

File No. 170538

Committee Item No. 8
Board Item No. 56

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date April 26, 2018

Board of Supervisors Meeting

Date October 16, 2018

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
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Completed by: Linda Wong Date April 20, 2018
Completed by: Lisa Lew Date October 11, 2018

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; and to require that City
7 contractors pay the minimum hourly compensation rate to employees who perform any
8 work funded under an applicable contract with the City.

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

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

18 Section 1. The Administrative Code is hereby amended by revising Sections 12P.2,
19 12P.3, and 12P.4 to read as follows:

20 **SEC 12P.2. DEFINITIONS.**

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

23 * * * *

24 (i) "Covered Employee" shall mean:
25

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

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

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

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

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

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

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

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

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

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

19 * * * *

20 ~~(r) "Projected shortfall" shall mean that the Joint Report prepared by the Mayor, the~~
21 ~~Board's Budget Analyst, and the Controller pursuant to Section 3.6 of this Code has projected~~
22 ~~a shortfall for the upcoming fiscal year of 1% or more of total General fund uses.~~

23
24 **SEC 12P.3. MINIMUM COMPENSATION COMPONENTS.**

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

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

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

12 ~~(BA) For Contracts and Contract Amendments with parties other than~~
13 ~~Nonprofit Corporations or public entities entered into on or after the Effective Date of the~~
14 ~~Amendment, hourly gross compensation in the amount of ten dollars and seventy-seven cents~~
15 ~~(\$10.77) shall be as follows:~~

16 _____ ~~(i) Beginning on July 1, 2017, an hourly gross compensation of~~
17 ~~\$15.86.~~

18 _____ ~~(iii) Beginning on July 1, 2018, an hourly gross compensation of \$16.86.~~

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

1 ~~(CB) (i) For Contracts and Contract Amendments with Nonprofit~~
2 ~~Corporations and public entities entered into on or after the Effective Date of the Amendment,~~
3 ~~hourly gross compensation in the amount of ten dollars and seventy seven cents (\$10.77). It shall be~~
4 ~~the policy of the City to endeavor to maintain the hourly gross compensation for Contracts with~~
5 ~~Nonprofit Corporations and public entities equal to the rate that applies to for-profit Contractors. As~~
6 ~~such, this ten dollars and seventy seven cent (\$10.77) rate shall increase by an amount corresponding~~
7 ~~to the prior year's increase, if any, in the CPI. These CPI adjustments shall be made on January 1,~~
8 ~~2008 and every January 1 thereafter. Notwithstanding the provisions of this Subsection, when the Joint~~
9 ~~Report shows a projected shortfall, there shall be no automatic CPI increase in hourly gross~~
10 ~~compensation for Nonprofit Corporations and public entities as otherwise provided in this Subsection~~
11 ~~and the Mayor and the Board of Supervisors shall follow the procedures set forth in Subsections (C)(ii)~~
12 ~~and (iii) shall be the Minimum Wage, as set forth in Administrative Code Section 12R.4, as~~
13 ~~may be amended from time to time.~~

14 ~~—— (ii) YEARS WITH PROJECTED BUDGET SHORTFALL. When submitting the~~
15 ~~annual proposed budget to the Board of Supervisors for any upcoming fiscal year in which~~
16 ~~there is a projected shortfall, the Mayor shall transmit a written report to the Clerk and to each~~
17 ~~member of the Board of Supervisors stating whether the proposed budget contains funding to~~
18 ~~pay all of the costs of the projected CPI increase for Nonprofit Corporations and public entities~~
19 ~~for the upcoming fiscal year, as well as for any prior fiscal years for which the Agency has~~
20 ~~granted a waiver. If the proposed budget does not contain sufficient funding for all of such~~
21 ~~costs, the report shall state the extent to which any portion of the CPI increase has been~~
22 ~~funded in the proposed budget and, in addition, shall set forth the basis for the Mayor's~~
23 ~~determination that no alternative funding sources or prudent reductions in City expenses were~~
24 ~~available to enable the City to pay the additional costs of the CPI increase for the upcoming~~
25

1 fiscal year, and for any prior fiscal years for which the Agency has granted a waiver, without
2 jeopardizing City operations.

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

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

1 the hourly gross compensation for Nonprofit Corporations and public entities as determined by
2 the Agency.

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

14 ~~—— (vi) When the Mayor has transmitted a report to the members of the Board~~
15 ~~providing notice that the proposed budget does not contain sufficient funding to bring the~~
16 ~~hourly gross compensation for Nonprofit Corporations and public entities into parity with the~~
17 ~~amount applicable to for profit entities, the Budget and Finance Committee of the Board (or~~
18 ~~any successor committee as determined by the President of the Board) shall hold a hearing~~
19 ~~before adoption of the budget to consider the report. The Board may amend the budget to~~
20 ~~provide full or partial funding toward such parity. If additional funds are provided in the budget~~
21 ~~to obtain such parity or to bring Nonprofit Corporation and public entities closer to such parity,~~
22 ~~the hourly gross compensation for such entities shall increase to the extent provided in the~~
23 ~~budget and the Agency shall provide notice of the amount of hourly gross compensation on~~
24 ~~the Agency's website.~~

1 (CB) For Contracts and Contract Amendments covered by Section 12P.4 of this
2 Chapter 12P, hourly gross compensation shall be as follows:

3 ~~(i)~~ Beginning on July 1, 2017, an hourly gross compensation of
4 ~~\$14.39.~~

5 ~~(ii)~~ Beginning on January 1, 2018, an hourly gross compensation
6 ~~of \$15.86.~~

7 ~~(iii)~~ Beginning on July 1, 2018, an hourly gross compensation of
8 \$16.86.

9 ~~(vii)~~ In order to prevent inflation from eroding the value of this rate, on
10 July 1, 2019, the hourly gross compensation rate shall increase by an amount corresponding to the
11 prior year's increase, if any, in the Consumer Price Index. Annually thereafter on July 1, the hourly
12 gross compensation in effect for the prior calendar year shall increase by an amount corresponding to
13 any prior year's increase in the Consumer Price Index.

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

22 (3) Uncompensated time off in an hourly amount that, on an annualized basis
23 for a full-time employee, equals ten ~~(10)~~ days per year. Such time off shall vest with the
24 Covered Employee at the end of the applicable Pay Period and may be used, at the option of
25 the Covered Employee, for sick leave for the illness of the Covered Employee or such

1 Covered Employee's spouse, domestic partner, child, parent, sibling, grandparent or
2 grandchild.

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

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

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

14
15 **SEC. 12P.4. SAN FRANCISCO INTERNATIONAL AIRPORT.**

16 The requirements of this Chapter 12P shall apply to a written agreement (including,
17 without limitation, any lease, concession, franchise or easement agreement) for the exclusive
18 use of real property that is owned by the City or of which the City has exclusive use, if such
19 property is under the jurisdiction of the San Francisco Airport Commission and the term of the
20 agreement exceeds twenty-nine ~~(29)~~ days in any calendar year, whether by single or
21 cumulative instruments. If cumulative instruments cause the term of the agreement to exceed
22 twenty-nine ~~(29)~~ days, the agreement in question shall be subject to this Article only on and
23 after the effective date of the instrument which causes the term to exceed twenty-nine ~~(29)~~
24 days. The requirements of this Chapter shall also apply to (i) any sublease or other agreement
25 allowing other parties the exclusive right to occupy or use all or any portion of the property

1 covered by the agreement and (ii) any agreement between a tenant or subtenant and any
2 other person or entity to perform services on the airport property. Contractors who have
3 agreements covered by this Section shall comply with the requirements of this Chapter insofar
4 as they have "Covered Employees." For purposes of this Section, "Covered Employee" shall
5 mean an employee who ~~provides at least ten (10) hours of~~ *performs any* work on the property that
6 is the subject of the agreement in a two-week Pay Period, adjusted proportionately if the Pay
7 Period is other than two ~~(2)~~ weeks. Notwithstanding the provisions of this Section, all
8 exemptions and waivers from the requirements of this Chapter that apply to Contracts shall
9 also apply to agreements for the use of airport property described in this Section, except that
10 the exemption in Section 12P.2(e)(16) does not apply to agreements for the use of real
11 property owned by the City or of which the City has exclusive use if the property is under the
12 jurisdiction of the San Francisco Airport Commission. Except as otherwise specifically
13 provided, all requirements of this Chapter, and the monitoring and enforcement mechanisms
14 provided in this Chapter, shall apply to agreements covered by this Section.

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

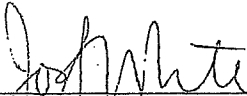
20
21 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
25

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3
4 Section 4. If any section, subsection, sentence, clause, phrase, or word of this Chapter
5 12P, or any application thereof to any person or circumstance, is held to be invalid or
6 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
7 affect the validity of the remaining portions or applications of the Article. The Board of
8 Supervisors hereby declares that it would have passed this Article and each and every
9 section, subsection, sentence, clause, phrase, and word not declared invalid or
10 unconstitutional without regard to whether any other portion of this Article or application
11 thereof would be subsequently declared invalid or unconstitutional.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15
16 By:



17 JOSHUA WHITE
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 to \$16.86 per hour on July 1, 2018 and followed thereafter by annual cost-of-living increases; and to require that City contractors pay the minimum hourly compensation rate to employees who perform any work funded under an applicable contract with the City

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 increased to \$14 per hour. That hourly rate applies 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.

To be a "Covered Employee" under the MCO, the employee of a contractor must generally perform at least four hours per week during a pay period on work funded by the contract with the City within the geographic boundaries of the City or on City-owned or controlled property, or ten hours per week if the work is performed elsewhere in the United States and not on City-owned or controlled property.

Amendments to Current Law

For contracts and contract amendments, hourly gross compensation would be as follows:

- 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.

FILE NO. 170538

The new rates would apply to employees of Nonprofit Corporations and public entities as well as employees of for-profit companies, regardless of whether there is a projected shortfall in the General Fund.

This ordinance would expand the definition of "Covered Employee" such that an employee would be "covered" by the MCO if he or she performed any work funded by a contract with the City during a pay period.

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Items 7 and 8
Files 17-0297 and 17-0538
(Continued from April 12, 2018)

Department:
 Office of Labor Standards Enforcement

EXECUTIVE SUMMARY

Legislative Objectives

- **File 17-0297** is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, *other than nonprofit corporations or public entities*, at \$16.86 per hour on July 1, 2018.
- **File 17-0538** is an ordinance amending Administrative Code Section 12P for to set the minimum hourly compensation rate for employees of City contractors, *including employees of nonprofit corporations and public entities*, at \$16.86 per hour on July 1, 2018.

Key Points

- The City’s Minimum Compensation Ordinance requires City contractors to pay their covered employees no less than the minimum hourly compensation rate and provide 12 days of paid time off each year. The proposed ordinances would set the hourly minimum compensation rate at \$16.86 per hour as of July 1, 2018, which is a \$1.86 more than the City’s minimum wage for employees of all businesses in San Francisco of \$15.00 per hour.
- Currently, employees of nonprofit organizations and public entities having contracts with the City are subject to the Minimum Compensation Ordinance if “sufficient funds” are available. File 17-0297 sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses. File 17-0538 applies the minimum compensation of \$16.86 per hour to all employees of nonprofit organizations and public entities that have contracts with the City.
- Although the proposed ordinance provides for minimum compensation to increase to \$15.86 as of July 1, 2017, the proposed ordinance is not retroactive.

Fiscal Impact

- According to the Controller’s Office, the estimated cost to the City to apply the minimum compensation of \$16.86 per hour (or \$1.86 per hour above the minimum wage) to nonprofit and public contracts (File 17-0538) is \$44 million in FY 2018-19. If the Board of Supervisors were to approve a minimum compensation amount of less than \$1.86 per hour above the minimum wage, the costs to the City would be less, ranging from \$18 million for an increase of \$0.50 per hour to \$38 million for an increase of \$1.50 per hour.

Recommendations

- Amend the proposed ordinances to clarify that the approval of the minimum compensation rate is not retroactive.
- Approval of the proposed ordinances as amended is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

Administrative Code Section 12P, known as the "Minimum Compensation Ordinance", requires City contractors to pay minimum compensation to employees.

BACKGROUND

The City currently has a Minimum Compensation Ordinance that requires City contractors to provide their covered employees with no less than the minimum hourly compensation rate. The Minimum Compensation Ordinance was adopted by the Board of Supervisors in August 2000 and covers City contracts with nonprofit corporations, public entities and for-profit companies. Covered contracts include: professional services, construction, grants, Airport leases (including concession leases), and subcontracts.

The Minimum Compensation Ordinance requires covered contractors to:

- Pay a minimum wage to all covered employees¹ who work at least 4 hours per week; and
- Provide 12 days of paid holidays and other leave per year if the employee works full time for one year.

The Minimum Compensation Ordinance set the original minimum wage at \$9 per hour, increasing by 2.5 percent per year through 2005. The Board of Supervisors amended the Minimum Compensation Ordinance in 2007 to require annual Consumer Price Index (CPI) adjustments to the minimum wage on January 1 of each year. The minimum wage required by the Minimum Compensation Ordinance as of January 1, 2018 is \$14.02 per hour, which is \$0.02 per hour more than the San Francisco minimum wage required of all employers located in San Francisco of \$14.00.²

While employees of nonprofit organizations and public entities are covered by the Minimum Compensation Ordinance, the Minimum Compensation Ordinance states that the City will fund wage increases to contracts with nonprofit organizations and public entities only if "sufficient funds" are available. According to the Minimum Compensation Ordinance, a finding of "sufficient funds" shall mean that the City will not be required to reduce services in order to pay the wage increase. The minimum wage for employees of nonprofit organizations and public entities having contracts with the City is currently \$14 per hour, consistent with the minimum wage for all employees of San Francisco businesses.

¹ Exempted employees include summer interns and participants in after-school programs, trainees and disabled workers as defined by federal regulations, and volunteers

² The minimum wage required by the Minimum Compensation Ordinance applies only to employees of City contractors, as defined by Administrative Code Section 12P. In addition, San Francisco voters approved a minimum wage that applies to all San Francisco employers. In November 2014, the voters approved Proposition J, raising the San Francisco minimum wage to \$15 per hour by 2018.

DETAILS OF PROPOSED LEGISLATION

The May 4, 2017 Budget and Finance Committee considered an ordinance setting the minimum compensation hourly rate at \$15.86 per hour on July 1, 2017, and \$16.86 per hour on July 1, 2018 (File 17-0297). File 17-0297 was duplicated and amended in committee. File 17-0297 was re-referred to committee by the Board of Supervisors at the May 16, 2017 meeting. The duplicated file – File 17-0538 – was continued to the call of the chair at the May 11, 2017 Budget and Finance Committee meeting.

File 17-0297 is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, *other than nonprofit corporations or public entities*, at \$16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

The proposed ordinance sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses.³

File 17-0538 is an ordinance amending Administrative Code Section 12P for employees of City contractors, *including employees of nonprofit corporations and public entities*, at \$16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

Other Provisions

File 17-0297 and File 17-0538 would remove the requirement that employees covered by the Minimum Compensation Ordinance work a minimum of 4 hours per week. All employees working on a City contract would be covered by the Minimum Compensation Ordinance regardless of the hours worked.⁴

File 17-0297 and File 17-0538 both provide for minimum compensation to increase to \$15.86 per hour on July 1, 2017. However, the proposed ordinances are not retroactive; therefore, if the Board of Supervisors approves the proposed ordinance, the hourly minimum compensation of \$16.86 would go into effect on July 1, 2018.

FISCAL IMPACT

File 17-0538

Currently, nonprofit and public contractors with the City pay the minimum wage, which is \$15.00 per hour as of July 1, 2018. The proposed ordinance would require nonprofit and public

³ The ordinance does not change the existing Administrative Code provisions for the Mayor to report to the Board of Supervisors on funding CPI increases in the proposed budget for City contracts with nonprofit corporations and entities.

⁴ Currently, employees working on a City contract but located in the United States outside of City-owned property must work a minimum of 10 hours per week to be covered by the MCO. The proposed legislation removes this provision so that all employees working on a City contract, regardless of the number of hours worked, would be covered by the Minimum Compensation Ordinance.

contractors with the City to pay minimum compensation of \$16.86 per hour as of July 1, 2018, or \$1.86 per hour more than the minimum wage of \$15.00 per hour.

According to estimates by the Controller's Office, the estimated cost to the City to apply the minimum compensation of \$16.86 per hour (or \$1.86 per hour above the minimum wage) to nonprofit and public contracts is \$44 million in FY 2018-19, as shown in the Table below. If the Board of Supervisors were to approve a minimum compensation amount of less than \$1.86 per hour above the minimum wage, the costs to the City would be less, ranging from \$18 million for an increase of \$0.50 to \$38 million for an of \$1.50, as shown in the Table below.

Table: Estimated Costs of Minimum Compensation for Nonprofit and Public Contract Employees in FY 2018-19

	Hourly Rate Above Minimum Wage			
	\$0.50	\$1.00	\$1.50	\$1.86
In Home Supportive Services - Wage Increase	\$6,000,000	\$12,000,000	\$18,000,000	\$22,000,000
In Home Supportive Services - Paid Time Off	9,000,000	9,000,000	9,000,000	9,000,000
Nonprofit Providers - City's Direct Contract Cost	3,000,000	700,000	11,000,000	13,000,000
Total	\$18,000,000	\$21,700,000	\$38,000,000	\$44,000,000

Source: Controller

RECOMMENDATIONS

1. Amend the proposed ordinances to clarify that the approval of the minimum compensation rate is not retroactive.
2. Approval of the proposed ordinances as amended is a policy matter for the Board of Supervisors.

MCO Cost Estimates

File # 170297
170538
Received in Committee
4/12/18
fm

2

Costs were estimated for two groups of affected workers:

1. Approximately 20,000 IHSS workers.

The cost is estimated on the wage increase from \$15.00 to \$16.86, adjusted for state formula funding provided to the City.

Under the current MCO, the value of PTO (paid time off) counts toward the MCO wage. The ordinance under consideration (file 170538) would require that the value of PTO be in addition to the hourly wage. Including wages in lieu of PTO would raise the wage to \$17.64 ($\$15.00 + \$1.86 + \0.78).

2. Approximately 1,700 FTEs at organizations with contracts at the Department of Public Health and approximately 500 childcare workers.

The cost is estimated on the wage increase from \$15.00 to \$16.86 for affected FTEs, and an additional adjustment for wage compression. Does not include wage-related benefit costs such as employer social security taxes (6.2%).

MCO Cost Estimates

3

Cost Estimates of the Proposed MCO up to an additional \$1.86

	<u>\$0.50</u>	<u>\$1.00</u>	<u>\$1.50</u>	<u>\$1.86</u>
IHSS - Wages + \$1.86	\$6	\$12	\$18	\$22
IHSS - Wages + \$2.64 (PTO in lieu added to MCO)	\$9	\$9	\$9	\$9
Non-profit providers - Direct city contract cost	\$3	\$7	\$11	\$13
	<u>\$18</u>	<u>\$28</u>	<u>\$37</u>	<u>\$44</u>

6300

Wong, Linda (BOS)

From: Council of Community Housing Organizations <ccho@sfc-409.org>
Sent: Wednesday, April 11, 2018 3:41 PM
To: Cohen, Mallia (BOS); Fewer, Sandra (BOS); Stefani, Catherine (BOS); Wong, Linda (BOS)
Subject: April 12 Budget Committee Item 8 - Minimum Compensation Ordinance (MCO)
Attachments: CCHO letter - MCO 4-11-2018.pdf

Dear Supervisor Cohen:

CCHO believes the City's low-wage workers should earn more, including for nonprofit workers. Together with our sister organization the Human Services Network (HSN), we worked closely with the City and labor allies to support the increase to San Francisco's minimum wage, and we support MCO increases for airport and other for-profit contract workers.

However, the current proposal to extend the MCO to city-funded nonprofit contractors, whether or not the additional costs are reimbursed, may create unintended consequences, including possibly reductions in service, layoffs, or financial stress. Unlike for-profit entities, nonprofit service and housing providers cannot simply raise prices to cover the additional 12.4% wage mandate, the effects of wage compression, and equitable raises for non-contract employees.

Our housing providers participated in a survey conducted by HSN that analyze the cost impacts. The sampling of 34 organizations demonstrated an aggregate annual full-cost impact of \$19 million. The financial impact for increasing wages for workers not covered by city contracts totals \$6.2 million. Housing providers are disproportionately impacted, with over \$4 million in unfunded cost increases. Therefore, we ask the Board of Supervisors to either:

- (1) Exclude the nonprofit sector from the MCO legislation, as in the current law, OR
- (2) Delay passage of the MCO, and convene an adequate community process to bring all the stakeholders to one table, work out details that can work for nonprofits and the City, and develop a revenue plan to identify adequate funding sources. That kind of process worked for the minimum wage ordinance and resulted in broad consensus. It is a sensible and inclusive process that can work again here.

Sincerely, Peter Cohen and Fernando Marti

Co-directors, Council of Community Housing Organizations

cc: Sup. Sandra Fewer, Sup. Catherine Stefani, Committee Clerk Linda Wong

Council of Community Housing Organizations

Celebrating 40 years as the voice of San Francisco's affordable housing movement
325 Clementina Street, San Francisco 94103
415-882-0901 office
www.sfccho.org



**COUNCIL OF COMMUNITY
HOUSING ORGANIZATIONS**

*The voice of San Francisco's
affordable housing movement*

April 11, 2018

Supervisor Malia Cohen
Board of Supervisors Budget and Finance Committee Chair
City Hall, Rm. 279
San Francisco, CA 94102

Re: Item 8 - Proposed Minimum Compensation Ordinance (MCO) nonprofit rate increase

Dear Supervisor Cohen:

CCHO believes the City's low-wage workers should earn more, including for nonprofit workers. Together with our sister organization the Human Services Network (HSN), we worked closely with the City and labor allies to support the increase to San Francisco's minimum wage, and we support MCO increases for airport and other for-profit contract workers.

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Sincerely,

Peter Cohen and Fernando Martí
Co-directors, Council of Community Housing Organizations

cc: Sup. Sandra Fewer, Sup. Catherine Stefani, Committee Clerk Linda Wong

325 Clementina Street, San Francisco, CA 94103 | ccho@sfc-409.org | 415.882.0901

The Council of Community Housing Organizations (CCHO) is a coalition of 24 community-based housing developers, service providers and tenant advocates. We fight for funding and policies that shape urban development and empower low-income and working-class communities. The work of our member organizations has resulted in nearly 30,000 units of affordable housing, as well as thousands of construction and permanent jobs for city residents.

File # 170538

Wong, Linda (BOS)

From: Joe Wilson <jwilson@hospitalityhouse.org>
Sent: Thursday, April 12, 2018 11:59 AM
To: Wong, Linda (BOS)
Subject: Fwd: Human Services Network & Minimum Compensation Ordinance
Attachments: April 12 HSN letter.docx

Thank you.
Joe Wilson

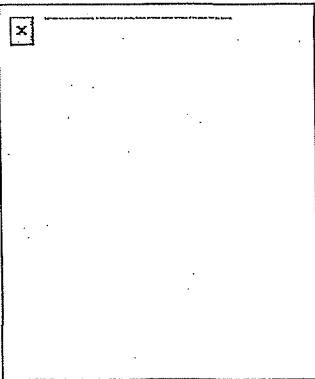
----- Forwarded message -----

From: Joe Wilson <jwilson@hospitalityhouse.org>
Date: Thu, Apr 12, 2018 at 11:57 AM
Subject: Human Services Network & Minimum Compensation Ordinance
To: malia.cohen@sfgov.org, sandra.fewer@sfgov.org, "Stefani, Catherine" <catherine.stefani@sfgov.org>, norman.yee@sfgov.org, jeff.sheehy@sfgov.org
Cc: sophia.kittler@sfgov.org, "Pagoulatos, Nickolas (BOS)" <nickolas.pagoulatos@sfgov.org>, "Boilard, Chelsea (BOS)" <chelsea.boilard@sfgov.org>, jack.gallagher@sfgov.org, sharon.johnson@sfgov.org

Thank you for your consideration.
Sincerely,

Joe Wilson

Joseph T. Wilson
Executive Director



290 Turk Street
San Francisco, CA 94102
ph.: 415.749.2111
fax: 415.749.2136
www.hospitalityhouse.org



April 12, 2018

Supervisor Malia Cohen
Chair, Board of Supervisors Budget and Finance Committee
City Hall, Rm. 279
San Francisco, CA 94102

Re: Proposed Minimum Compensation Ordinance (MCO) nonprofit rate increase

Dear Supervisor Cohen:

Hospitality House, a member of the San Francisco Human Services Network (HSN) is writing as a follow-up to HSN's recent meetings with Supervisors, and our letter to Mayor Mark Farrell dated February 28, 2018 and copied via email to the Board.

As we've discussed, HSN supports the 7% minimum wage increase that will bring the MCO rate to \$15 per hour in July, as well as MCO increases for airport and other for-profit contract workers. However, an additional 12.4% wage mandate on nonprofit contractors could create potential unintended consequences including service reductions, layoffs, and other unanalyzed tradeoffs. HSN's specific asks are:

- **Amend the proposed MCO legislation to exempt the nonprofit sector**
- Should nonprofits remain in the legislation, **delay passage of the MCO** until the City conducts an adequate community process
- We believe an appropriate engagement model is the process utilized with the recently-passed Minimum Wage Ordinance – that involved various stakeholder groups, including the nonprofit sector, to reach the desired outcome to benefit low-wage workers.

HSN conducted a sampling of dozens of health, human service and housing organizations and documented a first-year full-cost impact of \$19 million – far greater than the Controller's estimated \$13 million "direct city contract cost" for the entire sector. For some, the full cost could dramatically harm their financial stability, and their ability to provide much-needed services for San Franciscans.

We stand ready to fully participate in ongoing discussions regarding continued economic inequality in the San Francisco Bay Area, and we applaud your commitment

to engage various stakeholders in crafting solutions that are feasible, beneficial, and sustainable.

Respectfully,

Joseph T. Wilson, Executive Director
Hospitality House

CC: Budget and Finance Committee

Items 8 and 9 Files 17-0297 and 17-0538	Department: Office of Labor Standards Enforcement
EXECUTIVE SUMMARY	
Legislative Objectives	
<ul style="list-style-type: none"> • File 17-0297 is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, <i>other than nonprofit corporations or public entities</i>, at \$16.86 per hour on July 1, 2018. • File 17-0538 is an ordinance amending Administrative Code Section 12P for to set the minimum hourly compensation rate for employees of City contractors, <i>including employees of nonprofit corporations and public entities</i>, at \$16.86 per hour on July 1, 2018. 	
Key Points	
<ul style="list-style-type: none"> • The City's Minimum Compensation Ordinance requires City contractors to pay their covered employees no less than the minimum hourly compensation rate and provide 12 days of paid time off each year. The proposed ordinances would set the hourly minimum compensation rate at \$16.86 per hour as of July 1, 2018, which is a \$1.86 more than the City's minimum wage for employees of all businesses in San Francisco of \$15.00 per hour. • Currently, employees of nonprofit organizations and public entities having contracts with the City are subject to the Minimum Compensation Ordinance if "sufficient funds" are available. File 17-0297 sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses. File 17-0538 applies the minimum compensation of \$16.86 per hour to all employees of nonprofit organizations and public entities that have contracts with the City. • Although the proposed ordinance provides for minimum compensation to increase to \$15.86 as of July 1, 2017, the proposed ordinance is not retroactive. 	
Fiscal Impact	
<ul style="list-style-type: none"> • According to the Controller's Office, the estimated cost to the City to apply the minimum compensation of \$16.86 per hour (or \$1.86 per hour above the minimum wage) to nonprofit and public contracts (File 17-0538) is \$44 million in FY 2018-19. If the Board of Supervisors were to approve a minimum compensation amount of less than \$1.86 per hour above the minimum wage, the costs to the City would be less, ranging from \$18 million for an increase of \$0.50 per hour to \$38 million for an increase of \$1.50 per hour. 	
Recommendations	
<ul style="list-style-type: none"> • Amend the proposed ordinances to clarify that the approval of the minimum compensation rate is not retroactive. • Approval of the proposed ordinances as amended is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

Administrative Code Section 12P, known as the "Minimum Compensation Ordinance", requires City contractors to pay minimum compensation to employees.

BACKGROUND

The City currently has a Minimum Compensation Ordinance that requires City contractors to provide their covered employees with no less than the minimum hourly compensation rate. The Minimum Compensation Ordinance was adopted by the Board of Supervisors in August 2000 and covers City contracts with nonprofit corporations, public entities and for-profit companies. Covered contracts include: professional services, construction, grants, Airport leases (including concession leases), and subcontracts.

The Minimum Compensation Ordinance requires covered contractors to:

- Pay a minimum wage to all covered employees¹ who work at least 4 hours per week; and
- Provide 12 days of paid holidays and other leave per year if the employee works full time for one year.

The Minimum Compensation Ordinance set the original minimum wage at \$9 per hour, increasing by 2.5 percent per year through 2005. The Board of Supervisors amended the Minimum Compensation Ordinance in 2007 to require annual Consumer Price Index (CPI) adjustments to the minimum wage on January 1 of each year. The minimum wage required by the Minimum Compensation Ordinance as of January 1, 2018 is \$14.02 per hour, which is \$0.02 per hour more than the San Francisco minimum wage required of all employers located in San Francisco of \$14.00.²

While employees of nonprofit organizations and public entities are covered by the Minimum Compensation Ordinance, the Minimum Compensation Ordinance states that the City will fund wage increases to contracts with nonprofit organizations and public entities only if "sufficient funds" are available. According to the Minimum Compensation Ordinance, a finding of "sufficient funds" shall mean that the City will not be required to reduce services in order to pay the wage increase. The minimum wage for employees of nonprofit organizations and public entities having contracts with the City is currently \$14 per hour, consistent with the minimum wage for all employees of San Francisco businesses.

¹ Exempted employees include summer interns and participants in after-school programs, trainees and disabled workers as defined by federal regulations, and volunteers

² The minimum wage required by the Minimum Compensation Ordinance applies only to employees of City contractors, as defined by Administrative Code Section 12P. In addition, San Francisco voters approved a minimum wage that applies to all San Francisco employers. In November 2014, the voters approved Proposition J, raising the San Francisco minimum wage to \$15 per hour by 2018.

DETAILS OF PROPOSED LEGISLATION

The May 4, 2017 Budget and Finance Committee considered an ordinance setting the minimum compensation hourly rate at \$15.86 per hour on July 1, 2017, and \$16.86 per hour on July 1, 2018 (File 17-0297). File 17-0297 was duplicated and amended in committee. File 17-0297 was re-referred to committee by the Board of Supervisors at the May 16, 2017 meeting. The duplicated file – File 17-0538 – was continued to the call of the chair at the May 11, 2017 Budget and Finance Committee meeting.

File 17-0297 is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, *other than nonprofit corporations or public entities*, at \$16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

The proposed ordinance sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses.³

File 17-0538 is an ordinance amending Administrative Code Section 12P for employees of City contractors, *including employees of nonprofit corporations and public entities*, at \$16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

Other Provisions

File 17-0297 and File 17-0538 would remove the requirement that employees covered by the Minimum Compensation Ordinance work a minimum of 4 hours per week. All employees working on a City contract would be covered by the Minimum Compensation Ordinance regardless of the hours worked.⁴

File 17-0297 and File 17-0538 both provide for minimum compensation to increase to \$15.86 per hour on July 1, 2017. However, the proposed ordinances are not retroactive; therefore, if the Board of Supervisors approves the proposed ordinance, the hourly minimum compensation of \$16.86 would go into effect on July 1, 2018.

FISCAL IMPACT

File 17-0538

Currently, nonprofit and public contractors with the City pay the minimum wage, which is \$15.00 per hour as of July 1, 2018. The proposed ordinance would require nonprofit and public

³ The ordinance does not change the existing Administrative Code provisions for the Mayor to report to the Board of Supervisors on funding CPI increases in the proposed budget for City contracts with nonprofit corporations and entities.

⁴ Currently, employees working on a City contract but located in the United States outside of City-owned property must work a minimum of 10 hours per week to be covered by the MCO. The proposed legislation removes this provision so that all employees working on a City contract, regardless of the number of hours worked, would be covered by the Minimum Compensation Ordinance.

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Table: Estimated Costs of Minimum Compensation for Nonprofit and Public Contract Employees in FY 2018-19

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Total	\$18,000,000	\$21,700,000	\$38,000,000	\$44,000,000

Source: Controller

RECOMMENDATIONS

1. Amend the proposed ordinances to clarify that the approval of the minimum compensation rate is not retroactive.
2. Approval of the proposed ordinances as amended is a policy matter for the Board of Supervisors.

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2018 OCT -2 PM 1:55
Time-stamp

BY JB or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [170538] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Fewer; Kim, Ronen, Yee

Subject:

Administrative Code - Increasing the Minimum Compensation Hourly Rate

The text is listed:

Ordinance amending the Administrative Code to increase the minimum hourly compensation rate for employees of City contractors \$16.86 per hour on July 1, 2018, and followed thereafter by annual cost-of-living increases; and to require that City contractors pay the minimum hourly compensation rate to employees who perform any work funded under an applicable contract with the City.

Signature of Sponsoring Supervisor:

Sandra W. Fewer

For Clerk's Use Only

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2010 OCT -2 PM 1:55

BY AB

2010.10.2
Mary Yee
Kelly Rone

