

RESOLUTION NO. 06-059

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING ADMINISTRATIVE REGULATIONS NECESSARY TO IMPLEMENT THE CITY'S LIVING WAGE ORDINANCE IN ACCORDANCE WITH SANTA BARBARA MUNICIPAL CODE CHAPTER 9.128

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. Enforcement - Administrative Regulations. The Santa Barbara Living Wage Ordinance Enforcement Administrative Regulations (dated as of June 27, 2006) attached hereto as Exhibit A are hereby approved.

SECTION 2. April 2008 Report to City Council. The City Living Wage Advisory Committee is hereby directed to prepare a report on the effect of the City's Living Wage Ordinance on or before April 30, 2008 which report shall be provided to the City Council prior to the Council review of the Living Wage Ordinance as called for in Section 5 of the Ordinance adopting the City's Living Wage Ordinance.

**EXHIBIT A TO CITY COUNCIL LIVING WAGE RESOLUTION**

**June 27, 2006**

**CITY OF SANTA BARBARA ADMINISTRATIVE REGULATIONS FOR  
THE CITY LIVING WAGE ORDINANCE.**

**1. EMPLOYER NOTICE AND DOCUMENTATION REQUIREMENTS.**

A. All proposed Service Contractors subject to the provisions of these regulations shall submit a completed Declaration of Compliance form, signed by an authorized representative, with each proposal, bid or application. The Declaration of Compliance form shall be made a part of the executed contract, and will be made available for public inspection and copying by the City during its regular business hours.

B. Service Contractors shall require their subcontractors covered by these requirements to comply with the provisions of these regulations. Service Contractors shall be responsible for including language committing the subcontractor's agreement to comply in their contract with their subcontractor. Upon request, Service Contractors shall submit a copy of such subcontracts or other such agreements to the City's Finance Department.

C. Service Contractors shall maintain a listing of the name, address, date of hire, occupation classification, rate of pay and benefits paid for each of its employees and, upon request, shall submit a copy of the list to the City Finance Department (Living Wage Contract Compliance). Service Contractors (and their subcontractors) shall maintain payrolls for all employees and basic time records relating thereto sufficient to allow the City to audit the contractor's compliance with SBMC Chapter 9.128 and shall preserve such records for a period of at least four years after the expiration of the compliance period.

D. Service Contractors shall give written notification to each current and new employee, at time of hire, of his or her rights to receive the benefits under the provisions of these regulations. The notification shall be provided in English, Spanish, and other languages spoken by a significant number of the employees, and shall be posted prominently and permanently in communal areas at the work site. A copy of said notification shall be forwarded to the City's Finance Department. The notification must include the information contained on the attached Exhibit 1 and shall be substantially in the form shown in Exhibit 1.

**2. PENALTIES FOR NONCOMPLIANCE.**

Non-compliance with the City's Living Wage Ordinance may result in the termination of the Service Contract for breach of contract and possible debarment from bidding on or participating in future City Service Contracts or projects for a period of one (1) year or more.

Non-compliance by the contractor shall be determined exclusively by a court judgment issued by a Superior Court judge as provided for in Santa Barbara Municipal Code Section 9.128.040(E).

### **3. MONITORING AND INVESTIGATION.**

The provisions of these regulations will augment the City's normal and customary procedure for administering and enforcing its contracts. The City will take the following steps to determine compliance with these regulations for contracts under which the City makes periodic payments:

- a. The City may exercise its right to audit the Service Contractor's records for compliance with the City's Living Wage Ordinance as determined appropriate by the City Finance Director.
- b. The City may require periodic certifications of compliance with the Living Wage Ordinance in accordance with Santa Barbara Municipal Code Section 9.128.040(D) when determined appropriate by the City Finance Director.
- c. In the event the City is provided with a certified copy of a court judgment determining that a City Service Contractor has breached its obligation to pay a Living Wage in accordance with the requirements of the Living Wage Ordinance, the City will provide written notice of the Service Contractor's termination effective ten (10) after the posting of the notice to the Service Contractor.
- d. A Service Contractor shall have the right to dispute a City determination that it has breached its obligations under the City's Living Wage Ordinance provided that a notice of dispute is provided to the City Finance Director within 10 business days of the posting of the notice of termination provided for in subparagraph (c) hereof.

### **4. SERVICE CONTRACTOR EMPLOYEE CONSULTATION PROCESS.**

- a. An employee who believes that there has been a violation of any provision of these regulations or the City's Living Wage Ordinance may report such acts to the City and, at the employee's discretion, receive assistance from the City in determining whether a violation of the Living Wage Ordinance is apparent or not. In order to receive such assistance, an employee must complete a City questionnaire and submit it along with copies of any pertinent records he or she has obtained from the Service Contractor.
- b. Upon the receipt of such a request to investigate a violation, the City shall notify the Service Contractor of the complaint and shall seek a mutually acceptable resolution within twenty (20) days from receipt of the complaint form. If resolution is not accomplished, the City shall make a determination regarding the alleged violation and advise the Employee of how he or she may pursue their right to a legal action to determine whether a violation has occurred or not.
- c. If the City determines that no violation of the City's Living Wage Ordinance is apparent, the City Finance Director shall issue a written notice of its determination to both the complaining employee and the Service Contractor. However, the making of such a determination shall not preclude the employee from initiating legal action seeking a legal determination that a violation of SBMC Chapter 9.128 has occurred.

d. Service Contractors shall not discharge, reduce the compensation of, or otherwise discriminate against or retaliate against any employee for making a complaint to the City, participating in any of its proceedings, using any civil remedy to enforce his or her rights, or otherwise asserting his or her rights under these regulations or SBMC Chapter 9.128.

e. An Employee claiming retaliation (such as termination, reduction in wages or benefits or adverse changes in working conditions) for alleging contractor non-compliance with these regulations may report the alleged retaliation in the same manner as the initial complaint.

## **5. REPORTING TO THE CITY.**

a. Posted Notices. Service Contractors shall provide to all employees and to the City Finance Department written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) maintained by the Service Contractor and shall include information set forth herein in the manner shown in Exhibit 1 hereto.

b. New Employee Notices. The Service Contractor shall provide all written notices and forms required above in English or Spanish to any covered Employees within 30 days of employment under this Agreement.

c. Reporting: Service Contractor shall maintain a listing of the name, address, date of hire, occupation classification, rate of pay and benefit paid for each of its employees and, upon request, shall submit a copy of the list to Contract Compliance. Covered contractors (including all subcontractors thereof) shall maintain payrolls for all employees and basic records relating thereto and shall preserve them for a period of at least two (2) after the expiration of the compliance period.

d. Service Contractors shall require subcontractors that provide services under or related to their Service Contract comply with the above Living Wage provisions. Copies of said subcontracts shall be submitted to the Office of Contract Compliance. Service Contractor shall include the above requirements in all its subcontracts for City services.

## **6. REQUEST FOR PROPOSALS.**

The following provision shall be stated in every City Request for Proposals to Service Contractors:

"This service contract is subject to the Living Wage Ordinance of the Santa Barbara Municipal Code and its implementing regulations. The Ordinance requires that, unless specific exemptions apply or a waiver is granted, all service contractors who receive contracts for \$15,000 or more in any fiscal year period, shall provide payment of a minimum level of compensation to employees who perform services under or related to the contract \$12.00 per hour if Basic Medical

Insurance Coverage and Compensated Leave Time are offered to the Employee, or \$11.00 per hour if, (in addition to Basic Medical Insurance coverage and Compensated Leave Time), a Supplemental Employee Benefit is provided to the Employee and the Employee's family. Otherwise, if no Basic Medical Insurance Coverage or Compensated Leave Time are offered to the Employee, the Employee shall receive a wage of \$14.00 per hour for each hour of service contractor work directly related to services provided under a City Services Contracts. Such wage rate shall be adjusted annually pursuant to the terms of the City's Living Wage Ordinance.

Under the provisions of the Living Wage Ordinance, the City shall have the authority, under appropriated circumstances, to terminate a service contract covered by SBMC Chapter 9.128 and seek other remedies as set forth therein for violations of the Living Wage Ordinance.

## **7. AMENDMENTS**

These regulations may be modified or amended by the City Administrator or (his or her designee) as he or she deems appropriate, provided that such changes are consistent with the terms of the City's Living Wage Ordinance.



1. \*Select A, B C or D below.

- A. All employees working on the City of Santa Barbara contract are in the following exempt category:

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\* Attach verification information and complete the certification portion below.

- B. Employees working on City of Santa Barbara contracts receive a pay rate that meets or exceeds the City of Santa Barbara Living Wage requirement of \$14 per hour without benefits.

\*Complete items #2, #3, #4 and the certification portion below.

- C. Employees working on City of Santa Barbara contracts receive a pay rate that meets the City of Santa Barbara Living Wage requirement of \$12 per hour with the following benefits:

1. A combined twelve days compensated leave time annually for full-time employees, and prorated leave for employees working less than full time
2. Basic Medical Insurance Coverage for the Employee.

\*Complete items #2, #3, #4 and the certification portion below.

- D. Employees working on City of Santa Barbara contracts receive a pay rate that meets the City of Santa Barbara Living Wage requirement of \$11 per hour with all of the following benefits:

1. A combined twelve days compensated leave time annually for full-time employees, and prorated leave for employees working less than full time
2. Basic Medical Insurance Coverage for the Employee.
3. Basic Medical Insurance Coverage for the Employee's spouse, domestic partner or family.
4. One additional Supplemental Benefit as defined in the Ordinance.

\*Complete items #2, #3, #4 and the certification portion below.

2. Will any subcontractors perform work on this contract?  Yes  No

If yes, please indicate company(s) on an additional page.

3. Will you post the enclosed employee notification form in an area accessible to employees working on City of Santa Barbara contracts?  Yes  No

4. You may be required to provide certified payroll records any time during the contract period. These payroll records must include the following information for each employee working on this contract: employee name, job classification, employer benefit contribution, and hourly pay under this contract.

Do you agree to provide this information within fourteen calendar days when requested?  Yes  No

The City may also perform on site payroll audits that may include, but are not limited to, employee interviews.

**The signatory below hereby certifies, under penalty of perjury, that the forgoing information is correct:**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Address City, State, Zip

\_\_\_\_\_  
Contact Name Phone number Fax number

\_\_\_\_\_  
Name and Title (Please print) Signature

\_\_\_\_\_  
Date

**You may FAX the compliance statement to: City of Santa Barbara, Purchasing at (805) 897-1977**

## **LIVING WAGE ORDINANCE EMPLOYEE NOTIFICATION**

Certain employees working for this firm may be subject to the **City of Santa Barbara Living Wage Ordinance**, which was adopted on April 11, 2006 (Ordinance Number 5384, hereinafter referred to as the "Ordinance"). The Ordinance requires that persons doing work on City of Santa Barbara contracts, for services specified in the ordinance, are to be paid a living wage while working on the City of Santa Barbara contract.

For this specific contract, the minimum compensation to covered employees shall be:

1. If Basic Medical Insurance coverage and compensated leave time benefits are provided to the employee, a wage of no less than \$12 per hour.
2. If medical insurance for the employee and the employee's family, compensated leave time and at least one other supplemental benefit (as defined in the City's Living Wage Ordinance) benefits are provided, a wage of no less than \$11 per hour.
2. If benefits are not provided, a wage of no less than \$14 per hour.

**The Living Wage rates are revised annually. The current rates are effective through June 30, 2007.**

Compensated Leave Time is defined as twelve days of compensated leave time per year for full-time employees and prorated amounts for part-time employees.

Direct questions regarding this ordinance to the City of Santa Barbara, Purchasing, P.O. Box 1990, Santa Barbara, CA 93102.

**RESOLUTION NO. 06-059**

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SANTA BARBARA        ) ss.  
  )  
CITY OF SANTA BARBARA            )

I HEREBY CERTIFY that the foregoing resolution was adopted by the Council of the City of Santa Barbara at a meeting held on June 27, 2006, by the following roll call vote:

- AYES:                    Councilmembers Brian B. Barnwell, Iya G. Falcone, Grant House, Helene Schneider, Das Williams; Mayor Marty Blum
- NOES:                   None
- ABSENT:                Councilmember Roger L. Horton
- ABSTENTIONS:       None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on June 28, 2006.



*Cynthia M. Rodriguez*  
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Cynthia M. Rodriguez, CMC  
City Clerk Services Manager

I HEREBY APPROVE the foregoing resolution on June 28, 2006.

*Marty Blum*  
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Marty Blum  
Mayor