

1 [Administrative Code - Local Hire and Prevailing Wages for Construction Projects on City-
2 Owned Property]

3 **Ordinance amending the Administrative Code to provide that the City's Local Hiring**
4 **Policy and Payment of Prevailing Wages apply to construction projects on property**
5 **owned by the City and County of San Francisco.**

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

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

14 Section 1. The Administrative Code is hereby amended by revising Section 6.22(G), to
15 read as follows:

16 **SEC. 6.22. PUBLIC WORK CONSTRUCTION CONTRACT TERMS AND WORKING**
17 **CONDITIONS.**

18 * * * *

19 (G) **Short Title.** This subsection 6.22(G) shall be known as and may be cited as the
20 San Francisco Local Hiring Policy for Construction ("Policy").

21 (1) **Findings and Purpose.**

22 (a) The Board of Supervisors passed Ordinance 286-94 on August 4, 1994, to establish
23 local hiring requirements for City public work or improvement projects performed within the
24 boundaries of the City.

25 (b) In 2010, the San Francisco Redevelopment Agency and the City's Office of
Economic and Workforce Development commissioned a study of the labor market in the
construction industry in San Francisco (the "Labor Market Analysis"), including review of

1 comparative demographic data regarding workers on public and private projects, scope of
2 past and future public and private construction work in San Francisco, comparative
3 compensation on public and private projects, demographic data regarding apprenticeship
4 programs operating in San Francisco, and income and residency data regarding construction
5 workers in San Francisco.

6 (c) In 2010, the Walter and Elise Haas Fund and the San Francisco Foundation, with
7 assistance of the City's Office of Economic and Workforce Development, convened a local
8 hiring stakeholder process to discuss possible revision of subsection 6.22(G), at which
9 community, labor, contractor, and City stakeholders participated.

10 (d) In August 2010, a report from Chinese for Affirmative Action and Brightline Defense
11 Project entitled, "The Failure of Good Faith," found that the City has historically failed to meet
12 its local hiring goals.

13 (e) The Budget & Finance and Land Use & Economic Development Committees of the
14 Board of Supervisors held public hearings regarding local hiring and proposed revisions to
15 subsection 6.22(G).

16 (f) The San Francisco Public Utilities Commission, Redevelopment Agency, Human
17 Rights Commission, and other City departments and agencies held public hearings regarding
18 local hiring.

19 (g) The construction industry is one of the few industries providing a path to middle-
20 class careers for individuals without advanced degrees or facing barriers to quality
21 employment, and is therefore a crucial component of the effort to build economic opportunities
22 for targeted residents of San Francisco, with a particular emphasis on low-income and
23 underrepresented workers in various building and construction trades, in order to elevate
24 historically disadvantaged populations and create more sustainable communities throughout
25 San Francisco.

1 (h) The City has awarded more than \$8 billion in public work and improvement
2 contracts during the last 10 years.

3 (i) The City anticipates that it will award approximately \$27 billion in public work and
4 improvement contracts in the next 10 years.

5 (j) City spending on public work and improvement projects over the next 10 years will
6 generate tens of thousands of construction work hours.

7 (k) The Board desires to ensure that employment and training opportunities created by
8 such public work and improvement projects provide consistent and high-quality opportunities
9 to the San Francisco labor pool, especially low-income residents of San Francisco and other
10 disadvantaged residents.

11 (l) Although approximately 40% of construction workers employed in San Francisco are
12 San Francisco residents, from 2002 to 2010 San Francisco residents worked only
13 approximately 24% of the work-hours on publicly-funded construction projects in the City, and
14 only 20% of work-hours since July 2009.

15 (m) The City faces unemployment levels that have risen dramatically over the past four
16 years, climbing from a low of 3.7% in December 2006 to an average of 9.8% for each month
17 of 2010 through July, leaving at least 44,500 San Franciscans out of work according to the
18 California Employment Development Department, with disproportionate concentrations of high
19 unemployment in neighborhoods such as Bayview-Hunters Point, Chinatown, the Mission,
20 Western Addition, Visitacion Valley, the Excelsior, South of Market, Ocean View, Merced
21 Heights and Ingleside.

22 (n) The 2010-2014 Consolidated Plan for the City and County of San Francisco
23 indicates that several San Francisco neighborhoods face concentrated poverty and San
24 Francisco's slow job growth rate and changing job base has had major impacts on patterns of
25

1 income inequality and disparity in the City, with distinctive, adverse, neighborhood-specific
2 effects.

3 (o) The loss of middle-income jobs has been associated with a diminishing middle
4 class in San Francisco, as indicated by rising income inequality. San Francisco's unequal
5 income distribution threatens the City's future competitiveness and overall economic stability,
6 and the City's anti-poverty strategy aims to ensure that the City and its partners are
7 marshaling its limited resources in an effective and coordinated way to create economic
8 opportunities in San Francisco's low-income communities.

9 (p) The City has made substantial public investments in its workforce development
10 system, including CityBuild and the City's community-based partners, to create job
11 opportunities in industries such as construction, which are vital to the economic health of the
12 local economy, have a capacity to generate a significant number of jobs, are accessible to
13 low- and middle-skilled individuals, have career ladder opportunities where workers can move
14 up with additional training and skill development, and provide access to living wage and
15 family-sustaining jobs.

16 (q) City-funded construction projects provide a crucial opportunity to connect
17 participants in these City-funded or City-operated workforce development programs with
18 employment and training opportunities, and to direct employment and training opportunities
19 created by the City's public expenditures.

20 (r) The City and the San Francisco Redevelopment Agency have made substantial
21 public investments toward creating and facilitating growth in economic opportunities for
22 low-income individuals and neighborhoods in San Francisco.

23 (s) CityBuild, San Francisco's construction training workforce program, was initiated in
24 2005 to serve as a training vehicle for ushering disadvantaged workers into the construction
25 skilled trades. The program is a multi-craft pre-apprenticeship training program, and has

1 assisted over 450 graduates, into union-sponsored apprentice programs. CityBuild, in
2 2009-2010, contributed approximately 44 percent of all new San Francisco resident
3 apprentice intakes based on data provided by the California Department of Industrial
4 Relations, Division of Apprenticeship Standards. San Francisco's workforce construction
5 training infrastructure has the capacity to meet future demand for high quality and well trained
6 workers in the construction trades.

7 (t) Employment of workers that reside close to job sites has environmental benefits,
8 including reducing the distance of commutes and resulting vehicle emissions. These
9 environmental benefits are consistent with the mandates, policies and goals of the California
10 Global Warming Solutions Act (AB 32), the Sustainable Communities and Climate Protection
11 Act (SB 375), and the Climate Action Plan for San Francisco.

12 (u) The Board seeks terms and conditions that advance the City's workforce and
13 community development goals, removing obstacles that may have historically limited the full
14 employment of local residents on the wide array of opportunities created by public works
15 projects, curbing spiraling unemployment, population decline, and reduction in the number of
16 local businesses located in the City, eroding property values and depleting San Francisco's
17 tax base.

18 (v) A local hiring policy is necessary to counteract these grave economic and social ills.

19 (w) The San Francisco Local Hiring Policy for Construction 2012-2013 Annual Report shows
20 that the Policy has proven to be a highly effective tool in guaranteeing good-paying jobs for Local
21 Residents on Covered Projects, which includes public works construction projects completed under city
22 contracts.

23 (x) The 2012-2013 Annual Report is evidence that a true partnership between the City,
24 CityBuild and its community-based partners, contractors, labor organizations, and state-certified
25

1 apprenticeship programs has increased local hiring on projects covered by the Policy by an average of
2 35% as of 2013. This compares to an average of 20% under the "good faith efforts" policy it replaced.

3 (y) The City has a proprietary interest in the construction contracts it issues, and also has a
4 proprietary interest in the leases and development agreements that it enters that all allow for
5 construction on city-owned property.

6 (z) Expanding the Policy to include construction projects on city-owned property promotes an
7 equitable share of job opportunities for San Francisco residents to pursue a career in construction; and
8 provides the opportunity for the use of state-certified apprenticeships that expands the local
9 construction workforce pipeline to support the continued success of local hiring on public works
10 projects.

11 * * * *

12 **(3) Coverage.**

13 **(a) Threshold for Public Work and Improvement Projects and Projects Constructed**
14 **On Property Owned by the City.** For purposes of subsection 6.22(G) only, this This Policy applies to
15 (i) contracts issued by the City with prime contractors for public works or improvements
16 estimated to cost in excess of the Threshold Amount set forth in Section 6.1 of this Chapter,
17 as that amount may be amended and/or (ii) to all construction projects on property owned by the
18 City that are estimated to cost in excess of the Threshold Amount set forth in Section 6.1 of this
19 Chapter, as that amount may be amended, including construction contracts that are issued by an entity
20 or individual other than the City. All grant agreements, leases, development agreements and other
21 contracts that the City enters that allow for such construction projects on property owned by the City
22 must contain a provision that such construction shall comply with this Policy.

23 **(b) Projects Constructed Outside the City.** Covered City projects Projects constructed
24 within 70 miles from the jurisdictional boundary of the City and County of San Francisco shall
25 be governed by the terms of this Policy, except that percentage requirements shall apply in

1 proportion to the City's actual cost after reimbursement from non-City sources compared to
2 the total cost of the project. Covered City projects constructed 70 miles or more beyond the
3 jurisdictional boundary of the City and County of San Francisco shall be subject to this Policy,
4 except the "local" requirement shall include San Francisco residents, workers local to the area
5 where the work is located, and workers residing within the region where the work is located.
6 Awarding departments shall work with OEWD and regional local hiring programs to comply.

7 **(c) Projects Utilizing Federal or State Funds.**

8 **(i) Segregation of Funds and Contract Awards.** Where the application of this Policy
9 would violate federal or state law, or would be inconsistent with the terms or conditions of a
10 grant or a contract with an agency of the United States or the State of California, the City
11 department or agency receiving the grant or contract shall, where administratively feasible,
12 segregate federal or state funds from City funds, and/or segregate project administration and
13 contracts, so as to maximize application of this Policy to City-funded construction work.

14 **(ii) Alternative Terms in Case of Conflict.** Where the provisions of this Policy would
15 be prohibited by Federal or State law, or where the application of this Policy would violate or
16 be inconsistent with the terms or conditions of a grant or a contract with an agency of the
17 United States or the State of California, and where segregation of funds pursuant to
18 subsection 6.22(G)(3)(c)(i) is not administratively feasible with regard to some or all of the
19 project in question, then OEWD, in consultation with the awarding department, shall adapt
20 requirements of this Policy into a set of contract provisions that advance the purposes of this
21 Policy to the maximum extent feasible without conflicting with federal or state law or with
22 terms or conditions of the State or Federal grant or contract in question. The awarding
23 department shall include this set of contract provisions in the public works or improvement
24 contract with regard to the project or portions of the project for which this Policy would conflict
25 with Federal or State requirements.

1 (d) **Out-of-State Workers.** Project work hours performed by residents of states other
2 than California shall not be considered in calculation of the number of project work hours to
3 which the local hiring requirements apply. Contractors and subcontractors shall report to
4 awarding departments and OEWD the number of project work hours performed by residents
5 of states other than California.

6 * * * *

7 (8) **Miscellaneous**

8 * * * *

9 (d) **Effective Date, Operative Date, and Prospective Application.** This Policy shall become
10 effective upon the date of its enactment and shall apply to covered projects first advertised for
11 bids by awarding departments more than sixty (60) days after such date. The amendment to the
12 Policy shall become operative sixty (60) days after the effective date of the ordinance enacting the
13 amendment. The amendment to include construction projects on property owned by the City is
14 intended to have prospective effect only, and shall not be interpreted to impair the obligations of any
15 pre-existing grant agreement, lease, development agreement or other contract entered into by the City.
16 Notwithstanding the prior sentence, the amendment to the Policy shall apply to pre-existing grant
17 agreements, leases, development agreements, or other contracts amended on or after the operative
18 date. The amendment to include construction projects on property owned by the City shall apply grant
19 agreements, leases, development agreements and other contracts entered into by the City on or after
20 the operative date.

21 * * * *

22 Section 2. The Administrative Code is hereby amended by revising Section 6.22(E),
23 to read as follows:

24 **SEC. 6.22. PUBLIC WORK CONSTRUCTION CONTRACT TERMS AND WORKING**
25 **CONDITIONS.**

1 * * * *

2 (E) **Prevailing Wages.**

3 (1) **Generally.** All contractors and subcontractors performing a public work or
4 improvement for the City and County of San Francisco shall pay its workers on such projects
5 the prevailing rate of wages as provided below. For the purpose of prevailing wage
6 requirements only, the definition of a public work shall include those public works or
7 improvements defined in the foregoing section 6.1 of this Chapter and shall also include (a)
8 any trade work performed at any stage of construction (including preconstruction work) and
9 (b) any public work paid for by the City and County of San Francisco with "the equivalent of
10 money" under the meaning of Labor Code section 1720(b).

11 (2) **Additional Projects Included Within Definition of "Public Work or Improvement" for**
12 **Purposes of Prevailing Wages.**

13 ~~(2)~~ **(a) Leased Property Included.** For the limited purposes of this subsection 6.22(E),
14 a "public work or improvement" also means and includes any construction work done under
15 private contract when all of the following conditions exist:

16 ~~(a)~~ **(i)** The construction contract is between private persons; and

17 ~~(b)~~ **(ii)** The property subject to the construction contract is privately owned, but upon
18 completion of the construction work will be leased to the City and County of San Francisco for
19 its use; and

20 ~~(c)~~ **(iii)** Either of the following conditions exist: (1) The lease agreement between the
21 lessor and the City and County of San Francisco, as lessee, is entered into prior to the
22 construction contract, or (2) The construction work is performed according to the plans,
23 specifications, or criteria furnished by the City and County of San Francisco, and the lease
24 agreement between the lessor and the City and County of San Francisco as lessee, is
25 entered into during, or upon completion, of the construction work.

1 **(b)** For the limited purposes of this subsection 6.22(E), a "public work or improvement"
2 also means and includes any construction work on property owned by the City that is estimated to cost
3 in excess of the Threshold Amount set forth in Section 6.1 of this Chapter, as that amount may be
4 amended, including construction contracts that are issued by an entity or individual other than the City.
5 This subsection 6.22(E)(2)(b) is intended to have prospective effect only, and shall not be interpreted to
6 impair the obligations of any pre-existing grant agreement, lease, development agreement or other
7 contract entered into by the City. Notwithstanding the prior sentence, this subsection shall apply to
8 pre-existing grant agreements, leases, development agreements, or other contracts amended on or after
9 the operative date. The subsection shall apply to grant agreements, leases, development agreements
10 and other contracts entered into by the City on or after the operative date. All grant agreements,
11 leases, development agreements and other contracts which allow for such construction on property
12 owned by the City that the City enters after the operative date of the subsection must contain a
13 provision that such construction shall comply with this subsection.

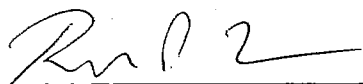
14 * * * *

15 **Section 3. Effective Date and Operative Date.** This ordinance shall become effective
16 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
17 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
18 or the Board of Supervisors overrides the Mayor's veto of the ordinance. The ordinance shall
19 become operative sixty (60) days after the effective date.

20
21 **Section 4. 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 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: 
7 RONALD P. FLYNN
8 Deputy City Attorney

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
n:\egana\as2013\1400222\00894429.doc

LEGISLATIVE DIGEST

[Administrative Code - Local Hire and Prevailing Wages for Construction Projects on City-Owned Property]

Ordinance amending the Administrative Code to provide that the City's Local Hiring Policy and Payment of Prevailing Wages apply to construction projects on property owned by the City.

Existing Law

Local Hire

The San Francisco Local Hire Policy for Construction ("Policy") was approved on December 23, 2010. The Policy requires that each City public works contract in excess of the Threshold Amount (currently \$400,000) issued by the City includes the requirement that the contractor hire local residents at a specific percentage of each trade (currently 30%) to the exclusion of other California residents. The Policy does not affect the ability of a contractor to hire non-California residents, even if the contractor ends up with a workforce consisting entirely of out-of-state workers.

Prevailing Wages

The San Francisco Prevailing Wage law requires that each public works contract issued by the City requires all contractors and subcontractors performing a public work or improvement for the City to pay its workers on the prevailing rate of wages. The San Francisco Prevailing Wage law applies to public works projects, as defined by our Administrative Code, trade work performed at any stage of construction (including preconstruction work), to construction paid for by the City with "the equivalent of money," and to certain projects on private property where the City leases the property with the intent to use the property for City purposes.

Amendments to Current Law

Local Hire

As to Local Hire, the amendment would expand the class of construction projects ("Covered Projects") beyond those included in the current Policy (which is limited to construction contracts entered into by the City that are larger than the Threshold Amount). The definition of Covered Project would be expanded to include all construction projects on property owned by the City that are larger than the Threshold Amount, including construction contracts that are issued by an entity or individual other than the City.

All grants, agreements, leases, development agreements and other contracts entered into by the City that allow for construction projects that cost in excess of the Threshold Amount (currently \$400,000) on property owned by the City would be required to contain a provision that such construction comply with the Policy, and hire the specified percentage of local residents.

The amendment would apply only to construction projects to be done under new grants, agreements, leases, development deals and other contracts. It would not apply to existing grants, agreements, leases, development deals and other contracts, unless those agreements are amended on or after the amendment becomes operative. Accordingly, construction that takes place in the future under existing grants, agreements, leases, development deals and other contracts would not be required to comply with the Policy.

Prevailing Wages

As to Prevailing Wages, the amendment would expand the requirement for payment of prevailing wages to include construction that take place on property owned by the City for projects that cost in excess of the Threshold Amount. The amendment would be prospective only.

Background Information

The Local Policy currently applies only to contracts that are issued by the City. As to those contracts, The San Francisco Local Hiring Policy for Construction 2012-2013 Annual Report shows that the Policy has proven to be a highly effective tool in guaranteeing good-paying jobs for Local Residents on Covered Projects, which includes public works construction projects completed under city contracts.

The 2012-2013 Report is evidence that a true partnership between the City, CityBuild and its community-based partners, contractors, labor organizations, and state-certified apprenticeship programs has increased local hiring on projects covered by the Policy by an average of 35% as of 2013. This compares to an average of 20% under the "good faith efforts" policy it replaced.

The City has a proprietary interest in the construction contracts it issues, and also has a proprietary interest in the leases and development agreements that it enters that all allow for construction on city-owned property.

The amendment would expand the category of construction projects, that cost in excess of the Threshold Amount, to include the construction that takes place on city-owned property where

FILE NO. 140151

the City authorizes that construction under a grant agreement, lease, development agreement, or other contract.

Expanding the Policy to include construction projects on city-owned property promotes an equitable share of job opportunities for San Francisco residents to pursue a career in construction; and provides the opportunity for the use state-certified apprenticeship that expands the local construction workforce pipeline to support the continued success of local hiring on public works projects.

Similarly, projects that are in excess of the Threshold Amount that take place on property owned by the City would require the payment of prevailing wages to promote the payment of a living wage in the construction field.

1400222\00893414

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Committee Clerk

DATE: March 4, 2014

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors Budget and Finance Committee has received the following, which are being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File: 140150

Ordinance amending the Administrative Code to add First Source Hiring requirements for developers applying for permits for commercial or residential projects to disclose to the City anticipated entry and apprentice level positions for development projects, anticipated local hires, and anticipated wages; and agree to hiring and retention goals for apprentice level positions.

File: 140151

Ordinance amending the Administrative Code to provide that the City's Local Hiring Policy and Payment of Prevailing Wages apply to construction projects on property owned by the City and County of San Francisco.

Please return this cover sheet with the Commission's response to **Linda Wong, Committee Clerk, Budget and Finance Committee.**

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
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 [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) 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 a Imperative

Sponsor(s):

John Avalos, London Breed, David Campos, David Chiu, Jane Kim, Eric Mar, Scott Wiener, Norman Yee

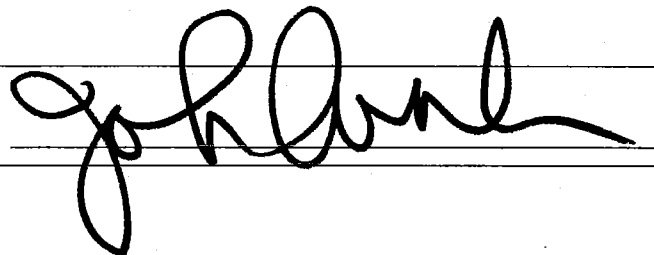
Subject:

Ordinance Requiring Local Hire and Prevailing Wages for Construction Projects on City-Owned Property.

The text is listed below or attached:

[Empty box for text listing]

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

140151

