

1 [Revision of the recourse hearing procedures for public work prevailing wage violations.]

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3 **Ordinance amending subsection 6.22(E)(8)(c) to revise the recourse hearing**
4 **procedures for contractors challenging forfeitures for prevailing wage violations on**
5 **public work projects.**

6 Note: Additions are single-underline italics Times New Roman;
7 deletions are ~~strikethrough italics Times New Roman~~.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The San Francisco Administrative Code is hereby amended by amending
11 Subsection 6.22(E)(8)(c), to read as follows:

12 **(c) Recourse Procedure.** If the contractor or subcontractor disagrees with the forfeiture
13 as so provided in the foregoing subparagraph (b), then ~~within fifteen working days of the date of~~
14 ~~the notification as provided for above, the contractor or subcontractor may request a hearing. before~~
15 ~~the City Administrator. the following procedure applies: The City Administrator, or his/her/designee,~~
16 ~~shall consider the evidence provided by the contractor or subcontractor and the responsible~~
17 ~~department head and/or the Labor Standards Enforcement Officer. The hearing shall occur within~~
18 ~~forty five days of the request, unless all parties agree to an extended period. The determination of the~~
19 ~~City Administrator, or his/her designee, shall be final. The contractor or subcontractor may appeal~~
20 ~~such determination only by action at law for breach of contract. (i) The contractor or subcontractor~~
21 ~~may request a hearing in writing within 15 days of the date of the notification of forfeiture. The request~~
22 ~~shall be directed to the City Controller. Failure by the contractor or subcontractor to submit a timely,~~
23 ~~written request for a hearing shall constitute concession to the assessment and the forfeiture shall be~~
24 ~~deemed final; (ii) Within 15 days of receiving a proper request, the Controller shall appoint a hearing~~
25 ~~officer with knowledge and not less than five years' experience in labor law, prevailing wage, and/or~~

1 wage and hour issues, and shall so advise the enforcing official and the contractor or subcontractor,
2 and/or their respective counsel or authorized representative; (iv) The hearing officer shall be
3 responsible for all communications between the parties; (v) The hearing officer shall promptly set a
4 date for a hearing. The hearing must occur within 45 days of the notification of the appointment of the
5 hearing officer unless all parties agree to an extended period; (v) The contractor or subcontractor shall
6 have the burden of proving that the basis for the backwage and penalty assessment is incorrect; (vi) If
7 the hearing officer seeks to resolve a preliminary or procedural matter prior to the hearing, the hearing
8 officer shall do so expeditiously and shall issue a decision on such matter not later than ten days from
9 the date the preliminary issue is raised; (vii) Within 30 days of the hearing, the hearing officer shall
10 issue a written decision affirming, modifying, or dismissing the assessment. The decision of the hearing
11 officer shall consist of findings and a determination. The hearing officer's findings and determination
12 shall be final. If the hearing officer does not issue findings and a determination within the 30-day
13 period, then the original certification of forfeiture by the enforcing official under the foregoing section
14 6.22(E)(8)(b) shall become the final determination, effective 30 days after the date of the hearing; (viii)
15 The contractor or subcontractor may appeal the final determination only by filing in the San Francisco
16 Superior Court a petition for a writ of mandate under California Code of Civil Procedure section
17 1094.5, as it may be amended.

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APPROVED AS TO FORM:
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By: _____
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