City of Cincinnati

Interdepartment
Correspondence Sheet

Date: March 21, 2016

To: Mayor John Cranley

From: Paula Boggs Muething, City Solicitor PBM

Subject: **Ordinance – Modifying CMC 317, Living Wage** 201600426

Transmitted herewith is an ordinance captioned as follows:

> **AMENDING** Sections 317, "Legislative Intent and Purpose," 317-3, "Living Wages Required," 317-11, "Contractor or Agreement Language," and 317-13, "Obligations of Contractors," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code to establish a higher living wage rate for all covered employees; AMENDING Section 317-1-C2, "Covered Employee," to add seasonal and part-time employees of the City of Cincinnati to the definition of covered employee; and further REPEALING Section 317-1-H, "Health Benefits or Employee Health Benefits," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code to eliminate the definition of a term that no longer will be applicable.

PBM/JBM/(skj)
Attachment
191319-10

City of Cincinnati

JBM

An Ordinance No. _____ - 2016

AMENDING Sections 317, "Legislative Intent and Purpose," 317-3, "Living Wages Required," 317-11, "Contractor or Agreement Language," and 317-13, "Obligations of Contractors," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code to establish a higher living wage rate for all covered employees; AMENDING Section 317-1-C2, "Covered Employee," to add seasonal and part-time employees of the City of Cincinnati to the definition of covered employee; and further REPEALING Section 317-1-H, "Health Benefits or Employee Health Benefits," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code to eliminate the definition of a term that no longer will be applicable.

WHEREAS, it is in the best interest of the City of Cincinnati and its residents to encourage the development of jobs paying wages above the poverty level and to raise the income of low-income working people employed by covered employers on City contracts; and

WHEREAS, Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code was enacted for that purpose; and

WHEREAS, Council has determined that the current living wage rates are inadequate to meet that purpose; and

WHEREAS, Council also has determined that there no longer is a compelling reason to provide for differing living wage rates based on the provision of employee health benefits; and

WHEREAS, Council desires to amend Sections 317, "Legislative Intent and Purpose," 317-3, "Living Wages Required," 317-11, "Contractor or Agreement Language," and 317-13, "Obligations of Contractors," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code to establish a higher living wage rate; and

WHEREAS, Council desires to amend Section 317-1-C2, "Covered Employee," to include part-time and seasonal employees of the City of Cincinnati; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 317, "Legislative Intent and Purpose," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 317. - Legislative Intent and Purpose.

It is the purpose of this chapter:

(1) To increase the quality and reliability of services procured for the city or provided to city inhabitants by contractors or vendors, by promoting higher productivity and retention of employees working on city contracts;

(2) To use city spending to encourage the development of jobs paying wages above the poverty level;

(3) To use city spending and procurement of services to require covered employers that provide services to the city to pay their employees a "living wage" - a wage sufficient to meet their employees basic subsistence needs;

(4) To raise the income of low-income working people and their families employed by covered employers on city contracts; <u>and</u>

(5) To permit exemptions from the provisions of this chapter in certain limited circumstances~~; and~~ <u>.</u>

~~(6) To provide incentives for covered employers to provide health insurance to their employees.~~

Section 2. That Section 317-1-C2, "Covered Employee," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 317-1-C2. - Covered Employee.

"Covered employee" means a full-time<u>, part-time or seasonal</u> city employee or any person who is employed as a service employee of a contractor or subcontractor under the authority of one or more service contracts with the city and who expends any of his or her time thereon, including but not limited to: restaurant, food service or banquet employees; janitorial employees; security guards; parking attendants; gardeners; waste management employees; and clerical employees, provided however, that persons who are employed pursuant to federal or state laws relating to prevailing wages shall be exempt from this chapter.

Specifically, a "covered employee" is the persons or persons employed by a "covered employer" to perform the specific services which are covered or funded by the contract with the city.

Section 3. That Section 317-3, "Living Wages Required," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 317-3. - Living Wages Required.

(a) ~~The city and every~~ Every covered employer shall pay its covered employees no less than a living wage~~, as determined in this section:~~ which is determined to be $15.00 per hour, and as hereafter adjusted in accordance with subsection (c) hereof.

~~For a covered employer that provides employee health care to its employees, the living wage shall be $8.70 per hour, or the adjusted amount hereafter established in subsection (c) hereof;~~

~~For a covered employer that does not provide health care to its employees, the living wage shall be $10.20 per hour, or the adjusted amount hereafter established in subsection (c) hereof;~~

(b) ~~In order to qualify to pay the living wage rate for covered employers providing employee health care under subsection (a) hereof, a covered employer shall furnish proof of said health care coverage and payment therefor to the city manager or the manager's designee.~~ The city shall pay its covered employees no less than a living wage as determined herein, subject to adjustment as established in subsection (c) hereof:

(1) For full-time employees, the living wage is $15.00 per hour;

(2) For seasonal and for part-time employees, the living wage is $10.10 per hour;

(3) For purposes of this subsection (b), "full-time employees" means those permanent employees regularly scheduled to work 30 or more hours on a weekly basis, and "part-time employees" means those permanent employees regularly scheduled to work fewer than 30 hours on a weekly basis;

No position that otherwise would have been filled with a full-time employee shall be filled with one or more part-time employees in an effort to reduce the living wage rate required by this subsection (b).

(c) The amount of the living wages established in this section shall be adjusted upward no later than April 30, ~~2003~~ 2017~~,~~ and by April 30 of each ~~every~~ year thereafter by a percentage equal to the percentage increase, if any, in the level of the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of

Labor ~~federal poverty guidelines as published by the United States Department of Health and Human Services~~ for the then-current calendar year over the immediately preceding calendar year~~years 2002 and 2003~~. ~~Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar's year's poverty guidelines to the present calendar year's guidelines.~~ The applicable percentage amount ~~will~~ shall be converted to ~~an~~a monetary amount ~~in cents~~ by multiplying the most recent ~~existing~~ living wage under this section by said percentage, rounding upward to the next cent, and adding this amount of cents to ~~the existing~~each most recent living wage level~~s~~ established herein. Prior to April 1 of each calendar year, the city ~~will~~ shall notify any covered employer of this adjustment by posting an announcement in the City Bulletin and/or by written letter in the case of a covered employer that has provided an address of record to the city.

Section 4. That Section 317-11, "Contractor or Agreement Language," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 317-11. - Contract or Agreement Language.

All "Requests for Proposals" or "Requests for Qualifications," as defined in sections 321-1-R3 and 321-1-R4, respectively, of the Cincinnati Municipal Code, and all city contracts subject to this chapter shall contain the following two paragraphs or substantially equivalent language:

(a) This contract is subject to the Living Wage provisions of the Cincinnati Municipal Code. The provisions require that, unless specific exemptions apply or a waiver is granted, all employers (as defined) under service contracts shall provide payment of a minimum wage to employees (as defined) of $~~8.70~~15.00 per hour ~~with health benefits (as defined) or otherwise $10.20 per hour~~. Such rate shall be adjusted annually pursuant to the terms of the Municipal Code.

(b) Under the Living Wage provisions, the City shall have the authority, under appropriate circumstances, to terminate this contract and to seek other remedies.

Section 5. That Section 317-13, "Obligations of Contractors," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 317-13. - Obligations of Contractors.

(a) All proposed contractors subject to the provisions of this chapter shall submit a completed declaration of compliance form, signed by an authorized representative, along with each proposal. The completed declaration of compliance form shall be made a part of the executed contract.

(b) Contractors shall require their subcontractors to comply with the provisions of this chapter. Language indicating the subcontractor's agreement to comply shall be included in the contract between the contractor and subcontractor. A copy of such subcontracts or other such agreements shall be submitted to the city.

(c) Contractors and subcontractors 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 this chapter. A copy of such notification shall be retained by contractors and subcontractors which may be subject to audits and/or other forms of monitoring. The notification must include the following:

~~(1)~~ *Minimum Compensation.* The initial living wage rate~~s~~ of $~~8.70~~15.00 per hour ~~with health benefits or $10.20 without health benefits will~~ shall be adjusted annually. The living wage shall be upwardly adjusted each year no later than April 30th in proportion to the increase, if any, in the ~~at the immediately preceding December 31st over the year earlier~~ level of the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor for the then-current calendar year over the immediately preceding calendar year.

~~(2) *Health Benefits.* Proof of the provision of such benefits shall be noted on the declaration of compliance form and submitted to the city along with the contractor's bid proposal. Health benefits shall be provided to part-time employees as well as full-time employees.~~

Section 6. That existing Sections 317, "Legislative Intent and Purpose," 317-1-C2, "Covered Employee," 317-3, "Living Wages Required," 317-11, "Contractor or Agreement Language," and 317-13, "Obligations of Contractors," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code are hereby repealed.

Section 7. That existing Section 317-1-H, "Health Benefits or Employee Health Benefits," of Chapter 317, "Living Wage," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code is hereby repealed.

Section 8. That this ordinance shall be effective as of July 1, 2016.

Passed: _____, 2016

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John Cranley Mayor

Attest: _____
Clerk

New language is underscored. Deleted language indicated by strikethrough.