



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 9, 2019

TO: Christine Daniel, 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 Professional Services Contract With The Labor Compliance Managers To Provide Assistance With Enforcement And Administration Of City Labor Standards For An Amount Not To Exceed \$317,305 Per Year For Fiscal Years 2019-20, 2020-21, And 2021-22, For A Total Contract Amount Not To Exceed \$951,915

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a Professional Services Contract with The Labor Compliance Managers (TLCM) to provide enforcement services for the City's Minimum Wage and Paid Sick Leave Ordinance, Fair Workweek Ordinance, and Workplace Justice Standards at Large Hotels Ordinance ("Measure C") for Fiscal Years 2019-20, 2020-21 and 2021-22 for \$317,305 per year, for a total contract amount not to exceed \$951,915.

BACKGROUND

On November 8, 2005, the electorate of the City of Emeryville adopted the Workplace Justice Standards at Large Hotels Ordinance ("Measure C") governing certain employment conditions for employees working in hotels with more than 50 guestrooms. On August 19, 2008 the Emeryville City Council adopted Resolution No. 08-142 establishing amended and restated regulations and procedures to implement Measure C.

On June 2, 2015, the City Council adopted Ordinance No. 15-004, the "Minimum Wage Ordinance", which took effect on July 2, 2015, and which increased the minimum wage, sick leave and other employment standards above and beyond federal and state law. On September 1, 2015, the City Council adopted Ordinance No. 15-008 to clarify certain provisions of the Minimum Wage Ordinance.

On November 1, 2016, the City Council adopted Ordinance No. 16-007, the "Fair Workweek Ordinance", which took effect on July 1, 2017, and which provides standards for work hours for employees in the retail and fast food industries above and beyond requirements of state law. At the November 1, 2016 City Council meeting, staff advised

the Council that implementation would require third party assistance for program development, roll-out and administration to ensure that the City had the capacity to effectively implement the ordinance by the effective date of July 1, 2017.

Due to the intersecting nature of the Fair Workweek Ordinance, the Minimum Wage and Paid Sick Leave Ordinance, and Measure C (together, the “Labor Standards”), in 2017 staff circulated a Request for Proposals (“RFP”) for outreach, education, administration and enforcement support for all of the Labor Standards. As a result of the responses received to this RFP, staff recommended awarding two contracts: one for education and outreach, and one for administration and enforcement.

On April 18, 2017, the City Council authorized the execution of a contract with Mills College for outreach and education tasks related to the City’s Labor Standards. The total amount of the contract with Mills College was \$182,218 and the contract term ended June 30, 2019. On June 6, 2017, the City Council authorized the execution of a contract with The Labor Compliance Managers (“TLCM”) for enforcement and administration of the City’s Labor Standards. The total amount of the contract with TLCM was \$150,336 and the contract term ended June 30, 2019.

On April 15, 2019, staff issued a new RFP to seek firms to offer investigation and administrative services support. Only one firm, TLCM responded to the RFP.

DISCUSSION

Enforcement and Administration Contract

Qualifications

As noted above, TLCM has been under contract with the City for Labor Standards enforcement services for the past two years. TLCM consists of a diverse group of multilingual professionals with extensive experience enforcing local, state, and federal regulatory procedures. TLCM is proficient with contract administration, direct project inspections, auditing, and extensive reporting of audit findings to project stakeholders.

TLCM has served a host of public agencies such as the San Francisco Bay Area Rapid Transit District, San Francisco Public Utilities Commission, County of Santa Clara, County of Monterey, Marina Community Partners, Pittsburg Unified School District, and many others. TLCM’s team members have worked in diverse capacities including Contract Compliance Specialist, Senior Deputy Labor Commissioner for the City and County of San Francisco, Multilingual Investigator and Auditor, small business owners, and organizational managers. The language capacity among direct staff includes fluency in Chinese and Spanish.

Experience and Capacity

TLCM has demonstrated experience and capacity to handle the level of Labor Standards cases and support to both businesses and employees in Emeryville.

TLCM's proposed team consists of the following individuals:

Lin Robertson is principal of TLCM and is fluent in English and Spanish. She will be responsible for all deliverables as well as support staff performance. Ms. Robertson was a Contract Specialist with the City of San Jose monitoring housing redevelopment block grant funds prior to starting her own business in 2005. Her client references include San Francisco Unified School District, where TLCM updated procedures for their Labor Compliance program; San Francisco Public Utilities Commission, where TLCM provides Davis Bacon Consulting Services, and the City of El Cerrito, where TLCM is an on-call consultant for minimum wage enforcement and investigation services. Ms. Robertson has advanced degrees in Public Administration, Humanities, and Health Sciences.

Lucy Sanchez, Labor Compliance Manager, is fluent in Spanish. Her background includes contract compliance and enforcement, conflict resolution and negotiations. She has experience as labor representative responsible for contract compliance from 1,000 members at UCSF Medical Centers and campuses as well as an external and lead organizer for low wage fast food workers. In addition, she has over 5 years' experience in career management services for youth and adults including the retraining of NUMMI workers. She has an accounting/payroll background and holds an MBA and a BA in Criminal Justice.

Jordon Chow, TLCM's Labor Compliance Monitor and Field Agent, is fluent in English, Mandarin, and Cantonese and will audit records, communicate with workers as necessary, and review documentation and submittal requirements of the City.

Han T. Nguyen, Auditor, conducts internal and external project specific audits to facilitate compliance with local, state and federal regulatory requirements that impact public contracting and operational procedures. She also generates accounting reports and assists with new business fee estimations. Her background includes fiscal review of contracts, audit techniques and analysis, governmental accounting and OMB circulars, and working for the San Francisco and San Jose Unified School Districts as the Federal and State Accounting and Capital Projects Manager.

Project Management and Communication Skills

TLCM has demonstrated a solid background in local labor standards enforcement and has proposed a plan for successful coordination and enforcement procedures to ensure that proper measures are taken to monitor affected stakeholders. As noted above, TLCM has been the City's consultant for labor standards enforcement over the past two years, and during that time has demonstrated the experience, knowledge and capacity to support the City's Labor Standards program.

Therefore, staff recommends entering into a contract (Exhibit A of the attached Resolution) with TLMC beginning July 1, 2019 for three consecutive years for a total amount not to exceed \$951,915, or \$317,305 per year.

FISCAL IMPACT

Contract costs related to enforcement and administration for the City's Labor Standards are estimated to be approximately \$317,305 annually. This represents only a slight increase from the current caseload, which does not include any active cases related to the Fair Workweek Ordinance. The precise caseload and level of effort required is unpredictable and depends in part on the complexity of the cases. For example, if multiple employees are involved in a case that begins with a single complaint, or the claim is for retaliation, or the case disposition results in a need to collect restitution, greater effort will be required. In staff's experience, these types of cases can require well over 40 hours per month of effort. In contrast, a case that can be resolved by mediating between a single employee and employer in some cases can be resolved in one hour with no requirement for an audit.

The City's Operating Budget for Fiscal Years 2019-20 and 2020-21 includes sufficient funding for the proposed contract with TLMC in the Economic Development and Housing Division's budget for Professional Services (Account No. 1800-80050). The contract's continuation through Fiscal Year 2021-22 is contingent upon the City Council's inclusion of sufficient funding in that year's operating budget.

STAFF COMMUNICATION WITH THE PUBLIC

There was no staff communication with the public on this item.

CONCLUSION

Staff recommends the City Council adopt the attached Resolution authorizing the City Manager to execute a Professional Services Contract with TLMC for enforcement and administration of the City's Labor Standards for an amount not to exceed \$317,305 per year for Fiscal Years 2019-20, 2020-21 and 2021-22, for a total contract amount not to exceed \$951,915.

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:**



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution, including Exhibit A: Professional Services Contract with TLMC