

LIVING WAGE ORDINANCE COMPLIANCE REVIEW

REPORT NUMBER

#R15-06A

DATE

April 7, 2015

SUBJECT FIRM

Ace Parking Management, Inc.
645 Ash Street
San Diego, CA 92101

PREVIOUS REVIEW

R10-007

REPORTING GROUP

Living Wage Program
Purchasing & Contracting Department, City of San Diego
Senior Compliance Officer, Michele Alano 619/236-6172

AUTHORITY

Living Wage Ordinance — San Diego Municipal Code [SDMC] 22.4235(a)

OBJECTIVE

Determine compliance with LWO requirements under SDMC Chapter 2, Article 2, Division 42

CONTRACT DESCRIPTION

<u>Contract #</u>	<u>Bid #</u>	<u>Contract Title</u>
460000157	9105-08-Z	Parking Management Services Evan Jones Parkade
4600000983	10013973-11Z	Parking Management Services for Qualcomm Stadium
4600001870	10041570-14G	Balboa Tram Operations

CONTRACT AMOUNT

\$1.074,461 (approximate total value of contracts)

CONTRACT TERM

Varies

REVIEW PERIOD

Contract 4600000983 from November 7, 2011, to December 31, 2014

Contract 4600000157 from February 18, 2010, to December 31, 2014

Contract 4600001870 from November 22, 2013, to December 31, 2014

VIOLATIONS

- SDMC section 22.4220(a): Failure to pay covered employees LWO rates.
- SDMC section 22.4220(c): Failure to pay all covered employees compensated leave.
- SDMC section 22.4225(b): Failure to notify covered employees of their rights under the Living Wage Ordinance.
- SDMC section 22.4225(c): Failure to ensure all applicable subcontractors file a living wage certification.
- SDMC section 22.4225(d): Failure to maintain required records to include all wage records, proof of payment for health benefits, covered employee name, address, date of hire, job classification, rate of pay, cost and amount paid for health benefits, hours worked in each pay period, and paid and unpaid time off (accrued and used).

BACK WAGES PAID

\$72,137.84

BACKGROUND

The Living Wage Program is responsible to monitor applicable service contracts for compliance with the Living Wage Ordinance [LWO]. At the initiation of Compliance Review #R15-06A, Ace Parking Management had three contracts for parking management services with LWO requirements. The subject contracts provide parking management services at Evan Jones Parkade, Qualcomm Stadium, and Balboa Park Tram Services. These contracts were reviewed by the Living Wage Program to determine compliance with requirements of the Living Wage Ordinance.

REVIEW ACTIONS

During the course of this Compliance Review, payroll records were analyzed to determine whether correct LWO rates were paid and applicable compensated leave time granted to covered employees. The firm's method used to provide notifications to covered employees was inspected. Interviews were conducted with City of San Diego contract administrators, the firm's contract administrators, and nine covered employees. Records were sought from subcontracting firms and non-profit organizations who performed work on the subject contracts; such records were not made available.

SUMMARY

Ace Parking Management is required to meet Living Wage Ordinance requirements, including payment of correct wages and benefits. During the review, multiple violations were identified including: failure to pay required LWO rates; failure to pay compensated leave in a manner compliant with LWO requirements; failure to notify employees of their rights under the Living Wage Ordinance; failure to notify the City of the use of subcontractors; failure to ensure subcontractors met LWO requirements; and failure to maintain proper records on all covered employees used by subcontractors and non-profit organizations for work at Qualcomm Stadium events. The firm made appropriate corrections to pay covered employees the correct LWO wage rate/benefits rate and 694 covered employees were compensated a total of \$72,137.84 in back wages, and approximately 480 hours of accrued leave was provided to covered employees.

FINDINGS AND RECOMMENDATIONS

Wages & Benefits: Ace Parking Management provided copies of their firm’s payroll records, compensated leave records, and a copy of its compensated leave policy. Ace Parking Management does not provide covered employees with medical insurance and pays employees the LWO full-cash wage. This Compliance Review determined that Ace Parking Management did not keep accurate records to ensure all covered employees on the subject contracts were compensated at LWO rates. The firm made the appropriate calculations and corrective actions to compensate a total of 694 employees for a total \$72,137.84 in back payments.

Payroll records showed multiple Ace Parking Management covered employees were not paid the correct LWO cash wage rate. The firm made back payment of \$32,983.76 to 118 Ace Parking Management employees to correct this matter. Verification of receipt of payment was made during the course of this Compliance Review.

Ace Parking Management used subcontractors to perform work at Qualcomm Stadium, and these subcontractors did not comply with LWO requirements and did not submit LWO Certifications of Compliance in accordance with SDMC section 22.4220(e). One subcontractor, All Team Staffing, did not pay correct LWO wages/benefits and refused to provide payroll records to Ace Parking Management upon request for this Compliance Review. Ace Parking Management initiated litigation against All Team Staffing to obtain payroll records in order to compensate \$39,154.08 in underpaid wages to 576 covered employees of All Team Staffing. Ace Parking Management established a separate bank account for this purpose, and in the event these employees are not located, Ace Parking Management will forfeit the funds to the State of California under unclaimed property laws. Ace Parking Management will provide a six month status update to the LWO Program to demonstrate the funds were distributed to the covered employees or the State of California.

Additionally, Ace Parking Management retained non-profit organizations to perform work at Qualcomm Stadium events. These non-profit organizations did not submit *LWO Certifications of Compliance* in accordance with SDMC section 22.4220(e) nor submit *LWO Applications for Exemption*; did not keep employee records as required by SDMC section 22.4225(d); and did not demonstrate that employees were compensated at LWO rates in accordance with SDMC section 22.4220(a).

Recommendation: Ace Parking Management was not in compliance with LWO wage and benefits requirements but made adequate corrections to its policies and record keeping methods to ensure their own covered employees are compensated at LWO rates for all LWO applicable work hours. The firm must also develop procedures to ensure all subcontractors and non-profit organizations comply with the LWO.

Compensated Leave Time: Ace Parking Management provides compensated leave to full-time covered employees; however, employees classified as “on call” and many part-time employees were not paid the appropriate compensated leave. The firm calculated and paid amounts due to covered employees no longer employed by the firm and also calculated and awarded approximately 480 hours of accrued leave owed to current employees to take for vacation, sick

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or personal necessity. The firm has made modifications to its compensated leave policy to comply with the requirements of the Living Wage Ordinance in the future.

Recommendation: Firm made modifications to its compensated leave policy to comply with the LWO requirement for ten days of compensated leave per year prorated for hours of service to be used for vacation, sick or personal necessity and will actively work to inform employees of this benefit.

Notification: The Living Wage Ordinance requires firms to notify covered employees of their rights under the ordinance, the possible availability of health insurance coverage under the *Affordable Care Act*, and the possible availability of the *Earned Income Tax Credit* (EITC) [SDMC section §22.4225(b)]. Some of the covered employees interviewed were aware that the jobs were covered by the Living Wage Ordinance, but workers for subcontractors and non-profit organizations were not informed their job was covered by the LWO.

Recommendation: San Diego Municipal Code section §22.4225(b) requires each covered employer to annually distribute a notice with the first paycheck to occur after July 1. The firm and its subcontractors, including non-profit organizations, must provide the LWO required notices to employees immediately upon hire, even if that hiring is only for a single-day event.

Complete information about the LWO along with current wage rates, forms and notices can be found posted on the City's website: www.sandiego.gov/purchasing/programs/livingwage/

FIRM'S RESPONSE

A written response to this Living Wage Ordinance Compliance Review acknowledging the firm's receipt of this review and intent to comply with the Living Wage Ordinance is due from Ace Parking Management within 30 days from the date of this report. (Firm may respond in an email to MAalano@sandiego.gov.)