

Living Wage Ordinance Subcommittee Report

Development and Details on a Recommended
Living Wage Ordinance for San Mateo County

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Acknowledgements

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Appendix A: Adopted County Living Wage Ordinance Matrix

Executive Summary

Living wage ordinances (LWOs) set a minimum wage rate that must be paid by contractors providing certain types of services to government agencies. In December 2015, the San Mateo County Board of Supervisors held a study session on LWOs and appointed Supervisors Carole Groom and Dave Pine to a LWO Subcommittee. The Board asked the LWO Subcommittee to study LWO options and recommend next steps.

To understand contractors’ perspectives on LWOs, Supervisor Groom and Supervisor Pine convened a 13 member workgroup. The workgroup included representatives from nine nonprofit county contractors, one large for-profit contractor, and the San Mateo County Labor Council. The workgroup met bi-weekly from March through June 2016.

Two draft LWO proposals were presented at the final workgroup meeting: one from staff based on workgroup input and direction from the LWO Subcommittee and the other from five nonprofits and the Labor Council. It was agreed that County staff would meet with the drafters of the nonprofit/labor proposal to review each proposal in more detail.

County staff met with the labor team and representatives of three of the nonprofits to discuss the proposals. Two of the nonprofits, Samaritan House and LifeMoves, also provided estimates of the total organizational cost of implementing a LWO. The two nonprofits emphasized that a LWO would require them to increase salaries for all their staff paid less than the required LWO rate, not just those working on County-funded contracts. Their concern was that an increase in compensation paid under their county contracts to account for the requirement to pay a living wage would not cover all the agency costs associated with implementation of a LWO.

The LWO Subcommittee reviewed all the follow-up information and is recommending a five-year living wage pilot program. The LWO would be effective January 1, 2017, with compliance optional until April 1, 2017, at which time all new covered contracts would be required to comply. The pilot program would incrementally increase the living wage rate to \$17.00/hour by July 1, 2019, followed by annual wage increases based on the urban consumer price index (CPI-U) for the San Francisco-Oakland-San Jose region. The proposed LWO rates are presented in the table below, which assumes a 3% CPI-U adjustment in 2020 and 2021.

Year	San Mateo County LWO Hourly Wage Rate	Annual Increase
January 1, 2017	\$14.00	\$3.50
July 1, 2017	\$15.00	\$1.00
July 1, 2018	\$16.00	\$1.00
July 1, 2019	\$17.00	\$1.00
July 1, 2020	\$17.51	\$0.51
July 1, 2021	\$18.03	\$0.52
December 31, 2021	Sunset Date	Total = \$7.53

Other key components of the proposed LWO include the following:

- The ordinance sunsets after five years. To extend the LWO, the Board would be required to hold a public hearing and take action before January 1, 2022.
- The LWO applies to service contracts, not to contracts for goods, supplies, or related to real property
- All contractors and subcontractors performing under covered contracts must comply with the LWO, unless exempted.
- The Board of Supervisors may waive compliance with the LWO when in the best interest of the County.
- Full-time, part-time, temporary, and permanent employees are covered.
- The Board may suspend scheduled living wage increases if the State suspends the Minimum Wage phase in process or if it is in the County's best interest.
- Enforcement of the LWO will be accomplished through oversight by the County, which retains the right to conduct random audits; through employee grievance rights; and through the legal process, if necessary. The ordinance includes a private right of action, as well as a provision for the recovery of attorneys' fees. The County will set a single point of contact for employees to report LWO non-compliance by employers.

In drafting this ordinance, the LWO Subcommittee sought to establish a process that would be easy for staff to implement, would provide contractors with time to prepare, and would incentivize early compliance. With these goals in mind, the Subcommittee recommends the LWO be effective January 1, 2017. However, existing contracts cannot be required to comply with the LWO until they come up for renewal or renegotiation. Thus, to allow contractors ample time to negotiate the cost of the LWO into new contracts, compliance with the LWO is voluntary until April 1, 2017. On and after April 1, 2017, all covered contracts must comply with the LWO. In addition, certain amendments made after January 1, 2017, will trigger mandatory compliance with the LWO: these include amendments to total contract price and extensions of contract term.

To assist nonprofit contractors in implementing the LWO and to encourage compliance prior to April 1, 2017, the proposed plan offers nonprofit contractors that amend existing contracts to voluntarily comply with the LWO an automatic "enhancement" payment from the County. The enhancement will be a percentage of the total contract amount and is based on LWO implementation costs provided by the work group members. Enhancements will be paid annually for the term of the amended contract; for terms less than one year, the amount will be prorated.

The estimated total cost of the LWO pilot is \$4.2 million. Actual costs will be reported and presented to the Board annually along with implementation information, data on any complaints, and any actions taken based on complaints.

The LWO Subcommittee recommendation has been distributed to all members of the Workgroup and will be presented to the Board of Supervisors on October 18, 2016.

Background: The Local, State and National Minimum Wage Environment

The cost of living in San Mateo County is one of the highest in the nation, with the top five percent of households earning \$614,990 annually. Between the top and bottom 20% of the population, there is an income difference of \$300,000.¹ Healthcare, technology, science, and finance are major employers in the region—all sectors that tend to provide higher wages.

As the economy strengthened after the Great Recession, higher wage earners have seen their incomes recover and keep pace with (or exceed) inflation, but lower wage earners have not seen the same level of recovery.

The widening inequality gap between higher and lower wage workers has become a national issue of concern, and in California and other states, it has spurred action. In April 2016 Governor Jerry Brown signed legislation to raise California's minimum wage to \$15.00/hour by 2022. That same day, New York's Governor, Andrew Cuomo, signed into law a minimum wage of \$15.00/hour for small and large employers by 2019, with the suburbs of New York City and rural areas of the state reaching \$15.00/hour by 2021.

As of August 2016, 29 states and the District of Columbia have adopted minimum wages higher than the federal minimum wage of \$7.25. Since 1968, the federal minimum wage has not kept up with inflation. The \$1.60 minimum wage in 1968 equals \$11.06 in 2016 dollars and the Pew Research Center has noted that the most recent rise in the federal minimum wage lost about 8.1% of its purchasing power to inflation.²

California's last two minimum wage adjustments were to \$9.00/hour in 2014 and \$10 on January 1, 2016. The California minimum wage schedule, which reaches \$15.00/hour by 2022, is below.

Table 1: California Minimum Wage Scheduled Increases³

Year	Hourly Wage
January 1, 2017	\$10.50
January 1, 2018	\$11.00
January 1, 2019	\$12.00
January 1, 2020	\$13.00
January 1, 2021	\$14.00
January 1, 2022	\$15.00

¹ "Research Brief: Income Inequality in the San Francisco Bay Area," Joint Venture Silicon Valley, <https://www.jointventure.org/images/stories/pdf/income-inequality-2015-06.pdf> (June 2015)

² Drew DeSilver, "5 Facts About the Minimum Wage," Pew Research Center, <http://www.pewresearch.org/fact-tank/2015/07/23/5-facts-about-the-minimum-wage/> (July 2015)

³ Employers with 25 employees or less have an additional year to comply for each scheduled wage increase.

California’s new minimum wage law includes a one-year delay in implementation for employers with 25 or fewer employees. It also includes a provision allowing the Governor to pause any scheduled increases based on the budget and economic conditions. Upon reaching \$15.00/hour in 2022, the minimum wage will be adjusted annually for inflation based on the national consumer price index. The new minimum wage will benefit many Californians as there are approximately 7 million hourly workers in the state and almost 2.2 million workers being paid minimum wage.⁴

In July 2016, the City of San Mateo adopted a minimum wage ordinance that raises the wage to \$15.00/hour on January 1, 2019, for for-profit businesses. Nonprofits have an additional year, until January 2020, to comply with the city ordinance.

Living Wage Ordinances in California

A living wage ordinance (LWO) sets a minimum wage rate only for employees working on a contract with a local government agency. This differs from a minimum wage law, which is applicable to all employers. In California, LWOs typically apply to contracts for services, such as consulting, and not to contracts for products or goods.

Prior to the 2016 state minimum wage increase, a number of local governments in California had already enacted LWOs to ensure that the businesses and organizations with whom they contracted were paying a reasonable wage to their employees. A benefit of wage regulation at the local level is the ability to adjust wages based on the cost of living in a specific region. This is particularly valuable in California, where economies can vary substantially from region to region.

Many counties, cities, and port authorities in California have adopted LWOs including:

Los Angeles County	Emeryville	Pasadena	Santa Monica
Marin County	Fairfax	Richmond	San Diego
Santa Clara County	Hayward	Sacramento	Sonoma
Santa Cruz County	Los Angeles	San Francisco	Watsonville
Ventura County	Petaluma	San Jose	West Hollywood
Port of Los Angeles	Port Hueneme	San Leandro	
Port of Oakland	Oakland	Santa Barbara	
Berkeley	Oxnard	Santa Cruz	

The Santa Clara County LWO was adopted in December 2014: it set the living wage at \$19.06 and offered wage offsets for provision of health insurance and retirement plans. The Marin County LWO wage was set at \$13.35 in July 2002, and San Francisco adopted an LWO in October 1999 with a wage of \$11.84. All of these LWOs cover full-time employees and some part-time employees but they differ in many details. Marin and Santa Clara Counties apply health and/or benefits credits to employers who provide those services, whereas Los Angeles County eliminated the two-tiered health credit

⁴ “Fact Sheet: Boosting California’s Minimum Wage to \$15/Hour,” State of California, accessed September 2016, https://www.gov.ca.gov/docs/Fact_Sheet_Boosting_Californias_Minimum_Wage.pdf

system as a result of the health coverage provided under the Affordable Care Act. Some ordinances set a lower living wage amount for small employers (e.g. employers with fewer than 25 employees), while others may exempt certain businesses and organizations. A minimum of hours worked on a contract (e.g. at least 4 hours of employee time spent working on a contract) can also be used as a way to include or exempt an employee from a LWO.

Many ordinances exclude certain types of contracts from the definition of “service contract.” For example, Ventura County’s LWO exempts small employers, collective bargaining units,⁵ in-home support service workers (IHSS), board and care services, and printing/copying services.

Some LWOs set a higher minimum threshold amount for contracts. Los Angeles County applies its LWO to contracts equal to or less than \$25,000 over a 12-month period, whereas Santa Clara County exempts contracts under \$100,000.

For the full matrix comparing the details of the LWOs in Los Angeles, Marin, San Francisco, Santa Cruz, Ventura, and Santa Clara Counties, please see Appendix A.

San Mateo County Board of Supervisors Action

As the discussion around minimum wage at both a national and state level progressed, the San Mateo County Board of Supervisors (Board) requested more information on a LWO from the County Manager’s Office (CMO) and the Office of the County Counsel (CCO).

The CMO and CCO researched LWOs adopted locally and across the nation. This work included reaching out to surrounding cities and counties with LWOs to learn more about both their ordinance adoption and implementation processes.

On December 15, 2015, the Board held a LWO study session. During that session staff presented its initial research including a review of the legal components of a LWO by Counsel and a review of ordinances adopted by other jurisdictions. At the conclusion of the study session, the Board created a LWO subcommittee (Subcommittee) comprised of Supervisor Carole Groom and Supervisor Dave Pine, to further study this issue and report back to the Board with recommendations.

The Living Wage Ordinance Workgroup

To better understand the impact of a LWO on County contractors, the Subcommittee convened a workgroup of 13 members composed of representatives from local nonprofits, labor, and one private contractor. Members of the workgroup are listed in Table 2. The workgroup held six meetings over three months to discuss the components of a LWO, evaluate enacted ordinances throughout the State, examine best practices, identify areas of concern and develop a LWO ordinance proposal.

⁵ Living wage ordinances routinely exclude from the law’s coverage employees covered by a labor union and who have a collective bargaining agreement that set the terms and conditions of their employment.

Table 2: Living Wage Workgroup Roster

Representative	Organization
Carole Groom	County Supervisor, District 2
Dave Pine	County Supervisor, District 1
Anita Rees	Executive Director, Pacifica Resource Center
Arne Croce	Executive Director, Peninsula Family Service
Bart Charlow	Chief Executive Officer, Samaritan House
Bruce Ives	Chief Executive Officer, LifeMoves
Bryan Neider	Executive Director, Community Gatepath
Faith Richie	Sr. Vice President of Development, Telecare Corporation
Karen Francone	Executive Director, Service League
Kerry Lobel	Executive Director, Puente de la Costa Sur
Monica Hendrix	Edgewood Children and Family Services
Pat Bohm	Executive Director, Daly City Partnership
Reyna Lehman	San Mateo Labor Council, Director of Community Services
Rita Mancera (Alternate)	Deputy Executive Director, Puente de la Costa Sur
Scott Madover (Alternate)	Administrator, Telecare Corporation

The Process of Creating a Living Wage Ordinance

The first two workgroup meetings established a common understanding among all workgroup members about LWOs. The workgroup received an overview of the purpose, structure, and components of a LWO along with analysis of the LWOs adopted by Los Angeles, Marin, San Francisco, Santa Clara, Santa Cruz, and Ventura counties. The LWO analysis provided detailed information on the following components of each ordinance:

- Wage rate and escalator, implementation timeline, and other requirements
- Exemptions for contractors, contracts, employees, and services
- Contract enforcement and sanctions
- Certification
- Employee considerations and safeguards
- Administration and compliance monitoring

Workgroup members discussed the potential challenges of implementing a LWO in San Mateo County at wage rates of \$15.00, \$17.00, and \$19.00/hour. The key concerns raised by the members included:

- As the LWO increases, the number of affected employees will increase
- The living wage will affect more than just the staff making less than the living wage rate due to “vertical” and “horizontal” salary compaction. Vertical salary compaction costs would come from adjusting salaries between line and supervisory staff working on County contracts. Horizontal salary compaction costs would come from adjusting salaries among staff members in the same

positions, some of whom work on County contracts—and some of whom do not.

- Increasing health care costs
- Maintaining staffing levels on fixed budgets when salary and benefits costs are increasing
- Sustaining funding for programs with “braided” or multiple public and/or private sources of funding because state and federal grants and awards would not be adjusted to cover the increased costs of a LWO

To gain additional insight into these issues, the workgroup proposed a panel discussion with representatives from nonprofit organizations and staff involved in the drafting and implementation of the San Francisco LWO, which was enacted 15 years ago. The workgroup also recommended a member survey to get specific data on the fiscal impacts of LWOs on different agencies at different wage rates.

The San Francisco LWO Panel Discussion

The panel discussion was held on April 4, 2016, and included the following speakers:

- Richard Heasley, Conard Housing, a nonprofit provider of housing services for clients with chronic mental illness
- Monica Hendrix, Edgewood Children and Family Services, a provider of services for the developmentally disabled in both San Mateo and San Francisco counties
- Debbie Lerman, San Francisco Human Services Network, the nonprofit umbrella organization in San Francisco
- Beverly Popek, City/County of San Francisco, Office of Labor Standards and Enforcement (OLSE) that oversees the implementation and enforcement of the San Francisco LWO

The panel discussed about the challenges of implementing and complying with San Francisco’s LWO, lessons learned from the process, and best practices for the workgroup to consider incorporating into a LWO. Of the various issues discussed by the panel, covering the costs of a LWO for nonprofits was the major theme. Horizontal and vertical compaction were identified as a significant challenges. The panel also indicated that regardless of whether the jurisdiction enacting a LWO provides funding, contractors will experience additional costs.

The panelists also talked about the difficulty nonprofits face raising funds to cover administrative costs. Braided funding was also highlighted as a key concern because nonprofit organizations cannot negotiate with other funding sources for an increase if one of the sources enacts new requirements that raise program costs. While the panelists talked about the fiscal challenges of a LWO for nonprofits, they also noted that the San Francisco ordinance ties implementation of the wage rates to provision of funding for nonprofits by the City. Since the San Francisco City budget has not included this funding, the LWO requirements have not been imposed on those nonprofit contractors in recent years.

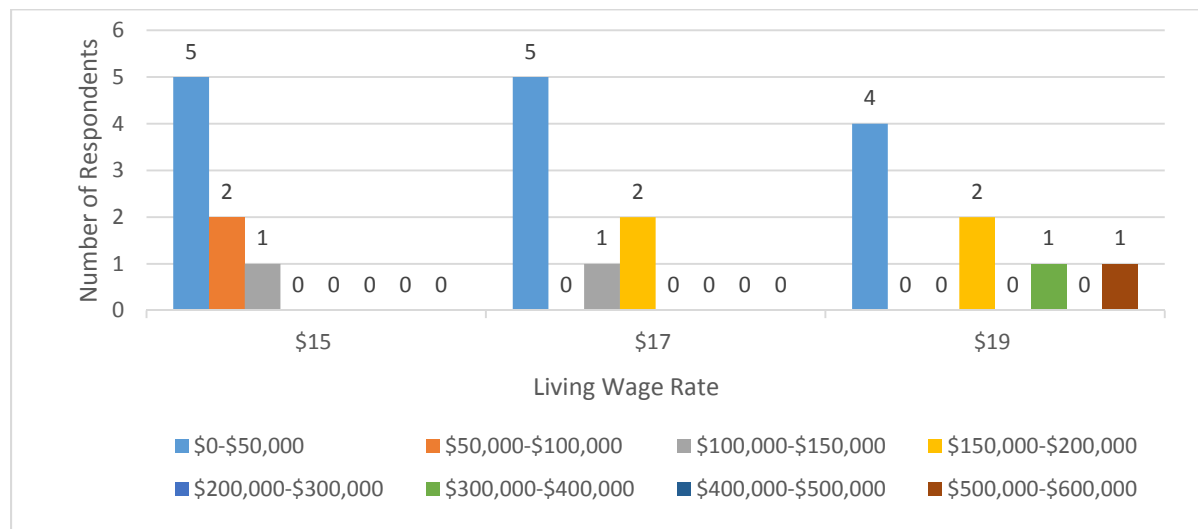
Living Wage Impact and Cost Survey

At the request of the workgroup, the County conducted a survey to gather member data on a range of topics to determine the fiscal impact of complying with a LWO. The survey requested organizational budget and staffing information along with estimates of the cost of a \$15.00, \$17.00, and \$19.00 living wage on the responding organization. The survey separately addressed impacts on wages and other expenses and asked for details on specific agency concerns about a San Mateo County LWO.

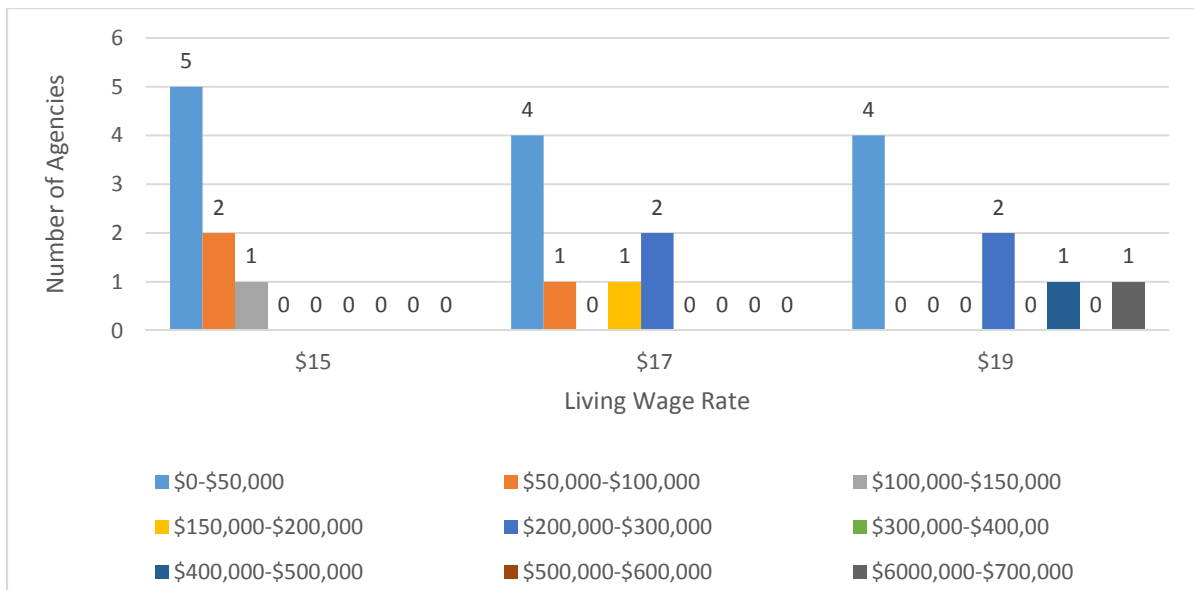
Eight of the 13 members of the workgroup submitted surveys. The responses came from organizations of all sizes, staffing levels, and budgets. The responding organizations ranged from six to 170 employees with annual budgets from \$500,000 to \$283 million. The survey respondents' contracts with the County varied from 3.5% to 75% of their total revenue. The submitted surveys accounted for \$38 million in County contracts, which is a little more than half of the total nonprofit contracts overseen by the Human Services Agency and the County Health System.

As shown on Graphs 1 and 2, both the cost of staffing and the total agency costs of LWOs increased as wage rates increased.

Graph 1: Estimated Staff Cost of Implementing a Living Wage Ordinance



Graph 2: Total Estimated Costs of Implementing a Living Wage Ordinance



The survey respondents also provided estimates of compaction costs for each wage rate. Table 3 notes the median LWO estimated costs, both with and without the compaction estimates, as a percentage of the County contract amount. The data indicate that many organizations currently pay all employees at least \$15.00/hour; a number also pay almost all staff at least \$17.00/hour. Median salary costs of a LWO ordinance started at 1% at \$15.00/hour and increased by 2% and then 3% at \$17.00/hour and \$19.00/hour, respectively. Compaction costs increased total costs to 2% of the contract cost at \$15.00/hour, 5% at \$17.00/hour, and 9% at a \$19.00/hour living wage.

Table 3: Living Wage Ordinance Cost as an Average Percent of Total Contracts

Hourly Wage	Median Without Compaction	Range	Median With Compaction	Range
\$15.00	1%	0 – 5%	2%	0 – 5%
\$17.00	3%	0.5% - 13%	5%	0.5% - 13%
\$19.00	6%	3% - 15%	9%	2.3% - 27%

The survey respondents’ comments detailed both the fiscal and operational challenges these organizations are currently experiencing along with their specific concerns about the anticipated impacts of a LWO. The comments are summarized in Table 4.

Table 4: Qualitative Survey Responses

Survey Sections	Survey Responses
Recruitment and Retention	<ul style="list-style-type: none"> • Average time to fill vacant positions is 2.75 months • Difficult to remain competitive with wages and benefits • Difficult finding qualified applicants • Need to manage morale and emotional needs of staff • Funding is unpredictable, thereby making it difficult to provide raises or bonuses to employees • Smaller budgets require staff to assume multiple roles in order to support the organization • Employees face high cost of living, lack of affordable housing • Organizations must compete with the County to recruit for certain positions
Salary and Benefits	<ul style="list-style-type: none"> • Majority of organizations offer above \$15.00/hour; some offer above \$17.00/hour • Most organizations offer a competitive benefits package including health care, dental, retirement, and paid time off for full-time and part time-employees
Living Wage Ordinance Implementation Concerns	<ul style="list-style-type: none"> • Addressing compaction costs and internal equity among staff • Ability to offer enhanced benefits and a retirement program if wages increase • Increased costs of benefits impairs ability to remain competitive with wages • Potential reduction in workforce and service levels due to increase in salary and benefits costs • For organizations operating in multiple counties, complying with conflicting LWOs could be an administrative burden • Ability to raise funds to cover gap funding caused by a LWO
Summary of Findings	<ul style="list-style-type: none"> • Organizations have multiple funding sources and braided funding for programs • County contracts account for very different levels of organization revenue • All organizations provide benefits to full-time employees and some organizations provide benefits to part-time employees • Organizations receive funding from multiple sources and all have some employees that either do not work on County contracts or only work part-time on those contracts. • Average cost of implementing a living wage salary is low at \$15.00/hour but increases significantly at \$19.00/hour • Compaction costs for some organizations can equal or be significantly greater than the LWO salary increase • Organizations experience similar recruitment and retention issues as other businesses, but these issues are compounded by the nature of the work and compensation levels available

The survey responses, which were shared with the workgroup, and the lessons learned from panel discussions laid the foundation for workgroup discussion of LWO terms.

Developing a Draft Living Wage Ordinance

As the workgroup began establishing the parameters for a draft LWO, members expressed serious concerns about the County's willingness to fund their LWO costs. The Board Subcommittee agreed that the County would assist in offsetting LWO costs associated with County contracts but they did not feel the County should pay for LWO costs not associated with County contracts. Additionally, the workgroup agreed that a simple, easy to implement process for covering those costs was the best approach.

The workgroup agreed on the following terms for a LWO:

- The LWO wage target will be \$17.00/hour by July 1, 2020.
- After 2020, the wage will be adjusted for inflation by the CPI-U.
- The LWO will be applicable to all contractors providing services to the County and to employees working directly under County contracts.

The workgroup raised additional considerations but did not reach consensus on how to address the following points:

- Concerns regarding horizontal and vertical compaction and direct and indirect costs surfaced as the highest priorities for workgroup members.
- Incorporating credits for benefits offered to employees, such as health care, retirement, and paid time off, was identified by some workgroup members as a preference that should be addressed in the draft ordinance.
- The workgroup was split on whether the LWO should be phased in over time or implemented immediately, juxtaposing the desire to pay employees higher wages and the ability to fund a significant salary increase immediately.
- Whether the LWO applied to contracts based on the amount of contract funding provided by the County was also unresolved.

Based on the input provided by the workgroup, the staff worked with the Subcommittee to develop a draft LWO for consideration at the final workgroup meeting that included the following components:

Wage Rate Schedule

- The LWO will be a five-year pilot from January 1, 2017, to January 1, 2022.
- The target living wage of \$17.00/hour will be phased in
- As shown in Table 5, minimum wages paid on contracts subject to the LWO will be raised from the State Minimum Wage Level of \$10.50 to \$14.00/hour in the first year and increase a \$1.00 per year until the wage rate reaches \$17.00/hour in fiscal year 2020-21.
- Due to the minimum effect of a \$15.00/hour wage on nonprofits, which the survey data demonstrated, the LWO will apply to all contractors at the same time. There will not be a longer phase-in period for nonprofits or for smaller agencies.

Covered Contracts and Employees

- All contractors and subcontractors for services must comply with the LWO unless exempted by the contract awarding authority.
- Full-time, part-time, temporary, and permanent employees will be covered, with several specific exceptions.

Table 5: County Draft Living Wage Ordinance Proposal

Fiscal Year	CA Minimum Wage (Calendar Year)	\$17/hour in 4 Years, then CPI-U increase	\$17/hour in 5 years for under 25 staff
2017-18	\$10.50	\$14.00	\$13.00
2018-19	\$11.00	\$15.00	\$14.00
2019-20	\$12.00	\$16.00	\$15.00
2020-21	\$13.00	\$17.00	\$16.00
2021-22	\$14.00	\$17.51	\$17.00
2022	\$15.00		

To address contractor concerns about compaction and costs associated with a LWO, nonprofit organizations that amend an existing contract to voluntarily comply with the LWO will receive a funding “enhancement,” to mitigate the fiscal impact. The amount and distribution timeframe for the enhancement, displayed in Table 6, is based on the costs of implementing a living wage at \$15.00, \$17.00, and \$19.00/hour provided by the member survey. The enhancements would provide gap funding for the nonprofit organizations until their contracts are re-bid or re-negotiated with the County. It is expected that both renegotiated and new contracts would incorporate LWO costs for county services. Prior to renegotiation, any contractor with costs greater than the enhancement amount could appeal to the contracting department for a larger enhancement. The appeal process will include County review of agency financial data.

Table 6: Enhancement Schedule for County Draft Living Wage Ordinance

Year	San Mateo County Living Wage	Annual Increase in LWO	LWO Enhancement as a Percent of the Contract
2016	\$10.50		0
2017	\$14.00	\$3.50	0.5%
2018	\$15.00	\$1.00	0.5%
2019	\$16.00	\$1.00	1.00%
2020	\$17.00	\$1.00	1.25%
2021	\$17.51	\$0.51	
Total		\$7.01	3.25%

Alternative Living Wage Ordinance Proposal

At the final workgroup meeting, an alternate LWO proposal was presented by representatives of five nonprofit organizations and the Labor Council for consideration by the workgroup. This proposal is summarized in Table 7 and called for the following:

Wage Rate, Escalator, and Phase-In Schedule

- Two separate wages rates for for-profit and nonprofit contractors – starting on January 1, 2017, for-profit organizations would pay \$17.33/hour and nonprofit organizations would pay \$15.33/hour
- Both for-profit and nonprofit contractors would be eligible to receive a benefit credit ranging from \$2.33 to \$3.50/hour.
- The wage rates would be adjusted by the CPI-U
- The ordinance would not include a sunset date.

Covered Contracts and Employees

- Nonprofit organizations would be exempt from a LWO if the County doesn't pay the sum of 100% of the direct salary and benefits costs, 20% of the admin costs, and all compaction costs via a multiplier or 2-year phase-in of actuals.
- There would be hardship exemptions for nonprofit organizations.
- The proposal would apply to all contractors, concessionaires, franchises, lessees, and any company receiving a financial benefit from a County contract.
- Contracts under \$25,000 and firms with five or fewer employees would be exempt as would be some contracts for which contractors use employees covered by collective bargaining agreements.
- All employees would be covered with the exception of students working for credit.
- Volunteers would be excluded but eligible to receive a "learner's wage."

Enforcement Criteria

- The ordinance would be reviewed annually against criteria to be established as well as "off-ramp" criteria which also would be established.
- A series of labor standards and enforcement principles were also included

Table 7: Alternate Draft Living Wage Ordinance Proposal

Calendar Year	CA Minimum Wage	Nonprofits w/ Benefit Credit of \$3.50	Nonprofits with Benefit Credit of \$2.33	Nonprofits without Health Benefits	For-Profits
2017	\$10.50	\$11.83	\$13.00	\$15.33	\$17.33
2018	\$11.00	\$12.83	\$14.00	\$16.33	\$17.85
2019	\$12.00	\$13.83	\$15.00	\$17.33	\$18.39
2020	\$13.00	\$14.83	\$16.00	\$17.85	\$18.94
2021	\$14.00	\$15.83	\$17.00	\$18.39	\$19.51
2021	\$15.00	\$16.83	\$17.51	\$18.94	\$20.09

The workgroup discussed both draft LWO proposals. By the close of the meeting, everyone agreed that staff would reach out to workgroup members with reservations about the County's proposal, discuss ways to mitigate those concerns and incorporate solutions addressing the concerns into a final LWO proposal.

Three nonprofits representatives met with County staff, Bruce Ives, Executive Director (ED) of LifeMoves, Bart Chalow, Samaritan House ED and Bryan Neider ED of Community Gatepath. At that meeting, the County proposal was reviewed in detail and it was agreed that a "reserve" amount equal to 50% of the annual cost of enhancement would be budgeted by the County to cover "appeal" costs. In addition, LifeMoves and Samaritan House said the survey data did not reflect their costs of implementing a LWO and offered to develop new numbers that were more accurate.

LifeMoves and Samaritan House provided the total organizational cost, including all County and non-county contracts plus fringe benefits, of increasing wages to \$15, \$17 and \$19.00/hour. The data provided by Samaritan House and LifeMoves indicated that that a living wage of \$15.00/hour would increase their total salary and benefits costs from 0.1% and 1.0% respectively. It should be noted that the percentage increase includes costs for *all agency staff*, not just those working *on County contracts*.

The agency data indicated that a living wage of \$17.00/hour would increase total salary and benefit costs 1.7% for Samaritan House and 4.9% for LifeMoves. Again, this percentage is the increase for all agency staff, not just those funded by County contracts. When submitting this data, both two agencies emphasized that a LWO would increase their costs across all programs due to horizontal and vertical compaction. They also pointed out that the majority of these costs would not be covered by adjustments to County contracts.

Subcommittee Living Wage Ordinance Recommendations

After reviewing the information and data from the follow-up meetings with the Labor Council and the three nonprofit agencies, the Subcommittee is recommending adoption of a LWO that includes the following changes to their initial proposal:

Implementation Process

- To ease the transition to the LWO, the Subcommittee recommends LWO compliance be optional for existing contracts but mandatory when a new contract is signed or an existing contract is re-negotiated after the effective date of the ordinance. This will give agencies with current contracts one to two years to prepare for LWO implementation. Contractors bidding on new contracts can incorporate LWO costs into their bids.
- Because contractors can include LWO costs in their bids, all contractors will be required to comply with the LWO on the same schedule. The initial proposal was to give smaller firms an additional year, but the revised implementation schedule eliminates that need. Having all new contracts comply is also much easier for County staff to implement.

Enhancement Payments

- Nonprofit contractors that amend existing contracts to comply with the LWO will receive an Enhancement to offset the costs of early, voluntary compliance. Those choosing to wait until re-negotiation or re-bid, would not be eligible for an enhancement.

Living Wage Rate Schedule

- The Subcommittee also proposes accelerating the living wage implementation schedule. The proposed change increases the living wage to \$17.00/hour on July 1, 2019. The adjusted schedule is outlined in Table 9 below. The new schedule has two wage adjustments in calendar year 2017: to \$14.00/hour on January 1, 2017, and \$15.00/hour on July 1, 2017.

Table 9: Revised Living Wage Ordinance Implementation Schedule

Year	San Mateo County Living Wage	Increase
January 1, 2017	\$14.00	\$3.50
July 1, 2017	\$15.00	\$1.00
July 1, 2018	\$16.00	\$1.00
July 1, 2019	\$17.00	\$1.00
July 1, 2020	\$17.51	\$0.51
July 1, 2021	\$18.03	\$0.52
Total		\$7.53

*This table assumes a CPI-U increase of 3% during 2020 and 2021.

Enforcement Process

- The Subcommittee recommends a simple enforcement process that provides a single point of contact in the County Purchasing Division for contractor employees with complaints. Purchasing will forward complaints to the contracting Department for an initial review. Complaints with merit will be referred to an outside auditor for analysis. Contractors found to be out of compliance with the LWO could have their contracts terminated.

These changes to the initial LWO subcommittee proposal have been incorporated into a draft LWO which has been distributed, along with this report, to all work group members and will be presented to the Board of Supervisors on October 18, 2016.

Fiscal Analysis

If all nonprofit contractors applied for the enhancement payment in fiscal years 2017 and 2018, the estimated cost would be \$1.4 million. However, we expect many contractors will wait until their existing contracts are renegotiated or rebid to implement the LWO requirements so it is likely \$1.4 million is more than will be needed for the enhancement payments.

Based on an average of the LWO implementation costs provided by Samaritan House and LifeMoves, implementing a wage of \$17.00/hour could increase contract costs 3.3%. The Health System and the Human Services Agency have a total of \$68 million in current contracts with nonprofit agencies. Thus, a 3.3% increase in all of these contracts would be \$2.1 million.

Adding the enhancement funding and the estimated contract costs together, County staff recommend that the County appropriate \$4.2 million for the LWO pilot project in the fiscal year 2017-2019 budget cycle. If the LWO is approved, staff will bring back an ATR for the first round of enhancement payments and include additional costs in the fiscal year 2017-2019 recommended budget.

Because the pilot project costs are estimates, County staff will report to the Board annually on the implementation process, complaints, and the actual cost of the ordinance.

Living Wage Ordinance Recommendations
Appendix A

Living Wage Ordinance Components

A living wage ordinance (LWO) sets base wage rates for County contractors. This matrix compares existing LWOs across California counties.

Date of LWO Adoption					
<u>Los Angeles Co.</u>	<u>Marin Co.</u>	<u>San Francisco City/Co.</u>	<u>Santa Cruz Co.</u>	<u>Ventura Co.</u>	<u>Santa Clara Co.</u>
1999	2002	2000	2014	2006	2015

Requirements				
	Contract Applicability	Wage Rate	Covered Employee	Benefits to Covered Employee
<u>Los Angeles Co.</u>	Service contracts and cafeteria contracts	\$13.25/hour	Full-time and part-time employees; non-exempt contractors and subcontractors	The two-tiered structure for the wage rate (with or without health insurance) has been eliminated from the LA County LWO
<u>Marin Co.</u>	Contractors or subcontractors ≥ \$25,000 in cumulative annual business with the County	\$11.70/hour with health benefits; \$13.35/hour without health benefits	Full and part-time employees; employees directly involved in providing the contracted service; County employees	Health coverage is optional—see wage rate for difference
<u>San Francisco City/Co.</u>	Contractors and subcontractors providing services to the County pursuant to a service contract	\$13.34/hour for For-Profit contractors; \$12.25/hour for Nonprofit contractors	Full-time, part-time, and temporary employees; minimum 4 hours/week on County funded contract within the boundaries of the city	Paid leave; minimum 12 compensation days off per year for sick leave, vacation, personal necessity; unpaid leave is 10 days per year
<u>Santa Cruz Co.</u>	Contractors or subcontractors >\$15,000 cumulatively in one fiscal year	\$15.39/hour with health benefits; \$16.78/hour without health benefits	Any employee of a covered contractor or subcontractor who is assigned to work on a County contract; can be full and part-time, temporary, or seasonal	12 days compensated sick and vacation leave (combined) annually for full-time employees, prorated for part-time; payment of at least \$1/hour toward health insurance for the employee

Living Wage Ordinance Recommendations
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Requirements

<u>Ventura Co.</u>	Contractors or subcontractors ≥ \$25,000 in a 12-month time period	\$10.50/hour with health benefits; \$12.50/hour without health benefits	Minimum 4 hours/week on County funded contract; does not include: student age 21, anyone earning academic credits regardless of age, volunteers	Paid leave; minimum 12 compensated days off per year (includes paid holidays)
<u>Santa Clara Co.</u>	Contractors or subcontractors that provide direct services as part of a County Service Contract; County employees	\$19.06/hour; \$2.00/hour credit to employers who contribute at least \$2.00/hour to affordable individual health coverage; \$2.00/hour credit to employers who contribute at least \$2.00/hour to retirement plan	Permanently or temporarily employed by a contractor or subcontractor performing at least five hours of direct services per week on contract; does not include volunteers, student trainee or intern, services to earn academic credit, employed by the County or is covered by a collective bargaining unit, disabled and covered by a current sub-minimum wage certificate issued to the Contractor or Subcontractor by the US Department of Labor or would be covered by such a certificate but for the fact that the Contractor is paying a wage equal to or higher than the minimum wage, provides services as an independent contractor as defined by the IRS	At least one hour of sick leave per 20 hours worked, or up to 12 days a year; up to five paid days off for jury duty

LWO Exemptions - Exempted contactors, contracts, and services

<u>Los Angeles Co.</u>	Collective bargaining agreement superseding LWO; non-profits; contracts < \$25,000/12 month period; small businesses
<u>Marin Co.</u>	Other government entities; in-patient facilities; apprentices/trainees may be paid 75% of wage required by ordinance, but employer must retain employee for one year
<u>San Francisco City/Co.</u>	Purchase or lease of goods or for guarantees, warranties, shipping or delivery; in-home support service workers; agency may grant exemption in unusual circumstances (sole source); necessary to provide emergency services; no qualified bidders; nonprofits may seek waiver; any requirements may be waved in a collective bargaining agreement
<u>Santa Cruz Co.</u>	Contractors with fewer than five employees; BoS may grant an exemption based on economic hardship or if exemption in best interest of the County (requires written statement from employer supporting the request and describing alternative solutions pursued)

Living Wage Ordinance Recommendations
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<u><i>Ventura Co.</i></u>	Small employers; collective bargaining; in-home support service workers (IHSS); board and care services; printing/copying services
<u><i>Santa Clara Co.</i></u>	Contracts for goods and products; Community-based nonprofits; revenue contracts; contracts with other governmental entities; contracts with employers whose employees performing the direct service are subject to the terms of a collective bargaining agreement; contracts under \$100,000; contracts with IHSS workers; contracts for “public works”; contracts for which the law prohibits such limitations

LWO Contract Enforcement and Sanctions

<u><i>Los Angeles Co.</i></u>	Withhold payment; assess liquidated damages from any payments otherwise due to the contractor based on the per diem amounts described in contract; terminate contract; debar contractor from future County contracts for a period of time TBD
<u><i>Marin Co.</i></u>	Debarment from future County agreements up to three years; pay back underpaid employees; admin fee of up to \$2,500; any other remedy that may be available to the County
<u><i>San Francisco City/Co.</i></u>	Suspend or terminate contract; require reinstatement; barred from future County contracts for three years; contractor liable to City for liquidated damages
<u><i>Santa Cruz Co.</i></u>	*Not specified in ordinance
<u><i>Ventura Co.</i></u>	Withholding of payments; contract suspension/termination; contractor required to pay employees underpaid amounts; barred from County business for up to three years; any combination of these
<u><i>Santa Clara Co.</i></u>	Suspend, modify, or terminate the Service Contract; require the Contractor and/or Subcontractor to comply with an appropriate remediation plan developed by the County; wave all or part of the Living Wage Ordinance Division

Certification

<u><i>Los Angeles Co.</i></u>	*Not specified in ordinance
<u><i>Marin Co.</i></u>	Maintain documentation to certify compensation; certification of full compliance with the LWO provision; provide written notice to each covered employee of the LWO
<u><i>San Francisco City/Co.</i></u>	*Not specified in ordinance
<u><i>Santa Cruz Co.</i></u>	Contractor is required to certify that it is in compliance with the ordinance prior to commencement or execution of contract
<u><i>Ventura Co.</i></u>	*Not specified in ordinance
<u><i>Santa Clara Co.</i></u>	Each contractor shall certify current, and warrant future, compliance with the Living Wage Policy

Living Wage Ordinance Recommendations
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Employee Considerations and Safeguards

<u>Los Angeles Co.</u>	Contractors are required to notify employees annually; contractor must display posters; provides for the retention of employees if contract is terminated early
<u>Marin Co.</u>	Employees may file a grievance with the County administrator's office within 90 days of alleged violation; employer retaliation prohibited;
<u>San Francisco City/Co.</u>	Retaliation prohibited for employees complaining; contractors are required to provide written notice of the living wage ordinance
<u>Santa Cruz Co.</u>	(Sub)Contractors cannot retaliate for employee complaint; CAO is Compliance Officer; formal complaint process exists
<u>Ventura Co.</u>	*Not specified in ordinance
<u>Santa Clara Co.</u>	Enforcement is done on a complaint basis, after the County receives compelling evidence of a violation.

Administering and Monitoring

<u>Los Angeles Co.</u>	County Departments monitor contracts; contractors provide requested documents and access to authorized County staff
<u>Marin Co.</u>	Administration shared between awarding authorities, County purchasing agent, County Admin office; County Admin able to conduct investigation on whether (sub)contractor complies with terms of chapter; must include relevant LWO in bids, RFPs, etc.; awarding authorities annually submit information to County purchasing agent re: status of service contracts within its purview
<u>San Francisco City/Co.</u>	LWO administered and monitored by the Office of Labor Standards and Enforcement; contractors must provide required documents to staff within five days; agency has right to conduct investigation including the right to audit the books of a contractor; agency establishes procedures for monitoring, receiving and investigating complaints and determining whether a breach has occurred
<u>Santa Cruz Co.</u>	Part of certification must include statement of any findings of violation within past five years and how they were addressed; County is authorized to access/review employer's records regarding turnover, wages paid, benefits, grievances, and references
<u>Ventura Co.</u>	LWO is administered and monitored by the County Executive Office; procurement is charged with ensuring that the centralized contracts meet the LWO requirements
<u>Santa Clara Co.</u>	Enforcement is done on a complaint basis, after the County receives compelling evidence of a violation.