

BOARD of SUPERVISORS



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MEMORANDUM

TO: Jaci Fong, Director, Office of Contract Administration
Toney D. Chaplin, Acting Chief of Police, Police Department
Ivar C. Satero, Airport Director, Airport Commission
Michael Brown, Executive Officer, Civil Service Commission
Villy Wang, President, Film Commission
Elaine Forbes, Interim Executive Director, San Francisco Port Commission

FROM: *lf* Linda Wong, Assistant Clerk, Budget and Finance Committee

DATE: August 17, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Kim on August 2, 2016:

File No. 160891

Ordinance amending the Administrative Code to require prevailing wages in City contracts for security guard services and that prevailing wages be paid for security guard services at certain events on City property; and amending the Police Code to make a technical clarification regarding worker retention requirements for security guards.

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
Christine Fountain, Police Department
Cathy Widener, Airport Commission
Jean Caramatti, Airport Commission
Matt Stiker, Film Commission
Daley Dunham, San Francisco Port Commission
Amy Quesada, San Francisco Port Commission

1 [Administrative, Police Codes - Prevailing Wage for Security Guard Services]

2
3 **Ordinance amending the Administrative Code to require prevailing wages in City**
4 **contracts for security guard services and that prevailing wages be paid for security**
5 **guard services at certain events on City property; and amending the Police Code to**
6 **make a technical clarification regarding worker retention requirements for security**
7 **guards.**

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 21C.7 and
17 adding Section 21C.11, to read as follows:

18 **SEC. 21C.7. STANDARD PROVISIONS GOVERNING THE PREVAILING RATE OF**
19 **WAGES, WORKER RETENTION, AND USE OF EMPLOYEES FOR WORK UNDER CITY**
20 **CONTRACTS FOR CERTAIN SERVICES.**

21 * * * *

22 (b) Definitions. For purposes of this Section 21C, the following definitions shall apply to
23 the terms used herein.

24 * * * *

25 "Covered Contract" shall mean an agreement between the City and a Contractor for
the following services: "Motor Bus Services" as defined in Section 21C.1, subject to the

1 provisions of Section 21C.1; "Janitorial Services" as defined in Section 21C.2; "Public Off-
2 Street Parking Lots, Garages, or Storage Facilities for Automobiles" as defined in Section
3 21C.3; "Theatrical Services" as defined in Section 21C.4; "Solid Waste Generated By The City
4 In Course of City Operations" as defined in Section 21C.5; "Moving Services" as defined in
5 Section 21C.6; "Trade Show and Special Event Work" as defined in Section 21C.8; ~~and~~
6 "Broadcast Services" as defined in Section 21C.9; and "Security Guard Services" as defined in
7 Section 21C.11.

8 **SEC. 21C.11. PREVAILING RATE OF WAGES FOR SECURITY GUARD SERVICES IN**
9 **CITY CONTRACTS AND FOR EVENTS ON CITY PROPERTY.**

10 (a) Definitions. For purposes of this Section 21C.11, the following definitions shall apply:

11 "Event" means any organized gathering of people, including but not limited to a live
12 performance, dance, convention, conference, parade, or exposition on City property.

13 "Security Guard Services" means services to protect persons or property or prevent theft,
14 performed by nonsupervisory employees who are licensed by the California Bureau of Security and
15 Investigative Services (BSIS) or a successor agency to provide security guard or proprietary security
16 guard service, including but not limited to men and women serving as security guards, watchmen,
17 patrolmen, and security officers.

18 (b) City Contracts.

19 (1) Prevailing Wage Requirement. Every Contract issued by the City must require that
20 any individual performing Security Guard Services thereunder at any facility or on any property owned
21 or leased by the City be paid not less than the Prevailing Rate of Wages, including fringe benefits or
22 the matching equivalents thereof, paid in private employment for similar work in the area in which the
23 Contract is being performed. All Contracts subject to this Section 21C.11 shall include a provision in
24 which the Contractor agrees to comply with, and to require Subcontractors to comply with, the
25 obligations imposed by this Section.

1 (2) Exclusions. For purposes of this subsection (b), "Contract" shall mean an
2 agreement to be performed at the expense of the City or to be paid out of moneys deposited in the City
3 treasury or out of trust moneys under the control of or collected by the City, but shall not include the
4 following:

5 (A) Contracts issued by the San Francisco Airport Commission or to be
6 performed at any facility owned, leased, or otherwise under the jurisdiction of the San Francisco
7 Airport Commission.

8 (B) Contracts for a cumulative amount of \$10,000 or less per Security Guard
9 Services provider in each fiscal year. Contracts may not be split for purposes of evading the
10 requirements of this Section.

11 (c) Events on City Property.

12 (1) Prevailing Wage Requirement. Every Contract, Lease, Franchise, Permit, or
13 Agreement awarded, let, issued, or granted by the City for the use of property owned by the City must
14 require that any individual engaged in Security Guard Services for an Event on City property be paid
15 not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents
16 thereof, paid in private employment for similar work in the area in which the Contract, Lease,
17 Franchise, Permit, or Agreement is being performed. All Contracts, Leases, Franchises, Permits, or
18 Agreements subject to this Section 21C.11 shall include a provision in which the Contractor (including
19 a lessee, franchisee, permittee or other party to an Agreement) agrees to comply with, and to require
20 Subcontractors to comply with, the obligations imposed by this Section.

21 (2) Exclusions. For purposes of this subsection (c), "Contract, Lease, Franchise,
22 Permit, or Agreement" shall mean an agreement with the City for the use of property owned by the
23 City, but shall not include any contract, lease, franchise, permit, or agreement for:

24 (A) Celebration of a marriage, domestic partnership, or similar civil union.
25

1 (B) The presentation of an Event to which the public has free access when the
2 Event is in a public park, on a public street, or on property under the jurisdiction of the Port
3 Commission, and the advertising and promotion for the Event is less than \$10,000.

4 (C) Any permit or agreement to engage in film production pursuant to Chapter
5 57 of this Code or under the circumstances set forth in Section 57.7 of this Code.

6 (D) In any circumstance where application of this Section 21C.11 would be
7 preempted by federal or state law, or

8 (E) Any Event for which the total number of employees providing Security Guard
9 Services for the Event is less than fifteen persons.

10 (d) Preemption. Nothing in this Section 21C.11 shall be interpreted or applied so as to create
11 any right, power, or duty in conflict with any federal or state law.

12 (e) Operative Date and Prospective Effect.

13 (1) This Section 21C.11 shall become operative upon the initial setting of a Prevailing
14 Rate of Wages for Security Guard Services by the Board of Supervisors. This initial Prevailing Rate of
15 Wages shall be set in accordance with the process established in Section 21C.7(c)(1), except the Civil
16 Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of Wages
17 no later than 120 days after the effective date of this Section 21C.11. Thereafter, the Commission shall
18 submit data as to the Prevailing Rate of Wages for Security Guard Services on or before the first
19 Monday in November each year in accordance with Section 21C.7(c)(1).

20 (2) This Section 21C.11 is intended to have prospective effect only, and shall not be
21 interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or
22 Agreement" issued or entered into by the City, unless such pre-existing agreement is amended after the
23 effective date of this Section and such amendment extends the term of the pre-existing agreement.

24 (f) Severability. If any part or provision of this Section 21C.11, or the application thereof to
25 any Person or circumstance, is held invalid, the remainder of this Section, including the application of

1 such part or provisions to other Persons or circumstances, shall not be affected thereby and shall
2 continue in full force and effect. To this end, the provisions of this Section are severable.

3
4 Section 2. The Police Code is hereby amended by revising Article 33C, Section
5 3300C.1, to read as follows:

6 **ARTICLE 33C: DISPLACED WORKER PROTECTION**

7 **SEC. 3300C.1. DEFINITIONS.**

8 The following definitions shall apply throughout this Article:

9 (a) "Awarding authority" means any person that awards or otherwise enters into
10 contracts for security and janitorial or building maintenance services performed within the City
11 and County of San Francisco, except that the City and County of San Francisco is not an
12 "awarding authority" under this Section with respect to City contracts for janitorial services as
13 defined in Administrative Code Section 21C.2 or City contracts for security guard services as
14 defined in Administrative Code Section 21C.11, because the worker retention requirements for
15 those City contracts are governed by Section 21C.7 of the Administrative Code.

16 * * * *

17 Section 3. Undertaking for the General Welfare. In enacting and implementing this
18 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
19 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
20 is liable in money damages to any person who claims that such breach proximately caused
21 injury.

22
23 Section 4. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board

1 of Supervisors overrides the Mayor's veto of the ordinance. However, as indicated in
2 Administrative Code Section 21 C.11(e), Section 21 C.11 shall become operative only upon
3 the initial setting by the Board of Supervisors of a Prevailing Rate of Wages for the categories
4 of work covered by that Section.

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

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13
14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: 
17 FRANCESCA GESSNER
Deputy City Attorney

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