

11/12/2021
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(O-2021-37)

ORDINANCE NUMBER O- 21284 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 15 2021

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2,
DIVISION 42 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 22.4201, 22.4205, AND 22.4210 ALL
RELATING TO LIVING WAGE ORDINANCE.

WHEREAS, the City of San Diego (City) adopted the Living Wage Ordinance in 2005 to ensure that City contractors provide their employees with a living wage, health benefits or payments toward the costs of health insurance, and compensated leave, with the stated purpose of promoting economic development, job creation, and retention; and

WHEREAS, the current reference in the Living Wage Ordinance’s “Purpose and Intent” provision (San Diego Municipal Code section 22.4201) to “taxpayer-funded agreements” has created ambiguity regarding whether the Living Wage Ordinance was intended to apply to City contracts that do not require an expenditure of City funds (i.e. revenue-generating or cost neutral contracts); and

WHEREAS, the Living Wage Ordinance expressly states that the definitions of service contract, financial assistance agreement, or City facility agreement “shall be liberally interpreted so as to further the policy objectives” of the ordinance; and

WHEREAS, the Living Wage Ordinance also contains a definition of “City facility,” which is outdated due to changes in ownership or the legal names of certain facilities; and

WHEREAS, the City Council wishes to clarify that the Living Wage Ordinance applies to all service contracts including those where the City expends funds, those that generate revenue, and those that are cost neutral, and wishes to update the definition of City facilities to reflect the current status of those facilities; and

WHEREAS, the proposed amendments provide clarification of the Living Wage Ordinance and advance the Ordinance's intended purpose; and

WHEREAS, these amendments to the Living Wage Ordinance will apply to all contracts entered into, awarded, amended, renewed, or extended on or after June 1, 2021; NOW,

THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 2, Division 42 of the San Diego Municipal Code is amended by amending sections 22.4201, 22.4205, and 22.4210, to read as follows:

§22.4201 Purpose and Intent

The *City* awards many agreements to *businesses* that provide *services* to the public and to the *City* or that are intended to promote economic development, job creation, and retention. The *City* also owns, operates, manages, or leases sports, entertainment, or convention facilities and contracts with *businesses* to use these facilities or provide *services* at these locations to the public. It is the experience of the *City* that many of these *services* to the public and to the *City* are provided by workers who live at or below the poverty line. This Division recognizes that agreements, including *service contracts*, *financial assistance agreements*, and *City facilities agreements*, advance the interests of the *City* as a whole by creating jobs that keep workers and their families out of poverty. This Division therefore requires *covered employers* and their subcontractors to pay their employees a wage that will enable a full-time worker to meet basic needs and avoid economic hardship. Paying *services* employees a living wage is intended to improve the quality of *services* provided to the *City* and to the public by reducing high

turnover, absenteeism, and instability in the workplace. This Division also promotes the *City's* policies and programs that seek to meet the employment and economic development needs of the *City* and its workforce. *Businesses* that do not fall into any of the above described categories are not required to comply with this Division.

§22.4205 Definitions

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. For purposes of this Division, the following definitions shall apply:

Affordable Care Act through *City* [No change in text.]

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

- (a) [No change in text.]
 - (b) Pechanga Arena San Diego;
 - (c) San Diego Convention Center;
 - (d) San Diego City Concourse; or
 - (e) Civic Theatre, including the portion of the Civic Center Plaza directly adjacent to the Civic Theatre when theatre-related activities are held there.
- This subsection is not intended to extend to the Living Wage Ordinance to other structures located in the Civic Center Plaza.

City facility agreement through *Prime service contractor* [No change in text.]

Service contract means a contract between the *City* and a *business*, and any applicable subcontracts or franchises, to furnish *services*. For purposes of this Division, *service contract* includes cost-neutral and revenue-generating contracts.

For purposes of this Division, *service contract* includes all contracts for *services* provided through the managed competition program under Charter section 117(c).

Service Contractor through *Willful violation* [No change in text.]

§22.4210 Applicability of Living Wage Ordinance

(a) This Division shall apply to:

- (1) any *service contract*, including all cost-neutral or revenue-generating *service contracts* and any applicable subcontract, that is entered into, awarded, amended, renewed, or extended.

Compliance with this Division is required during the term of the *service contract*.

(2) through (4) [No change in text.]

(b) through (c) [No change in text.]

Section 2. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on June 1, 2021.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jill S. Cristich
Jill S. Cristich
Deputy City Attorney

JSC:jdf:hm
02/11/2020
Or.Dept: Purchasing Contracts
Doc. No.: 2479078

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 1/12/2021.

ELIZABETH S. MALAND
City Clerk

By /s/ Matthew R. Hilario
Deputy City Clerk

Approved: 1/15/2021
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 42 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.4201, 22.4205, AND 22.4210 ALL RELATING TO LIVING WAGE ORDINANCE.

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services provided to the *City* and to the public by reducing high turnover, absenteeism, and instability in the workplace. This Division also promotes the *City's* policies and programs that seek to meet the employment and economic development needs of the *City* and its workforce. *Businesses* that do not fall into any of the above described categories are not required to comply with this Division.

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Affordable Care Act through *City* [No change in text.]

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

(a) [No change in text.]

~~(b)~~ ~~Qualcomm Stadium~~;

~~(e)~~(b) ~~San Diego Sports Pechanga Arena~~ San Diego;

~~(d)~~(c) San Diego Convention Center;

~~(e)~~(d) San Diego City Concourse; or

~~(f)~~(e) Civic Theatre, including the portion of the Civic Center Plaza directly adjacent to the Civic Theatre when theatre-related activities are held there.

This subsection is not intended to extend to the Living Wage Ordinance to other structures located in the Civic Center Plaza.

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Compliance with this Division is required during the term of the *service contract*.

(2) through (4) [No change in text.]

(b) through (c) [No change in text.]

JSC:jdf:hm
02/11/2020
Or. Dept: Purchasing & Contracts
Doc. No.: 2479093_3

Passed by the Council of The City of San Diego on JAN 12 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 15 2021.

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on DEC 15 2020, and on JAN 15 2021.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 24394