



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** March 21, 2017

**TO:** Carolyn Lehr, City Manager

**FROM:** Charles S. Bryant, Community Development Director

**SUBJECT:** Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Memorandum Of Understanding With The California Labor Commissioner's Office To Establish A Cooperative Partnership For Labor Standards Implementation And Enforcement

### RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution to establish a collaborative partnership with the California Labor Commissioner's Office Division of Labor Standards Enforcement (DLSE) and Bureau of Field Enforcement (BOFE) to communicate and share common areas of interest as it pertains to labor standards implementation and enforcement.

### BACKGROUND

In November 2005 the electorate of the City of Emeryville adopted an Ordinance ("Measure C") governing certain employment conditions for employees working in hotels with more than 50 guest rooms. In August 2008 the City Council adopted a Resolution establishing amended and restated regulations and procedures to implement Measure C.

In July 2015 the City Council adopted a Minimum Wage Ordinance that increased the minimum wage, paid sick leave, and other employment standards within the City of Emeryville above and beyond federal and state law to help working households achieve economic security, and to facilitate their individual self-reliance.

In November 2016 the City Council adopted a Fair Workweek Ordinance to provide standards for work hours for employees in the retail and fast food industries above and beyond the requirements of state law.

Consistent with the goal to establish an informed and efficient process of implementation and enforcement of these labor standards, staff researched best practices of other jurisdictions and agencies across the country. Staff participated in field investigations, observed administrative hearing proceedings and met with DLSE staff in late December to learn about state-level protocol and procedures.

The California Labor Commissioner's Office, through its DLSE, ensures economic justice through robust enforcement of labor laws. The areas of focus are wage theft, protecting workers from retaliation, and education of the public. The BOFE is responsible for investigation and enforcement of statutes covering workers' compensation insurance, child labor, cash pay, unlicensed contractors, Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. BOFE also handles criminal investigations involving these group claims.

In recognition of the value of working collaboratively with other local jurisdictions, and the interrelatedness of local and state labor standards, the DLSE recommended that the City enter into a Memorandum of Understanding (MOU) with the California Labor Commissioner's Office in order to allow a more formal process for achieving mutual goals of providing clear, accurate and easy access to outreach to employers, employees and other stakeholders to share resources and enhance enforcement efforts.

## **DISCUSSION**

The highlights of the MOU (Attachment 2) are as follows:

- Designation of a person responsible for coordinating partnership activities. The agencies will meet periodically to review areas of mutual concern;
- Where appropriate, the agencies may conduct joint investigations periodically as well as assist each other in enforcement;
- Where appropriate, the agencies may:
  - refer potential violations to one another
  - jointly disseminate outreach materials to regulated communities
  - conduct joint outreach presentations, prepare and distribute publications of mutual concern
  - exchange statistical data in specific industries and geographic areas.

As stated in the MOU, nothing in the MOU obligates the City to extend appropriations or enter into any contractual agreement. Furthermore, the agreement does not diminish nor affect the authority of either party in implementing regulatory functions, nor does it limit or restrict participating in similar activities or agreements with other agencies.

The MOU establishes that the exchange of information under this MOU does not warrant public disclosure under the Public Records Act; documents and information

obtained through investigatory subpoenas, interrogatories, depositions, etc. must be kept confidential.

**FISCAL IMPACT**

None.

**LEGAL CONSIDERATIONS**

The City Attorney has reviewed and approved this staff report and the attached resolution.

**PREPARED BY:** April Shabazz, Management Analyst

**REVIEWED BY:** Chadrick Smalley, Economic Development and Housing Manager

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager

**Attachments:**

1. Resolution
2. Memorandum Of Understanding