervisor or manager;

(2) an individual who, in addition to wages, receives academic credit for their work from an accredited educational institution;

(3) an individual who participates in job training and education programs that have as their express purpose the provision of basic job skills or education;

(4) an owner of a *business*; and

(5) an "executive, administrative, or professional employee" who, as described in California Labor Code Section 515(a):

(a) customarily and regularly exercises discretion and independent judgment in performing duties;

(b) meets the criteria of "executive, administrative, or professional employee" for at least one-half of work time; and

(c) earns a monthly salary equivalent to no less than two times the California minimum wage for full-time employment.

If the description of an "executive, administrative, or professional employee" is amended in the California Labor Code, such description shall also apply to these Rules.

Covered employer means any *service contractor, financial assistance recipient,* or *City facility employer,* or any authorized agent thereof.

Financial assistance agreement means an agreement between the *City* and a *business* to provide direct financial assistance with the expressly articulated and identified purpose of encouraging, facilitating, supporting, or enabling: (a) economic development, job creation, or job retention; or (b) tourism, arts, and cultural programs. Direct financial assistance includes funds, below-market loans, rebates, deferred payments, forgivable loans, land write-downs, infrastructure or public improvements, or other action of economic value identified in the *financial assistance agreement*. Financial assistance does not include below-market leases to non-profit organizations or indirect financial assistance, such as that provided through broadly applicable tax reductions or services performed by *City* staff. *Financial assistance agreement* includes subcontracts to perform *services* at the site that is the subject of the *financial assistance agreement* or for the program that is the subject of the *financial assistance agreement.*

Financial assistance recipient means any *business* that has entered into a *financial assistance agreement.* For the purposes of this division, *financial assistance recipient* includes all subcontractors retained by a *business* to perform *services* at the site that is the subject of the *financial assistance agreement* or for the program that is the subject of the *financial assistance agreement.*

Health benefits means benefits related to medical, dental, vision, and other health services, and excludes benefits related to retirement, disability, accidental death and dismemberment insurance, and life insurance.

Health benefits rate means a minimum dollar amount per hour toward the cost of *health benefits* for *covered employees* and their dependents.

Incidental services means services that are:

(a) part of an agreement for whose primary purpose is to purchase or rent goods or equipment; and

(b) performed on a non-recurring and irregular basis. Services are not incidental, even if

the primary purpose of the agreement is to purchase goods or equipment, if the agreement provides that services are to be performed on a regular schedule.

Managerial employee and ***supervisory employee*** both mean a person compensated above the living wage rate and who has authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other subordinate employees, or the responsibility to direct them, adjust their grievances, or recommend such action, if the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Prime service contractor means any *business* that enters into a contract for *services* directly with the *City*. For any contract subject to the LWO, a *prime contractor* must use its own employees to perform at least fifty percent (50%) of the work described in the contract.

Service contract means a contract between the *City* and a *business,* and any applicable subcontracts or franchises, to furnish *services.* For purposes of this Division, *service contract* includes all contracts for *services* provided through the managed competition program under Charter section 117(c).

Service contractor means any *business* that has been awarded a *service contract* subject to this Division. For the purposes of this Division, *service contractor* includes all subcontractors or franchisees retained by a *business* to perform any or all of the functions covered by a *service contract*. Subcontractors include sublessees and concessionaires.

Services means the following types of employment activities and any other non-managerial, non-supervisory, or non-professional services that are consistent with the intent of this Division and designated in a *City facility agreement, financial assistance agreement,* or *service contract*:

(a) Automotive repair and maintenance;

(b) Cashiers;

(c) Child care;

(d) Concessions/retail sales;

(e) Facility and building maintenance;

(f) On-site food service/preparation;

(g) Janitorial, custodial, street cleaning, and housekeeping;

(h) Landscaping;

(i) Laundry services;

(j) Office/clerical;

(k) Parking services;

(l) Pest control;

(m) Security services;

(n) Ushers and wheelchair attendants;

(o) Ticket takers;

(p) Warehouse workers;

(q) Waste collection and waste disposal, including recycling;

(r) Right-of-way maintenance; and

(s) Water and wastewater maintenance.

Unfair immigration-related practice has the same meaning as in California Labor Code section 1019(b)(1).

Wages means the amount paid to a *covered employee* as compensation for labor performed. The term does not include any amount paid to a *covered employee* not directly related to the labor performed, such as for parking, uniforms, meals, and contributions to retirement plans.

Willful violation means a *covered employer's* intentional failure or refusal to perform an act which is required under this Division. Such failure or refusal need not be based on a deliberate malicious purpose or intent to defraud. A *covered employer's* failure or refusal to comply with this Division is prima facie evidence of a *willful violation* if the contract for *services* states that this Division applies.

B. APPLICABILITY OF LWO

1. **Types of Covered Agreements.** The LWO's provisions apply only to the following types of agreements with the *City*: *service contracts*, *City facility agreements*, and *financial assistance agreements*.

   a. **Service Contracts.**

      (1) Compliance with the LWO is required during the term of any *service contract* or any applicable subcontract.

         (a) A *service contract* with a combined annual value of payment of $25,000 or less is not covered if it was entered into, awarded, amended, renewed or extended before April 1, 2014.

         (b) A *service contract*, or applicable subcontract, that was previously exempt

because it did not meet the monetary threshold before April 1, 2014, becomes subject to the LWO if contract payments later exceed $25,000 in a year.

(c) A *service contract*, or applicable subcontract, that was previously exempt because it did not meet the monetary threshold before April 1, 2014, may become subject to the LWO if it later is amended, modified, renewed or extended.

(d) For any contract subject to the LWO, a *prime contractor* must use its own employees to perform at least fifty percent (50%) of the work described in the contract.

(e) The provision of *incidental services* do not subject agreements for the purchase or rental of property, goods or equipment to the LWO.

(2) *City* agreements that may otherwise be deemed a *service contract* are not subject to the requirements of the LWO unless they involve expenditures of funds entirely within the *City's* control.

(3) Contracts for *services* that are to be performed on an as-needed basis are subject to the LWO.

b. **City Facility Agreements.** *City facility agreement* means an agreement between the *City* and a *business* for the lease, use, or management of a *City facility*. *City facility agreements* apply to Petco Park; Qualcomm Stadium; San Diego Sports Arena; San Diego Convention Center; San Diego City Concourse; and the Civic Theatre, including the portion of the Civic Center Plaza directly adjacent to the Civic Theatre when theatre-related activities are held there (but not other structures located in the Civic Center Plaza). A *City facility agreement* also includes:

(1) Subleases or other agreements between a *City facility* entity and another *business* for use of the *City facility* for 30 days or more in any calendar year.

(2) Subcontracts and concession agreements between a *City facility* entity and another *business* for *services* at the *City facility* with a combined annual value of payments in excess of $25,000 for any single subcontractor or concessionaire, and with a term of more than 90 days. In determining whether a contract for *services* at a *City facility* exceeds $25,000 annually, the total amount of the contract shall be calculated by adding together the amount provided for in the original contract and all amendments, modifications, renewals, or extensions. As-needed contracts become subject to the LWO when the expended amount exceeds $25,000.

c. **Financial Assistance Agreements.** *Financial assistance agreements* are subject to the LWO under either of the following conditions:

(1) The *financial assistance agreement* is for economic development, job creation,

or job retention and has a combined value over a period of five years of $500,000 or more. Compliance with the LWO must continue for a period of 5 years after the threshold amount has been received by the *business*.

(2) The *financial assistance agreement* is for tourism, arts, and cultural programs and has a combined annual value of $750,000 or more. Compliance with the LWO must continue for one year after the threshold amount has been received by the *business*.

2. **Presumption of Coverage.** An agreement, request for proposal, request for bid, or request for quote for any of the agreements in the foregoing paragraph [Rules, B.1] is presumed to be covered by the LWO unless specifically exempted by the LWO.

3. **Final Authority.** The Purchasing & Contracting Director has the final authority in determining whether an agreement is subject to the LWO.

C. EXEMPTIONS

1. **Categorical Exemptions.** Except for *City facility agreements,* which are not exempt from LWO requirements, the following categories of agreements shall be exempt from the LWO:

   a. Contracts subject to federal or state law or regulations that preclude applicability of the LWO's requirements.

   b. Contracts where the *City* shares management authority with other jurisdictions unless all those jurisdictions agree to the applicability of the LWO to the contract.

   c. Contracts for *services* by other governmental entities.

   d. Contracts for public works construction.

   e. Cooperative procurement contracts.

   f. Contracts for purchase of goods, property, or a lease of property, unless the contract includes a component for services that are more than *incidental services*.

   g. Contracts for professional services, as described in California Labor Code Section 515(a), such as design, engineering, financial, technical, legal, banking, medical, management, operating, advertising, or other services.

   h. Contracts where compliance with the LWO is not in the best interests of the *City* as certified by the *City Manager* and approved by the City Council.

2. **Exemptions Requiring City's Approval.** In order to qualify for the following exemptions, contractors must submit an Application for Exemption on the form included in Appendix B. The exemption is not valid until the Living Wage Manager approves the contractor's application. The following may be exempt from the LWO upon the City's

approval:

a. The *business* employs 12 or fewer employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and the *City* determines that the *business*, including its subcontractors, will not need to retain more than 12 employees to perform work related to the subject agreement.

   (1) The number of employees includes:

      (a) The contractor's employees as of the date the contract is signed;

      (b) The employees the contractor reasonably believes it will hire during the course of the contract, whether those employees will work on the *City* contract or not;

      (c) The employees of the contractor's parent and subsidiary entities; and

      (d) The employees of any *subcontractors* the contractor proposes to use to perform all or a portion of the service covered by the contract.

   (2) Along with the Application for Exemption, the contractor must provide written documentation of the number of employees. Acceptable documentation shall include a letter on the contractor's letterhead and signed by an officer who is authorized to legally bind the entity and a copy of the firm's State of California Employment Development Department Quarterly Contribution Return and Report of Wages (Continuation) [form DE9C].

   (3) A previously exempt contract may later become subject to the LWO if the number of employees exceeds 12 as calculated according to these Rules.

b. A *business* organized under section 501(c)(3) of the United States Internal Revenue Code, 26 U.S.C. section 501(c)(3) to provide community-based social services, other than child care services. Such *businesses* must provide the following additional documents in support of an Application for Exemption:

   (1) A copy of the most recent IRS letter indicating that the *business* is recognized as a non-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.

   (2) A statement showing that the *business'* highest paid officer's salary, when calculated on an hourly basis, is less than eight times the hourly wage rate of the lowest paid full-time employee.

      (a) The "lowest paid full-time employee" refers to the lowest paid full-time employee of the *business*, regardless of whether that employee works on the *City* agreement.

      (b) In calculating the salary of the highest paid officer and the wage rate of the

lowest paid full-time employee, items such as cash allowances for car expenses, meals, parking, or the value of pension plan contributions shall not be included.

c. Collective Bargaining Agreement: A collective bargaining agreement may exempt a contract from the LWO provided such waiver or exemption is explicitly stated in the collective bargaining agreement.

(1) If the collective bargaining agreement does not specifically indicate that it is exempt from, or waives, the provisions of the LWO, the employer shall submit written confirmation from the union representing the employees that the union and the employer have agreed that the collective bargaining agreement supersedes the LWO.

(2) The provisions of the LWO shall not be interpreted to require an employer to reduce the wages and benefits required by a collective bargaining agreement.

d. Negotiation of Collective Bargaining Agreement: An employer subject to the LWO may apply for provisional exemption from the LWO if the employer and the union are engaged in negotiations and the issue of supersession of the LWO has been proposed. If provisional exemption status is granted, it is valid until the end of the negotiation process.

(1) The employer must provide sufficient documentation with the application and shall provide status reports upon request from the *City*.

(2) At the end of the negotiation process, the employer shall provide the Living Wage Manager with a copy of the final collective bargaining agreement to verify whether it supersedes the LWO and the effective dates.

(a) If the final collective bargaining agreement supersedes the LWO, the employer shall be exempt for the time period covered by the effective dates. However, the employer remains subject to all applicable provisions of the LWO for the time period not covered by that collective bargaining agreement and if the employer has not complied with the LWO during the time period not covered by that collective bargaining agreement, the employer shall make retroactive corrections.

(b) If the final collective bargaining agreement does not supersede the LWO, the employer shall be required to comply with all applicable LWO requirements, including the wage and benefits provisions. Compliance shall also be required retroactively to the date the employer first became subject to the LWO. If necessary, the employer shall provide retroactive payments to *covered employees*.

3. **Determination of Exemption.** The Living Wage Manager shall review Applications for Exemption and, upon approval from the Purchasing & Contracting Director, provide a final determination within 10 working days after receipt of all forms, documentation, and,

if necessary, legal opinions.

a. A determination by the Living Wage Manager that a bidder or employer is exempt from the LWO exempts the bidder or employer only for the agreement for which the application was submitted. Approval does not exempt the bidder or employer for any other bid or agreement.

b. An exemption approval does not extend to any *subcontractor* unless the *subcontractor* separately applies for and is granted an exemption from the LWO or unless the Living Wage Manager has categorically exempted the agreement.

c. If the Living Wage Manager categorically exempts an agreement from the LWO, then neither the prime contractor nor any *subcontractor* working on the agreement will be subject to the LWO.

4. **Liberal Interpretation of Definitions.** In accordance with SDMC §22.4215(d), the definitions of *service contract*, *financial assistance agreement*, or *City facility agreement* shall be liberally interpreted so as to further the policy objectives of the LWO.

D. EMPLOYER REQUIREMENTS

All *covered employers*, including subcontractors, who perform work or provide *services* pursuant to an agreement that is subject to the LWO are subject to requirements of the LWO and these Rules.

1. LWO Requirement of Minimum Compensation.

a. *Covered employers* must pay *covered employees* a "living wage" which shall be the amount as defined in the LWO and as specified in Appendix A. If the *covered employer* offers no health benefits, the *covered employer* shall pay the *covered employee* the full cash living wage rate. If the *covered employer* offers health benefits in order to satisfy the requirements of the LWO, the terms must be in accordance with the LWO and these Rules.

b. The Living Wage Manager shall upwardly adjust the wage rate and *health benefits rate* each fiscal year, effective July 1, to reflect the change in the regional Consumer Price Index for All Urban Consumers. The Living Wage Manager shall provide notice of the new wage rate and *health benefits rate* by publishing an announcement of such rate adjustments on the *City's* website prior to April 1 of each year.

c. *Covered employers* are required to pay the living wage rate and benefits to *covered employees* working on the *City* agreement for each hour the *covered employee* works on the subject agreement. Benefits include health benefits or cash equivalent, *compensated leave* time, and uncompensated days off.

d. A *covered employer* shall not use tips or gratuities earned by a *covered employee* to offset the wage rate required by the LWO.

e. When a contract is subject to the requirements of both Living Wage and Prevailing Wage laws, the *covered employer* must pay a *covered employee* the higher wage rate as determined by the sum of required hourly wages, *health benefits* and *compensated leave*.

2. **LWO Health Benefits.** *Covered employers* may pay *covered employees* the living wage either fully in cash or as a cash payment for the wage rate combined with a health benefits payment of a minimum dollar amount per hour toward the cost of health benefits as defined in the LWO and these Rules.

   a. If the *covered employer* elects not to provide health benefits, the *covered employer* must pay the full cash wage, as specified in Appendix A, to a *covered employee*.

   b. If the *covered employer* elects to provide a *covered employee* with health benefits, proof of the provision of health benefits must be submitted to the Living Wage Manager no later than 10 calendar days after a request for such documentation.

      (1) If the submitted documentation does not demonstrate that health benefits are provided in accordance with the LWO, the *covered employer* will be considered to be out of compliance with the LWO until sufficient documentation is received.

      (2) In addition to remedies provided for by the LWO, failure to provide the requested information may result in payment being withheld until documents are submitted.

   c. If the *covered employer* elects to provide health benefits through a plan costing less than the minimum dollar amount per hour as specified in the LWO, the difference shall be added to the *covered employee's* hourly wage rate as a cash payment.

   d. A co-premium may be required of a *covered employee* only if the cost of health benefits is greater than the minimum dollar amount per hour as specified in the LWO.

3. **Compensated and Uncompensated Leave.** A *covered employer* must provide a *covered employee* working on the *City* agreement at least 10 compensated leave days per year for sick leave, vacation leave, or personal leave, and 10 additional uncompensated days off per year for sick leave for illness of the *covered employee* or an immediate family member, when the *covered employee* has exhausted all accrued compensated leave days off.

   a. A full-time *covered employee* shall accrue a minimum of 10 compensated leave days per year based on the *covered employee's* regularly scheduled work hours. A part-time *covered employee* shall accrue compensated leave days in increments proportional to that accrued by a full-time *covered employee*.

      (1) A *covered employer* may not unreasonably deny a *covered employee's* request to use an accrued compensated leave.

      (2) A *covered employee's* request for time off is presumed to be a request for paid

time off unless the *covered employee* specifically asked for unpaid time off.

(3) A *covered employee* shall be eligible to use accrued compensated leave after the first 6 months of employment or consistent with company policy, whichever is sooner.

(4) A *covered employee* shall accrue compensated leave unless the *covered employee* has been on a leave of absence without pay for over 30 calendar days.

(5) Upon return to work following an unpaid leave of absence of more than 30 calendar days, a *covered employee* shall begin to accrue compensated leave at the appropriate applicable full-time or part-time rate.

b. Paid holidays that are provided under established employer policy shall not be counted toward the provision of the 10 compensated leave days.

(1) Payment of premium pay for work performed on a holiday does not constitute compensated leave for purposes of the LWO.

(2) For a holiday to qualify as one of the minimum 10 compensated leave days required under the LWO, a *covered employee* who works on a holiday must be allowed to take another paid day off in lieu, even if the *covered employee* is provided with premium pay for the hours worked on the holiday.

c. Unused compensated leave accrued by a *covered employee* working on a subject agreement shall be carried over for at least one year, with the carryover date based on the date of accrual.

d. The LWO does not require the *covered employer* to cash out compensated leave upon a *covered employee's* termination unless otherwise required by law.

e. A *covered employer* may choose to provide *covered employees* with more compensated leave than is required under the LWO.

f. The Living Wage Manager, upon approval from the Purchasing & Contracting Director, may allow a *covered employer's* established compensated leave policy to remain in place, even though it does not meet the accrual rate and eligibility deadlines required in these Rules, if the Living Wage Manager determines all of the following conditions are met:

(1) The *covered employer's* established policy provides *covered employees* with more than 10 paid days off per year;

(2) At least a portion of the paid days off are available for use by *covered employees* within the first year of employment; and

(3) The Living Wage Manager determines requiring the covered employer to change its policy to comply with these Rules will result in *covered employees* receiving

fewer benefits.

g. At least 10 uncompensated days off shall be made available, as needed, for personal or immediate family illness after a *covered employee* has exhausted his or her compensated leave days.

h. A *covered employer* working on or under the authority of a *City* agreement who fails to provide *covered employees* with compensated leave in accordance with the LWO shall provide the affected *covered employees* with the time off retroactive to the effective date of the agreement or amendment. A *covered employer* required to provide *covered employees* with compensated leave retroactively shall:

(1) Calculate the amount of compensated leave the *covered employee* should have accrued under the LWO and pay the *covered employee* the cash value at the correct wage rate due to the *covered employee* when the compensated leave should have accrued. Such calculation shall be subject to approval by the Living Wage Manager.

(2) Calculate the amount of uncompensated time off that the *covered employee* should have accrued under the LWO and add the additional amount of uncompensated leave to the uncompensated leave already accrued by the *covered employee*.

4. **LWO Notice to Employees.** A *covered employer* shall annually distribute to *its covered employees* with the first paycheck to occur after July 1 a copy of the LWO Notice to Employees included in Appendix B to ensure *covered employees* are advised of the adjusted wage and health benefits rates.

a. A *covered employer* shall notify each current *covered employee* and each new *covered employee* at time of hire, of his or her rights under provisions of the LWO by providing *covered employees* with a copy of the LWO Notice to Employees in Appendix B.

b. *Covered employers* shall post a notice to *covered employees* in a prominent place in an area frequented by *covered employees* informing them of any applicable exemptions from the LWO.

5. **Affordable Care Act (ACA).** Within 30 days of commencement of work on a *City* agreement or subcontract subject to the LWO the *covered employer* shall inform all *covered employees* of the possible availability of health insurance coverage under the Affordable Care Act (ACA). Annually with the first paycheck to occur after July 1, a *covered employer* shall distribute information regarding ACA with employee paychecks.

6. **Federal Earned Income Tax Credit (EITC).** Within 30 days of commencement of work on a *City* agreement or subcontract subject to the LWO the *covered employer* shall inform all *covered employees* of their possible right to EITC. Annually with the first paycheck to occur after July 1, a *covered employer* shall distribute information regarding EITC with employee paychecks.

7. **Reporting Requirements.**

a. Each *covered employer* shall file an LWO Certification of Compliance with the Living Wage Manager within 30 days of becoming a *covered employer*.

(1) *Covered employers* are required to ensure that all applicable *subcontractors* file an LWO Certification of Compliance within 30 days of becoming covered by the LWO.

(2) The LWO Certification of Compliance shall be completed on the form included in Appendix B.

(3) Failure to file an LWO Certification of Compliance may result in payment being withheld until the document is submitted.

b. *Covered employers* shall maintain, and shall require subcontractors covered by the LWO to maintain, payroll records on *covered employees* containing the following information:

(1) Name.

(2) Address.

(3) Date of hire.

(4) Job classification.

(5) Rate of pay.

(6) Hours worked in each pay period with time on LWO-covered contracts clearly indicated.

(7) Cost and amount paid for health benefits.

(8) Compensated leave days (accrued and used) and uncompensated leave days (accrued and used).

c. *Covered employers* and subcontractors must maintain the records referred to in these Rules to document compliance with the LWO for at least 3 years after the *City's* final payment on the contract.

d. *Covered employers* and subcontractors shall make these records available for inspection to the *City* upon request. *Covered employers* shall make a *covered employee's* individual records available for inspection to the *covered employee* upon such a request.

8. **Contractor Annual Reports.** Each *covered employer* shall file an annual report with the

Living Wage Manager regarding compliance with the LWO. The Living Wage Manager shall send correspondence to each covered employer with a format for completion of requested information and a due date. The *City* may require a *covered employer* to submit additional reports.

9. **City Access to Employer Records to Monitor Compliance with the LWO.** A *covered employer*, subject to the LWO, shall allow authorized *City* representatives access to work sites, upon request, to monitor compliance and investigate employee *complaints*. A *covered employer* shall submit, upon request, copies of payrolls, health benefit statements, and related documents to comply with the LWO. The *City* may require the *covered employer* to submit other documentation. Failure to submit documents or allow access to the work sites as requested may be deemed as non-compliance with the LWO. In addition to remedies provided for by the LWO, such non-compliance may result in a recommendation that the *covered employer's* subject agreement be terminated and/or payments to the *covered employer* be withheld until access is provided and documentation is submitted.

10. **Disclosure of Documents and Information.** Documents and information obtained in the course of administration of the LWO become *City* records. Disclosure is subject to provisions and limitations of the California Public Records Act. Consistent with the Public Records Act, documents and information obtained during the course of an investigation or inquiry shall remain confidential while the investigation or inquiry is ongoing.

11. **Subcontractors Subject to the LWO.** A subcontractor performing work or providing *services* on an agreement subject to the LWO shall also comply with the LWO unless the subcontractor qualifies for an exemption. A subcontractor may be subject to the LWO even if the prime contractor has been granted an exemption.

    a. A prime contractor must inform its subcontractor of the subcontractor's obligation to comply with the LWO. Language obligating the subcontractor to comply with the LWO shall be included in each subcontract between the prime contractor and the subcontractor. Regardless of whether such language is included in the subcontract, the subcontractor is obligated to comply with the LWO.

    b. If the *City* finds that an employer classified an employee as an independent contractor in order to avoid complying with the LWO, the Living Wage Manager may require the employer to comply with the LWO and/or recommend terminating the employer's agreement. The Living Wage Manager may consider the following factors in determining whether an employee is a bona fide independent contractor:

        (1) Whether the employee has the right to control or discretion to determine how to perform the work required under the *City* agreement.

        (2) Whether similar employees in the industry or field are customarily engaged as independent contractors for the type of work.

        (3) Whether the employee has any substantial investment other than personal

services in the business.

(4) Whether the employee has control over the time and place of work.

(5) Whether the employee supplies his or her own tools or equipment, if they are normally used by persons engaged in such work.

(6) Whether the subject employee hires employees.

E. ADMINISTRATIVE RECORDKEEPING AND REPORTS

1. **LWO Administrative Records and Reports.** The Purchasing & Contracting Director shall maintain a list of all subject and exempt agreements and a file of all *complaints*, findings, and results. The Purchasing & Contracting Director may provide special reports and recommendations on significant issues of interest to the City Council.

2. **Report to Council.** In accordance with SDMC §22.4235(c), on July 1 of each year, or as soon thereafter as is practicable, the Purchasing & Contracting Director shall provide an annual report to the City Council generally describing the effects of the LWO upon the City.

3. **Annual LWO Wage Rate Adjustment.** The hourly wage rates and health benefits rate shall be upwardly adjusted each July 1 to reflect the change in the regional Consumer Price Index for All Urban Consumers for the twelve-month period preceding December 31 of the previous year. Prior to April 1 of each year, the Living Wage Manager shall calculate the new rates and provide notice by posting on the *City's* website the rates in effect for the next fiscal year.

F. MONITORING AND INVESTIGATION

These Rules will augment the *City's* normal and customary procedure for administering its contracts.

1. **LWO Contract Language.** The Living Wage Manager will make available standard LWO contract language for agreements subject to the LWO.

2. **Employer Monitoring.** The Living Wage Manager will monitor the operations of *covered employers* for compliance by conducting site visits and payroll reviews. The Living Wage Manager may review the provision of wages and health benefits by a *covered employer* as part of site visits. A *covered employer* shall cooperate with the Living Wage Manager when a meeting, a site visit, or documentation is requested. Cooperation includes providing:

   a. Full access to the work site for employer and employee interviews.

   b. Copies of certified payrolls, timesheets, health and benefit statements, employee policy manuals, and any other document that would assist in determining if a *covered employer* is providing or has provided the wages and health benefits required by the

LWO.

3. **Investigation in Response to Specific Concerns or Complaints.** Whether based upon a complaint or otherwise, the *City* shall initiate an investigation when there is a specific concern or complaint about a *covered employer* related to the LWO. If a *covered employee* alleges noncompliance with the LWO or retaliation by the *covered employer* as a result of an allegation, the *City* shall initiate an investigation pursuant to these Rules.

4. **Employer's Failure to Reasonably Cooperate.** If a *covered employer* fails to produce requested documentation, fails to allow access to the work site or the *covered employees* for employee interviews, or otherwise unreasonably fails to cooperate, the Living Wage Manager may consider the *covered employer* to be out of compliance with the LWO. In addition to remedies provided in the LWO, the Living Wage Manager may request payments to the *covered employer* be withheld until the *covered employer* cooperates.

G. ENFORCEMENT

1. **Notice to Employer of LWO Violations.** Whether based upon a complaint or otherwise, if the Living Wage Manager determines that a *covered employer* is not in compliance with the LWO, the Living Wage Manager will issue a written notice to the *covered employer* that the violation is to be corrected within 30 days. Requests for reasonable extensions of time may be approved by the Living Wage Manager.

2. **Remedies.** If a *covered employer* has not demonstrated within 30 days that it has substantially cured any material violation of the LWO, the Living Wage Manager upon approval from the Purchasing & Contracting Director shall initiate one or more of the following:

   a. Request the City to declare a material breach of the *service contract*, *financial assistance agreement*, or *City facility agreement* and exercise its contractual remedies including but are not limited to termination of the *service contract*, *financial assistance agreement*, or *City facility agreement* and the return of monies paid by the *City* for services not rendered.

   b. Recommend debarment under Chapter 2, Article 2, Division 8 of the San Diego Municipal Code to debar the *covered employer* from future *City* contracts for a period of three years or until all penalties and/or restitution have been fully paid, whichever occurs last.

   c. Request a determination of non-responsibility under Chapter 2, Article 2, Division 30 of the San Diego Municipal Code.

   d. Request that the City Attorney bring a civil action against the employer seeking any legal remedies, including but not limited to:

      (1) Where applicable, payment to the *covered employee* of all unpaid wages or *health benefits* prescribed by the LWO; and/or

(2) A fine payable to the City in the amount of up to one hundred dollars ($100) per *covered employee* for each day the violation remains uncured.

(3) The City's administrative costs.

e. Refer violations of the LWO to appropriate local state, and/or federal agencies and authorities.

3. **Consequence for Two or More Violations.** If a *covered employer* is determined by the *City* to have violated the LWO two or more times in a two-year period, the *City* shall take enforcement actions described in San Diego Municipal Code section 22.4230(f) even if the *covered employer* has substantially cured any material violations.

4. **Prime Contractor Responsible for Subcontractor.** A *covered employer* who is a prime contractor is responsible to:

   a. Inform covered subcontractors of their obligation to comply with the LWO;

   b. Include language requiring the subcontractor to comply with the LWO in each subcontract between the prime contractor and a covered subcontractor;

   c. Inform covered *subcontractors* that they are required to file a Certification of Compliance within 30 days of becoming a *covered employer*; and

   d. Cooperate with the *City's* investigation of covered *subcontractors*.

5. **Employee's Right to File Action.** A *covered employee* claiming a violation of the LWO shall have the right to file an action against his or her *covered employer* in the appropriate court within three years after discovery of the alleged violation. The court shall award the following:

   a. For failure to pay the required living wage: the difference between the required living wage rate and the amount actually paid to the *covered employee*, plus interest, and penalties for *willful violations*.

   b. For failure to pay the health benefits rate: the difference between the required health benefits rate and the amount actually paid towards the health benefits rate for the *covered employee*, plus interest, and penalties for *willful violations*.

   c. For retaliation for exercise of any rights provided for under the LWO: reinstatement, back pay, and/or any other relief that a court may deem appropriate.

   d. For a *willful violation* of this division, a court shall award as a penalty up to three times the amount of damages.

   e. The court shall award reasonable attorney's fees and costs to a *covered employee* who prevails in any such private action and to a *covered employer* who prevails if the *covered employee's* suit is found to be frivolous.

6. **Prohibition against Retaliation.** Neither a *covered employer* nor a *covered employer's* representative shall take any action against a *covered employee* in retaliation for alleging noncompliance with the LWO or for providing information towards or cooperating in an investigation regarding compliance with the LWO. When undertaken for retaliatory purposes, *unfair immigration-related practice* has the same meaning as in California Labor Code section 1019(b)(1).

   a. California Labor Code section 1019(b)(1) prohibits any of the following practices:

      (1) Requesting more or different documents than required or refusal to honor documents that reasonably appear to be genuine.

      (2) Using the federal E-Verify system to check employment authorization status of a person in a manner not required or not authorized.

      (3) Threatening to file or the filing of a false police report.

      (4) Threatening to contact or contacting immigration authorities.

   b. *Unfair immigration-related practice* does not include conduct undertaken at the express and specific direction or request of the federal government.

H. EMPLOYEE COMPLAINT PROCESS

1. **Employee Complaints.** A *covered employee* who alleges violation of any provision of the LWO by a *covered employer* may report such acts to the Living Wage Manager and, at the *covered employee's* discretion, exhaust available employer internal remedies. An employee making a complaint regarding a *covered employer's* compliance with the LWO may submit the complaint in writing to the Living Wage Manager, on the LWO Employee Complaint Form, which is included in Appendix B.

2. **Complaints Alleging Retaliation.** A *covered employee* claiming retaliation (such as termination, reduction in wages or benefits, adverse changes in working conditions, or an *unfair immigration-related practice*) under terms of the LWO may report the alleged retaliation to the Living Wage Manager in writing, on the LWO Employee Complaint Form, which is included in Appendix B.

3. **Confidentiality of Information during Investigation.** Consistent with the California Public Records Act, information and records obtained by the *City* in the course of its complaint investigations, including identity of the complainants and witnesses, shall be considered confidential and exempt from public disclosure during the course of the investigation.

4. **Investigation of Employee Complaints.** Upon receipt of a *covered employee's* written *complaint*, the *City* shall investigate and address any alleged violation of LWO requirements. Upon conclusion of the investigation, the Living Wage Manager shall notify the employee of the results.

5. **Resolution of Investigation into Employee Complaints.** The *City* will attempt to complete an investigation into an employee's *complaint* within 30 to 60 days. If the investigation is not complete within 60 days, the Living Wage Manager will notify the *covered employee* of the status of the investigation and provide regular status reports to the *covered employee* every 30 days until the investigation is completed.

6. **Submission of Additional Information after Completion of Investigation.** Upon completion of an investigation and upon approval from the Purchasing & Contracting Director, the Living Wage Manager will notify the *covered employee*, and the *covered employer* if appropriate, of the investigation results.

    a. Either the *covered employee* or the *covered employer* may request reconsideration of the Living Wage Manager's investigation findings. Such request for reconsideration shall be based solely on discovery of new information, which, along with the written reconsideration request, shall be submitted to the Living Wage Manager, within 30 days of receiving notice of the findings.

    b. If the request for reconsideration and new information is received before the 30 day deadline, the Living Wage Manager upon approval from the Purchasing & Contracting Director will re-evaluate the original *complaint* and notify the employee and the employer the result of the reconsideration.

    c. If the request for reconsideration and the new information is submitted after the 30 day deadline, the discretion of whether to reopen the investigation shall lie solely with the Purchasing & Contracting Director.

7. **Payment of Amounts Due to Employees.** If corrective payments are required to be paid to *covered employees* in order to comply with the LWO, the *covered employer* shall pay the entire amount due to each *covered employee* in one payment within the time period required by the *City* in its notice to the *covered employer*.

APPENDIX A

City of San Diego

LIVING WAGE RATES

EFFECTIVE DATES	INCREASE	CASH WAGE + HEALTH BENEFITS	FULL CASH WAGE
July 1, 2015 – June 30, 2016	1.85%	$12.02 + $2.41 per hour in Health Benefits	$14.43 per hour
July 1, 2014 – June 30, 2015	1.30%	$11.80 + $2.37 per hour in Health Benefits	$14.17 per hour
July 1, 2013 – June 30, 2014	1.60%	$11.65 + $2.34 per hour in Health Benefits	$13.99 per hour
July 1, 2012 – June 30, 2013	3.00%	$11.47 + $2.30 per hour in Health Benefits	$13.77 per hour
July 1, 2011 – June 30, 2012	1.30%	$11.14 + $2.23 per hour in Health Benefits	$13.37 per hour
July 1, 2010 – June 30, 2011	0.00%	$11.00 + $2.20 per hour in Health Benefits	$13.20 per hour
July 1, 2009 – June 30, 2010	3.90%	$11.00 + $2.20 per hour in Health Benefits	$13.20 per hour
July 1, 2008 – June 30, 2009	2.30%	$10.58 + $2.12 per hour in Health Benefits	$12.70 per hour
July 1, 2007 – June 30, 2008	3.40%	$10.34 + $2.07 per hour in Health Benefits	$12.41 per hour
July 1, 2006 – June 30, 2007	N/A	$10.00 + $2.00 per hour in Health Benefits	$12.00 per hour

* Living Wage rate increase is in accordance with San Diego Municipal Code section 22.4220(b): The hourly wage rates will be upwardly adjusted each July 1 to reflect the change in the Consumer Price Index for All Urban Consumers for the San Diego – Carlsbad – San Marcos Metropolitan Statistical Area for the twelve-month period preceding December 31. The *health benefits rate* will be consistent with the *Affordable Care Act* and any other applicable federal and state law provisions. Prior to April 1 of each year, the *City* will calculate the new rates and provide notice to all *covered employers* by posting on the *City's* web site the rates in effect for the next fiscal year.

For additional information, please contact:

City of San Diego Living Wage Program
202 C Street, MS 8A
San Diego, CA 92101-4195
Phone: 619/236-6682 or 619/236-6172
Fax: 619/533-3240

City of San Diego

LIVING WAGE ORDINANCE
NOTICE AND FORMS

The notice and forms listed below are approved by the City for use in conjunction with these Rules. When these Rules refer to the use of a notice or form, only the current version included in this Appendix B may be used.

NOTICES:

Living Wage Ordinance Notice to Employees (English, Spanish)

Affordable Care Act Information (English, Spanish)

Earned Income Tax Credit Information (English, Spanish)

FORMS:

Living Wage Ordinance Certification of Compliance

Living Wage Ordinance Application for Exemption

Living Wage Ordinance Employee Complaint Form (English, Spanish)

LIVING WAGE ORDINANCE

ORDENANZA DEL SUELDO DIGNO

NOTICE TO EMPLOYEES

This employer is a contractor with the City of San Diego. This contract is subject to the Living Wage Ordinance. You must be paid "a living wage" for any hours you work on this contract.

THESE ARE YOUR RIGHTS...

MINIMUM HOURLY PAY:

- $14.43/hour without health benefits.

  OR

- $12.02/hour plus at least $2.41/hour in health benefits.
  - It's the employer's choice whether to provide health benefits.
  - If health benefits cost less than $2.41/hour, the difference is added to the hourly wage.
  - Rates are adjusted annually; listed rates are effective from July 1, 2015, through June 30, 2016.

MINIMUM DAYS OFF PER YEAR:

- 10 paid days for vacation, sick leave, or other personal need
  - Days off are in addition to paid holidays.
  - Days off are pro-rated based on hours worked at living wage rate.

  AND

- 10 unpaid days for personal or family illness.

RETALIATION IS PROHIBITED:

- Employers may not fire, reduce pay or discriminate against a worker for filing a complaint.

FOR MORE INFORMATION

For more information or to obtain a complaint form if you believe your rights are being violated, please contact:

AVISO PARA EMPLEADOS

Este empleador es contratista de la Ciudad de San Diego. Este contrato está subjeto a la Ordenanza del Sueldo Digno. Usted debe ser pagado "un sueldo digno" por cada hora trabajada bajo este contrato.

ESTOS SON SUS DERECHOS...

COMPENSACIÓN MÍNIMA POR HORA:

- $14.43/hora sin prestaciones médicas.

  O

- $12.02/hora más un mínimo de $2.41/hora de beneficios médicos.
  - Es la elección del empleador de ofrecer beneficios médicos.
  - Si los beneficios médicos cuestan menos de $2.41/hora, la diferencia es añadida al salario.
  - El sueldo se ajusta anualmente; el sueldo actual tiene vigencia de Julio 1, 2015, hasta Junio 30, 2016.

MÍNIMO DÍAS LIBRES CADA AÑO:

- 10 días pagados para vacaciónes, enfermedad, o razones personales
  - Días libres son agregados a los días festivos.
  - Días libres son ajustados por horas trabajadas al sueldo digno.

  Y

- 10 días sin paga personales o por enfermedad familiar.

SE PROHIBE CUALQUIER TIPO DE REPRESALIA:

- Los empleadores no pueden despedir, reducir la paga, ni discriminar contra un trabajador que solicita una queja..

PARA MAYOR INFORMACION

Para más información o para obtener un formulario de quejas si usted considera que sus derechos han sido violados, por favor llame:

LIVING WAGE PROGRAM

PURCHASING & CONTRACTING DEPARTMENT, CITY OF SAN DIEGO
202 C Street, MS 9A, San Diego, CA 92101
Phone (619) 236-6682 or (619)236-6172 Fax (619) 533-3240
www/sandiego.gov/purchasing/programs/

rev 07.01.2015

A.C.A.

Affordable Care Act

The federal law called the *Patient Protection and Affordable Care Act* provides a number of ways to help make quality health care coverage more affordable.

For individuals, financial assistance is available on a sliding scale, with more support for those who earn less.

Millions of Californians will qualify for government assistance to make insurance more affordable.

Covered California

Covered California is a state agency created to help Californians who don't get health insurance from their job or a public program.

If you have health insurance through work or a public program, keep it. But if not, Covered California can help.

Assistance is based on your income. If your income is limited, you may be eligible for free coverage through Medi-Cal. And no one can be denied for having a pre-existing medical condition.

For more information

CALL 800-300-1506

VISIT www.CoveredCA.com

Ley de Cuidado de Salud Asequible

La ley federal de *Protección al Paciente y Cuidado de Salud Asequible* brinda varias maneras para hacer que su cobertura de cuidado de salud sea más accesible.

Las personas pueden recibir ayuda financiera de acuerdo a una escala proporcional que dará más ayuda a quienes tengan menos ingresos.

Millones de californianos calificarán para obtener ayuda del gobierno haciendo el seguro médico más accesible.

Covered California

Covered California es una agencia estatal creada para ayudar a los californianos que no reciben seguro médico de su trabajo o de un programa público.

Si tiene seguro médico a través de su trabajo o un programa público, consérvelo. Si no, Covered California le puede ayudar.

La ayuda se basa en sus ingresos. Si su ingreso es limitado, usted puede ser elegible para la cobertura gratuita a través de Medi-Cal. Y no pueden negársela a nadie por tener una condición médica preexistente.

Para más información

LLAME AL 800-300-0213

VISITE www.CoveredCA.com/espanol/

العربية (Arabic)
800-826-6317

فارسی (Farsi)
800-921-8879

ภาษาไทย (Khmer)
800-906-8528

Español (Spanish)
800-300-0213

Հայերեն (Armenian)
800-996-1009

Filipino
800-983-8816

한국어 (Korean)
800-738-9116

Русский (Russian)
800-778-7695

中文 (Chinese)
800-300-1533

Hmoob (Hmong)
800-771-2156

ภาษาลาว (Lao)
800-357-7976

Tiếng Việt (Vietnamese)
800-652-9528

E.I.T.C.

Earned Income Tax Credit

The Earned Income Tax Credit, or EITC, is a tax break for people who work but do not earn high incomes. Taxpayers who qualify and claim the credit could pay less federal tax, pay no tax, or receive a refund.

All people eligible for EITC have 7 things in common:

1. Must have earned income.
2. Must have a valid Social Security number.
3. Cannot file as married filing separately.
4. Generally cannot be a nonresident alien.
5. Cannot be a qualifying child of another person.
6. Cannot be filing Form 2555 or Form 2555-EZ.
7. Investment income amount is limited.

The 4 most common EITC filing errors:

1. Claiming a child who's not a qualifying child.
2. Married taxpayers who incorrectly file as single or head of household.
3. Misreporting income.
4. Incorrect Social Security Numbers.

For more information:

CALL 1.800.829.1040

VISIT www.irs.gov/eitc

ASK YOUR TAX PREPARER

El Crédito Tributario por Ingreso del Trabajo

El Crédito Tributario por Ingreso de Trabajo, o EITC, es un beneficio tributario para las personas que trabajan pero que no ganan mucho dinero. Los contribuyentes que reúnen los requisitos y reclaman el crédito podrían pagar menos impuesto federal, no pagar ningún impuesto federal o hasta recibir un reembolso.

Todas las personas que reúnen los requisitos para el EITC tienen 7 cosas en común:

1. Tienen que tener ingreso de trabajo
2. Tienen que tener un número de seguro social válido
3. No pueden presentar la declaración como casados que presentan por separado
4. Por lo general, no pueden ser extranjeros no residentes
5. No pueden ser hijo calificado de otra persona
6. No pueden presentar el Formulario 2555 o el Formulario 2555-EZ
7. El ingreso de inversiones es limitado

Los 4 errores más frecuentes que se cometen cuando se reclama el EITC:

1. Reclamar un hijo que no es un hijo calificado
2. Contribuyentes casados que presentan la declaración incorrectamente como soltero o cabeza de familia
3. Declarar el ingreso incorrectamente
4. Números de seguro social incorrectos

Para más información:

LLAME AL 1.800.829.1040

VISITE www.irs.gov/espanol

PREGÚNTELE A SU PREPARADOR DE IMPUESTOS

LIVING WAGE ORDINANCE CERTIFICATION OF COMPLIANCE

Send form to:

CITY OF SAN DIEGO
LIVING WAGE PROGRAM
202 C Street, MS 8A, San Diego, CA 92101
Phone (619) 236-6172 Fax (619) 533-3240

COMPANY INFORMATION

Company Name:

Company Address:

Company Contact Name: Contact Phone:

CONTRACT INFORMATION

Contract Number (if no number, state location): Start Date:

Contract Amount: End Date:

Purpose/Service Provided:

TERMS OF COMPLIANCE

A contractor or subcontractor working on or under the authority of an agreement subject to the Living Wage Ordinance (LWO) must comply with all applicable provisions of the LWO unless specifically approved for an exemption. The basic requirements of the LWO obligate contractors and subcontractors to:

(a) Pay covered employees the current fiscal year's hourly wage rate of $12.02 and health benefits rate of $2.41 (adjusted annually on July 1).

(b) If any lesser amount is applied toward the health benefits rate, to add this difference to the hourly wage rate as cash payment.

(c) Provide a minimum of 10 compensated leave days per year for vacation, sick leave, or other personal need at the employee's request and permit 10 additional uncompensated leave days for personal or family illness when accrued compensated leave days have been used.

(d) Annually distribute a notice with the first paycheck after July 1 to inform all covered employees of requirements of the LWO, their possible right to Federal Earned Income Tax Credit, and the possible availability of health insurance coverage under the Affordable Care Act.

(e) Prohibit retaliation against any covered employee who alleges noncompliance with the requirements of the LWO.

(f) Permit access for authorized City representatives to work sites and relevant records to review compliance with the LWO.

(g) Maintain wage and benefit records for covered employees for 3 years after final payment.

(h) Perform at least fifty percent (50%) of the work with its own employees.

(i) File a Living Wage Ordinance Certification of Compliance with the City within 30 days of becoming a covered employer.

If a subcontractor fails to submit this completed form, the prime contractor may be found in violation of the LWO for failure to ensure its subcontractor's compliance. This may result in a withhold of payments or termination of the agreement.

CONTRACTOR CERTIFICATION

By signing, the contractor certifies under penalty of perjury under laws of the State of California to comply with the requirements of the Living Wage Ordinance.

Name of Signatory | Title of Signatory

Signature | Date

FOR OFFICIAL CITY USE ONLY

Date of Receipt: LWO Analyst: Contract Number:

LIVING WAGE ORDINANCE APPLICATION FOR EXEMPTION

Send form to:

CITY OF SAN DIEGO
LIVING WAGE PROGRAM
202 C Street, MS 8A, San Diego, CA 92101
Phone (619) 236-6682 Fax (619) 533-3240

COMPANY INFORMATION

Company Name: Vendor ID:

Company Address: Contact Phone:

Company Contact Name: Contact Email:

CONTRACT INFORMATION

Contract Number: Start Date:

Contract Amount: End Date:

Purpose/Service Provided:

EXEMPTION BASIS

Check one option and submit required supporting documentation.

☐ **Business employs 12 or fewer employees**, including parent and subsidiary entities, for each working day in each of 20 or more calendar weeks in current or preceding calendar year and, in the City's determination, will not need to retain more than a total of 12 employees (including subcontractors) to perform work related to the City contract. §SDMC 22.4215 (c)(1).

Required documentation: Correspondence on company letterhead and signed by a legally authorized officer documenting number of employees and listing subcontractors AND copy of firm's State of California Employment Development Department *Quarterly Contribution Return and Report of Wages (Continuation)* [form DE9C] for prior two quarters AND list of subcontractors AND copy of Purchase Agreement or Purchase Order.

☐ **Business organized under IRS section 501(c)(3)** and highest officer's salary, when calculated on an hourly basis, is less than eight times the hourly wage rate of the lowest paid full-time employee. §SDMC 22.4215 (c)(2).

Required documentation: Copy of IRS letter recognizing status as non-profit organized under section 501(c)(3) AND statement of salary listing corporation's highest paid officer and lowest paid worker, both computed on an hourly basis AND copy of Purchase Agreement or Purchase Order.

☐ **Collective Bargaining Agreement** is in place which specifically supersedes the Living Wage Ordinance. §SDMC 22.4240.

Required documentation: Copy of collective bargaining agreement OR written confirmation from union representing employees working on the contract AND copy of Purchase Agreement or Purchase Order.

☐ **Other – Cite LWO Municipal Code section:** _____

Required documentation: Correspondence explaining basis of exemption request AND copy of Purchase Agreement or Purchase Order.

CONTRACTOR CERTIFICATION

By signing, the contractor certifies under penalty of perjury under laws of the State of California that information submitted in support of this application is true and correct to the best of the contractor's knowledge.

Name of Signatory | Title of Signatory

Signature | Date

Approval of this application exempts only the listed contractor from the LWO during performance of this contract. A subcontractor performing work on this contract is not exempt unless separate exemption has been applied for and approved.

FOR OFFICIAL CITY USE ONLY

☐ Not Approved – Reason:

☐ Approved LWO Analyst: Date:

EMPLOYEE COMPLAINT FORM
FORMULARIO DE QUEJAS

Send form to:

CITY OF SAN DIEGO
LIVING WAGE PROGRAM
202 C Street, MS 8A, San Diego, CA 92101
Phone (619) 236-6172 Fax (619) 533-3240

COMPANY INFORMATION *INFORMACIÓN SOBRE LA COMPAÑÍA*
Company Name: *Nombre de la Compañía:*
Company Address: *Dirección de la Compañía:*
Company Phone: *Teléfono de la Compañía:*
Work Site Address: *Sitio de Trabajo:*
Supervisor Name: *SupervisorGerente:*

EMPLOYEE INFORMATION *INFORMACIÓN SOBRE EL EMPLEADO*		
Your Name: *Su Nombre:*		Social Security Number: *Número de Seguro Social:*
Address: *Direccion:*		
Telephone number *Número de teléfono*	Home: *Residencia:*	Work: *Trabajo:*
Hourly Rate Paid: *Sueldo por hora:*		Overtime Rate Paid: *Sueldo por horas extras:*
Current job title: *Puesto:*		How long have you worked for this company? *¿Cuánto tiempo ha trabajado para esta compañía?*
Do you receive health benefits? *¿Recibe usted* beneficios médicos*?*		If Yes, how much do you pay for your benefits? *¿Si Sí, cuánto le hacen pagar por sus* beneficios médicos*?*

EMPLOYEE COMPLAINT *QUEJA DEL EMPLEADO*
Use reverse side if needed *Use el reverso si requiere de mas espacio*

Signature · *Firma del Empleado*

Date · *Fecha*

FOR OFFICIAL CITY USE ONLY *PARA USO OFICIAL DE LA CIUDAD SOLAMENTE*		
Date of Receipt:	LWO Analyst:	Contract Number: