



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 06-01-09

Approved

Date

6/8/09

COUNCIL DISTRICT: City-Wide

**SUBJECT: EXTEND THE CITY'S LIVING WAGE POLICY TO WATER
POLLUTION CONTROL PLANT CONTRACTS**

RECOMMENDATION

Adoption of a resolution approving the City of San José Living Wage Policy as a formal City Council Policy and making it applicable to contracts solicited for and entered into for the San José/Santa Clara Water Pollution Control Plant.

OUTCOME

Service contracts for the Water Pollution Control Plant will require contractors to pay their workers the City's applicable living wage rate.

BACKGROUND

On November 17, 1998, the City Council adopted Resolution No. 68554 approving a policy mandating that designated City service contracts contain provisions requiring workers to be paid at least a living wage. On June 8, 1999, the City Council adopted Resolution No. 68900 revising the Policy. The Living Wage Policy exempted contracts which involved programs where the City shared management authority with other jurisdictions unless all participating agencies had a living wage policy. Since the participating jurisdictions in the operations of the San José/Santa Clara Water Pollution Control Plant (Plant) do not have living wage policies, living wage requirements have not applied to service contracts entered into at the Plant.

On May 27, 2003, the City Council adopted Resolution No. 71584 which requires contracts containing wage requirements to also contain a contractual provision setting forth certain remedies for breaches of the wage requirements.

On September 16, 2008, Council, as part of the approval of a contract for security guard services at the Plant, directed staff to discuss extending the City's Living Wage Policy with the Treatment

Plant Advisory Committee (TPAC). TPAC at its March 12, 2009 meeting approved applying the City's Living Wage Policy to service contracts issued for the Plant [Item 6c(1)].

This memorandum and the proposed action respond to the City Council's direction.

ANALYSIS

The revised Living Wage Policy is attached to the proposed resolution for the City Council's consideration for adoption as a formal Council Policy. The revised Living Wage Policy also combines the provisions of Resolutions Nos. 68554, 68900 and 71584 into a single unified statement of the City's Living Wage Policy.

The City's existing Living Wage Policy is not part of San Jose's Council Policy Manual. The proposed Living Wage Policy, if approved, would become part of the Council Policy Manual. The importance and widespread application of the Living Wage Policy make it appropriate for inclusion in the Council Policy Manual which is aimed at making such policies more readily accessible.

With TPAC's approval to apply the City's Living Wage Policy to the Plant, workers employed by employers who are awarded service contracts for the Plant will be required to be paid the City's living wage rate. Plant service contracts to be subject to the Policy will include but not be limited to the following services: custodial/janitorial; security; moving; shuttle transportation; and laundry.

Applying the Living Wage Policy to services contracted for the Plant may increase the cost for providing such services. However, potential costs may be balanced with a reduction in contractor staff turnover and a higher consistency in performance of the service.

It should be noted that Council recently adopted Chapter 25.11 of the San Jose Municipal Code to adopt a separate Airport Living Wage and Labor Standards Ordinance. Nothing in this official Council Policy being adopted by this resolution is intended to affect the provisions of that ordinance which covers Airport contracts only.

EVALUATION AND FOLLOW-UP

The proposed action will not require any further follow-up from staff. All prospective competitive solicitations for services at the Plant will include applicable living wage requirement language. The proposed elimination of two Contract Compliance Specialists who ensure compliance with Prevailing and Living Wage policies on service and maintenance contracts will require a shift from proactive enforcement to complaint only enforcement.

POLICY ALTERNATIVES

Alternative #1: Do not extend the Living Wage Policy to services contracted for the Plant.

Pros: Maintains lower costs for services.

Cons: Will not ensure a minimum level of compensation to the workers performing work for the Plant and will not provide for consistent application of the Policy.

Reason for not recommending: To remain consistent with the Council's original intent of approving a Living Wage Policy; i.e., to ensure that all workers working on a City service contract are paid a wage that enables them not to live in poverty.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

While this requirement does not meet any of the above criteria, this memorandum will be posted on the City's website for the June 23, 2009 Council Agenda. On March 12, 2009, TPAC considered and approved the application of the City's Living Wage Policy to contracts issued for the Plant.

COORDINATION

This memorandum was coordinated with the Environmental Services Department, Finance Department, City Manager's Budget Office and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This item is consistent with Council approved Budget Strategy Memo General Principle #2: "We must focus on protecting our vital core services."

COST SUMMARY/IMPLICATIONS

This recommendation may result in higher costs for services covered by the Living Wage Policy. However, if there are higher costs it will be minimal since these five service categories do not involve a large number of workers.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

CEQA: Not a project.

Katy Allen

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Director, Public Works Department

For questions please contact NINA GRAYSON, OFFICE OF EQUALITY ASSURANCE, at 408-535-8455.