

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

TO: Jaci Fong, Director, Office of Contract Administration
Mawuli Tugbenyoh, Office of the Mayor
Ben Rosenfield, City Controller, Office of the Controller
John Martin, Director, San Francisco International Airport

FROM: Linda Wong, Assistant Clerk, Budget and Finance Sub-Committee

DATE: April 3, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Sub-Committee has received the following proposed legislation:

File No. 170297

Ordinance amending the Administrative Code to increase the minimum hourly compensation rate for employees of City contractors other than nonprofit corporations or public entities to \$15.86 per hour on July 1, 2017, \$16.86 per hour on July 1, 2018, and followed thereafter by annual cost-of-living increases.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Kofo Domingo, Office of Contract Administration
Todd Rydstrom, Office of the Controller
Cathy Widener, San Francisco International Airport

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 **and followed thereafter by annual cost-of-living increases.**

7
8 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in single-underline italics Times New Roman font.
10 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

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

16 Section 1. The Administrative Code is hereby amended by revising Section 12P.3, to
17 read as follows:

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

19 ~~(1) (A) (i) Hourly gross compensation in the amount of nine dollars (\$9.00) per hour.~~
20 ~~_____ (ii) In no less than twelve (12) nor more than eighteen (18) months from the~~
21 ~~Effective Date, the City shall increase the hourly gross compensation to ten dollars (\$10.00) per hour;~~
22 ~~provided, however, that in the case of Nonprofit Corporations and public entities, this adjustment shall~~
23 ~~only be made if the Joint Report issued by the Controller, Mayor's Budget Office, and Budget Analyst,~~
24 ~~pursuant to San Francisco Administrative Code Section 3.6, finds that the City has sufficient funds to~~
25 ~~pay the anticipated costs of the adjustment. A finding of "sufficient funds" shall mean that the City will~~
~~not be required to reduce services in order to pay the anticipated costs of the adjustment.~~

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

4 (BA) For Contracts and Contract Amendments with parties other than
5 Nonprofit Corporations or public entities ~~entered into on or after the Effective Date of the~~
6 ~~Amendment~~, hourly gross compensation ~~in the amount of ten dollars and seventy seven cents~~
7 ~~(\$10.77) shall be as follows:~~

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

9 ~~(ii) Beginning on July 1, 2018, an hourly gross compensation of \$16.86.~~

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

16 (CB) (i) For Contracts and Contract Amendments with Nonprofit
17 Corporations and public entities ~~entered into on or after the Effective Date of the Amendment,~~
18 ~~hourly gross compensation in the amount of ten dollars and seventy seven cents (\$10.77). It shall be~~
19 ~~the policy of the City to endeavor to maintain the hourly gross compensation for Contracts with~~
20 ~~Nonprofit Corporations and public entities equal to the rate that applies to for-profit Contractors. As~~
21 ~~such, this ten dollars and seventy seven cent (\$10.77) rate shall increase by an amount corresponding~~
22 ~~to the prior year's increase, if any, in the CPI. These CPI adjustments shall be made on January 1,~~
23 ~~2008 and every January 1 thereafter. Notwithstanding the provisions of this Subsection, when the Joint~~
24 ~~Report shows a projected shortfall, there shall be no automatic CPI increase in hourly gross~~
25 ~~compensation for Nonprofit Corporations and public entities as otherwise provided in this Subsection~~

1 ~~and the Mayor and the Board of Supervisors shall follow the procedures set forth in Subsections (C)(ii)~~
2 ~~and (iii) shall be the Minimum Wage, as set forth in Administrative Code Section 12R.4, as may be~~
3 ~~amended from time to time.~~

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

17 (iii) When the Mayor has transmitted a report to the members of the Board
18 providing notice that the proposed budget does not contain sufficient funding to pay the
19 additional costs of the CPI increase for the upcoming fiscal year for Nonprofit Corporations
20 and public entities and for any prior fiscal years for which the Agency has granted a waiver,
21 the Budget and Finance Committee of the Board (or any successor committee as determined
22 by the President of the Board) shall hold a hearing before adoption of the budget to consider
23 the report and whether there are alternative funding sources or prudent reductions in City
24 expenses available to enable the City to pay the additional costs of the CPI increase for the
25 upcoming fiscal year, and for any prior fiscal year for which the Agency has granted a waiver,

1 without jeopardizing City operations. The Board may amend the budget to provide full or
2 partial funding for the CPI increase(s).

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

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

1 ~~(vi) When the Mayor has transmitted a report to the members of the Board providing~~
2 ~~notice that the proposed budget does not contain sufficient funding to bring the hourly gross~~
3 ~~compensation for Nonprofit Corporations and public entities into parity with the amount applicable to~~
4 ~~for-profit entities, the Budget and Finance Committee of the Board (or any successor committee as~~
5 ~~determined by the President of the Board) shall hold a hearing before adoption of the budget to~~
6 ~~consider the report. The Board may amend the budget to provide full or partial funding toward such~~
7 ~~parity. If additional funds are provided in the budget to obtain such parity or to bring Nonprofit~~
8 ~~Corporation and public entities closer to such parity, the hourly gross compensation for such entities~~
9 ~~shall increase to the extent provided in the budget and the Agency shall provide notice of the amount of~~
10 ~~hourly gross compensation on the Agency's website.~~

11 (2) Compensated time off (at the compensation rates specified in subsections
12 (a)(1) of this Section 12P.3) in an hourly amount that, on an annualized basis for a full-time
13 employee, equals twelve ~~(12)~~ days per year. Such time off shall vest with the Covered
14 Employee at the end of the applicable Pay Period and may be used, for sick leave, vacation
15 or personal necessity. Notwithstanding the foregoing, if a Contractor reasonably determines,
16 in good faith, that the Contractor cannot comply with this requirement for compensated time
17 off, the Contractor shall provide the Covered Employee with a cash equivalent of such
18 compensated time off.

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

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

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

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

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

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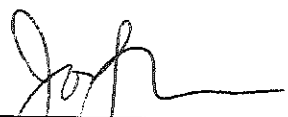
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1 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent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

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10
11 By:


12 JOSHUA WHITE
13 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Increasing the Minimum Compensation Hourly Rate]

Ordinance amending the Administrative Code to increase the minimum hourly compensation rate for employees of City contractors other than nonprofit corporations or public entities to \$15.86 per hour on July 1, 2017, \$16.86 per hour on July 1, 2018, and followed thereafter by annual cost-of-living increases.

Existing Law

The Minimum Compensation Ordinance (“MCO”) generally requires City contractors to provide their covered employees with no less than the MCO hourly compensation rate. The MCO covers most City service contractors, as well as those who hold leases or perform work at San Francisco International Airport.

For contracts and contract amendments with parties other than Nonprofit Corporations or public entities, the MCO hourly gross compensation is currently is \$13.64 per hour.

On July 1, 2017, the minimum wage will increase to \$14 per hour. That hourly rate will apply to City contractors, except for those who hold leases or perform work at San Francisco International Airport.

From 2004 through 2015, the MCO hourly compensation rate has been, on average, \$1.86 per hour higher than the minimum wage.

Amendments to Current Law

For contracts and contract amendments with parties other than Nonprofit Corporations or public entities, hourly gross compensation would be as follows:

- Beginning on July 1, 2017, an hourly gross compensation of \$15.86.
- Beginning on July 1, 2018, an hourly gross compensation of \$16.86.
- Beginning on July 1, 2019, the hourly gross compensation rate would increase by the prior year’s increase, if any, in the Consumer Price Index.

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