

1 [Administrative Code - Increasing the Minimum Compensation Hourly Rate]

2

3 **Ordinance amending the Administrative Code to increase the minimum hourly**  
4 **compensation rate for employees of City contractors other than nonprofit corporations**  
5 **or public entities to ~~\$15.86 per hour on July 1, 2017, \$16.86 per hour on July 1, 2018,~~**  
6 **\$17.00 per hour and followed thereafter by annual cost-of-living increases; to increase**  
7 **the minimum hourly compensation rate for employees under contracts with nonprofit**  
8 **corporations and public entities to minimum wage; and to require that City contractors**  
9 **pay the minimum hourly compensation rate to employees who perform any work**  
10 **funded under an applicable contract with the City.**

11

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

19

20 Be it ordained by the People of the City and County of San Francisco:

21

22 Section 1. The Administrative Code is hereby amended by revising Sections 12P.2,  
23 12P.3, and 12P.4 to read as follows:

24

25 **SEC. 12P.2. DEFINITIONS.**

As used in this Chapter the following capitalized terms shall have the following  
meanings:

\* \* \* \*

1 (c) "Consumer Price Index" or "CPI" shall mean the Consumer Price Index: All Urban  
2 Consumers for the San Francisco-Oakland-Hayward Area for All Items, as reported by the  
3 United States Bureau of Labor Statistics, or any successor to that index ~~for urban wage~~  
4 ~~earners and clerical workers for the San Francisco-Oakland-San Jose metropolitan statistical~~  
5 ~~area.~~

6 \* \* \* \*

7 (i) "Covered Employee" shall mean:

8 (1) An Employee of a Contractor who, during the applicable Pay Period,  
9 performs ~~at least four (4) hours per week~~ during the Pay Period, ~~of any~~ work funded (in whole or  
10 in part) under the applicable Contract or on the project funded under the applicable Contract:

11 (A) Within the geographic boundaries of the City;

12 (B) On real property owned or controlled by the City, but outside the  
13 geographic boundaries of the City; or

14 (C) Elsewhere in the United States, ~~but only if such related work performed~~  
15 ~~elsewhere within the United States consists of at least ten (10) hours per each work week during the~~  
16 ~~Pay Period in question.~~

17 (2) Notwithstanding the provisions of subsection (i)(1), for every Contract and  
18 Contract Amendment entered into on or after the Effective Date of the Amendment the term  
19 "Covered Employee" shall include an Employee of a Contractor who works elsewhere in the  
20 United States and who, during the applicable Pay Period, performs ~~at least four (4) hours per~~  
21 ~~week of any~~ work funded (in whole or in part) under the applicable Contract or to on the project  
22 funded under the applicable Contractor.

23 (3) Employees of the In-Home Supportive Services Public Authority shall be  
24 covered employees as designated in Section 70.11 of this Code.

1 (4) Notwithstanding the foregoing, the term "Covered Employee" shall exclude  
2 the following Employees of a Contractor that is a Nonprofit Corporation:

3 (A) Any Employee who is under the age of eighteen (18) and is claimed  
4 as a dependent for federal income tax purposes and is employed as an after-school or  
5 summer Employee; or employed as a trainee in a bona fide training program consistent with  
6 Federal law, which training program enables the Employee to advance into a permanent  
7 position; provided, however, these exemptions only apply when the Employee does not  
8 replace, displace or lower the wage or benefits of any existing position or Employee; and,

9 (B) Any disabled Employee of a Contractor, which disabled Employee: is  
10 covered by a current sub-minimum wage certificate issued to the Contractor by the U.S.  
11 Department of Labor; or would be covered by such a certificate but for the fact that the  
12 Contractor is paying a wage equal to or higher than the minimum wage.

13 (5) For every Contract and Contract Amendment entered into on or after the  
14 Effective Date of the Amendment, the term "Covered Employee" shall include an Employee of  
15 a Contractor who also participates in the CalWorks Program, or any similar successor  
16 program, who during the applicable Pay Period performs any welfare-to-work activities  
17 considered "employment" under the Fair Labor Standards Act (29 U.S.C. §§ 201 et. seq.) and  
18 any applicable United States Department of Labor regulations or guideline, funded (in whole  
19 or in part) under the applicable Contract or on the project funded under the applicable  
20 Contract; provided, however, that the hourly rate of payment for these Covered Employees  
21 shall be set by the Executive Director of the Department of Human Services at the maximum  
22 rate that is in conformance with CalWorks eligibility criteria so that these Covered Employees  
23 maintain CalWorks eligibility. Prior to June 1 of each year, the Executive Director shall provide  
24 such rate to the Office of Labor Standards Enforcement for publication. This amount shall be  
25

1 adjusted yearly, as necessary, to reflect any changes in federal or state law governing  
2 CalWorks eligibility.

3 \* \* \* \*

4  
5 **SEC. 12P.3. MINIMUM COMPENSATION COMPONENTS.**

6 (a) Minimum Compensation shall consist of each of the following:

7 (1) ~~(A) (i) Hourly gross compensation in the amount of nine dollars (\$9.00) per hour.~~

8 ~~————— (ii) In no less than twelve (12) nor more than eighteen (18) months from the~~  
9 ~~Effective Date, the City shall increase the hourly gross compensation to ten dollars (\$10.00) per hour;~~  
10 ~~provided, however, that in the case of Nonprofit Corporations and public entities, this adjustment shall~~  
11 ~~only be made if the Joint Report issued by the Controller, Mayor's Budget Office, and Budget Analyst,~~  
12 ~~pursuant to San Francisco Administrative Code Section 3.6, finds that the City has sufficient funds to~~  
13 ~~pay the anticipated costs of the adjustment. A finding of "sufficient funds" shall mean that the City will~~  
14 ~~not be required to reduce services in order to pay the anticipated costs of the adjustment.~~

15 ~~————— (iii) For each of the next three (3) years after the adjustment provided in~~  
16 ~~Subsection (a)(ii) is made, at annual intervals, the City shall make an additional adjustment of two and~~  
17 ~~one-half (2.5) percent.~~

18 (BA) For Contracts and Contract Amendments with parties other than  
19 Nonprofit Corporations or public entities ~~entered into on or after the Effective Date of the~~  
20 ~~Amendment, hourly gross compensation in the amount of ten dollars and seventy-seven cents~~  
21 ~~(\$10.77) shall be as follows:~~

22 ~~————— (i) Beginning on July 1, 2017, an hourly gross compensation of~~  
23 ~~\$15.86.~~

1 (ii) Beginning on November 3, 2018 or the effective date of the  
2 ordinance in Board File No. 170297, whichever is later, July 1, 2018, an hourly gross  
3 compensation of \$16.86 \$17.00.

4 (iii) In order to prevent inflation from eroding the value of this rate,  
5 on ~~January 1, 2008~~ July 1, 2019, the ~~ten dollars and seventy-seven cent (\$10.77) rate~~ the hourly gross  
6 compensation rate shall increase by an amount corresponding to the prior year's increase, if  
7 any, in the ~~CPI~~ Consumer Price Index. Annually thereafter on ~~the first of January~~ July 1, the hourly  
8 gross compensation in effect for the prior calendar year shall increase by an amount  
9 corresponding to the any prior year's increase, if any, in the ~~CPI~~ Consumer Price Index.

10 ~~(C)~~ (i) For Contracts and Contract Amendments with Nonprofit  
11 Corporations and public entities ~~entered into on or after the Effective Date of the Amendment,~~  
12 hourly gross compensation ~~in the amount of ten dollars and seventy-seven cents (\$10.77). It shall be~~  
13 ~~the policy of the City to endeavor to maintain the hourly gross compensation for Contracts with~~  
14 ~~Nonprofit Corporations and public entities equal to the rate that applies to for-profit Contractors. As~~  
15 ~~such, this ten dollars and seventy-seven cent (\$10.77) rate shall increase by an amount corresponding~~  
16 ~~to the prior year's increase, if any, in the CPI. These CPI adjustments shall be made on January 1,~~  
17 ~~2008 and every January 1 thereafter. Notwithstanding the provisions of this Subsection, when the Joint~~  
18 ~~Report shows a projected shortfall, there shall be no automatic CPI increase in hourly gross~~  
19 ~~compensation for Nonprofit Corporations and public entities as otherwise provided in this Subsection~~  
20 ~~and the Mayor and the Board of Supervisors shall follow the procedures set forth in Subsections (C)(ii)~~  
21 ~~and (iii) shall be, as of November 3, 2018 or the effective date of the ordinance in Board File~~  
22 No. 170297, whichever is later, the Minimum Wage, as set forth in Administrative Code Section  
23 12R.4, as may be amended from time to time.

24 ~~(ii) YEARS WITH PROJECTED BUDGET SHORTFALL. When submitting the~~  
25 ~~annual proposed budget to the Board of Supervisors for any upcoming fiscal year in which~~

1 there is a projected shortfall, the Mayor shall transmit a written report to the Clerk and to each  
2 member of the Board of Supervisors stating whether the proposed budget contains funding to  
3 pay all of the costs of the projected CPI increase for Nonprofit Corporations and public entities  
4 for the upcoming fiscal year, as well as for any prior fiscal years for which the Agency has  
5 granted a waiver. If the proposed budget does not contain sufficient funding for all of such  
6 costs, the report shall state the extent to which any portion of the CPI increase has been  
7 funded in the proposed budget and, in addition, shall set forth the basis for the Mayor's  
8 determination that no alternative funding sources or prudent reductions in City expenses were  
9 available to enable the City to pay the additional costs of the CPI increase for the upcoming  
10 fiscal year, and for any prior fiscal years for which the Agency has granted a waiver, without  
11 jeopardizing City operations.

12       ———(iii)——— When the Mayor has transmitted a report to the members of the Board  
13 providing notice that the proposed budget does not contain sufficient funding to pay the  
14 additional costs of the CPI increase for the upcoming fiscal year for Nonprofit Corporations  
15 and public entities and for any prior fiscal years for which the Agency has granted a waiver,  
16 the Budget and Finance Committee of the Board (or any successor committee as determined  
17 by the President of the Board) shall hold a hearing before adoption of the budget to consider  
18 the report and whether there are alternative funding sources or prudent reductions in City  
19 expenses available to enable the City to pay the additional costs of the CPI increase for the  
20 upcoming fiscal year, and for any prior fiscal year for which the Agency has granted a waiver,  
21 without jeopardizing City operations. The Board may amend the budget to provide full or  
22 partial funding for the CPI increase(s).

23       ———(iv)——— The hourly gross compensation for Nonprofit Corporations and public  
24 entities for the upcoming calendar year following the adoption of the budget shall be the rate  
25 required in the current calendar year, plus the amount of any CPI increase provided for in the

1 budget. This rate shall apply notwithstanding the failure of the Mayor to make the report or the  
2 Board to conduct the hearing required by Subsection (C)(ii) and (iii). The Agency shall provide  
3 notice of the amount of hourly gross compensation for Nonprofit Corporations and public  
4 entities on the Agency's website. Except for those years in which the budget has sufficient  
5 funds to bring the rate for Nonprofit Corporations and public entities into parity with rate for  
6 for-profits, the Agency shall grant a blanket waiver applicable to all contracts with Nonprofit  
7 Corporations and public entities, which waiver shall authorize payment under such contract of  
8 hourly gross compensation that reflects either no CPI increase or only such increase as is  
9 covered by the budget. The Controller's Office shall provide notice to all City departments of  
10 the hourly gross compensation for Nonprofit Corporations and public entities as determined by  
11 the Agency.

12       ~~———(v) Years with no one (1) percent projected budget shortfall. As provided in~~  
13 ~~Subsection (a)(1)(C)(i), the hourly gross compensation for Nonprofit Corporations and public~~  
14 ~~entities shall be adjusted in any year in which there is no projected budget shortfall by an~~  
15 ~~amount corresponding to the prior year's increase, if any, in the CPI. When submitting the~~  
16 ~~annual proposed budget to the Board of Supervisors for any upcoming fiscal year in which~~  
17 ~~there is no projected shortfall but there is disparity between the rate for for-profit entities and~~  
18 ~~for Nonprofit Corporations and public entities, the Mayor shall transmit a written report to the~~  
19 ~~Clerk and to each member of the Board of Supervisors stating whether the proposed budget~~  
20 ~~contains sufficient funding to bring the hourly gross compensation for Nonprofit Corporations~~  
21 ~~and public entities into parity with the amount applicable to for-profit entities under Section~~  
22 ~~(a)(1)(B).~~

23       ~~———(vi) When the Mayor has transmitted a report to the members of the Board~~  
24 ~~providing notice that the proposed budget does not contain sufficient funding to bring the~~  
25 ~~hourly gross compensation for Nonprofit Corporations and public entities into parity with the~~

1 amount applicable to for-profit entities, the Budget and Finance Committee of the Board (or  
2 any successor committee as determined by the President of the Board) shall hold a hearing  
3 before adoption of the budget to consider the report. The Board may amend the budget to  
4 provide full or partial funding toward such parity. If additional funds are provided in the budget  
5 to obtain such parity or to bring Nonprofit Corporation and public entities closer to such parity,  
6 the hourly gross compensation for such entities shall increase to the extent provided in the  
7 budget and the Agency shall provide notice of the amount of hourly gross compensation on  
8 the Agency's website.

9 (C) For Contracts and Contract Amendments covered by Section 12P.4 of this  
10 Chapter 12P, hourly gross compensation shall be, as of November 3, 2018 or the effective date of  
11 the ordinance in Board File No. 170297, whichever is later, \$17.00.:

12 \_\_\_\_\_ (i) Beginning on July 1, 2017, an hourly gross compensation of  
13 \$14.39.

14 \_\_\_\_\_ (ii) Beginning on January 1, 2018, an hourly gross compensation  
15 of \$15.86.

16 \_\_\_\_\_ (iii) Beginning on July 1, 2018, an hourly gross compensation of  
17 \$16.86.

18 \_\_\_\_\_ (iv) In order to prevent inflation from eroding the value of this rate, on  
19 July 1, 2019, the hourly gross compensation rate shall increase by an amount corresponding to the  
20 prior year's increase, if any, in the Consumer Price Index. Annually thereafter on July 1, the hourly  
21 gross compensation in effect for the prior calendar year shall increase by an amount corresponding to  
22 the any prior year's increase, if any, in the Consumer Price Index.

23 (2) Compensated time off (at the compensation rates specified in subsection~~s~~  
24 (a)(1) of this Section 12P.3) in an hourly amount that, on an annualized basis for a full-time  
25 employee, equals twelve ~~(12)~~ days per year. Such time off shall vest with the Covered



1 Employee at the end of the applicable Pay Period and may be used, for sick leave, vacation  
2 or personal necessity. Notwithstanding the foregoing, if a Contractor reasonably determines,  
3 in good faith, that the Contractor cannot comply with this requirement for compensated time  
4 off, the Contractor shall provide the Covered Employee with a cash equivalent of such  
5 compensated time off.

6 (3) Uncompensated time off in an hourly amount that, on an annualized basis  
7 for a full-time employee, equals ten (~~10~~) days per year. Such time off shall vest with the  
8 Covered Employee at the end of the applicable Pay Period and may be used, at the option of  
9 the Covered Employee, for sick leave for the illness of the Covered Employee or such  
10 Covered Employee's spouse, domestic partner, child, parent, sibling, grandparent or  
11 grandchild.

12 (b) By ~~December~~ March 1 of each year, the Agency shall make available at its office  
13 and on its website the hourly rates required by this Section 12P.3.

14 (c) When preparing proposed budgets and requests for supplemental appropriations  
15 for contract services, City departments that regularly enter into agreements for the provision of  
16 services by ~~Nonprofit~~ eCorporations shall transmit with their proposal a written confirmation  
17 that the department has considered in its calculations the costs that the ~~Nonprofit~~  
18 eCorporations calculate that they will incur in complying with the Minimum Compensation  
19 Ordinance.

20 (d) Subject to the budgetary and fiscal provisions of the Charter, it shall be the  
21 policy of the City to ensure sufficient funding to prevent a reduction in the services to the  
22 community provided by Nonprofit Corporations and public entities.

1           **SEC. 12P.4. SAN FRANCISCO INTERNATIONAL AIRPORT.**

2           The requirements of this Chapter 12P shall apply to a written agreement (including,  
3 without limitation, any lease, concession, franchise or easement agreement) for the exclusive  
4 use of real property that is owned by the City or of which the City has exclusive use, if such  
5 property is under the jurisdiction of the San Francisco Airport Commission and the term of the  
6 agreement exceeds twenty-nine ~~(29)~~ days in any calendar year, whether by single or  
7 cumulative instruments. If cumulative instruments cause the term of the agreement to exceed  
8 twenty-nine ~~(29)~~ days, the agreement in question shall be subject to this Article only on and  
9 after the effective date of the instrument which causes the term to exceed twenty-nine ~~(29)~~  
10 days. The requirements of this Chapter shall also apply to (i) any sublease or other agreement  
11 allowing other parties the exclusive right to occupy or use all or any portion of the property  
12 covered by the agreement and (ii) any agreement between a tenant or subtenant and any  
13 other person or entity to perform services on the airport property. Contractors who have  
14 agreements covered by this Section shall comply with the requirements of this Chapter insofar  
15 as they have “Covered Employees.” For purposes of this Section, “Covered Employee” shall  
16 mean an employee who ~~provides at least ten (10) hours of~~ performs any work on the property that  
17 is the subject of the agreement in a two-week Pay Period, adjusted proportionately if the Pay  
18 Period is other than two ~~(2)~~ weeks. Notwithstanding the provisions of this Section, all  
19 exemptions and waivers from the requirements of this Chapter that apply to Contracts shall  
20 also apply to agreements for the use of airport property described in this Section, except that  
21 the exemption in Section 12P.2(e)(16) does not apply to agreements for the use of real  
22 property owned by the City or of which the City has exclusive use if the property is under the  
23 jurisdiction of the San Francisco Airport Commission. Except as otherwise specifically  
24 provided, all requirements of this Chapter, and the monitoring and enforcement mechanisms  
25 provided in this Chapter, shall apply to agreements covered by this Section.

1  
2           **SEC. 12P.8. ADDITIONAL WAIVERS BY THE AGENCY – NONPROFIT**  
3 **CORPORATIONS.**

4           (a) A Nonprofit Corporation may seek a waiver from the requirements of Section  
5 12P.3(a)(1) if the highest paid managerial position in the organization earns a salary which,  
6 when calculated on an hourly basis, is not more than six (6) times the lowest wage paid by the  
7 organization to a Covered Employee. The Nonprofit Corporation shall provide to the  
8 Contracting Department a written statement, prepared and signed by the Nonprofit  
9 Corporation, setting forth an explanation of the economic hardship to the Nonprofit  
10 Corporation or the negative impact on services that would result from compliance with this  
11 Chapter. If the Contracting Department determines that the written explanation is adequate to  
12 justify the waiver and that substantial evidence supports the written explanation, it shall  
13 recommend the requested waiver to the Agency. The Agency shall grant the requested  
14 waiver. Each waiver shall be effective for a period of up to one (1) year, and subsequent  
15 waivers may be requested and granted.

16           ~~(b) If City's budget contains funding for all or a portion of a CPI increase for Nonprofit~~  
17 ~~Corporations for the fiscal year, but a Nonprofit Corporation does not receive an adequate~~  
18 ~~increase in its contract allocation to pay for the CPI increase for the fiscal year, the Nonprofit~~  
19 ~~Corporation may seek a one-year waiver from the CPI increase or from that portion of the CPI~~  
20 ~~increase that is unfunded. The Nonprofit Corporation shall provide to the Contracting~~  
21 ~~Department a written statement, prepared and signed by the Nonprofit Corporation,~~  
22 ~~demonstrating that it has not received adequate funding. The Contracting Department shall~~  
23 ~~report to the Agency whether the Nonprofit Corporation received from the Contracting~~  
24 ~~Department an increase in its contract allocation to pay for the CPI increase and, if it received~~  
25 ~~funding to pay only a portion of the CPI increase, what portion of the increase was funded. If~~

1 the Department has not provided adequate funding to the Nonprofit Corporation for the full  
2 CPI increase, it shall explain the reason in its statement to the Agency. If the Department  
3 certifies that the Nonprofit Corporation did not receive an adequate increase in its contract  
4 allocation to pay for the CPI increase, the Agency shall grant a one-year waiver from the CPI  
5 increase or the unfunded portion of the increase as reported by the Contracting Department.  
6 Each waiver shall be effective for a period of up to one (1) year, and subsequent waivers may  
7 be requested and granted.

8  
9 Section 2. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

13  
14 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance.

20  
21 Section 4. If any section, subsection, sentence, clause, phrase, or word of this Chapter  
22 12P, or any application thereof to any person or circumstance, is held to be invalid or  
23 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
24 affect the validity of the remaining portions or applications of the Article. The Board of  
25

1 Supervisors hereby declares that it would have passed this Article and each and every  
2 section, subsection, sentence, clause, phrase, and word not declared invalid or

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 unconstitutional without regard to whether any other portion of this Article or application  
2 thereof would be subsequently declared invalid or unconstitutional.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6

7 By: \_\_\_\_\_  
8 LEILA K. MONGAN  
9 Deputy City Attorney

10

11 n:\legana\as2017\1700496\01304223.docx

12

13

14

15

16

17

18

19

20

21

22

23

24

25