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Legal Opinion 2015-017

TO: City Council; Mayor John Engen; Dale Bickell; Steve Johnson; Leigh Griffing; and Scott Paasch

CC: Legal Department Staff

FROM: Jim Nugent, City Attorney

DATE June 25, 2015

RE: City of Missoula Job Quality and Labor Protection Ordinance.

FACTS:

City council budget committee discussions Wednesday June 24, 2015 included some discussion concerning a proposed minimum wage for city employees and some of the discussion cited or referenced the city's previous leadership in adopting the City of Missoula Quality Job and Labor Protection Ordinance.

ISSUE(S):

1. What is the stated purpose of the City of Missoula Quality Job and Labor Protection Ordinance?
2. What types of city programs does the Missoula Quality Job and Labor Protection Ordinance apply to?

CONCLUSION(S):

1. The stated purpose of the Missoula Quality Job and Labor Protection Ordinance as stated in section 3.22.010 MMC "is to prescribe that businesses receiving financial assistance from the City for job creation and economic development" must pay eligible employees a minimum level of compensation as described in the ordinance.

2. Pursuant to the Missoula Quality Job and Labor Protection Ordinance Financial Assistance is defined in Section 3.22.030 MMC as support for any of the following programs when the purpose of the support is economic development and job creation: (A) property tax incentives; (B) industrial revenue bonds; (C) Missoula Redevelopment Agency tax increment financing from the Economic Development section of the Commercial Rehabilitation Loan

Program; (D) Economic Development Activities of Community Development Block Grants; (E) Program income funds.

LEGAL DISCUSSION:

The Missoula Quality Job and Labor Protection Ordinance is set forth in chapter 3.22 Missoula Municipal Code (MMC). The purpose of the ordinance is set forth in section 3.22.010 MMC which provides as follows:

3.22.010 Title and purpose. This ordinance shall be known as the "Missoula Quality Job and Labor Protection Ordinance." The purpose of this ordinance is to prescribe that businesses receiving financial assistance from the City for job creation and economic development as described in Section 3.22.030 must meet minimum standards for employment practices, including paying their eligible employees a minimum level of compensation as described in Section 3.22.040, and adherence to fair labor practices as described in Section 3.22.070.

Section 3.22.040 MMC is entitled "Employee Compensation". Section 3.22.010 MMC requires applicant's seeking financial assistance from the City of Missoula from certain limited city programs to pay eligible employees a wage at least the minimum starting salary for full time city employees and offer health benefits. Section 3.22.040 MMC provides:

3.22.040 Employee compensation. The Applicant requesting financial assistance of the City shall upon receiving financial assistance pay eligible employees a wage of at least the same level as the minimum starting salary for full time employees of the City of Missoula and offer health benefits. For each subsequent year, the required wage shall be adjusted annually on January 1 proportionately to the change in the Consumer price Index, Class B and C, for the Western Region.

Section 3.22.030 MMC entitled "FINANCIAL ASSISTANCE" provides as follows:

3.22.030 Financial Assistance. "Financial assistance" means support from any of the following programs when the purpose of the support is economic development and job creation:

- A. property tax incentives
- B. industrial revenue bonds
- C. Missoula Redevelopment Agency tax increment financing from the Economic Development section of the Commercial Rehabilitation Loan Program
- D. Economic Development Activities of Community Development Block Grants
- E. Program income funds

Subsection 3.22.020(C) MMC defines an "eligible employee" as follows:

3.22.020 Definitions.

...
C. "Eligible employee" means any person, who will be employed for at least 20 hours per week and, 1) whose work is performed in the City of Missoula, or 2) who resides in the Missoula area and works under supervision that is performed in the City of Missoula. Business owners, immediate family members and grandchildren are specifically exempted from this definition unless when otherwise prohibited in State or Federal Law.

The above cited ordinance provisions are important provisions of the City of Missoula Quality Job and Labor Protection Ordinance. A City of Missoula minimum wage ordinance for city employees will have an impact on applicants for financial assistance pursuant to the Quality Job and Labor Protection Ordinance. Pursuant to Section 3.22.040 MMC, applicant shall upon receiving financial assistance pay eligible employees a wage of at least the minimum starting salary for a City of Missoula employees.

CONCLUSION(S):

1. The stated purpose of the Missoula Quality Job and Labor Protection Ordinance as stated in section 3.22.010 MMC "is to prescribe that businesses receiving financial assistance from the City for job creation and economic development" must pay eligible employees a minimum level of compensation as described in the ordinance.

2. Pursuant to the Missoula Quality Job and Labor Protection Ordinance Financial Assistance is defined in Section 3.22.030 MMC as support for any of the following programs when the purpose of the support is economic development and job creation: (A) property tax incentives; (B) industrial revenue bonds; (C) Missoula Redevelopment Agency tax increment financing from the Economic Development section of the Commercial Rehabilitation Loan Program; (D) Economic Development Activities of Community Development Block Grants; (E) Program income funds.

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/s/

Jim Nugent, City Attorney

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