



CITY OF POMONA

COUNCIL REPORT

May 19, 2025

To: Honorable Mayor and Members of the City Council

From: Anita D. Scott, City Manager

SUBJECT: AUTHORIZE OUTSIDE COUNSEL TO INVESTIGATE AND PROSECUTE EMPLOYER WAGE THEFT AND AUTHORIZE APPLYING TO CALIFORNIA LABOR COMMISSION GRANT – COUNCIL REQUESTED

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) The City does not pursue the grant opportunity offered through the California Labor Commission for wage theft enforcement at this time, due to the significant staffing requirements needed to carry out this program as well as unfunded financial obligations that fall outside the scope of the grant's allowable expenses; or
- 2) Adopt the following resolution:

RESOLUTION NO. 2025-67 - A RESOLUTION OF THE COUNCIL OF THE CITY OF POMONA, CALIFORNIA, TO HIRE AND AUTHORIZE OUTSIDE COUNSEL TO INVESTIGATE AND PROSECUTE EMPLOYER WAGE THEFT AND AUTHORIZE APPLYING TO A CALIFORNIA LABOR COMMISSION GRANT

EXECUTIVE SUMMARY:

The City Council expressed interest in evaluating the feasibility of pursuing wage theft enforcement through available grant funding. In response, staff reviewed comparable models, including the City of Fresno, which has implemented a comprehensive wage theft enforcement program. Fresno supports this effort through a fully staffed, in-house City Attorney's Office with an annual budget of approximately \$28 million, including 38 attorneys and more than 100 support staff, such as investigators. The City of Pomona, however, operates under a different legal structure, utilizing contract legal services through Best Best & Krieger LLP (BBK) rather than maintaining an in-house City Attorney's Office. Effective wage theft enforcement requires a prosecutorial infrastructure capable of conducting investigations, filing charges, and pursuing

criminal or civil cases. BBK is not designed or authorized to function as a public prosecutor and does not provide criminal prosecution services.

To meet the requirements of the grant, the City would need to retain outside legal counsel for prosecution and establish an investigative team to support enforcement efforts. At this time, the City does not have the infrastructure necessary to fulfill these obligations, and pursuing the grant would impose significant operational and financial demands that extend beyond the funding provided. For these reasons, staff does not recommend applying for the grant. As an alternative, staff recommends supporting eligible community-based organizations or nonprofit entities that wish to pursue the grant independently. The City can offer letters of support to strengthen those applications and remains committed to collaborating with partners to address wage theft and protect worker rights within Pomona.

SB1439/GOVERNMENT CODE §84308 APPLICABILITY:

☐ When this box is checked, it indicates the agenda item is subject to the Levine Act SB1439 requirements. Councilmembers are reminded to check their campaign contributions and determine whether they have received a campaign contribution of \$500 or more that would require disclosure and/or recusal from discussing or acting on this agenda item. Campaign contributions of \$500 or more made 1) by any person or entity who is identified in the agenda report as the applicant or proposer or 2) on behalf of the applicant or participant, including a parent, subsidiary or otherwise related business entity, or 3) by any person who has a financial interest in the agenda item requires a councilmember to comply with SB1439.

FISCAL IMPACT:

The complete fiscal impact is unknown at this time, but would require establishing a prosecutorial infrastructure capable of conducting investigations, filing charges, and pursuing criminal or civil cases.

PREVIOUS RELATED ACTION:

At the May 5, 2025, City Council meeting, the City Council requested this item be brought forth for timely consideration.

DISCUSSION:

The State of California established the Department of Industrial Relations and vested it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. The State further established the Division of Labor Standards Enforcement, the Division of Workers' Compensation, and the Division of Occupational Safety and Health in vested these agencies with enforcement duties and powers. The Division of Labor Standards Enforcement, the head of which is the Labor Commissioner, was charged with enforcing the Labor Code and all labor laws.

In 2023, by adoption of AB594, the State of California amended the labor code to allow a “public prosecutor” to enforce labor laws as a way of providing more enforcement powers to other public prosecutors working in other branches of local government. A public prosecutor is defined as a district attorney, a city attorney, a county counsel, or any other city or county prosecutor.

The City of Fresno is one city that has opted to serve as a public prosecutor for the purpose of enforcing labor laws that the State of California is responsible for enforcing. The City of Fresno's City Attorney office has an annual budget of approximately \$28 million and includes 38 attorneys and over 100 support staff, including investigators. With these resources and grant funding Fresno is able to conduct labor and wage educational and enforcement services. The office has created an educational program, a complaint system, an investigation and evidence gathering process, a process to meet with an employer who is in violation of State laws and has assigned personnel to bring civil or criminal legal action. The staff are people employed by the City and who are paid a salary. The City of Pomona does not have an in-house city attorney department. Even if the City of Pomona had an in-house operation it would not have nearly the same resources as Fresno. To properly conduct labor enforcement operations you must have an office that is designed to carry out “public prosecutor” operations. A civil city attorney operation is not designed to carry out public prosecutor services. Even if the contract City Attorney, BBK, were designated as a public prosecutor they are not designed to carry out criminal prosecutions. The sum of \$750,000 would not be enough to hire attorneys, investigators and support staff to carry out any meaningful enforcement. Establishing the necessary prosecutorial and investigative infrastructure would require substantial, ongoing financial and personnel commitments not covered by the available grant funding. The City is not currently equipped to fulfill the operational and legal obligations such an initiative would require.

The City's current prosecutorial firm is Dapeer & Rosenblit Litvak, LLP who specializes in code enforcement and property maintenance. Securing additional outside counsel with expertise in labor law enforcement and public prosecution would require a formal procurement process, including the development of a scope of work, issuance of a request for proposals (RFP), evaluation of qualified firms, and approval by the City Council—further extending timelines and adding to the cost and complexity of implementation.

Staff recognizes the significance of wage theft as a critical issue affecting workers in Pomona. In lieu of directly applying for the grant, staff recommends that the City take an active supporting role by encouraging qualified community-based organizations or nonprofit entities to pursue the grant independently. The City can provide letters of support to strengthen such applications and express its willingness to collaborate on education, outreach, and related efforts aimed at protecting worker rights.

This approach allows the City to remain engaged on the issue, support broader enforcement goals, and advance local labor protections without incurring obligations the organization is currently unable to meet. Staff remains committed to exploring future opportunities and partnerships that further economic justice and worker protections in Pomona.

ATTACHMENT:

Attachment No. 1