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CITY OF BURLINGTON, VERMONT
OFFICE OF
THE CITY ATTORNEY
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Annual Report on Livable Wage Ordinance—FY18

To: Mayor Weinberger and City Council
From: Eileen Blackwood, City Attorney and Justin St. James, Assistant City Attorney
Date: April 10, 2018

This is the City Attorney's Annual Report on the Livable Wage Ordinance for FY18 (April 12, 2017, to April 10, 2018).

(a) *A list of all covered employers broken down by department.*

Attached are lists of the contracts covered by the Livable Wage Ordinance. BED continues to maintain its own lists of contracts, and all other departments' are contained in the attached ContractWorks database maintained by the City Attorney's Office.

(b) *A list of all covered employers whose service contract did not contain the language required by this article.*

All written contracts identified in the list contain the required language required by this article and/or a written certificate of compliance. The column entitled "Date Livable Wage Certification received" shows the dates of the most recent certifications provided to this office. On the BT list, the column is entitled "Certification." On the BED list, all certifications are current as of April 3, 2018.

(c) *All complaints filed and investigated by the City Attorney's office and the results of such investigation.*

Since our last annual report, the City Attorney's office received and investigated two new complaints and conducted three records compliance checks.

The first complaint was against Westaff, a temporary hiring agency. A concern was raised by the City's Designated Accountability Monitor, and the CAO requested complete payroll records. After analysis of those records, the City Attorney's Office concluded that Westaff was not in compliance with the Ordinance, and it was required to pay \$2,086 in restitution to two workers to bring their hourly wage up to \$15.83 per hour. The City concluded that Westaff improperly calculated wages for a probationary employee, as well as for an employee ineligible to receive healthcare coverage. Proof of payment was received, and the matter was closed.

The second complaint is still under consideration.

No other complaints were brought to the attention of the City Attorney's Office's by the Designated Accountability Monitor or other City department staff during the reporting period.

Additionally, the City performed three compliance checks of contractors in the last year. As reported in last year's Livable Wage Report, ADA Traffic Control was found in violation of the ordinance in FY17 and paid \$1300 in restitution to 15 flaggers. This year, the City requested payroll records from ADA just to check on compliance, and after reviewing those records, found that five more workers were underpaid. Because of the previous year's violations, the City determined that consequences beyond restitution were warranted. The City issued five municipal tickets (one for each violation) to ADA, the first municipal tickets ever issued by the City for a violation of the ordinance, and barred ADA from working on City contracts for nine months. ADA paid all five tickets for a total of \$1000. The City also received proof of restitution to the workers. The owner of ADA met with the CAO and Assistant City Attorney, acknowledged the errors, responded appropriately, and advised the City of a new company policy to pay all workers in Vermont \$16 per hour (above the livable wage amount) effective April 1, 2018. As a result, the City reduced ADA's suspension from nine months to eight months.

The second compliance check performed by the City was on S.D. Ireland. After reviewing the requested payroll records, the City determined that S. D. Ireland had underpaid eleven (11) workers in the total amount of \$2,155 in gross wages. Additionally, S.D. Ireland self-reported that the Paid Time Off calculations required by the ordinance were under-calculated, and forty-two (42) workers received additional Paid Time Off amounts owed to them. The company cooperated with City staff and responded appropriately. Proof of restitution was received, and the contractor was notified that any future violations would result in fines (municipal tickets) and/or the inability to contract with the City. The matter was closed.

The third compliance check was conducted on JaniTech, a company providing janitorial services at the Burlington International Airport. That check confirmed that JaniTech was in full compliance with the ordinance, and the positive finding was communicated to the contractor.