

1 [Administrative Code - Prevailing Wages for Broadcast Services and Commercial Vehicle
2 Loading and Unloading on City Property]

3 **Ordinance amending the Administrative Code to require that prevailing wages be paid**
4 **for broadcast services work on City property and for work loading and unloading**
5 **commercial vehicles for special events on City property.**

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 *strikethrough 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.

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

12 Section 1. The Administrative Code is hereby amended by revising Section 21C.7 and
13 adding Sections 21C.9 and 21C.10, to read as follows:

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

17 * * * *

18 (b) Definitions. For purposes of this ~~Section~~Chapter 21C, the following definitions shall
19 apply to the terms used herein.

20 ***

21 "Covered Contract" shall mean an agreement between the City and a Contractor for
22 the following services: "Motor Bus Services" as defined in Section 21C.1, subject to the
23 provisions of Section 21C.1; "Janitorial Services" as defined in Section 21C.2; "Public Off-
24 Street Parking Lots, Garages, or Storage Facilities for Automobiles" as defined in Section
25 21C.3; "Theatrical Services" as defined in Section 21C.4; "Solid Waste Generated By The City

1 In Course of City Operations" as defined in Section 21C.5; "Moving Services" as defined in
2 Section 21C.6; ~~and~~ "Trade Show and Special Event Work" as defined in Section 21C.8;
3 "Broadcast Services" as defined in Section 21.C.9; and "Loading and Unloading of Commercial
4 Vehicles" as defined in Section 21C.10.

5 * * * *

6 "Permit" shall mean a permit to use City property, and shall include a permit to use a public
7 right of way, including a street or sidewalk encroachment permit or closure permit, including but not
8 limited to an ISCOTT (Interdepartmental Staff Committee on Traffic and Transportation) permit.

9
10 **SECTION 21C.9. PREVAILING RATE OF WAGES REQUIRED FOR BROADCAST**
11 **SERVICES WORKERS ON CITY PROPERTY.**

12 (a) Prevailing Wage Requirement. Every Contract, Lease, Franchise, Permit, or Agreement
13 awarded, let, issued, or granted by the City for the use of property owned by the City must require that
14 any Individual engaged in Broadcast Services on City property be paid not less than the Prevailing
15 Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private
16 employment for similar work in the area in which the Contract, Lease, Franchise, Permit, or
17 Agreement is being performed. All Contracts, Leases, Franchises, Permits, or Agreements subject to
18 this Section 21C.9 shall include a provision in which the Contractor agrees to comply with, and to
19 require Subcontractors to comply with, the obligations imposed by this Section.

20 (b) Definitions. For purposes of this Section 21C.9, the following definitions shall apply to the
21 terms used herein:

22 "Broadcast Services" shall mean the electronic capture and transmission of video, digital
23 and/or audio content for Commercial Purposes through the use of a remote production or satellite
24 truck on-location. An individual engaged in Broadcast Services includes, but is not limited to, a
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1 technical director, video controller, assistant director and stage manager, as well as individuals
2 engaged in the following functions: audio; camera; capture and playback; graphics; and utility.

3 “Commercial Purposes” shall mean an operation for profit and shall not include instances
4 where the capture and transmission of video, digital, and/or audio content is performed by or on behalf
5 of a governmental entity.

6 “Contract, Lease, Franchise, Permit, or Agreement” shall mean an agreement with the City for
7 the use of property owned by the City, but shall not include any contract, lease, franchise, permit, or
8 agreement:

9 (1) Under which the payment for Broadcast Services is less than \$2,500;

10 (2) For celebration of a marriage, domestic partnership, or similar civil union, except
11 where the capture of video, digital and/or audio content of the celebration is for a Commercial
12 Purpose;

13 (3) To engage in film production pursuant to Chapter 57 of this Code or under the
14 circumstances set forth in Section 57.7 of this Code;

15 (4) In any circumstance where application of this Section 21C.9 would be preempted by
16 federal or state law;

17 (5) For a street fair organized by and for which a permit has been issued to a nonprofit
18 entity, where the street fair is free and open to the public and does not have as a primary purpose the
19 advertising or promotion of a product or service;

20 (6) For any event that requires the payment of prevailing wage rates applicable to
21 public works projects; or

22 (7) In any circumstances where video and/or audio content is being captured solely for
23 personal use.

24 (c) **Preemption.** Nothing in this Section 21C.9 shall be interpreted or applied so as to create
25 any right, power, or duty in conflict with any federal or state law.

1 (d) Conflict with Other Sections. In the event of a conflict between this Section 21C.9 and any
2 other sections of this Chapter 21C, the other section(s) shall prevail.

3 (e) Operative Date and Application.

4 (1) This Section 21C.9 shall become operative upon the initial setting of a Prevailing
5 Rate of Wages for Broadcast Services Work by the Board of Supervisors. This initial Prevailing Rate
6 of Wages shall be set in accordance with the process established in Section 21C.7(c)(1), except the
7 Civil Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of
8 Wages no later than 120 days after the effective date of this Section 21C.9. Thereafter, the Commission
9 shall submit data as to the Prevailing Rate of Wages for Broadcast Services Work on or before the first
10 Monday in November each year in accordance with Section 21C.7(c)(1).

11 (2) This Section 21C.9 is intended to have prospective effect only, and shall not be
12 interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or
13 Agreement issued or entered into by the City. This Section shall only apply to Contracts, Leases,
14 Franchises, Permits, or Agreements issued or entered into on or after the operative date of this Section.

15 (f) Severability. If any provision or provisions of this Section 21C.9 or any application thereof
16 is held invalid, such invalidity shall not affect any other provisions or applications of the Section.

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18 **SECTION 21C.10. PREVAILING RATE OF WAGES REQUIRED FOR LOADING AND**
19 **UNLOADING COMMERCIAL VEHICLES AT SPECIAL EVENTS ON CITY PROPERTY.**

20 (a) Prevailing Wage Requirement. Every Contract, Lease, Franchise, Permit, or Agreement
21 awarded, let, issued, or granted by the City for the use of property owned by the City for a Special
22 Event must require that any Individual engaged in loading, unloading, and/or hauling of materials,
23 goods, or products into or from a Commercial Vehicle for the Special Event be paid not less than the
24 Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private
25 employment for similar work in the area in which the Contract, Lease, Franchise, Permit, or

1 Agreement is being performed. All Contracts, Leases, Franchises, Permits, or Agreements subject to
2 this Section 21C.10 shall include a provision in which the Contractor agrees to comply with, and to
3 require Subcontractors to comply with, the obligations imposed by this Section.

4 (b) Definitions. For purposes of this Section 21C.10, the following definitions shall apply to
5 the terms used herein:

6 “Commercial Vehicle” shall mean a vehicle that is used or maintained primarily for the
7 transportation of materials, goods, or products and that has a capacity to carry 1.5 tons or more.

8 “Contract, Lease, Franchise, Permit, or Agreement” shall mean either (1) or (2) as defined
9 immediately below:

10 (1) An agreement with the City for the use of property owned by the City, but shall not include
11 any contract, lease, franchise, permit, or agreement:

12 (A) For celebration of a marriage, domestic partnership, or similar civil union;

13 (B) For a Special Event to which the public has free access when the event is in a public
14 park, on a public street, or on property under the jurisdiction of the Port Commission, and the
15 advertising and promotion for the event is less than \$5,000;

16 (C) To engage in film production pursuant to Chapter 57 of this Code or under the
17 circumstances set forth in Section 57.7 of this Code;

18 (D) In any circumstance where application of this Section 21C.10 would be preempted
19 by federal or state law;

20 (E) For any Special Event where the event itself takes three hours or less;

21 (F) For any Special Event that requires the payment of prevailing wage rates
22 applicable to public works projects;

23 (G) For a street fair organized by and for which a permit has been issued to a nonprofit
24 entity, where the street fair is free and open to the public and does not have as a primary purpose the
25 advertising or promotion of a product or service; or

1 (H) For which the payment to or from the City is \$1,000 or less.

2 (2) An agreement that is to be performed at the expense of the City or to be paid out of monies
3 deposited in the City treasury, but shall not include:

4 (A) Any agreement for which the payment from the City is \$1,000 or less; or

5 (B) An Agreement where, pursuant to that Agreement, loading and unloading of
6 commercial vehicles is performed by City employees.

7 “Special Event” shall mean a temporary event on City property such as, but not limited to,
8 parades, festivals, celebrations, athletic contests, exhibitions, and street fairs, including events paid for
9 in whole or in part by City funds.

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

12 (d) **Conflict with Other Sections.** In the event of a conflict between this Section 21C.10 and any
13 other sections of this Chapter 21C, the other section(s) shall prevail.

14 (e) **Operative Date and Application.**

15 (1) This Section 21C.10 shall become operative upon the initial setting by the Board of
16 Supervisors of a Prevailing Rate of Wages for loading and unloading of Commercial Vehicles at
17 Special Events on City property. This initial Prevailing Rate of Wages shall be set in accordance with
18 the process established in Section 21C.7(c)(1), except the Civil Service Commission shall submit to the
19 Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the effective
20 date of this Section 21C.10. Thereafter, the Commission shall submit data as to the Prevailing Rate of
21 Wages for loading and unloading of Commercial Vehicles at Special Events on City property, on or
22 before the first Monday in November each year in accordance with Section 21C.7(c)(1).

23 (2) This Section 21C.10 is intended to have prospective effect only, and shall not be
24 interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or
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1 Agreement issued or entered into by the City. This Section shall only apply to Contracts, Leases,
2 Franchises, Permits, or Agreements entered into on or after the operative date of this Section.

3 (f) Severability. If any provision or provisions of this Section 21C.10 or any application
4 thereof is held invalid, such invalidity shall not affect any other provisions or applications of the
5 Section.

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7 Section 2. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance. However, as indicated in
11 Administrative Code Sections 21C.9(e) and 21C.10(e), Sections 21C.9 and 21C.10 shall
12 become operative only upon the initial setting of a Prevailing Rate of Wages for the categories
13 of work covered by those sections.

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

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 FRANCESCA GESSNER
25 Deputy City Attorney

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