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Item No.: 1
Comm. Communication from Councilmembers Blumenfield, Fuentes, + O'Farrell

City of Los Angeles

CITY HALL
LOS ANGELES, CALIFORNIA 90012

March 24, 2015

Honorable Curren Price, Jr.
Chair, Economic Development Committee
City of Los Angeles
200 N Spring Street
Los Angeles, California 90012

RE: CF 14-1371-S2 - CITYWIDE MINIMUM WAGE INCREASE

Dear Chairman Price:

Thank you for your leadership and dedication to raising the minimum wage and helping to lift Angelenos out of poverty. Like you, we are fully committed to this goal and look forward to working with you to make it into a reality.

We are writing to you as colleagues who wish to support and help inform the process, but who do not sit on your committee. Per our conversation on Friday, we have some specific ideas regarding what some of the potential challenges with the current proposal are and, more importantly, what some of the solutions may look like.

Because we believe that these ideas would be most appropriately vetted through your committee process, we do not want to wait until the proposal makes it way to the full Council before we raise these issues. And, because of the strict restrictions mandated by the Brown Act, we are not permitted to make a presentation to the committee nor even speak with more than three members of the committee about any particular proposal.

Consequently, and per our conversation, we are submiting this letter to lay out six issues and related solutions. We appreciate your willingness to raise these issues during the committee process and to vet the proposals that we have put together. It is our sincere hope that you and your committee members will

review and give direction to adopt, improve or at least consider some combination of these recommendations. Our only goal is to help make the ultimate product that comes before the Council the best that it can be for Los Angeles.

Here are our issues and proposals:

1. PERFORMANCE TRIGGERS:

Using performance triggers to provide checks and balances on the impact of an increased minimum wage is the most important issue we are raising. We believe that our solution offers a different way to think about how to schedule wage increases. We are offering a solution that would be based on measureable impacts rather than on predictions.

THE CHALLENGE: If the goal is to raise low-income workers out of poverty, it will not be achieved if those workers collectively make less money as a result of a minimum wage increase. This unacceptable outcome could happen if the increased earnings caused by the minimum wage are offset by a larger increase in job loss. Such an outcome would mean that while the plight of a certain number of individual workers would have been improved, the overall income of low-income workers would have been diminished.

The Beacon Economics study predicts such an adverse outcome whereas the U.C. Berkeley study predicts only a slight job loss that would be more than offset by increased earnings. And the Economic Roundtable predicts that not only will earnings increase, but that the increased spending power of those earnings will result in an actual increase in job creation.

While all of these economic studies will be peer reviewed, the reality is that all three economic studies are merely making their best predictions; nobody actually knows what the impact will be. We believe that an increase in the wage will have a beneficial impact, but we fear that if the increase happens too quickly, or without sufficient review, that impact could be negative. The committee and Council will digest all of the economic studies and vote on a series of scheduled and automatic wage increases that it believes will raise people out of poverty as fast as can be done without causing job losses that would offset those earnings. The committee and Council need the tools to be able to monitor and make policy updates as necessary.

Whatever schedule and policy the Council decides upon, we believe there should be a system of checks and balances put in place to ensure that both the scheduled and automatic wage increases do not cause significant job loss or adverse impacts. Just as having no automatic increase over these past many years has adversely impacted workers because their wages were kept too low,

an unchecked auto piloted series of increases could hurt low income workers by causing unacceptable job loss. Consequently, it is important that the City Council closely monitor and respond annually to the actual impacts of a wage increase and if a regular schedule is adopted by the Council, that we must have a system in place that could trigger a slow down or an acceleration to the schedule based on those actual impacts.

SOLUTION:

More than just monitoring, should the Council decide on an automatic wage schedule, a mechanism to trigger evaluation, automatic delay, or automatic acceleration in implementing the wage increase schedule is vital. A solution would involve measuring and tracking over time the rate of increase/reduction in low-income worker's earnings (E) as well as the gain/loss in job growth (J) of these same workers. The target T of the minimum wage could be the simple sum of job growth and earnings growth or it could put more weight on jobs, e.g. T= E+2J. This would provide a tool for determining what is, or is not an acceptable rate of success. Were some job loss to occur, it could certainly be acceptable if it meant substantially increased earnings.

To estimate the effect of the City minimum wage on the target T we would need to track statistics measuring the target T for Angelenos who are impacted by the minimum wage as well as comparable Californians who are not subject to the minimum wage. The difference between the target T in the City and the target T in a comparable area is a measure of the impact of the minimum wage on City jobs and earnings, controlling for common determinants that affect both areas such as the price of oil, interest rates, etc.

Making these measurements may seem difficult, but the data is already tracked and measured by the State's Economic Department Development (EDD). It is not only tracked in aggregate form, but is broken down by geography, industry and much more. We have been working closely with economists Ed Leamer and Jerry Nickelsburg of the UCLA Anderson Forecast. They have done a substantial amount of research and analysis and have come up with appropriate ranges for acceptable, questionable, and unacceptable levels of measureable success. They also have developed a range of success that would represent enough success to warrant an acceleration of whatever scheduled rate is being implemented. Additional information about their findings and the ranges of success will be presented at a later hearing for discussion.

The important point is that success can and should be measured. If the success rate is in the normal zone, the Council's scheduled increases should go forward. If it proves to be in the questionable zone, the schedule should be re-evaluated. If it is in the danger zone, it should be stopped and similarly, if it proves to be in the super successful zone, it should be accelerated. A series of

triggers should be assigned to the edges of these zones and if the data shows that we enter into the danger zone or the super successful zone, an automatic pause or acceleration should be triggered.

If the fears of the Beacon report prove accurate, this system would provide an important backstop. If the increased earnings and modest job loss predicted by the Berkeley study prove accurate, this system will not alter the schedule that gets put in place by the Council. And, depending on the extent to which the dual impact of earnings and job growth occur as predicted by the Economic Roundtable, this approach may offer an opportunity to increase the wage even faster than what the Council ultimately proposes.

2. SPECIAL NEEDS OF NON-PROFIT SECTOR

CHALLENGE: We agree that everyone, regardless of whether one works in the non-profit or for profit sector deserves a minimum income that lifts him or her out of poverty. However, we recognize that many non-profits organizations and, more importantly, the vulnerable populations whom they serve, could be negatively impacted by a sudden increase in the minimum wage. There are several valid reasons why certain non-profit organizations would need extra time (i.e. a phase-in) to implement an increased minimum wage.

One group of non-profits that would need such a phase-in might be those groups that are extremely dependent on State or Federal reimbursement rates to fund their activities. Many of the groups that serve severely disabled people hire helpers at or close to minimum wage. If they are to continue to provide these critical services in Los Angeles, they and the families of those they serve will have to successfully lobby the State and Federal governments to increase the reimbursement rates to account for differences in cost of living or wage mandates. This will take time, as will changing the expectations about the services that they do provide.

Another group of non-profits with special challenges includes groups that have signed long-term contracts (i.e. Community Coalition that has signed with the Obama Administration to help educate people about the Affordable Care Act). And, another more basic group is the small non-profits such as your local boys and girls clubs. Many of these groups have expressed support for increasing the wage, but have asked for additional time to mitigate the impact of a sudden change. Without time to go back to donors and manage expectations, services will likely get cut and vulnerable people will suffer.

However, many have expressed concerns about phasing-in large, well funded non-profits because they not only have a big enough budget to absorb the shock of such an increased wage, but they are sophisticated enough to manage the change without unduly impacting services.

SOLUTION: One simple solution would be to implement a longer phase-in for small non-profit organizations. One could define size based on the number of workers or the budget of an organization. We are advocating a slight variation of this solution. We would like to see a phase in of non-profits based on their wage disparity rather than their size.

Specifically, we suggest that non-profit organizations where the top paid person makes no more than 10 times the wage of their lowest paid person be given the option to extend the phase-in of the required increase in minimum wage. Doing so is in keeping with the overarching theme of the minimum wage issue (reducing income inequality), allows struggling non-profits time to make the adjustments they need, and it doesn't open up the phase-in to those non-profits where the CEOs make exorbitant wages. Anecdotal evidence suggests LA nonprofits with total budgets of $1 million/year pay top executives approximately $75,000/year, and those with budgets of $2 million/year pay approximately $135-155,000/year.

Since the salaries of non-profit workers are included in IRS forms, one could require documentation to prove their numbers before allowing for a phase in. While enforcement could be enhanced through whatever wage-theft mechanism the City puts in place, it could also be enforced through private rights of actions. The non-profit employers would, at the very least, simply have to file a form or an attestation about their wage disparity before taking advantage of a phased-in minimum wage.

The wage disparity idea is not without precedent. **The City has implemented a similar distinction in its Living Wage Ordinance that exempts nonprofits with a top executive earning less than eight times (8x) the state minimum wage from paying the City's Living Wage.**

3. SMALL BUSINESS PHASE IN:

CHALLENGE: There are a number of small businesses that may be able to survive having to pay an increased minimum wage over time, but might not survive the shock of having to do so right away. Their employees deserve a higher wage just as much as employees who work for large firms. However, the benefit of providing an adjustment period must be weighed against the benefits that accrue to workers of maximizing the speed of implementation. Even if the total number of jobs would be recovered over time as some economists have

predicted, extra time can prevent the immediate dislocation of certain small businesses and the jobs they provide.

SOLUTION: The definition of a small business varies by jurisdiction and the total number of employees is frequently used as a measure of eligibility for a small business exemption or longer phase-in. Some cities that have adopted a local minimum wage have chosen to exempt or extend the phase-in for certain small businesses. There is no reason that Los Angeles cannot do it as well, but the details matter.

As the Berkeley study states on page 32, small businesses will increase product prices to recover unintended losses as a result of the policy. The product increase in price entails some reduction in product demand which implies a fall in industry output, as stated by that report. A phase-in can give the small businesses the opportunity to recover the cost without putting jobs at risk. Likewise, keeping an open mind towards already identified categories of "small businesses" is important; the federal government defines small businesses at 500 employees or less; the State of California defines small business in a variety of ways, but sets bars at 50 and 100 employees or less, respectively.

Additionally, the salary disparity model described in the non-profit solution section could apply to small businesses as well. This is not only in keeping with the theme of increasing the minimum wage (income inequality), but compensation of the top paid executive could also be considered an indicator for a company's ability to absorb a wage increase. Small businesses with top paid executives earning less than 10x their lowest paid employee could be allowed to take advantage of an extended phase-in schedule. They would, of course, be required to document the compensation of their top paid executive. For businesses, measuring compensation is often more complicated than with non-profits as business owners take compensation in multiple forms. Nonetheless, it could be done through an attestation of some sort that would be enforced via a private right of action, or through a more direct City monitoring program that would be part of a larger wage-theft initiative.

We ask that you consider these options that could help address the needs of small business and others that may prevent job loss or business closures in the City.

4. TOTAL COMPENSATION COMPONENT

CHALLENGE: For some employees, the total taxable compensation they receive is far greater than the hourly minimum wage, due to a combination of commissions, benefits, paid time off, gratuities and other compensation. For these employees, the hourly wage may not be the most significant portion of their paycheck, and raising their hourly wage may unduly burden an employer or force

payment or job loss among other low wage workers at a job site in order to make up the difference. This issue is often associated with the restaurant and hospitality industry.

In California, employers cannot count tips towards their State minimum wage obligations. In most other states, employers may pay employees less than the minimum wage, as long as employees earn enough in tips to make up the difference (called a "tip credit"). However, California does not allow employers to take tip credits. Employers must pay employees at least the California minimum wage for each hour worked, in addition to any tips they may receive.

SOLUTION: We propose using a total compensation model, based on the language recently introduced by Assemblymember Tom Daly (AB 669) which would require employers to pay a full minimum wage to any employee whose total compensation did not reach the city hourly minimum, but would allow a lower hourly wage to be paid to workers for whom the wage is only a portion of their total compensation.

Were one concerned that such a proposal would unduly impact workers who were earning at or near the minimum wage when one includes their benefits such as tips, one could simply raise the total compensation threshold that would require the payment of the higher minimum wage. For example, as referenced in the Daly bill, if the state minimum wage were set at $15/hour, one could say that only employees whose total compensation per hour amounted to more than $18/hour would be permitted to be paid a wage that is less than the City minimum (but still equal or greater than the State minimum).

5. TRANSITIONAL JOBS PROGRAMS – time limited on-ramps into the labor market.

CHALLENGE: There are people who have serious disadvantages when it comes to getting hired or breaking into the labor market. These people include felons, former gang members, mentally challenged, chronically homeless, youth and others. As the minimum wage gets higher, it becomes more costly to give these potential employees a second chance. While they deserve to make more than poverty wages for their labor just like anybody else, they also may need more help to get their foot in the door and unemployment rates among these groups are a societal problem Non-profits that serve this constituency including Homebody Industries, the Conservation Corps and Chrysalis have called for a solution to a higher minimum wage to help their clients break into the labor market.

SOLUTION 5A – workers with barriers to economic advancement

We propose that a narrowly defined group of non-profits that serve this

constituency such as the groups mentioned above be allowed to hire at a sub-minimum wage provided that 1) It is for a time limited period (no more than two years) during which time the employee is considered a trainee or apprentice and 2) the organization can document that it is spending more on providing services to that individual than he or she is losing by not receiving the full City minimum wage. We recommend that the sub-minimum wage be at least 85% of the City's minimum wage and never less than the State. The above-mentioned non-profits have indicated that they can easily demonstrate investments in their employees well above the difference between any new minimum wage and a sub-minimum wage.

SOLUTION 5B – youth/students

Youth unemployment continues to be a problem in California. A sub-minimum wage for youth could have a negative displacement effect on full time adults competing for similar jobs. However, providing a sub-minimum wage (i.e., 85% of the City minimum) for full time students/teenagers who wish to get part-time or summer jobs could help provide an important on-ramp into the labor market. It too should only be granted to an individual for a limited time frame.

6. ENFORCEMENT

To enforce the City's minimum wage and ensure that the increase is received as required by workers, there should be an enforcement mechanism to address wage theft on an ongoing basis. At present, the City does not have an existing department to monitor and enforce minimum wage requirements and must address the budgetary impacts of creating an enforcement mechanism with this policy. Any use of a total compensation model should include a strong wage-theft provision as well.

We appreciate your consideration of these ideas/proposals and your willingness to put them up for discussion during the upcoming hearings. As we follow the deliberations of the committee, we intend to provide continuous feedback to you and our Council colleagues on any specific issues outlined in this letter, as well as any new details that arise from those discussions. We know your goal is to create a responsible and economically sound policy to help lift people out of poverty while maintaining a collaborative partnership with the employers in our great City.

Finally, we applaud you for taking on the challenge of moving this incredibly important policy through the committee process and we are confident that you will do so deftly and fairly.

Thank you for your continued work on this issue and for providing us this constructive way to engage early in this process.

Sincerely,

BOB BLUMENFIELD
Councilmember, Third District

FELIPE FUENTES
Councilmember, Seventh District

MITCH O'FARRELL
Councilmember, Thirteenth District