# Legislative # 180999D

CITY OF GAINESVILLE
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FLORIDA

**Staff Analysis**

# The Living Wage Ordinance and how it may impact contracted service providers as well as vendors doing business with the City of Gainesville

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# CITY OF GAINESVILLE STAFF ANALYSIS

**Legistar No: 170199**

**Title: Living Wage Discussion**

**Sponsor: City Commission**

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**Summary of Issue**

In the course of the July 6, 2017 City Commission meeting, an item relating to the Living Wage was referred to the General Policy Committee. Specifically, the referral is a "Discussion of Applying the Living Wage to Contract Workers." In connection to this referral, staff gathered relevant information and analyzed a range of options for the Committee's consideration.

**History/Background Information**

In March 2003, the City Commission adopted Ordinance Number 020663 creating Article IX of Chapter 2, establishing a living wage requirement for certain employees of contractors providing selected services to the City. The ordinance applies to all contractors or subcontractors who employ 50 or more persons and who provide covered services purchased by the City under a single contract over $100,000. The living wage specified in the ordinance was set at $8.70/hour for those offering health benefits and $9.95/hour for those not offering health benefits.

The ordinance requires an adjustment annually in accordance with publication of the new federal poverty guidelines. The living wage is based on the federal poverty guidelines for a family of four as determined by the U. S. Department of Health and Human Services (DHHS) and is published each year in the Federal Register. The current (2017) living wage is $11.8269/hour (health benefit wage) and $13.08/hour (non-health benefit wage).

The City has for some time extended the same Living Wage treatment to regular employees, and discussion more recently has given consideration to increasing the rate and extending it to other segments of our labor force. Some of the actions flowing from those discussions are described here:

- In June 2015, the Commission formally adopted ordinance language memorializing its Living Wage commitment to City employees.
- In December 2016, the Commission directed staff to raise the Living Wage that applies to all City employees to $12.25/hour.
- Effective January 2, 2017, the City began paying all City Temporary employees $12.25/hour.
- On March 16, 2017, the Commission ratified the new Living Wage rate for employees covered by the Amalgamated Transit Union (ATU) bargaining unit.

- During its May 16, 2017 Special Meeting, the Commission provided direction to staff, indicating a move to a $12.75/hour and $13.25/hour Living Wage for FYs 18 and 19, respectively.
- On June 1, 2017, the Commission ratified the new Living Wage rate for employees covered by the Communications Workers of America (CWA) bargaining unit.

The segments of the labor force who are not subject to the Living Wage include contractors and subcontractors who as entities or by contract do not meet the criteria established in Part 1, Chapter 2, Article IX of the Code of Ordinances; and those employees of temporary employment agencies (e.g. TempForce) assigned to a City department.

The current federal minimum wage is $7.25/hour. The current Florida minimum wage is $8.10/hour.

There are two parts to this discussion: (1) City employee* wages and (2) wages to contracted service provider employees. The Commission may want to consider the following information during discussion, and direct staff as to next steps.

*All employees on the City's payroll (does not include TempForce).

**City Employee Wages**

- Total Compensation

| | | | |
|---|---|---|---|
| Hourly Rate | **$11.83** | $12.00 | $12.25 |
| Health Insurance | **2.77** | 2.77 | 2.77 |
| Pension/Ret health | **2.24** | 2.27 | 2.32 |
| Paid Time Off | **.91** | 0.92 | 0.94 |
| Compensation Rate | **17.75** | 17.96 | 18.28 |
| Statutory Benefits* | **1.14** | 1.16 | 1.18 |
| Total Compensation Rate | **18.89** | 19.12 | 19.46 |
| Incremental Hourly increase over Current | | 0.23 | 0.57 |
| Annual Incremental Increase | | $478.40 | $1,185.60 |

**Bold indicates 2017 living wage level**
*Statutory Benefits include Medicare/FICA and Worker's Compensation

- Additional Cost to City
  - Consider ability to pay for all associated costs now and every year forward
  - **Base Cost** (Includes City Temps)

| | |
|---|---|
| $12.75/hour | Estimated at $100,000 for FY18 |
| $13.25/hour | Estimated at $300,000 for FY19 |

- Consider not only base cost, but also include
  - Overtime pay (extremely sensitive to base rate pay changes)
  - Premium pay
  - Addressing compression and internal equity with increase to benefits cost

- City's Current Compensation Policy C-1

  - External labor market and internal equity shall be used to establish the pay structure
  - Internal equity is the primary consideration for bargaining-unit classifications
  - Requires addressing internal equity and compression
  - A blanket increase for certain positions does not fit the City's established pay philosophy

- Bargaining Units
  - CWA and ATU will be affected
  - Changes must be bargained
  - Consider demands to address compression and internal equity
  - Other bargaining units (FOP, PBA, IAFF) are likely to demand the same percentage or raw dollar increases for their members

**TempForce**

For departments, the most obvious monetary impact associated with an increase to the Living Wage will be seen and felt in operating budgets. Management has the ability to hire temporary labor through any number of vendors. The most frequently utilized vendor is TempForce. At present, the City contracts with TempForce for the services of 76 individuals. Those individuals work varying schedules, some part time and some full time.

In estimating the cost impact associated with increasing the Living Wage for TempForce workers, staff generated an incremental cost based on both a 30 hour week and a 40 hour week, assuming level utilization of TempForce labor, as well as the vendor markup. The figures below are non-cumulative; meaning the cost in 2019 assumes an adjustment in 2018 to $12.75.

| General | $12.75/Hour | | $ 13.25/Hour | | $15/Hour | |
|---|---|---|---|---|---|---|
| Government | 2018 Impact | 2018 Impact | 2019 Impact | 2019 Impact | 2020 Impact | 2020 Impact |
| | 40 hour week | 30 hour week | 40 hour week | 30 hour week | 40 hour week | 30 hour week |
| Annual | 218,191.99 | 163,643.99 | 42,604.11 | 31,953.08 | 188,805.37 | 141,604.03 |
| Weekly | 4,196.00 | 3,147.00 | 819.31 | 614.48 | 3,630.87 | 2,723.15 |

| GRU | 2018 Impact | 2018 Impact | 2019 Impact | 2019 Impact | 2020 Impact | 2020 Impact |
|---|---|---|---|---|---|---|
| | 40 hour week | 30 hour week | 40 hour week | 30 hour week | 40 hour week | 30 hour week |
| Annual | 68,530.19 | 51,397.65 | 12,903.93 | 9,677.95 | 59,596.84 | 44,697.63 |
| Weekly | 1,317.89 | 988.42 | 248.15 | 186.11 | 1,146.09 | 859.57 |

**Potential Impact of Wage Rate Increase on Contracted Service Provider's Doing Business with the City**

To properly evaluate the potential impacts of the Living Wage Ordinance on service contractors/contractors doing business with the City, it is helpful to keep in mind certain key terms and criteria found within the Ordinance. These have been reproduced below. Portions of the text have been underlined for added emphasis.

***Cooperative purchasing agreement*** is materials, equipment or services purchased under the terms and conditions of another local, state, federal, or other public agency's bid or cooperative bids put together by agencies.

***Covered employee*** applies to an employee of a service contractor/subcontractor who is directly involved in providing covered services pursuant to the service contractor's/subcontractor's contract with the city, during the period of time he or she is providing the covered services. Covered employee does not include a person described in 29 USC 213(a)(3) (seasonal employee), a student enrolled in a degree program who is employed under the auspices of the educational institution, a person who is employed by the service contractor/subcontractor through an ongoing written job training program, a worker with a disability as defined in 29 CFR 525.3, or employees hired or leased for temporary assignments of less than one year such as short-term projects, substituting for an absent employee, or substituting while a vacant position is being filled.

***Covered services*** are the following services purchased by the city under a single contract over $100,000.00:

(1) Food preparation and/or distribution;
(2) Custodial/cleaning;
(3) Refuse removal;
(4) Maintenance and repair;
(5) Recycling;
(6) Parking services;
(7) Painting/refinishing;
(8) Printing and reproduction services;
(9) Landscaping/grounds maintenance;
(10) Agricultural/forestry services;
(11) Construction services;

Except when such services are services provided under a cooperative purchasing agreement, or services provided by services contractors/subcontractors located within the City of Gainesville enterprise zone.

***Service contractor/subcontractor*** is a for-profit individual, business entity, corporation, partnership, limited liability company, joint venture, or similar business, providing a covered service, who or which employs 50 or more persons, but not including employees of any subsidiaries, affiliates or parent businesses. The calculation of number of employees is made as of

the date of execution of the contract for covered services.

The attached **Exhibit C** ("Living Wage Decision Tree") which is supplied in several of the Procurement Division's boilerplate bid documents shows in a simplified format the decision process that a bidder/proposer can follow to determine if the Living Wage Ordinance applies to their submittal.

**General Observations**

Observation #1

Currently, the two key factors which typically determine whether or not a service contractor/subcontractor must comply with the City's Living Wage Ordinance are:

a) Will the total value of their contract exceed $100,000?
b) Is the service being provided by the contractor/subcontractor one of those covered in the Living Wage Ordinance?

In 2014, out of 817 Purchase Orders issued by General Government, only 74 (9.06%) exceeded $100,000. In 2015 the number of Purchase Orders that were issued which exceeded $100,000 totaled 90 out of 871 (10.33%). In 2016 this figure was 78 out of 847 (9.20%).

While the City's various departments regularly issue contracts for services covered under the Living Wage Ordinance, as the preceding figures indicate, absent reducing the dollar threshold which "trips" the application of the Living Wage requirement only a relatively small amount of the procurement undertaken by the City is likely to require compliance with the Living Wage rate.

Observation #2

Though a total figure is not readily available, many of the contractors/subcontractors supplying one or more of the covered services used by the City are small businesses employing less than 50 employees. As such, they would not be required to pay their employees the required Living Wage rate. Even in those cases where a company's staffing does meet or exceed the 50-person threshold, it is important to note that only the wages of those employees who are considered to be "covered" would be subject to the Living Wage rate requirement. The Procurement Division lacks information which would enable staff to analyze any potential indirect costs that a Living Wage rate requirement would impose on businesses in terms of bookkeeping or other related administrative tasks.

Observation #3

As set forth within the Ordinance, services provided under a cooperative purchasing agreement or cooperative bids put together by agencies are not subject to complying with the prevailing Living Wage rate. One example of a cooperative bid the City of Gainesville has participated in putting together with another agency is the bid that was released in 2009 by Alachua County for Solid Waste, Recycling and Yard Trash Collections covering both the City and the County. In addition

to cooperative purchasing arrangements like this, City departments also make regular use of various state and national purchasing alliances and cooperatives, such as U.S. Communities, the Florida Sheriff's Association and The Cooperative Purchasing Network (TCPN). While many of procurements made under these types of cooperative agreements concern products as opposed to services, any that do would be exempted under the Living Wage Ordinance.

Observation #4

As noted previously, covered services provided by contractors/subcontractors located within the City of Gainesville enterprise zone are not subject to complying with the prevailing Living Wage rate. With regards to the effect that the City's enterprise zone could have on the application of the Living wage rate, the attached map shows that a significant portion of east Gainesville is covered by the present enterprise zone. The Procurement Division has been informed that efforts are now underway to expand the enterprise zone limits to cover the entire portion of the City lying east of NW 6th Street – in effect doubling the existing enterprise zone area. The outcome of this effort would be to further limit the number of businesses that could be impacted by the Living Wage rate requirement.

Observation #5

As previously noted, the Living Wage Ordinance applies to a for-profit individual, business entity, corporation, partnership, limited liability company, joint venture, or similar business, providing one of the covered services. By definition, this excludes other types of organizations, such as non-profit, 501(c) agencies. Thus, even though the contract between the City of Gainesville and the Alachua County Coalition for the Homeless and Hungry (ACCHH) for the operation of Grace Marketplace calls for ACCHH to provide food preparation services for the homeless (a covered service), ACCHH's paid personnel would not fall within the bounds of the Living Wage Ordinance due to ACCHH being a not-for-profit agency.

Observation #6

It should be kept in mind that when accepting and using federal funds, the Davis-Bacon Act applies to all prime construction, alteration or repair contracts in excess of $2,000.00. In such instances Davis-Bacon would preclude the application of a local living wage policy. This act requires contractors and subcontractors to pay their laborers and mechanics no less than the locally prevailing wages and fringe benefits for similar work on projects in the area as determined by the Department of Labor. Additionally, since many of the contracts issued by RTS involve federal funding a significant portion of the work related to the upkeep and operation of the City's transit system is exempt from the City's Living Wage requirement. In similar fashion, the City's Public Works Department is frequently required to observe specific procurement procedures and payment schedules when construction projects are being undertaken involving federal highway funding obtained through FDOT, and thus this work would likely be exempt as well.

Conclusion

After taking into account the various factors that would determine if a contracted project or service was covered by the City's Living Wage Ordinance, staff's initial conclusion is the overall

direct impact of raising the Living Wage rate to $15.00/hour for contractors/subcontractors doing business with the City would likely be fairly minimal. Large construction projects or service contracts involving large dollar amounts/lengthy terms would likely be those most impacted, and in these instances we would expect the added cost to be passed on to the city in the form of a higher project or contract amount.

It is important to note, however, that this conclusion rests on the assumption that the various thresholds and criteria which determine whether the Living Wage Ordinance applies to a contracted service are left unchanged. Should the City Commission at some point decide to lower the dollar threshold for contracted covered services, expand the list of services which are covered under the ordinance, and/or reduce the number of persons which a business must employ to trip the wage rate requirements, then the scale of any impacts could increase significantly.

Regardless of whether there are any significant direct impacts or not, staff does see the potential for additional indirect impacts to occur, these being primarily administrative costs associated with the record keeping and reporting requirements contained within the Living Wage Ordinance. For large businesses with professional bookkeeping staff and the necessary resources to handle the reporting requirements, this factor may be of little or no consequence. However, for a small "Mom & Pop" business (which is the category many of the covered businesses fall into), these indirect costs may prove to be a significant burden, and could potentially act as a barrier to small businesses working with the City.

**To Summarize:**

- The Living Wage Ordinance currently applies to contracts over $100,000 (for *covered services* only, as defined in Section 2-615 of the Living Wage Ordinance, and those businesses which are not considered exempt).
- If applying to contracts less than $100,000, then local, minority, women and veteran-owned businesses may be affected (but only if the current $100,000 threshold is lowered, and the other conditions of the Living Wage Ordinance are met by the business in question).

**Staff Recommendation**

Discuss the City's Living Wage, take any action deemed appropriate, and remove the item from the referral list if applicable.