

Index of draft edits

Edit #	LWO Section	Edit Type	Explanation
1	2-374	Admin	Clarification further supporting the rationale and goals of the LWO
2	2-375(c)	Admin	Unnecessary verbiage. Definition already includes stricken language
3	2-375(f)	Admin	Unnecessary verbiage. Definition already includes stricken language
4	2-375(f)(2)	BOS direction	LWO Proposal #2 - Location of living wage covered employees. Reflects BoS direction 10/18/22
5	2-375(f)(2)	BOS direction	LWO Proposal #1. Delete general applicability to County employees. (County employee coverage as to wage rate moved to Section 2-377(e) (new subsection))
6	2-375(h)	Admin	Unnecessary verbiage. Definition already includes stricken language
7	2-375(h)(2)	Admin	Consolidation to exclusions in Section 2-376(b)(2)
8	2-375(h)(6)	BOS direction	LWO Proposal #3 - exemption for emergency contracts. Reflects BoS direction 10/18/22
9	2-375(i)	Admin	Unnecessary verbiage. Definition already includes stricken language
10	2-376(a)(1)	BOS direction	LWO Proposal #1. Delete general applicability to County employees.
11	2-376(a)(4)	Admin	Unnecessary verbiage. Definition already includes stricken language
12	2-376	Admin	Consolidate "grandfathering" of existing agreements to section 2-391.
13	2-376(c)(7)	Admin	Unnecessary verbiage. Definition already includes stricken language
14	2-376(d)(1)	Admin	Clarification around potential bases for waiver
15	2-376(d)(1)(b)	Admin	Clarification around potential bases for waiver
16	2-376.5(a)	Admin	Moot. Non-profit phase-in is now complete
17	2-376.5(c)	Admin	Moot. Non-profit phase-in is now complete
18	2-377(a)	Admin	Unnecessary verbiage. Definition already includes stricken language
19	2-377(b)	Admin	Unnecessary verbiage. Definition already includes stricken language
20	2-377(b)	Admin	Revision to reflect most current LWO wage rate
21	2-377(b)	BOS direction	LWO Proposal # 4 - COLA. Reflects BoS direction 10/18/22
22	2-377(d)	BOS direction	LWO Proposal #4 - COLA. Reflects BoS direction 10/18/22
23	2-377(d)	BOS direction	LWO Proposal # 4 - COLA. Reflects BoS direction 10/18/22 and Ad Hoc recommendation (new)
24	2-377(e)	BOS direction	LWO Proposal #1 - applicability to County employees. Reflects BoS direction 10/18/22
25	2-379	Admin	Not require any verbatim provisions in agreements that are categorically exempt per 2-376(b)(1)
26	2-379	Admin	Not require verbatim provisions in bid materials., Streamlining measure, and unnecessary requirement for contract compliance
27	2-380(a)	BOS direction	LWO Proposal #11 - Enforcement. Reflects BoS direction 10/18/22
28	2-380(c)	Admin	Unnecessary verbiage. Definition already includes stricken language
29	2-380(c)	BOS direction	LWO Proposal #10 - Model Language. Reflects BoS direction 10/18/22
30	2-380(c)	BOS direction	LWO Proposal #10 - Model Language. Reflects BoS direction 10/18/22
31	2-380(d)	Admin	Unnecessary verbiage. Definition already includes stricken language
32	2-380(d)	BOS direction	LWO Proposal #8 - Responsible Bidder. Reflects BoS direction 10/18/22
33	2-380(e)	BOS direction	LWO Proposal #6 - Part-time Hours. Reflects BoS direction 10/18/22
34	2-381(c)	Admin	Streamlining measure. Eliminate redundancy to similar requirement in Section 2-379
35	2-381(d)	Admin	Streamlining measure. Defer to administrative procedures and timeframes
36	2-382	Admin	Unnecessary verbiage. Definition already includes stricken language

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37	2-382(b)	BOS direction	LWO Proposal #11 - Enforcement. Reflects BoS direction 10/18/22
38	2-382(c)	Admin	Unnecessary verbiage. Definition already includes stricken language
39	2-384(4)	BOS direction	LWO Proposal #11 - Enforcement. Reflects BoS direction 10/18/22
40	2-386	BOS direction	LWO Proposal #7 - Employee Retention. Reflects BoS direction 10/18/22

Article XXVI. - Living Wage.

Sec. 2-373. - Short title.

This article shall be known as the county of Sonoma "Living Wage Ordinance."

Sec. 2-374. - Purpose.

The purpose of this article is to implement a policy to help low wage workers earn an hourly wage that is sufficient to live with dignity and to achieve economic self-sufficiency. The county contracts with many businesses and organizations to provide services to the public, and provides financial assistance to a variety of entities for the purpose of promoting economic development and job growth. Such public expenditures should also be spent to set a community economic standard that permits workers to live above the poverty level. Ensuring that workers on county contracts and other county-assisted initiatives are adequately paid, obtain certain benefits and protections, and are afforded other minimum employment standards serves to ensure that the County obtains the quality, timely, and sustainable services, deliverables, and other benefits that are the purpose of the subject contracts and assistance agreements. The establishment of a living wage ordinance is one (1) component of a more comprehensive strategy to address poverty in Sonoma County. The board of supervisors finds that the use of county funds to provide living wage jobs will decrease poverty, increase consumer income, invigorate neighborhood businesses, and reduce the need for taxpayer-funded social service programs.

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Clarification further supporting the rationale and goals of the LWO.
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Sec. 2-375. - Definitions.

The following words and phrases, whenever used in this article shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) "Awarding authority" means the county department, officer, or agency that recommends or is otherwise responsible for the administration of a service contract.
- (b) "Business" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity operated for profit that may employ individuals or enter into service contracts. "Business" does not include nonprofit organizations.
- (c) "~~County~~" ~~means the unincorporated area of the county of Sonoma; the County of Sonoma, a political subdivision of the State of California any county officer or board, commission, committee or other body, any county department or agency head, and any county employee authorized by the board of supervisors to enter into a contract with a covered employer, as defined under this article.~~
- (d) "County economic development assistance recipient" means any covered employer, as defined under this article, person or entity which receives direct financial assistance from the county in the form of grants, loans, or loan guarantees, in-kind services, waivers of county fees, interests in real property, or other valuable consideration totaling one hundred thousand dollars (\$100,000.00) or more in any twelve-month period.
- (e) "Covered employer" means those persons and entities described in Section 2-376(a) of this article.
- (f) "Employee" means an individual employed by a ~~service contractor or county economic development assistance recipient, as defined under this article~~ Covered employer, performing direct services during any applicable pay period on work funded—either in whole or in part—pursuant to a service contract, as defined under this article, or in connection with a county economic development assistance agreement, unless said employee;

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Unnecessary verbiage. Definition already includes stricken language
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(1) ~~Spends less than twenty percent (20%) or eight (8) hours per week of his or her work time on work arising from a service contract or in connection with a county economic development assistance agreement, including subcontracts arising thereunder, during the term of the covered service contract or county economic development assistance agreement; or~~

(2) ~~Resides outside of the United States of America. "Employee" also includes a county employee, except full or part-time county employees who are in the student aide or seasonal job classifications and employees subject to a bona fide collective bargaining agreement as described in Section 2-376(c)(12).~~

(g) "Nonprofit" means an organization described in Section 501(c) of the Internal Revenue Code of 1954 or any successor statute that is exempt from taxation under Section 501(c) of that code, or any nonprofit educational organization qualified under Section 23701(d) of the Revenue and Taxation Code or any successor statute.

(h) "Service contract" means a contract for services, as defined under this article, entered or to be entered into by the county with (i) a business or other for-profit entity that involves an expenditure in excess of twenty-five thousand dollars (\$25,000.00) within any twelve-month period or (ii) a nonprofit entity that involves an expenditure in excess of fifty thousand dollars (\$50,000.00) within any twelve-month period. Where the same nonprofit entity or business or for-profit entity has or will have one (1) or more contract(s) with the county that, cumulatively, involve an expenditure in excess of the applicable threshold within a twelve-month period, each such contract shall be deemed a "service contract" for purposes of this article. For the purposes of this article, the term "service contract" includes franchises ~~where the franchise holder has a franchise~~ to provide services to the county.

The term "service contract" specifically does not include:

1. A contract subject to federal or state laws or regulations that would preclude application of the living wage requirement otherwise applicable pursuant to this article;
2. ~~A contract between the county and another governmental entity;~~
3. A regulatory franchise or a concessions agreement;
4. A public works contract wherein the prevailing wage requirements of Division 2, Part 7, of the California Labor Code apply, except as provided otherwise in Section 2-376(c)(8);
5. Community block grant contracts where the county acts as the fiscal liaison for public entities other than the county;

6. ~~Emergency contracts, wherein unforeseen circumstances do not permit delay or allow for standard procurement procedures and require immediate action to meet imminent and serious public health, safety, welfare, or operational need.~~

(i) "Service contractor" means ~~a nonprofit entity or a business or other for-profit entity, business, individual, or any other person~~ that enters into a service contract with the county except those contractors who enter into public works contracts governed by the California Public Contracts Code and subject to the prevailing wage requirements of Division 2, Part 7, of the California Labor Code, and except as provided otherwise in Section 2-376(c)(8).

(j) "Services" means any professional, technical, or non-technical services provided under a service contract with the county.

(k) "Subcontractor" means any person or entity, other than an employee, that enters into a contract with a service contractor or a county economic development assistance recipient to assist the service contractor or county economic development assistance recipient in the performance of a service contract or county economic development assistance agreement. The term "subcontractor" specifically includes personnel leasing agencies, temporary employee agencies, and other persons or entities, other than an employee, who supply personnel to a service contractor for the purpose of performing the services covered by a service contract or county economic development assistance agreement.

Commented [A7]: LWO Proposal # 2.

Reflects BoS direction 10/18/22

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Commented [A9]: LWO Proposal #1. Delete general applicability to County employees. (County employee coverage as to wage rate moved to Section 2-377(e) (new subsection))

Reflects BoS direction 10/18/22

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Commented [A13]: Administrative Edit #C.

Consolidation to exclusions in Section 2-376(b)(2)

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Unnecessary verbiage. Definition already includes stricken language

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Sec. 2-376. - Application of this article.

(a) Covered Employers. ~~Unless exempt as set forth in subsection (b) below, the~~ persons and entities described below ~~are "covered employers" and shall comply with the living wage standards established by~~ this article if they employ more than five (5) employees:

- (1) ~~The county, all its agencies, departments, and offices;~~
- (2) For-profit service contractors that receive service contract(s) totaling twenty-five thousand dollars (\$25,000.00) or more from the county in a twelve-month period.
- (3) ~~Subject to the provisions set forth in Section 2-376.5, n~~Nonprofit service contractors that receive service contract(s) totaling fifty thousand dollars (\$50,000.00) or more from the county in a twelve-month period.
- (4) ~~Nonprofit entities and businesses and other for-profit~~Any entities or businesses, for-profit or otherwise, that receive more than one hundred thousand dollars (\$100,000.00) in county economic development assistance, including loans or other cash assistance, in any twelve month period~~All County economic development assistance recipients who receive more than \$100,000 in county economic development assistance in a twelve-month period.~~
- (5) Subcontractors of any of the persons or entities described in subparagraphs (2) through (4), above, provided that: (i) the subcontractors' employees are engaged in county funded services and (ii) the subcontractors have fifty thousand dollars (\$50,000.00) or more in annual gross receipts from all sources.

~~Notwithstanding any provision in this article to the contrary, no entity other than the county shall be deemed a covered employer until they receive a new service contract or county economic development assistance from or through the county after the effective date of this article, as more fully provided in Section 2-391 below.~~

(b) Exemptions—Entities or Businesses. The requirements of this article shall not apply to the following entities or businesses:

- (1) Governmental entities and agencies, including, without limitation, cities, other counties, and state agencies, ~~and recognized tribes;~~
- (2) Service contractors, county economic development assistance recipients, and subcontractors with fewer than six (6) employees;
- (3) Nonprofit organizations with fewer than twenty-five (25) employees;
- (4) Leaseholders leasing property from the county ~~and licensees of real property from the county, due merely to the fact of the lease or license;~~
- (5) In-patient health and mental health providers, unless the county occupies seventy-five percent (75%) or more of their beds.

(c) Exemptions—Employees. The requirements of this article shall not apply to the following employees:

- (1) An employee participating in a temporary job-training program approved by the county in which a significant component of the employee's training consists of acquiring specialized knowledge, abilities, skills, or job readiness.
- (2) An employee employed on a seasonal project which does not exceed six (6) months in duration.
- (3) An employee who is hired as an intern where the intern is receiving academic credit or other non-monetary job training benefits.
- (4) An employee who is a student while said employee is actively enrolled in school.
- (5) Volunteers, including part-time firefighters and part-time firefighters with EMT certification, part-time paramedics, and part-time emergency medical technicians, provided there is no replacement or displacement of existing firefighter positions or employees.

Commented [A19]: LWO Proposal #1. Delete general applicability to County employees.

Reflects BoS direction 10/18/22

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Unnecessary verbiage. Definition already includes stricken language

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Consolidate 'grandfathering' of existing agreements to section 2-391.

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- (6) Participants in the Sonoma County Youth Ecology Corps program.
 - (7) Participants in the ~~county's prisoner work release program pursuant to the provisions of Article VII of this chapter.~~
 - (8) Employees of service contractors engaged on county public works projects subject to the requirements of Division 2, Part 7, of the California Labor Code, or any successor statute, when said code requires compensation greater than that required by this article.
 - (9) Employees who are standing by or on-call according to the criteria established by the Fair Labor Standards Act, 29 U.S.C. Section 201, or any successor statute. This exemption shall apply only during the time when the employee is actually standing by or on-call.
 - (10) Any disabled employee who (i) is covered by a current sub-minimum wage certificate issued to the employer by the U.S. Department of Labor; or (ii) would be covered by such a certificate but for the fact that the employer is paying a wage equal to or higher than the minimum wage.
 - (11) An employee for whom application of the requirements of this article is prohibited by state or federal law.
 - (12) An employee subject to a bona fide collective bargaining agreement where the waiver of the provisions of this article are expressly set forth ~~in clear and unambiguous terms~~ in such an agreement.
- (d) Waivers. Waivers may be requested by any covered employer or by the county administrator on his or her own volition.

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Unnecessary verbiage. Definition already includes stricken language

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- (1) Request from Covered Employer. Any covered employer ~~which contends that it is unable to pay all or part of the living wage mandated by seeking waiver of any provision of~~ this article must submit a written request ~~for a waiver~~ to the county administrator or his or her designee who may recommend a waiver to the board of supervisors. The waiver request shall provide a detailed explanation of the covered employer's particular hardship and shall do all of the following:
 - a. Set forth the reasons for the covered employer's inability to comply with the provisions of this article, including a complete cost accounting for the proposed work to be performed under a service contract or in connection with the economic development assistance sought, including wages and benefits to be paid all employees, as well as an itemization of the wage and benefits paid to the five (5) highest paid individuals employed by said covered employer.
 - b. ~~Demonstrate that the reasons for the waiver are otherwise consistent with County policies and that the waiver is not merely waiver will further the interests of the county in creating training positions which will enable employees to advance into permanent living wage jobs or better and will not be used to replace or displace existing positions or employees or to lower the wages of current employees.~~

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Clarification around potential bases for waiver

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- (2) Recommendation From County Administrator. In addition, the county administrator may independently recommend that the board of supervisors approve waivers, either with or without conditions, to any of the requirements and regulations set forth in this article where any of the following conditions exist:
 - a. The services to be provided are available from a single source and meeting the requirements of this article would cause that source a demonstrated economic hardship; or
 - b. The exception is necessary to provide emergency services essential to mitigate or prevent possible threats to public safety or public health for a limited period of time; or
 - c. All bidders for the service to be provided would suffer demonstrated economic hardships complying with the requirements of this article and none of the bidders propose that they can comply with those requirements; or
 - d. Any other circumstances that the board of supervisors finds advances the policy underlying the adoption of this article or to be in the public interest.

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Clarification around potential bases for waiver

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(3) Findings. Waivers from the article are disfavored and will be granted only where the balance of competing interests weighs clearly in favor of granting the waiver. The board of supervisors may grant a waiver only upon a finding and determination that:

- a. The covered employer seeking the waiver has demonstrated economic hardship and the requested waiver will further the interests of the county in providing training positions which will enable employees to advance into permanent living wage jobs or better; or
- b. The covered employer has demonstrated that one (1) of the requisite conditions set forth in subparagraph (ii) of this subsection (d) exists to justify the grant of a waiver.

No waiver shall be granted if the effect of the waiver is to replace or displace existing positions or employees or to lower the wages of current employees.

Sec. 2-376.5. - ~~Application of this article to~~ **Additional provisions regarding** nonprofits.

(a) ~~Phased Application. The requirements set forth in this article shall apply to nonprofit entities that employ twenty-five (25) or more employees and shall be phased in over a period of time in accordance with the provisions set forth in this section.~~

(b) Exemptions—Employees. In addition to or in lieu of the exemptions set forth in Section 2-376(c), the requirements of this article shall not apply to the following employees of a nonprofit service contractor:

- (1) An employee employed on a temporary or seasonal project which does not exceed twelve (12) months in duration, including, without limitation, internships where the intern is receiving academic credit or other non-monetary job training benefits.
- (2) An employee employed by the California Conservation Corps or by community conservation corps certified by the California Conservation Corps pursuant to Section 14507.5 of the California Public Resources Code or any successor statute.
- (3) A part-time employee who voluntarily declines full time work for personal reasons (e.g. retired seniors who only want to work a few hours, full-time students, or similar).
- (4) An employee employed in an overnight position where the employee is compensated to engage in employer-authorized sleep-time at the worksite.
- (5) An employee whose compensation is funded by a federal program that dictates the wages to be paid the employee.

(c) ~~Nonprofit Living Wage Rate Schedule. Nonprofit entities shall pay employees providing services pursuant to a service contract or in connection with a county economic development assistance agreement a living wage as established by Section 2-377 in accordance with the following table:~~

Date	Living Wage Without Benefits	Living Wage with Employer Contribution Toward Either Health Benefits or Retirement Benefits	Living Wage with Employer Contribution Toward Both Health Benefits and Retirement Benefits
Effective July 1, 2017	\$13.00	\$11.50	\$10.00
Effective July 1, 2018	\$14.00	\$12.50	\$11.00
Effective July 1, 2019	\$15.00	\$13.50	\$12.00

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Moot. Non-profit phase-in is now complete.

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- (d) ~~Bidding Preference for Voluntary Compliance. A five percent bidding preference shall be provided to any nonprofit service contractor who voluntarily complies with the living wage requirements of this article on the same schedule applicable to for-profit service contractors. To receive said bidding preference, the nonprofit service contractor shall submit documentation satisfactory to the purchasing officer certifying that the wages paid by the nonprofit service contractor comply with the requirements of this article. A bidding preference granted pursuant to this subsection (d) shall be applied in accordance with the procedures set forth in the county's local preference policy for services. The bidding preference provided for by this subsection (d) shall automatically expire at 11:59 p.m. on June 30, 2019.~~
- (e) ~~Adjustments. Effective July 1, 2019, the living wage rate paid by nonprofits shall be reviewed by the county administrator and adjusted, as necessary, in accordance with the procedure set forth in Section 2-377, subsection (d).~~

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Moot. Non-profit phase-in is now complete.
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Sec. 2-377. - Living wage requirements.

- (a) ~~Payment of Living Wage. Covered employers shall pay employees providing services pursuant to a service contract or in connection with a county economic development assistance agreement no less than a living wage as set forth in this article. The living wage requirements imposed by this article shall be binding upon the assignees and successors in interest of any service contractor, county economic development assistance recipient, or subcontractor to which this article applies.~~
- (b) ~~Rate. Covered employers subject to this article shall pay employees no less than a living wage for services financed or supported by county funds for the time those employees are engaged in providing services to or funded by the county. As used in this section, the "living wage" means, as of the effective date of this article, the most current adopted rate (no less than seventeen dollars and sixty-five cents (\$17.65) per hour as of July 1, 2023), or the most current hourly rate, fifteen dollars (\$15.00) per hour, if the covered employer does not provide health benefits. The living wage shall be reviewed annually and may be adjusted by the board is subject to adjustment as provided in subsection (d) of this section.~~
- (c) ~~Credit for Health and Retirement Benefits. A service contractor covered employer who contributes towards the provision of either (i) health care benefits for the employee and his/her dependents or (ii) a retirement plan for the employee and his/her dependents shall have up to one dollar and fifty cents (\$1.50) credited toward its compliance with the living wage. A covered employer service contractor who contributes towards the provision of both (i) health care benefits for the employee and his/her dependents and (ii) a retirement plan for the employee and his/her dependents shall have up to three dollars (\$3.00) credited toward its compliance with the minimum living wage. The service contractor, county economic development assistance recipient, or subcontractor covered employer must provide written proof of the provision of such benefits to the county purchasing agent or other awarding authority during the procurement or contracting process.~~
- (d) ~~Adjustments. The county administrator or designee shall annually review the required living wage rate shall be automatically adjusted annually, upwards only, at the same rate as set forth in subsection (a) not later than December 1 to determine whether to recommend that the board of supervisors implement adjustments to the living wage. In making said recommendation, the county administrator shall consider the following fiscal and economic factors: (i) the annual cost of living increase, if any, during the preceding year in the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, as published in October of each year by the U.S. Department of Labor, Bureau of Labor Statistics, but in no event shall any said adjustment exceed the lesser of [X]% over the previous rate; (ii) the cost of living increase, if any, granted to all county employees; and (iii) the prevailing financial conditions and general economic health of the county and the economy in general. Any adjustment made to the minimum hourly living wage shall not exceed the lesser of the annual increase in cost of living as measured by said Consumer Price Index or the cost of living increase granted to all county employees. Adjustments shall take effect on July 1 of each year. Notwithstanding, the County Administrator may elect to cancel, postpone, or take any~~

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Unnecessary verbiage. Definition already includes stricken language
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Commented [A37]: Administrative Edit #B.
Unnecessary verbiage. Definition already includes stricken language
Commented [A38R37]: 19
Commented [A39]: Administrative Edit #G.
Revision to reflect most current LWO wage rate
Commented [A40R39]: 20
Commented [A41]: LWO Proposal # 4. Reflects BoS direction 10/18/22
Commented [A42R41]: 21

~~other action with regard to any wage adjustment, based on consideration of the County's budgetary situation, the prevailing financial conditions and general economic health of the county, and the economy in general. In such event, the county administrator shall provide notice to the Board of Supervisors and issue appropriate notices and advisements to. Said increase shall: (i) be adopted by resolution of the board of supervisors, (ii) take effect on January 1 of each year, and (iii) be posted by the county administrator on the county's website for the notice of all county departments, and contractors, and subcontractors. Notwithstanding, after every third annual adjustment and prior to the next adjustment due, the board of supervisors shall receive a report and consider any other adjustments to the living wage rate, taking account of all circumstances and other pertinent information deemed relevant by the Board. Any such adjustment shall be adopted by Board resolution.~~

(e) ~~County employees. For the limited purposes of the requirements to pay the living wage rate, the County shall also pay the applicable living wage rate to all its employees, excepting full or part-time county employees who are in student aide or seasonal job classifications and any employees subject to a bona fide collective bargaining agreement where the waiver of the provisions of this article are expressly set forth in such an agreement. No other provision of this article shall apply to county employees or be interpreted to extend any other employment benefit to any county employee.~~

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Commented [A44R43]: 22

Commented [A45]: LWO Proposal # 4. Reflects BoS direction 10/18/22 and Ad Hoc recommendation (new)

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Commented [A47]: LWO Proposal # 1. Reflects BoS direction 10/18/22

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Sec. 2-378. - Bidding preference.

A five percent (5%) bidding preference shall be provided to any service contractor who certifies that at least fifty percent (50%) of the workforce that will be used to perform the service contract will be Sonoma County residents. Said bidding preference shall be applied in accordance with the procedures set forth in the county's local preference policy for services.

Sec. 2-379. - Required language for all bid documents and contracts.

~~Except for contracts and other agreements with governmental entities and agencies, including cities, other counties, state agencies, and recognized tribes, All all bid documents, economic development assistance applications, agreements and service contracts shall contain the following paragraph or substantially similar language, modified as applicable for the type of agreement:~~

The [contractor/franchisee/economic development assistance recipient] shall comply with any and all federal, state, and local laws—including, but not limited to the county of Sonoma living wage ordinance—affecting the services provided by this contract/franchise agreement. Without limiting the generality of the foregoing, the [contractor/franchisee/economic development assistance recipient] expressly acknowledges and agrees that this [contract/franchise/economic development assistance agreement] [is/ and/or may be] subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the [contract/franchise/economic development assistance agreement] will be considered a material breach and may result in termination of the [contract/franchise/economic development assistance agreement] or pursuit of other legal or administrative remedies.

Commented [A49]: Administrative Edit #H.

Not require any verbatim provisions in agreements that are categorically exempt per 2-376(b)(1)

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Commented [A51]: Administrative Edit #I.

Not require verbatim provisions in bid materials., Streamlining measure, and unnecessary requirement for contract compliance

Commented [A52R51]: 26

Sec. 2-380. - Contractor ~~certification and eligibility~~compliance.

(a) ~~During the term of a service contract or county economic development assistance agreement, the service contractor, county economic development assistance recipient, and any subcontractor covered employer shall certify to the county and maintain documentation demonstrating that each employee~~

employed any percentage of time on county financed activities is: (1) being compensated at no less than the living wage rate while working in connection with services provided pursuant to the service contract or in connection with the county economic development assistance agreement, or is otherwise exempt pursuant to the provisions of this article, and (2) for those employees being compensated at the lower rate with benefits specified in Section 2-377, subsection (c), documentation must be maintained demonstrating that each such employee was provided the applicable benefits. Such documentation must be retained for at least two (2) years following completion or termination of the contract covered agreement. County representatives shall be permitted to review and make copies of such documentation at all reasonable times during performance agreement term or following completion or termination of the service contract covered agreement.

- (b) ~~All service contractors, county economic development assistance recipients, and subcontractors who render services covered by the provisions of this article shall furnish to county a certification(s), under penalty of perjury, by the service contractor or county economic development assistance recipient stating that the service contractor or county economic development assistance recipient, and any subcontractor(s), is in full compliance with the provisions of this article. The certification shall be in substantially the following language:~~

~~I hereby certify under penalty of perjury, under the laws of the State of California, that the services invoiced have been rendered and that contractor and any subcontractor(s) are in full compliance with the provisions of the county of Sonoma living wage ordinance (Sonoma County Code, Chapter 2, Article XXVI).~~

- (c) ~~Service contractors, county economic development assistance recipients, and subcontractors must~~ Covered employers shall provide a written notice, in form and content as specified by the county, to each covered employee who is engaged in work pursuant to a service contract or in connection with a county economic development assistance agreement. ~~The notice shall be in the form specified by county specify the living wage rate, minimum health benefit, if applicable, and that an employee has grievance rights if he/she believes his/her rights under this article are being violated. A copy of the notice must be made available provided to all covered employees and must be posted at all physical work places prominently in languages spoken by at least twenty-five percent (25%) of the workforce, and a copy must be submitted to the awarding agency.~~

- (d) Responsible Bidder. ~~Service contractors and county economic development assistance recipients covered by this article~~ Covered employers acknowledge that they are subject to and will be selected in accordance with the responsible bidder provisions set forth in the county's purchasing policies and procedures for goods and services. As part of any bid, proposal, or application for a contract or agreement potentially covered by this article, the bidder, proposer, or applicant shall certify to County, in form issued by the purchasing agent, indicating the following:

(1) Whether it is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from receiving federal or state funds or from participation in any public agency contracting opportunity;

(2) Whether it has received or been subject to any wage, hour, workplace safety, environmental or consumer protection charges, criminal or civil complaints, citations or findings of violation of law or regulation by any regulatory agency or court within the last ten years, including but not limited to by California Department of Fair Employment and Housing, Occupational Safety and Health Agency, Department of Industrial Relations (Labor Commissioner), or the federal Environmental Protection Agency; and

(3) Any other information or qualification required by the purchasing agent.

- (e) Part Time Hours.

(1) If a covered employer has additional hours of work to provide in job positions for workers covered under this article, then the covered employer shall make best efforts to offer those hours of work first to existing, qualified part-time workers before hiring additional part-time workers or subcontractors. The foregoing shall not be construed to require any employer to offer overtime work paid at a premium rate nor to constrain any employer from offering such work. Covered employers

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shall seek to maximize the number of full-time job positions relative to part-time or subcontracted positions except as precluded by business necessity. "Full-time" for purposes of this section shall mean at least 32 hours per week.

Upon request and to the satisfaction of the county, a covered employer shall demonstrate to the county that it has made good faith efforts to comply with this provision.

Nothing herein shall be construed as encouraging or requiring any employer to discharge part-time workers hired prior to public notice of the pendency of the ordinance to adopt this requirement.

(2) The county administrator and county purchasing agent shall develop and maintain policies and procedures to encourage and incentivize voluntary efforts by covered employers to maximize full-time employment of covered employees. Said policies and procedures shall include bid factor preferences for employers who can demonstrate high levels of full-time employees and full-time employment best practices.

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Sec. 2-381. - Administration of this article.

- (a) Responsibility for administration of this article will be shared among awarding authorities, the county purchasing agent, and the county administrator's office. The county administrator's office will be responsible for general oversight of this article and for developing a procedure setting forth how this article is to be applied, and describing complaint and appeal processes for determining compliance with this article.
- (b) The county administrator or his/her designee shall have the right to conduct an investigation as to whether a ~~service contractor, county economic development assistance recipient, or subcontractor~~covered employer is complying with the terms of this article. Such investigation shall include the right to request all pertinent information and records, including without limitation certified payroll records, and to audit the books of the ~~service contractor or county economic development assistance recipient and/or subcontractors, if any~~covered employer, and the right to inspect all records of the ~~service contractor or county economic development assistance recipient and/or subcontractor~~covered employer relating to the service contract or county economic development assistance agreement.
- (c) The county purchasing agent and all awarding authorities are directed to incorporate appropriate language into all relevant ~~bid documents, requests for proposals, contract solicitation county economic development assistance applications, and similar materials relating to service contracts or and~~ county economic development assistance materials agreements, and into all purchase order and other service contracts, issued, renewed, or extended on or after the effective date of this article, ~~requiring the contractor and any subcontractors to comply with~~as to the requirements of this article.
- (d) ~~Annually, each awarding authority within the county is directed to submit information to the county purchasing agent regarding the status of service contracts and county economic development assistance agreements within its purview. Commencing on February 1, 2016, and during each subsequent February, t~~The county purchasing agent will annually prepare and submit a report to the county administrator's office listing-addressing those service contracts and county economic development assistance agreements that required payment of a living wage rate pursuant to this article and any information the county administrator or his/her designee deems necessary in order to assess the impact of this article.

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Streamlining measure. Eliminate redundancy to similar requirement in Section 2-379

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Streamlining measure. Defer to administrative procedures and timeframes

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Sec. 2-382. - Contract sanctions.

If a ~~service contractor or county economic development assistance recipient~~covered employer violates any provision of this article, the county may take one (1) or more of the following actions:

- (a) Suspend or terminate the service contract or county economic development assistance agreement;
- (b) Require the ~~service contractor or county economic development assistance recipient~~covered employer to pay: (1) any amounts underpaid in violation of this article, and (2) ~~all county and consultant costs incurred as part of the an administrative fee and/or penalty of up to two thousand five hundred dollars (\$2,500.00) to reimburse the county administrator's office for investigation, audit, and/or enforcement, including county counsel's time as a condition of avoiding suspension or termination;~~
- (c) Recommend to the board of supervisors that a ~~service contractor, county economic development assistance recipient, or subcontractor~~covered employer be barred from award of future county service contracts, county economic development assistance agreements, or subcontracts for a period of time consistent with the seriousness of the violation, not to exceed three (3) years.

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Sec. 2-383. - Annual reports.

The county administrator shall provide annual reports to the board of supervisors on the implementation and effect of this article.

Sec. 2-384. - Grievances.

An employee who believes his/her rights have been violated under this article may file a grievance with the county administrator's office within ninety (90) days of the alleged violation. Grievances are to be reviewed within a sixty-day period. If the complaint is substantiated then the county may apply any of the following administrative remedies:

- (1) Require the service contractor, county economic development assistance recipient, or subcontractor to pay restitution of the difference in wages paid and the appropriate living wage rate for the complainant and all co-workers similarly affected; the service contractor, county economic development assistance recipient, or subcontractor shall pay such restitution and provide proof to the county administrator of such payment;
- (2) Terminate the existing service contract or county economic development assistance agreement;
- (3) Disqualify the service contractor, county economic development assistance recipient, or subcontractor from contracting with county for a period of up to three (3) years; and/or
- (4) ~~Impose an administrative fee to~~Require reimbursement to countythe county administrator for its ~~all county~~ investigation and enforcement costs, including all related staff and consultant time for ~~investigation, audit, and/or enforcement,~~ including county counsel's time and the imposition of a penalty. The administrative fee and/or penalty shall not exceed two thousand five hundred dollars (\$2,500.00).

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Sec. 2-385. - Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit or any statutory benefit to any employee, who has reported a violation or perceived

violation of this article to the board of supervisors, the county administrator's office, an awarding authority, or the county purchasing agent.

Sec. 2-386. - Employee retention.

(a) In the event that any service contractor or county economic development assistance contract for an amount greater than fifty thousand dollars (\$50,000.00) is terminated by the county prior to its expiration, any new contract with a subsequent service contractor or county economic development assistance recipient for those same services shall include the following term:

Contractor/economic development assistance recipient shall make best efforts to offer employment to qualified employees of the prior contractor/economic development assistance recipient for the performance of this contract. Such efforts shall not be required in regard to employees who are (a) exempt under the Fair Labor Standards Act, (b) family members of prior contractor/economic development assistance recipient, (c) employed by prior contractor for less than six (6) months, or (d) convicted of a job-related or workplace crime. Upon request by the county, the contractor/economic development assistance recipient shall demonstrate to the satisfaction of the county administrator or designee that contractor/economic development assistance recipient has made good faith efforts to comply with this provision.

(b) The county administrator and county purchasing agent shall develop and maintain policies and procedures to encourage and incentivize voluntary employee retention by covered employers in events of contract transition. Said policies and procedures shall include a bid factor preference and procurement provisions that describe and encourage the County's preference for worker retention.

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Sec. 2-387. - Employee remedies.

This article shall not be construed to limit an employee's rights to bring any legal action for violation of his/her rights under the article. An employee may bring an action against a service contractor, county economic development assistance recipient, or subcontractor in the courts of the state of California for damages caused by an employer's violation of this article and/or injunctive relief, and the employee may be awarded attorneys' fees and litigation expenses if he or she prevails in said action. This article does not authorize an award of costs, expenses, or attorney's fees against the county.

Sec. 2-388. - No criminal penalty.

Notwithstanding any provision of this article or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

Sec. 2-389. - Labor neutrality.

Service contractors, economic development assistance recipients, and subcontractors subject to this article shall neither hinder nor further collective bargaining organization or other collective bargaining activities by or on behalf of an employer's employees. However, this restriction shall not apply to any

expenditure made in the course of good faith collective bargaining, or to any expenditure made pursuant to obligations incurred under a bona fide collective bargaining agreement.

Sec. 2-390. - Procedures for implementation.

The county administrator or his/her designee is hereby authorized to develop procedures to implement and enforce the provisions of this article.

Sec. 2-391. - Effective date.

This article shall apply only to new contracts made after the effective date of this article that are for a term or extended term beginning on or after July 1, 2016. For purposes of this article, the term "new" includes any arrangement entered into after the effective date or the extension or renewal of a preexisting agreement or arrangement which involves newly negotiated or modified terms other than adjustment of terms pursuant to a formula or pre-set schedule, such as a Consumer Price Index. A subcontractor shall be deemed to have received a new service contract through the county when the business to whom it is subcontracting receives a new service contract or economic development assistance.