

EXHIBIT C-4: LIVING WAGE

See attached.

ARTICLE 11 LIVING WAGE

Section

- 10.37 Legislative Findings.
- 10.37.1 Definitions.
- 10.37.2 Payment of Minimum Compensation to Employees.
- 10.37.3 Health Benefits.
- 10.37.4 Notifying Employees of Their Potential Right to the Federal Earned Income Credit.
- 10.37.5 Retaliation Prohibited.
- 10.37.6 Enforcement.
- 10.37.7 Administration.
- 10.37.8 Exclusion of Service Contracts from Competitive Bidding Requirement.
- 10.37.9 Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
- 10.37.10 Expenditures Covered.
- 10.37.11 Timing of Application.
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- 10.37.13 Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.
- 10.37.14 Severability.

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 others for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and 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. Such minimal compensation tends to inhibit the quantity and quality of services rendered by such 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 that will improve the level of services rendered to and for the City.

The inadequate compensation typically paid today also fails to provide service employees with resources sufficient to afford life in Los Angeles. It is unacceptable that contracting decisions involving the expenditure of City funds should foster conditions placing 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.

Nothing less than the living wage should be paid by the recipients of City financial assistance themselves. 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. This article is meant to protect these employees as well.

The City holds a proprietary interest in the work performed by many employees employed by lessees and licensees of City property 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 does the same for the success of City operations. By the 1998 amendment to this article, recognition is given to the prominence of this interest at those facilities visited by the public on a frequent basis, including but not limited to, terminals at Los Angeles International Airport, Ports O'Call Village in San Pedro, and golf courses and recreation centers operated by the Department of Recreation and Parks. 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. Primarily because of the latter concern and experience to date regarding the failure of some employers to honor their obligation to pay the living wage, the 1998 amendments introduce additional enforcement mechanisms to ensure compliance with this important obligation. Non-complying employers must now face the prospect of paying civil penalties, but only if they fail to cure non-compliance after having been given formal notice thereof. Where non-payment is the issue, employers who dispute determinations of non-compliance may avoid civil penalties as well by paying into a City holding account the monies in dispute. Employees should not fear retaliation, such as by losing their jobs, simply because they claim their right to the living wage, irrespective of the accuracy of the claim. The 1998 amendments strengthen the prohibition against retaliation to serve as a critical shield against such employer misconduct.

SECTION HISTORY

Article and Section Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99.

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 or 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, but excludes the Community Redevelopment Agency of the City of Los Angeles ("CRA"). The CRA is urged, however, to adopt a policy similar to that set forth in this article.

(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 one million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this article for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance reaches the one-hundred thousand dollar (\$100,000) threshold.

Categories of such 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 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), 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 (1) year,
- (2) it employs fewer than five (5) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or
- (3) it obtains a waiver as provided herein.

A recipient - who employs the long-term unemployed or provides trainee positions intended to prepare employees for permanent positions, and who claims that compliance with this article would cause an economic hardship - may apply in writing to the City department or office administering such assistance, which department or office shall forward such application and its recommended action on it 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).*

*Technical correction due to re-lettering of subsections: "Subsection (f)" corrected to "Subsection (i)".

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

(i) **"Employee"** means any person - who is not a managerial, supervisory, or confidential employee and who is not required to possess an occupational license - who is employed

(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 a public lessee or licensee, of a sublessee or sublicensee, or of a service contractor or subcontractor of a public lessee or licensee, or sublessee or sublicensee - who works on the leased or licensed premises;

(3) by a City financial assistance recipient who expends at least half of his or her time on the funded project; or

(4) by 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 and who is required to have a business tax registration certificate by Los Angeles Municipal Code §§ 21.00 - 21.198 or successor ordinance or, if expressly exempted by the Code from such tax, would otherwise be subject to the tax but for such exemption; provided, however, that corporations organized under §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 (8) times the lowest wage paid by the corporation, shall be exempted as to all employees other than child care workers.

(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"**.

(a) Except as provided in (l)(b)*, **"Public lease or license"** means a lease or license of City property 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:

*Technical correction due to re-lettering of subsections: "(i)(b)" corrected to "(l)(b)".

(1) The services are rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities); or

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

(3) The DAA has determined in writing that coverage would further the proprietary interests of the City.

(b) A public lessee or licensee will be exempt from the requirements of this article subject to the following limitations:

(1) The lessee or licensee has annual gross revenues of less than the annual gross revenue threshold, three hundred fifty thousand dollars (\$350,000), from business conducted on City

property;

(2) The lessee or licensee employs no more than seven (7) people total in the company on and off City property;

(3) To qualify for this exemption, the lessee or licensee must provide proof of its gross revenues and number of people it employs in the company's entire workforce to the awarding authority as required by regulation;

(4) Whether annual gross revenues are less than three hundred fifty thousand dollars (\$350,000) shall be determined based on the gross revenues for the last tax year prior to application or such other period as may be established by regulation;

(5) The annual gross revenue threshold shall be adjusted annually at the same rate and at the same time as the living wage is adjusted under section 10.37.2 (a);

(6) A lessee or licensee shall be deemed to employ no more than seven (7) people if the company's entire workforce worked an average of no more than one thousand two-hundred fourteen (1,214) hours per month for at least three-fourths (3/4) of the time period that the revenue limitation is measured;

(7) Public leases and licenses shall be deemed to include public subleases and sublicenses;

(8) If a public lease or license has a term of more than two (2) years, the exemption granted pursuant to this section shall expire after two (2) years but shall be renewable in two-year increments upon meeting the requirements therefor at the time of the renewal application or such period established by regulation.

(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 twenty-five thousand dollars (\$25,000) and a contract term of at least three (3) months; but only where any of the following applies:

(1) at least some of the services rendered are rendered by employees whose work site is on property owned by the City,

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

(3) the DAA has determined in writing that coverage would further the proprietary interests of the City.

(n) **"Subcontractor"** means any person not an employee that enters into a contract (and that 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).*

*Technical correction due to re-lettering of subsections: "Subsection (f)" corrected to "Subsection (i)".

(o) **"Willful violation"** means that the employer knew of his, her, or its obligations under this article and deliberately failed or refused to comply with its provisions.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (e), Ord. No. 176,155, Eff. 9-22-04; Subsec. (e), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; Subsecs. (a) through (l) re-lettered (d) through (o), respectively and new Subsecs. (a), (b), and (c) added, Ord. No. 180,877, Eff. 10-19-09.

Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) **Wages.** Employers shall pay Employees a wage of no less than the hourly rates set under the authority of this article. The initial rates were seven dollars and twenty-five cents (\$7.25) per hour with health benefits, as described in this article, or otherwise eight dollars and fifty cents (\$8.50) per hour without health benefits. With the annual adjustment effective July 1, 2009, together with all previous annual adjustments as provided by this subsection, such rates are ten dollars and thirty cents (\$10.30) per hour with health benefits or, if health benefits are not provided, then fourteen dollars and eighty cents (\$14.80) per hour for Airport Employees and eleven dollars and fifty-five cents (\$11.55) per hour for all other Employees. 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 CERS Board of Administration under § 4.1040. The Office of Administrative and Research Services 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 upon such publication.

(b) **Compensated Days Off.** Employers shall provide at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request. Employers shall also permit employees to take at least an additional ten (10) days a 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 days off for that year.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (a), Ord. No. 173,285,

Sec. 10.37.3. Health Benefits.

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment of at least four dollars and fifty cents (\$4.50) per hour by Airport Employers and at least one dollar and twenty-five cents (\$1.25) per hour by all other Employers towards the provision of health care benefits for Employees and their dependents. Proof of the provision of such benefits must be submitted to the awarding authority to qualify for the wage rate in Section 10.37(a) for Employees with health benefits. Airport Employees cannot waive the health benefits offered by an Airport Employer when the Airport Employer does not require an out-of-pocket contribution by the Airport Employee. Consistent with and as shall be reflected in the hourly rates payable to Airport Employees as provided in 10.37.2(a) above, the amount of payment for health benefits by Airport Employers 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 CERS Board of Administration under § 4.1040. The Office of Administrative and Research Services 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 upon such publication.

(b) **Periodic Review.** At least once every three years, the Office of Administrative and Research Services shall review the health benefit payment by Airport Employers set forth in 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.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 180,877, Eff. 10-19-09.

Sec. 10.37.4. Notifying Employees of their Potential Right to the Federal Earned Income Credit.

Employers shall inform employees making less than twelve dollars (\$12) per hour 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 employees forms informing them about the EIC and forms required to secure advance EIC payments from the employer.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99.

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.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99.

Sec. 10.37.6. Enforcement.

(a) An employee claiming violation of this article may bring an action in the Municipal Court or Superior Court of the State of California, as appropriate, against an employer and may be awarded:

(1) For failure to pay wages required by this article - back pay for each day during which the violation continued.

(2) For failure to pay medical benefits - the differential between the wage required by this article without benefits and such wage with benefits, less amounts paid, if any, toward medical benefits.

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

(4) For willful violations, the amount of monies to be paid under (1) - (3) 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 so prevails if the employee's suit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies, and such contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the City to terminate the contract and otherwise pursue legal remedies that may be available. Such contracts shall also include a pledge that there shall be compliance with federal law proscribing retaliation for union organizing.

(d) An employee claiming violation of this article may report such claimed violation to the DAA which shall investigate such complaint. Whether based upon such a complaint or otherwise, 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 (10) days. In the event that the employer has not demonstrated to the DAA within such period that it has cured such 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, termination of the service contract, public lease or license, or financial assistance agreement and the return of monies paid by the City for services not yet rendered.

(2) Request the City Council to debar the employer from future City contracts, leases, and licenses for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last. Such debarment shall be

to the extent permitted by, and under whatever procedures may be required by, law.

(3) Request the City Attorney to bring a civil action against the employer seeking:

(i) Where applicable, payment of all unpaid wages or health premiums prescribed by this article; and/or

(ii) A fine payable to the City in the amount of up to one hundred dollars (\$100) for each violation for each day the violation remains uncured.

Where the alleged violation concerns non-payment of wages or health premiums, the employer will not be subject to debarment or civil penalties if it pays the monies in dispute into a holding account maintained by the City for such purpose. Such disputed monies shall be presented to a neutral arbitrator for binding arbitration. The arbitrator shall determine whether such monies shall be disbursed, in whole or in part, to the employer or to the employees in question. Regulations promulgated by the DAA shall establish the framework and procedures of such arbitration process. The cost of arbitration shall be borne by the City, unless the arbitrator determines that the employer's position in the matter is frivolous, in which event the arbitrator shall assess the employer for the full cost of the arbitration. Interest earned by the City on monies held in the holding account shall be added to the principal sum deposited, and the monies shall be disbursed in accordance with the arbitration award. A service charge for the cost of account maintenance and service may be deducted therefrom.

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

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (d), Para. (1), Ord. No. 173,747, Eff. 2-24-01.

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(j), and that particular leases and licenses shall be regarded as "**public leases**" or "**public licenses**" for purposes of Section 10.37.1(i), when it receives an application for a determination of non-coverage or exemption as provided for in Section 10.37.13. 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 Office of Administrative and Research Services 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 workers, their employers, and the City. Within ninety days of the adoption of this article, these offices shall develop detailed plans for evaluation, including a determination of what current and future data will be needed for effective evaluation.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Ord. No. 173,747, Eff. 2-24-01.

Sec. 10.37.8. Exclusion of Service Contracts from Competitive Bidding Requirement.

Service contracts otherwise subject to competitive bid shall be let by competitive bid if they involve the expenditure of at least two-million dollars (\$2,000,000). Charter Section 372 shall not be applicable to service contracts.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00.

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.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99.

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.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99.

Sec. 10.37.11. Timing of Application.

(a) **Original 1997 Ordinance.** The provisions of this article as enacted by City Ordinance No. 171,547, effective May 5, 1997, shall apply to

- (1) contracts consummated and financial assistance provided after such date,
- (2) contract amendments consummated after such date and before the effective date of the 1998 ordinance which themselves met the requirements of former Section 10.37.1(h) (definition of "service contract") or which extended contract duration, and
- (3) supplemental financial assistance provided after May 5, 1997 and before the effective date of the 1998 ordinance which itself met the requirements of Section 10.37.1(c).

(b) **1998 Amendment.** The provisions of this article as amended by the 1998 ordinance shall apply to

- (1) service contracts, public leases or licenses, and financial assistance agreements consummated after the effective date of such ordinance and
- (2) amendments, consummated after the effective date of such ordinance, to service contracts, public leases or licenses, and financial assistance agreements that provide additional monies or which extend term.

(c) **2000 amendment.** The provisions of this article as amended by the 2000 ordinance shall apply to

- (1) service contracts, public leases or public licenses and City financial assistance recipient agreements consummated after the effective date of such ordinance and
- (2) amendments to service contracts, public leases or licenses and City financial assistance recipient agreements which are consummated after the effective date of such ordinance and which provide additional monies or which extend the term.

(d) **2009 Amendment.** The provisions of this article as amended by the 2009 ordinance shall become operative ninety (90) days following the effective date of the 2009 ordinance.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (b), Subsec. (c) Added, Ord. No. 173,747, Eff. 2-24-01; Subsec. (d) Added, Ord. No. 180,877, Eff. 10-19-09.

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.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99.

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

The definitions of "City financial assistance recipient" in Section 10.37.1(c), of "public lease or license" in Section 10.37.1(i), and of "service contract" in Section 10.37.1(j) shall be liberally interpreted so as to further the policy objectives of this article. All recipients of City financial assistance meeting the monetary thresholds of Section 10.37.1(c), all City leases and licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services that are more than incidental, shall be presumed to meet the corresponding definition just mentioned, 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.

SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: Ord. No. 173,747, Eff. 2-24-01.

Sec. 10.37.14. Severability.

If any provision of this article is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

EXHIBIT C-5: CONTRACTOR RESPONSIBILITY

See attached.

ARTICLE 14

CONTRACTOR RESPONSIBILITY PROGRAM

Section

- 10.40 Purpose.
- 10.40.1 Definitions.
- 10.40.2 Determination of Contractor Responsibility.
- 10.40.3 Compliance with All Laws.
- 10.40.4 Exemptions.
- 10.40.5 Administration.
- 10.40.6 Enforcement.
- 10.40.7 Application of this Article.
- 10.40.8 Consistency with Federal or State Law.
- 10.40.9 Severability.

Sec. 10.40. Purpose.

Each year the City spends millions of dollars contracting for the delivery of products and services from private sector contractors. The prudent expenditure of public dollars requires that the City's procurement process result in the selection of qualified and responsible contractors who have the capability to perform the contract. Further, 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 others for a variety of purposes. The City expends grant funds under programs created by federal and state government. The City intends that the procurement procedures set forth in this article guide the expenditure of federal and state grant funds to the extent permitted by federal or state procurement regulations.

SECTION HISTORY

Article and Section Added by Ord. No. 173,677, Eff. 1-14-01.

Sec. 10.40.1. Definitions.

(a) **"Awarding Authority"** means any Board or Commission of the City of Los Angeles, or any employee or officer of the City of Los Angeles, that is authorized to award or enter into any contract as defined herein, on behalf of the City of Los Angeles, and shall include departments having control of their own funds and which adopt policies consonant with the provisions of this article.

(b) **"Contract"** means any agreement for the performance of any work or service, the provision of any goods, equipment, materials or supplies, or the rendition of any service to the City or to the public, or the grant of City financial assistance or a public lease or license, which is let, awarded or entered into by or on behalf of the City of Los Angeles. Contracts for services and for purchasing goods and products that involve a value in excess of twenty-five thousand dollars (\$25,000) and a term in excess of three

months are covered by this Article. Construction contracts are covered by this Article without regard to contract amount and term.

(c) **"Contractor"** means any person, firm, corporation, partnership, association or any combination thereof, which enters into a Contract with any awarding authority of the City of Los Angeles and includes a recipient of City financial assistance and a public lessee or licensee.

(d) **"Subcontractor"** means any person not an employee who enters into a contract with a contractor to assist the contractor in performing a contract, including a contractor or subcontractor of a public lessee or licensee or sublessee or sublicensee, to perform or assist in performing services on the leased or licensed premises. The term subcontractor does not include vendors or suppliers to City purchasing contractors, unless the purchasing contract is for the purchase of garments such as uniforms or other apparel.

(e) **"Bidder"** means any person or entity that applies for any contract whether or not the application process is through an Invitation for Bid, Request for Proposal, Request for Qualifications or other procurement process.

(f) **"Bid"** means any application submitted by a bidder in response to an Invitation for Bid, Request for Proposal or Request for Qualifications or other procurement process.

(g) **"Invitation for Bid"** means the process through which the City solicits Bids including Requests for Proposals and Requests for Qualifications.

(h) **"City Financial Assistance Recipient"** means any person who receives from the City discrete financial assistance in the amount of One Hundred Thousand Dollars (\$100,000.00) or more for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation.

Categories of such assistance shall 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 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), 7872(f). A recipient shall not be deemed to include lessees and sublessees.

(i) **"Public Lease or License"** means a lease or license of City property as defined in the Living Wage Ordinance, Section 10.37 et seq. of Article 11, Chapter 1 of Division 10 of the Los Angeles Administrative Code.

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

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Amended by: Subsec. (j), Ord. No. 176,155, Eff. 9-22-04; Subsec. (j), Ord. No. 176,283,

Sec. 10.40.2. Determination of Contractor Responsibility.

(a) Prior to awarding a contract, the City shall make a determination that the prospective contractor is one that has the necessary quality, fitness and capacity to perform the work set forth in the contract. Responsibility will be determined by each awarding authority from reliable information concerning a number of criteria, including but not limited to: management expertise; technical qualifications; experience; organization, material, equipment and facilities necessary to perform the work; financial resources; satisfactory performance of other contracts; satisfactory record of compliance with relevant laws and regulations; and satisfactory record of business integrity.

(b) Every bidder for a City contract must complete and submit with its bid a questionnaire developed by the DAA which will provide information the awarding authority needs in order to determine if the bidder meets the criteria set forth in Paragraph (a) of this section. If no bid is required, the prospective contractor must submit a questionnaire. The response to the questionnaire must be signed under penalty of perjury. If, after execution of a contract, the City learns that the contractor submitted false information on the questionnaire, the City may terminate the contract and pursue the remedies set forth in Section 10.40.6 of this article. The contractor shall be obligated to update its responses to the questionnaire during the term of the contract within thirty calendar days after any change to the responses previously provided if such change would affect contractor's fitness and ability to continue performing the contract. The City may consider failure of the contractor to update the questionnaire with this information as a material breach of the contract and invoke the remedies set forth in Section 10.40.6 of this article.

(c) Questionnaires will be public records and information contained therein will be available for public review, except to the extent that such information is exempt from disclosure pursuant to applicable law. The awarding authority may rely on responses to the questionnaire, information from compliance and regulatory agencies and/or independent investigation to determine bidder responsibility.

(d) Before being declared non-responsible, a bidder shall be notified of the proposed determination of non-responsibility, served with a summary of the information upon which the awarding authority is relying and provided with an opportunity to be heard in accordance with applicable law. At the responsibility hearing, the bidder will be allowed to rebut adverse information and to present evidence that it has the necessary quality, fitness and capacity to perform the work. The bidder must exercise its right to request a hearing within five calendar days after receipt of such notice. Failure to submit a written request for a hearing within the time frame set forth in this section, will be deemed a waiver of the right to such a hearing and the awarding authority may proceed to determine whether or not the award of the contract should be made to another bidder or whether or not the bidder is non-responsible for this and future contracts. The determination by an awarding authority that the bidder is non-responsible shall be final and constitute exhaustion of the bidder's administrative remedies.

(e) A list of individuals and entities which have been determined to be non-responsible by the City shall be maintained by the DAA. After two years from the date

the individual or entity has been determined to be non-responsible, the individual or entity may request removal from the list by the awarding authority. If the individual or entity can satisfy the awarding authority that it has the necessary quality, fitness, and capacity to perform work in accordance with the criteria set forth in Paragraph (a) of this section, its name shall be removed from the list. Unless otherwise removed from the list by the awarding authority, names shall remain on the list for five years from the date of being declared non-responsible.

(f) Contractors shall ensure that their subcontractors meet the criteria for responsibility as set forth in Paragraph (a) of this section, unless the subcontract is below the threshold requirements for contracts contained in Section 10.40.1(b).

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Amended by: Subsec. (c), Ord. No. 176,292, Eff. 1-1-05.

Sec. 10.40.3. Compliance with All Laws.

(a) Contractors shall comply with all applicable federal, state and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.

(b) Contractors shall notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the contractor is not in compliance with Paragraph (a) of this section. Initiation of an investigation is not, by itself, a basis for a determination of non-responsibility by an awarding authority.

(c) Contractors shall notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the contractor has violated Paragraph (a) of this section.

(d) Upon award of a contract, contractors shall complete a Pledge of Compliance attesting under penalty of perjury to compliance with Paragraph (a) of this section. Whenever any contract, which was not initially subject to this article is amended, the contractor shall complete a Pledge of Compliance attesting under penalty of perjury to compliance with Paragraph (a) of this section.

(e) Contractors shall ensure that their subcontractors complete a Pledge of Compliance attesting under penalty of perjury to compliance with Paragraph (a) of this section, unless the subcontract is below the threshold requirements for Contracts contained in Section 10.40.1(b).

(f) Contractors shall ensure that their subcontractors comply with Paragraphs (b) and (c) of this section, unless the subcontract is below the threshold requirements for contracts contained in Section 10.40.1(b).

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Sec. 10.40.4. Exemptions.

(a) In order to promote the purposes of this article and to protect the City's interests, the following contracts are exempt from its application:

(1) Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such public status.

(2) Contracts for the investment of trust moneys or agreements relating to the management of trust assets.

(3) Banking contracts entered into by the Treasurer pursuant to California Government Code Section 53630 *et seq.*

(b) In order to promote the purposes of this article and to protect the City's interests, the following contracts are exempt from application of Section 10.40.2 of this article:

(1) Contracts awarded on the basis of exigent circumstances whenever any awarding authority finds that the City would suffer a financial loss or that City operations would be adversely impacted unless exempted from the provisions of Section 10.40.2 of this article. This finding must be approved by the DAA prior to contract execution.

(2) Contracts awarded on the basis of urgent necessity in accordance with Charter Section 371(e)(5).

(3) Contracts entered into pursuant to Charter Section 371(e)(6).

(4) Contracts entered into pursuant to Charter Section 371(e)(7).

(5) Contracts entered into pursuant to Charter Section 371(e)(8).

(6) Contracts where the goods or services are proprietary or only available from a single source.

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Sec. 10.40.5. Administration.

(a) The DAA shall promulgate rules and regulations for implementation of this Article.

(b) The DAA shall develop a questionnaire to be used by awarding authorities for determining bidder responsibility within sixty days after the effective date of this Ordinance.

(c) The DAA shall monitor compliance with this article including investigation of alleged violations.

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Amended by: Subsec. (a), Ord. No. 176,292, Eff. 1-1-05.

Sec. 10.40.6. Enforcement.

(a) Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the City to terminate the contract and otherwise pursue legal remedies that may be available.

(b) Compliance with Section 10.40.3 of this article shall be required in contract amendments, if the initial contract was not subject to the provisions of this article. Contract amendments shall provide that violation of Section 10.40.3 shall constitute a material breach thereof and entitle the City to terminate the contract and otherwise pursue legal remedies that may be available.

(c) Violations of this article may be reported to the DAA which shall investigate such complaint. Whether based upon such complaint or otherwise, if the DAA has determined that the contractor has violated any provision of this article, the DAA shall issue a written notice to the contractor that the violation is to be corrected within ten calendar days from receipt of notice. In the event the contractor has not corrected the violation, or taken reasonable steps to correct the violation within ten calendar days, then the DAA may:

1. Request the awarding authority to declare a material breach of the contract and exercise its contractual remedies thereunder, which are to include but not be limited to termination of the contract.

2. Request the awarding authority to declare the contractor to be non-responsible in accordance with the procedures set forth in Section 10.40.2 of this article.

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Sec. 10.40.7. Application of This Article.

(a) This article shall be applicable to Invitations for Bids issued after the rules and regulations have been adopted by City Council.

(b) This article shall be applicable to contracts entered into after the rules and regulations have been adopted by City Council, unless the contract is awarded pursuant to an Invitation for Bid issued prior to adoption of the rules and regulations by City Council.

(c) Section 10.40.3 of this article shall be applicable to contract amendments, entered into after the rules and regulations have been adopted by City Council if the initial contract was not subject to the provisions of this article.

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Sec. 10.40.8. Consistency with Federal or State Law.

The provisions of this article shall not be applicable to those instances in which its application would be prohibited by federal or state law or where the application would violate or be inconsistent with the terms or condition of a grant or contract with an agency of the United States, the State of California or the instruction of an authorized representative of any such agency with respect to any such grant or contract.

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

Sec. 10.40.9. Severability.

If any provision of this article is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION HISTORY

Added by Ord. No. 173,677, Eff. 1-14-01.

EXHIBIT C-6: ANTI-SLAVERY ORDINANCE

See attached.

ARTICLE 15
REGULATIONS REGARDING PARTICIPATION IN OR
PROFITS DERIVED FROM SLAVERY BY ANY COMPANY
DOING BUSINESS WITH THE CITY

Section

10.41 Definitions.

10.41.1 Purpose of Slavery Era Business Corporate/ Insurance Disclosure.

10.41.2 [Affidavit Required.]

10.41.3 Exceptions.

10.41.4 Administration.

10.41.5 Application of This Article.

Sec. 10.41. Definitions.

A. **"Awarding Authority"** means a subordinate or component entity or person of the City, such as a City Department or Board of Commissioners, that has the authority to enter into a Contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

B. **"Company"** means any person, firm, corporation, partnership or combination of these.

C. **"Contract"** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies or rendering of any service to the City of Los Angeles or the public, which is let, awarded or entered into with or on behalf of the City of Los Angeles or any Awarding Authority of the City.

D. **"Designated Administrative Agency (DAA)"** means the Department of Public Works, Bureau of Contract Administration.

E. **"Enslaved Person"** means any person who was wholly subject to the will of another and whose person and services were wholly under the control of another and who was in a state of enforced compulsory service to another during the Slavery Era.

F. **"Investment"** means to make use of an Enslaved Person for future benefits or advantages.

G. **"Participation"** means having been a Slaveholder during the Slavery Era.

H. **"Predecessor Company"** means an entity whose ownership, title and interest, including all rights, benefits, duties and liabilities were acquired in an uninterrupted chain of succession by the Company.

I. **"Profits"** means any economic advantage or financial benefit derived from the use of Enslaved Persons.

J. **"Slavery"** means the practice of owning Enslaved Persons.

K. "Slavery Era" means that period of time in the United States of America prior to 1865.

L. "Slaveholder" means holders of Enslaved Persons, owners of business enterprises using Enslaved Persons, owners of vessels carrying Enslaved Persons or other means of transporting Enslaved Persons, merchants or financiers dealing in the purchase, sale or financing of the business of Enslaved Persons.

M. "Slaveholder Insurance Policies" means policies issued to or for the benefit of Slaveholders to insure them against the death of, or injury to, Enslaved Persons.

SECTION HISTORY

Added by Ord. No. 175,346, Eff. 8-16-03.

Amended by: Subsec. D., Ord. No. 176,155, Eff. 9-22-04.

Sec. 10.41.1. Purpose of Slavery Era Business Corporate/Insurance Disclosure.

Many early American industries including, but not limited to, insurance, banking, tobacco, cotton, railroads, and shipping, realized enormous Profits by utilizing the uncompensated labor of Enslaved Persons. Many individuals and business enterprises were directly enriched by the labor of Enslaved Persons or benefitted from insurance policies insuring Enslaved Persons.

The City of Los Angeles, whose citizenry includes descendants of Enslaved Persons, is entitled to full disclosure of any Participation in or Profits derived through Slavery by Companies seeking to do business with the City.

The State of California has implemented Insurance Code Sections 13810-13813 requiring insurance companies to provide information to the California Department of Insurance regarding Slaveholder Insurance Policies sold during the Slavery Era as part of its licensing and renewal procedure.

In further support of this legislative act and to further promote the ideals the act embraces, this ordinance requires those seeking to do business with the City to fully and accurately disclose any and all Participation in or Profits derived from Slavery.

SECTION HISTORY

Added by Ord. No. 175,346, Eff. 8-16-03.

Sec. 10.41.2. [Affidavit Required.]

Each Awarding Authority, shall require that any Company that enters into a Contract with the City, whether the Contract is subject to competitive bidding or not, shall complete an affidavit, prior to or contemporaneous with entering into the Contract, certifying that:

A. The Company has searched any and all records of the Company, or any Predecessor Company, regarding records of Participation or Investments in, or Profits derived, from Slavery, including Slaveholder Insurance Policies issued during the Slavery Era; and

B. Disclosed any and all records of Participation in or Profits derived by the Company, or any Predecessor Company, from Slavery, including issuance of

Slaveholder Insurance Policies, during the Slavery Era, and identified the names of any Enslaved Persons or Slaveholders described in the records.

The Awarding Authority may terminate the Contract if a Company fails to fully and accurately complete the affidavit.

SECTION HISTORY

Added by Ord. No. 175,346, Eff. 8-16-03.

Sec. 10.41.3. Exceptions.

This article shall not be applicable to the following Contracts:

A. Contracts for the investment of:

- (1) City trust moneys or bond proceeds;
- (2) pension funds;
- (3) indentures, security enhancement agreements for City tax-exempt and taxable financings;
- (4) deposits of City surplus funds in financial institutions;
- (5) the investment of City moneys in securities permitted under the California State Government Code and/or the City's investment policy;
- (6) investment agreements, whether competitively bid or not;
- (7) repurchase agreements;
- (8) City moneys invested in United States government securities; and
- (9) Contracts involving City moneys in which the Treasurer or the City Administrative Officer finds that the City will incur a financial loss or forego a financial benefit, and which in the opinion of the Treasurer or the City Administrative Officer would violate his or her fiduciary duties.

B. Grant funded Contracts if the application of this article would violate or be inconsistent with the terms or conditions of a grant or Contract with an agency of the United States, the State of California or the instruction of an authorized representative of any of those agencies with respect to any grant or Contract.

C. Contracts with a governmental entity such as the United States of America, the State of California, a county, city or public agency of one of these entities, or a public or quasi-public corporation located in the United States and declared by law to have a public status.

D. Contracts awarded on the basis of exigent circumstances whenever any Awarding Authority finds that the City would suffer a financial loss or that City operations would be adversely impacted unless exempted from the provisions of this article. This finding must be approved by the DAA prior to Contract execution.

E. Contracts with any Company that has been designated as a non-profit organization pursuant to the United States Internal Revenue Code Section 501(c)(3).

F. Contracts for the furnishing of articles covered by letters patent granted

by the government of the United States or where the goods or services are proprietary or only available from a single source.

G. Contracts awarded on the basis of urgent necessity in accordance with Charter Section 371(e)(5).

I. Contracts entered into pursuant to Charter Section 371(e)(6).

J. Contracts entered into pursuant to Charter Section 371(e)(7).

SECTION HISTORY

Added by Ord. No. 175,346, Eff. 8-16-03.

Sec. 10.41.4. Administration.

A. The DAA shall promulgate rules and regulations to implement this article within sixty days after the effective date of this ordinance.

B. The DAA shall develop an affidavit to be used by Awarding Authorities within sixty days after the effective date of this ordinance.

C. The DAA shall administer the requirements of this article and monitor compliance, including investigation of alleged violations.

SECTION HISTORY

Added by Ord. No. 175,346, Eff. 8-16-03.

Sec. 10.41.5. Application of this Article.

A. This article shall be applicable to Contracts entered into after the rules and regulations have been promulgated by the DAA.

B. This article shall be applicable to Contract amendments entered into after the rules and regulations have been promulgated by the DAA where the initial Contract was not subject to the provisions of this article.

SECTION HISTORY

Added by Ord. No. 175,346, Eff. 8-16-03.

EXHIBIT C-7: FIRST SOURCE HIRING

See attached.

ARTICLE 18

FIRST SOURCE HIRING

Section

- 10.44 Purpose.
- 10.44.1 Definitions.
- 10.44.2 First Source Hiring Procedure.
- 10.44.3 City Loan or Grant Recipients.
- 10.44.4 Compliance with the Service Contractor Worker Retention Ordinance.
- 10.44.5 Designation of a Liaison.
- 10.44.6 Transfer and Promotion.
- 10.44.7 Administration.
- 10.44.8 Enforcement.
- 10.44.9 Exemptions.
- 10.44.10 Application of this Article.
- 10.44.11 No Third Party Beneficiary.
- 10.44.12 Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
- 10.44.13 Intentional Violation.
- 10.44.14 Severability.

Sec. 10.44. Purpose.

The City awards many contracts to private firms to provide services to the public and to City government. The City also provides grant and loan funding to others for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments, which promote the goals established for those programs and similar goals of the City. The City intends that the policies underlying this article serve to guide all of these expenditures to the extent allowed by the law.

City service contracts are subject to the City's Living Wage ordinance and provide covered workers with substantially greater wages and benefits than otherwise required by law. In addition, having the opportunity to work on a City contract affords workers valuable experience that can be used to garner future employment. The City has an interest in expanding the field of competent service workers to address the problems associated with a significant local unemployed, under-employed and unskilled workforce. The City serves this interest by expanding the opportunities that workers have to be referred for employment by City contractors.

The inadequate compensation often paid to service workers who are not subject to the City's living wage requirements fails to provide those workers with resources sufficient to

afford life in Los Angeles. Further, there are many unemployed and under-employed service workers who are interested in performing work on City contracts. Young people constitute a significant portion of the unemployed and under-employed. Experience indicates that unemployment and under-employment contribute to devastating social burdens including a sustained, large population of unskilled workers, increased crime and increased need for costly 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 creating a program that helps link Contractors with potential service workers, the City serves this interest and provides greater opportunities for employment on service contracts. To further serve this interest, the Library Department and the Department of Recreation and Parks are encouraged to adopt policies consistent with this article.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.1. Definitions.

The following definitions shall apply throughout this article:

"Awarding Authority" means any subordinate or component entity or person of the City, such as a department or Board of Commissioners that has the authority to award or enter into any a Contract (as defined below). This shall not include any department that has control of its own funds or the Community Redevelopment Agency.

"CDD" means the City Community Development Department's Workforce Development System.

"City" means the City of Los Angeles, a municipal corporation, and all City Awarding Authorities.

"Contract" means a contract, which is in excess of \$25,000 with a term greater than three months, awarded to a Contractor by the City or by a Loan or Grant Recipient primarily to furnish services to or for the City or the Loan or Grant Recipient. This shall not include construction contracts for a public work of improvement.

"Contractor" means any Person that enters into a Contract with the City or a Loan or Grant Recipient.

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

"Loan or Grant Recipient" means any person who receives from the City a qualifying grant or loan for economic development or job growth expressly articulated and identified by the City.

"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.

"Referral Resources" means any resource used to locate new employees

considered for employment under this article. Referral Resources shall include Trade Unions, Community Based Organizations, City Work Source Centers and any other resources approved by CDD.

"Subcontractor" means any person that enters into a contract with a Contractor or Subcontractor to assist in performing the services to the City or the Loan or Grant Recipient.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.2. First Source Hiring Procedure.

(a) Before executing a Contract, each Awarding Authority shall receive from the Contractor and provide to the DAA a list of anticipated employment opportunities that Contractor and its Subcontractors estimate they will need to fill in order to perform the services under the Contract. The list shall include:

- (1) The number of anticipated employment opportunities throughout the term of the Contract; and
- (2) The job title and description of each anticipated employment opportunity; and
- (3) The basic qualifications necessary for each anticipated employment opportunity; and
- (4) The number of anticipated hires made subject to the Service Contract Worker Retention Ordinance.

(b) During the term of the Contract, Contractor shall:

- (1) At least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the CDD, which will refer individuals for interview; and
- (2) Interview qualified individuals referred by Referral Resources; and
- (3) Prior to filling any employment opportunity, the Contractor shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the Contractor or Subcontractor interviewed and the reasons why referred individuals were not hired.

(c) Managerial, supervisory or confidential positions shall not be subject to this article.

(d) Positions requiring professional licenses to perform the Contract shall not be subject to this article.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.3. City Loan or Grant Recipients.

(a) A City Loan or Grant Recipient is subject to this article if the loan or grant is for economic development or job growth, is in an aggregate amount that exceeds \$25,000

and either:

(1) The loan is provided at an interest rate below the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f) at the time the Contract is executed; or

(2) The loan is at or above the applicable federal rate but the loan provides a mechanism for forgiving the interest.

(b) In the event that the applicable federal rate falls below the rate at which a City Loan is provided during the term of the Contract, the Awarding Authority may request the DAA to waive the requirements of this article.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.4. Compliance with the Service Contractor Worker Retention Ordinance.

Where applicable, Contractor shall first comply with the Service Contractor Worker Retention Ordinance, Administrative Code Section 10.36 et seq., as amended from time to time.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.5. Designation of a Liaison.

Prior to execution of the Contract, Contractor shall provide the City with the name and contact information of the liaison designated to work with the DAA to implement this article.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.6. Transfer and Promotion.

This article does not prevent a Contractor from filling job vacancies or newly created positions by transfer or promotion of its existing staff.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.7. Administration.

(a) The DAA shall promulgate rules and regulations to assure efficient implementation and enforcement of this article.

(b) The DAA may delegate duties to other City departments and provide for the manner in which exemptions from this article are approved and documented.

(c) The DAA shall develop the forms to be used by the Awarding Authorities toward implementing this article.

(d) The DAA may establish rules and guidelines governing pre-interview screening of individuals referred under this article.

(e) The DAA shall investigate alleged violations of this article and monitor

compliance with this article.

(f) The DAA may establish by regulation provisions under which the DAA may exempt a Contractor from the requirements of this article for specific employment opportunities.

(g) The DAA shall report to the Ad Hoc Committee on Gang Violence and Youth Development quarterly for one year after the ordinance is adopted. After the first year, the frequency of reporting requirements shall be determined by the DAA, or as otherwise instructed by City Council.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.8. Enforcement.

If the DAA determines that a Contractor has violated this article, the DAA may recommend that the Awarding Authority take any of the following actions:

(a) Document the determination in the Awarding Authority's Contractor Evaluation required under Los Angeles Administrative Code Section 10.39 *et seq.*; and

(b) Require that the Contractor document the determination in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 *et seq.*; and

(c) Terminate the Contract.

The Awarding Authority may pursue any rights and remedies available by law.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.9. Exemptions.

Upon request of the Awarding Authority, the DAA shall determine whether a Contract is exempt from this article because any of the following is applicable:

(a) Contracts where the provisions of this article conflict with federal or state law.

(b) Contracts with another governmental entity.

(c) Contracts where the provisions of this article would conflict with federal or state grant funded contracts, or conflict with the terms of the grant or subvention.

(d) Contracts awarded under urgent or emergency circumstances.

(e) Contracts entered into pursuant to Charter Section 371(e)(7).

(f) Contracts where the services are available only from a single source.

(g) Contracts that involve the investment of trust monies, bond proceeds or agreements relating to the management of these funds, indentures, security enhancement agreements (including, but not limited to, liquidity agreements, letters of credit and bond insurance) for City tax-exempt and taxable financings, deposits of City's surplus funds in financial institutions, the investment of City

monies in competitively bid investment agreements, the investment of City monies in securities permitted under the California State Government Code or the City's investment policy, investment agreements, repurchase agreements, City monies invested in U.S. government securities or pre-existing investment agreements.

(h) Contracts involving City monies if the Treasurer or the City Administrative Officer finds that failure to enter into the Contract will violate his or her fiduciary duties and cause the City to incur a financial loss or forego a financial benefit.

(i) City Loans or Grants funded from the proceeds of a bond issuance, tax credits or tax increment financing.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.10. Application of this Article.

This article is applicable to Contracts and amendments to Contracts entered into after the rules and regulations have been promulgated by the DAA.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.11. No Third Party Beneficiary.

This article does not create beneficial interests in any person who is not a party to the Contract.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.12. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit a person's right to bring legal action for violation of other laws.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.13. Intentional Violation.

If the DAA determines that a Contractor intentionally violated the ordinance or used hiring practices for the purpose of avoiding this article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 *et seq.*, and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 *et seq.* This measure does not limit the City's authority to act under this article.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

Sec. 10.44.14. Severability.

If a court of competent jurisdiction finds any provision of this article invalid, the remaining provisions shall remain in full force and effect.

SECTION HISTORY

Added by Ord. No. 179,281, Eff. 12-3-07.

EXHIBIT C-8: PUBLIC INFRASTRUCTURE STABILIZATION

See attached.

ARTICLE 19

PUBLIC INFRASTRUCTURE STABILIZATION

ORDINANCE

Section

- 10.45 Purpose.
- 10.45.1 Definitions.
- 10.45.2 Department-Wide Project Labor Agreement.
- 10.45.3 Targeted Hiring.
- 10.45.4 Transfer and Promotion.
- 10.45.5 Administration.
- 10.45.6 Enforcement.
- 10.45.7 Exemptions.
- 10.45.8 Application of this Article.
- 10.45.9 No Third Party Beneficiary.
- 10.45.10 [Reserved.]
- 10.45.11 Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
- 10.45.12 Severability.

Sec. 10.45. Purpose.

The City awards many contracts to private firms to construct public works improvements. This Article, also referred to as the Public Infrastructure Stabilization Ordinance advances the interests of the City by promoting the use of project labor agreements for those public works improvements that meet certain criteria.

Project labor agreements are the preferred tool to ensure that important proprietary goals of the City are achieved, including completion of construction projects on-time and within budget by minimizing labor misunderstandings, grievances and conflict along with emphasizing worker safety.

Project labor agreements also advance the City's interests by ensuring that unemployed and underemployed residents will receive employment opportunities at City public works construction projects. Over the years, project labor agreements have proven to be an excellent mechanism to promote the hiring of unemployed and under-employed City residents. These agreements have proven their effectiveness in targeting construction employment and training opportunities to mitigate the harms caused by geographically-concentrated poverty.

City public works of improvement construction contracts are subject to the State's Prevailing Wages Law or in some instances the Federal Davis Bacon Wage statute, each of which provides covered workers with substantially greater wages and benefits than otherwise required by law. Increasing access to employment opportunities with

prevailing wage is one way for the City directly to combat poverty and stimulate economic reinvestment.

In addition, having the opportunity to work on a City contract affords workers valuable experience that can be used to garner future employment. The City has an interest in expanding the field of competent construction workers to address the problems associated with a significant local unemployed, under-employed and unskilled workforce. The City serves this interest by expanding the opportunities that workers have to be referred for employment by City contractors.

Further, there are many unemployed and under-employed City residents who are interested in getting good work and learning a construction trade. Young people constitute a significant portion of this City's unemployed and under-employed residents. Experience indicates that unemployment and under-employment contribute to devastating social burdens including a sustained, large population of unskilled workers, increased crime and increased need for costly 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 creating a program that helps link Contractors with potential construction workers, the City serves this interest and provides greater opportunities for employment on public improvement construction contracts.

In February 2008, the Economic Roundtable released a study commissioned by the Community Development Department on Concentrated Poverty in Los Angeles. For purposes of the study, concentrated poverty was defined as a census tract with 40 percent or more of households below the poverty level in 2000. The study found that the City of Los Angeles has higher rates of concentrated poverty than the nation and the larger Los Angeles region. In fact, "Nineteen percent or over 238,000 of the 1.3 million households in the City of Los Angeles were living below the federal poverty threshold in 2000. A quarter of the census tracts in the City (216 tracts) have poverty rates of at least 30 percent."

The City's areas of concentrated poverty are growing in size and increasing in number. The City desires to address this problem by creating programs that train and employ people living in these areas of concern.

The Public Infrastructure Stabilization Ordinance targets construction employment and training opportunities in ways calculated to mitigate harms caused by geographically concentrated poverty, to address unemployment and underemployment in concentrated poverty neighborhoods and to advance the skills of the local labor pool, especially the youth by maximizing opportunities to earn prevailing wage.

To further serve these interests, the Port of Los Angeles, the Los Angeles World Airports, the Department of Water and Power and the Housing Authority of the City of Los Angeles are encouraged to adopt policies consistent with this Article.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.1. Definitions.

The following definitions shall apply throughout this Article:

"Apprentice" means any worker who is indentured in a bona fide construction

apprenticeship program registered and approved by the State of California, Division of Apprenticeship Standards (DAS) or in the case of Projects with federal funding, in a bona fide apprenticeship program approved by the US Department of Labor (DOL) and California DAS.

"Area Median Income" ("AMI") means the area median income for the Los Angeles-Long Beach Metropolitan Statistical Area, as determined annually by the U.S. Department of Housing and Urban Development.

"City" means the City of Los Angeles, a municipal corporation.

"Concentrated Poverty Neighborhood" means a census tract in which 40% or more of the households have incomes below the federal poverty guidelines.

"Contract" means a construction contract for a public work of improvement.

"Contractor/Subcontractor/Employer" means any individual firm, partnership, owner-operator, or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a contract with Public Works or any of its contractors or subcontractors/owner-operators of any tier, with respect to the construction of any part of a Project Work.

"Designated Administrative Agency" or "DAA" means the Department of Public Works, Bureau of Contract Administration, who shall bear administrative responsibilities under this Article, including rule making.

"Disadvantaged Worker" means an individual whose primary place of residence is within the City and who, prior to commencing Project Work, either: (a) has a household income of less than 50% of the AMI; or (b) faces at least one of the following barriers to employment: being homeless, receiving public assistance; lacking a GED or high school diploma, having a history of involvement with the justice system; being a single parent; or (c) suffers from chronic unemployment or underemployment.

"Local Resident": (i) means an individual whose primary place of residence is within the City and is within a zip code containing at least part of one census tract with a rate of unemployment in excess of 200% of the Los Angeles County unemployment rate at the time of application or containing all or part of a Concentrated Poverty Neighborhood; or (ii) means an individual whose primary place of residence is within the City and is within the zip code containing at least part of one census tract with a rate of unemployment in excess of 100% of the Los Angeles County unemployment rate at the time of application.

"Project Work" means work performed in construction of a public works improvement project subject to the Public Works project labor agreement.

"Public Works" means the Department of Public Works of the City.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.2. Department-Wide Project Labor Agreement.

The Board of Public Works shall approve a department-wide project labor agreement

and apply it to qualifying future public works improvement projects in accordance with criteria established by the Board.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.3. Targeted Hiring.

The Public Works project labor agreement shall include provisions that obligate a Contractor to follow targeted hiring procedures to make reasonable efforts to achieve specific hiring opportunities for Local Residents, Apprentices and Disadvantaged Workers:

(a) The Contractor and Subcontractor retain the authority in making individual hiring decisions.

(b) Hours worked by residents of states other than California shall not be included in the calculations of total hours of Project Work for purposes of determining whether the Contractor and Subcontractor achieved the percentage requirements set forth in this Article.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.4. Transfer and Promotion.

This Article does not prevent a Contractor from filling job vacancies or newly created positions by transfer or promotion of its existing staff.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.5. Administration.

(a) The DAA shall promulgate rules and regulations to assure efficient implementation and enforcement of this Article.

(b) The DAA may delegate duties to other City departments and provide for the manner in which exemptions from this Article are approved and documented.

(c) The DAA shall develop the forms to be used toward implementing this Article.

(d) The DAA shall investigate alleged violations of this Article and monitor compliance with this Article.

(e) The DAA shall annually report to the Board of Public Works after the ordinance is adopted, or as otherwise instructed by City Council.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.6. Enforcement.

If the DAA determines that a Contractor has violated this Article, the DAA may recommend that the Board of Public Works take any of the following actions:

(a) Withhold payments as liquidated damages pursuant to the Contract.

(b) Terminate, suspend or cancel the contract in whole or in part.

(c) Debar the contractor from bidding on City projects for up to a two-year period.

(d) Document the determination in the Contractor Evaluation required under Los Angeles Administrative Code Section 10.39, et seq.

(e) Require that the Contractor document the determination in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40, et seq.

(f) The City may pursue any and all rights and remedies available at law or in equity.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.7. Exemptions.

The following Contracts are exempt from this Article. The DAA shall develop rules and regulations for the application of these exemptions:

(a) Contracts where the provisions of this Article conflict with federal or state law.

(b) Contracts with another governmental entity.

(c) Contracts where the provisions of this Article would conflict with federal or state grant funded contracts, or conflict with the terms of the grant or subvention.

(d) Contracts awarded under urgent or emergency circumstances.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.8. Application of this Article.

This Article is applicable to Contracts entered into after the rules and regulations have been promulgated by the DAA.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.9. No Third Party Beneficiary.

This Article does not create beneficial interests in any person who is not a party to the Contract.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.10. [Reserved.]

Sec. 10.45.11. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This Article shall not be construed to limit a person's right to bring legal action for violation of other laws.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

Sec. 10.45.12. Severability.

If a court of competent jurisdiction finds any provision of this Article invalid, the remaining provisions shall remain in full force and effect.

SECTION HISTORY

Added by Ord. No. 181,520, Eff. 2-20-11.

EXHIBIT C-9: LOCAL BUSINESS PREFERENCE PROGRAM

See attached.

ARTICLE 21

LOCAL BUSINESS PREFERENCE PROGRAM

Section

- 10.47 Findings and Purpose.
- 10.47.1 Definitions.
- 10.47.2 Qualified Local Business.
- 10.47.3 Provisionally Qualified Local Business.
- 10.47.4 Local Business Preference.
- 10.47.5 Application of the Preference to Bids and Proposals.
- 10.47.6 Local Subcontractor Preference.
- 10.47.7 Application of the Local Subcontractor Preference.
- 10.47.8 Additional Requirements.
- 10.47.9 Effect of Failure to Maintain Status as Local Business.
- 10.47.10 Administration.
- 10.47.11 Timing of Application.

Sec. 10.47. Findings and Purpose.

Pursuant to City Charter Section 371, the City Council hereby adopts a Local Business Preference Program and makes the following findings. The City has a proprietary interest in leveraging, to the greatest extent possible, the millions of dollars it spends yearly contracting with private firms for goods, equipment and services to and for the benefit of the City and its residents. The City has a proprietary interest in leveling the playing field among those entities competing for City contracts, to assure the greatest level of competition possible, to decrease local unemployment, and to increase its revenues. Significant benefits are associated with a Local Business Preference Program. These include an increase in local jobs and expenditures in the local private sector. Preference programs in other jurisdictions have been successful where the business conditions approximate the conditions currently being experienced in the Los Angeles area. For example, preference programs work best where unemployment is high. Unemployment in Los Angeles County is at an historical high. The Los Angeles area also hosts a range of local markets to manage the necessary transportation and logistical support for local contractor services.

Historically, many of the larger cities within the County, especially the City of Los Angeles itself, experience labor costs that are among the highest in the nation. Los Angeles area labor costs are more than 5% higher than the hourly wages in competing neighboring states. Business space in the Los Angeles metropolitan area is even more costly than comparable space in other counties and states. Specifically, average office rents in the Los Angeles area are 40% higher than the national average and almost 30% higher than those in neighboring counties, including San Bernardino and Riverside. On a national level, Los Angeles is one of the ten most expensive places to do business as a result of the local tax and fee structure. All corporations in California are subject to a

corporate tax that is among the highest in the nation. These conditions create a very expensive climate in which local businesses must compete. The cost of doing business in Los Angeles is more than 10% higher than other cities. Local businesses confront cost structures that are weighted much heavier, in terms of labor and costs of doing business, than competitive firms that are located in outlying counties or other states.

This narrowly tailored preference program is fashioned to encourage businesses to compete for City contracting opportunities, to locate operations in the City, and to encourage existing local businesses to refrain from relocating to different, less expensive areas.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.1. Definitions.

The following definitions shall apply to this Section:

A. **"Awarding Authority"** means any Board or Commission of the City, or any employee or officer of the City, except those of departments that control their own funds, authorized to award or enter into any Contract, as defined in this Article, on behalf of the City. The Proprietary Departments and the Departments of Recreation and Parks, Library and the Community Redevelopment Agency are strongly encouraged to adopt local preference programs consonant with the provisions in this Article.

B. **"Bid"** means any response to a City solicitation for bids pursuant to Charter Section 371.

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

D. **"Contract"** means a written agreement involving consideration in excess of \$150,000.00 for the purchase of goods, equipment or services, including construction, by or for the benefit of the City or its residents.

E. **"Contractor"** means the person, business or entity awarded the Contract by the Awarding Authority.

F. **"County"** means the County of Los Angeles.

G. **"Designated Administrative Agency"**, or **"DAA"**, means the Department of Public Works, Bureau of Contract Administration.

H. **"Local Business"** means a business entity that meets all of the criteria established under this Article.

I. **"Local Subcontractor"** means a subcontractor that meets the same criteria as a "Local Business" as defined in this Article.

J. **"Proposal"** means any response to a City solicitation for Proposals pursuant to Charter Section 372.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.2. Qualified Local Business.

A Local Business for purposes of this Article must satisfy all of the following criteria, as certified by the DAA:

A. The business occupies work space within the County. The business must submit proof of occupancy to the City by supplying evidence of a lease, deed or other sufficient evidence demonstrating that the business is located within the County.

B. The business must submit proof to the City demonstrating that the business is in compliance with all applicable laws relating to licensing and is not delinquent on any Los Angeles City or Los Angeles County taxes.

C. The business must submit proof to the City demonstrating one of the following:

(1) The business must demonstrate that at least 50 of full-time employees of the business perform work within the boundaries of the County at least 60 percent of their total, regular hours worked on an annual basis, or;

(2) The business must demonstrate that at least half of the full-time employees of the business work within the boundaries of the County at minimum of 60 percent of their total, regular hours worked on an annual basis; or

(3) The business must demonstrate that it is headquartered in the County. For purposes of this Article, the term "headquartered" shall mean that the business physically conducts and manages all of its operations from a location in the County.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.3. Provisionally Qualified Local Business.

A business that has not yet established operations in Los Angeles and therefore is unable to qualify under the terms of Section 10.47.2 may, as an alternative, qualify as a Local Business on a provisional basis if the Contractor satisfies all of the following criteria, as certified by the DAA:

A. The proposed Contract between the Contractor and the City involves consideration valued at no less than \$1,000,000 and has a term of no less than three years;

B. The Contractor can demonstrate that the Contractor is a party to an enforceable, contractual right to occupy commercial space within the County and its occupancy will commence no later than 60 days after the date on which the Contract with the City is executed. The Contractor must demonstrate proof of occupancy or an enforceable right to occupancy in the County by submitting to the City a lease, deed or other sufficient evidence; and

C. The Contractor can demonstrate that, before the Contractor is scheduled to begin performance under the Contract with the City, the Contractor will satisfy the requirements of Subsection C. of Section 10.47.2. The Contractor must demonstrate proof of ability to satisfy the requirements of Subsection C. of Section 10.47.2 by

submitting to the City a business plan or other evidence deemed sufficient by the DAA.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.4. Local Business Preference.

Awarding Authorities shall grant an eight percent Local Business Preference to Local Businesses for Contracts involving consideration in excess of \$150,000.00. This Article is not adopted in the City's regulatory capacity.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.5. Application of the Preference to Bids and Proposals.

The Local Business Preference shall be applied to Bids and Proposals in the Following Manner:

A. When applying the Local Business Preference to a Bid, the Awarding Authority shall apply the preference to the Bid price solely for Bid evaluation purposes such that the total price bid by a Local Business shall be reduced by eight percent of the amount bid by that Local Business, and the reduced Bid amount shall be deemed the amount bid by that bidder. The Contract price shall in all events be the amount Bid by the successful bidder awarded the Contract.

B. When applying the Local Business Preference to a Proposal, the Awarding Authority shall apply the preference in the form of additional points to the Proposal's final score such that the score awarded to a Proposal submitted by a Local Business is increased by eight percent of the total possible evaluation points.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.6. Local Subcontractor Preference.

The Awarding Authority shall provide a preference of up to five percent, to a Bid or Proposal submitted by a business that does not qualify as a Local Business, but that identifies a qualifying Local Subcontractor to perform work under the Contract, provided the Local Subcontractor satisfies the criteria enumerated in Sections 10.47.2 and 10.47.7.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.7. Application of the Local Subcontractor Preference.

The Local Subcontractor Preference shall be applied to Bids and Proposals in the following manner:

A. When applying the preference to a Bid, the Awarding Authority shall provide a one percent preference, up to a maximum of five percent, to the Bid price for every ten percent of the cost of the proposed work to be performed by the Local Subcontractor or Local Subcontractors.

B. When applying the Local Subcontractor Preference to a Proposal, the score awarded by the Awarding Authority to the Proposal submitted shall be

increased by one percent of the total possible evaluation points, up to a maximum of five percent, for every ten percent of the total cost of the proposed work under the contract to be performed by a Local Subcontractor or Local Subcontractors; provided that each Local Subcontractor, the work of the Local Subcontractor and the cost of the work of the Local Subcontractor are specified clearly in the Proposal.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.8. Additional Requirements.

The preferences authorized under this Article shall be subject to the following additional requirements:

(1) The preferences awarded for services shall be applied only if the services are provided directly by the Local Business or Local Subcontractor using employees whose exclusive, primary working location is in Los Angeles County;

(2) The preferences awarded for equipment, goods or materials shall be applied only if the Local Business or the Local Subcontractor substantially acts as the supplier or dealer, or substantially designs, manufactures or assembles the equipment, goods or materials, at a business location in Los Angeles County. As used in this Section, "substantially" means not less than two thirds of the work performed under the Contract must be performed, respectively, by the Local Business or Local Subcontractor;

(3) The maximum Bid or Proposal preference shall not exceed one million dollars for any Bid or Proposal;

(4) The preferences applied pursuant to this Article shall be utilized solely for the purpose of evaluating and selecting the Contractor to be awarded the corresponding Contract. Except as provided pursuant to Section 10.47.9, the preference points shall in no way lower or alter the Contract price, which shall in the case of a Bid reflect the amount Bid by the successful Local Business before the application of preference points or, in the case of a Proposal, reflect the amount proposed by the Local Business in the Proposal before the application of preference points;

(5) This Article neither creates a right to receive a Bid or Proposal preference, nor the duty to grant a Bid or Proposal preference;

(6) An Awarding Authority may, at anytime before the award of a Contract, determine that it is not in the City's best interest to grant a Bid or Proposal preference and award the Contract to the bidder or proposer eligible for the award without consideration of the provisions of this Article; and

(7) This Article applies only to contracts that involve the expenditure of funds entirely within the City's control and shall not apply to contracts that involve the expenditure of funds that are not entirely within the City's control, such as state and federal grant funds, that due to legal restrictions prohibit its application.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.9. Effect of Failure to Maintain Status as Local Business.

A. If for any reason the Contractor fails to qualify as a Local Business for more than 60 days during the entire term of the Contract, the Awarding Authority shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Bid or Proposal Preference.

B. If for any reason the Local Subcontractor, providing the basis for a Local Subcontractor Preference, is unable to, or does not, perform the work under the Contract; the Contractor shall, within 60 days, replace that Local Subcontractor with another Local Subcontractor. If the Contractor is unable to replace the Local Subcontractor specified in the Contract with another Local Subcontractor within 60 days, the Awarding Authority shall be entitled to withhold or recover funds from the Contractor in an amount that represents the value of the Bid or Proposal Preference.

C. For purposes of determining the value of the Bid or Proposal Preference in Subsections A. and B. herein, the Awarding Authority may withhold or recover the difference in Bid or Proposal price between the Contractor's Bid or Proposal and the Bid or Proposal of the next most competitive Bid or Proposal that did not receive the award of the Contract by the Awarding Authority. In addition, the Awarding Authority may withhold or recover the amount representing any other additional cost or detriment to the City from the Contractor's failure to maintain the Contractor's status as a Local Business for more than 60 days during the term of the Contract.

D. If a Contractor fails to maintain the Contractor's status as a Local Business for more than 60 days during the term of the Contract, as specified in Subsection A. and B. herein, the failure is subject to recording and reporting requirements as specified under Articles 13 and 14, Chapter 1, Division 10 of the Los Angeles Administrative Code (Contractor Performance Evaluation and Contractor Responsibility Ordinance.)

E. The remedies available to the City under this Subsection are cumulative to all other rights and remedies available to the City.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.10. Administration.

The Department of Public Works, Bureau of Contract Administration is the Designated Administrative Agency (DAA) with regard to this Article and shall have the authority to coordinate the administration of this Article. The DAA shall make determinations regarding whether a business qualifies as a Local Business, a Provisionally Qualified Local Business or Local Subcontractor. The DAA shall have broad discretion to promulgate rules to implement and supplement this Article. The DAA may audit Contractors and Subcontractors and monitor compliance, including the investigation of claimed violations.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.

Sec. 10.47.11. Timing of Application.

The provisions of this Article shall apply to all competitive Bid or Proposal contracts for which solicitations are issued after the effective date of the ordinance adopting this Article.

SECTION HISTORY

Added by Ord. No. 181,910, Eff. 11-24-11.