

1 [Administrative Code - Prevailing Wages for Broadcast Services on City Property]

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3 **Ordinance amending the Administrative Code to require that prevailing wages be paid**
4 **for broadcast services work on City property.**

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

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

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

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

18 * * * *

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

21 * * * *

22 "Covered Contract" shall mean an agreement between the City and a Contractor for
23 the following services: "Motor Bus Services" as defined in Section 21C.1, subject to the
24 provisions of Section 21C.1; "Janitorial Services" as defined in Section 21C.2; "Public Off-
25 Street Parking Lots, Garages, or Storage Facilities for Automobiles" as defined in Section
21C.3; "Theatrical Services" as defined in Section 21C.4; "Solid Waste Generated By The City
In Course of City Operations" as defined in Section 21C.5; "Moving Services" as defined in

1 Section 21C.6; ~~and~~ "Trade Show and Special Event Work" as defined in Section 21C.8; and
2 "Broadcast Services" as defined in Section 21.C.9.

3 * * * *

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

7
8 **SECTION 21C.9. PREVAILING RATE OF WAGES REQUIRED FOR BROADCAST**
9 **SERVICES WORKERS ON CITY PROPERTY.**

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

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

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

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

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

7 (1) For any event where the total number of hours of Broadcast Services work
8 being performed for the set-up, the event itself, and the take-down is cumulatively less than 25 ten
9 hours in the aggregate:

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; provided, however, that if the film production
15 involves Broadcast Services, the requirements of this Section 21C.9 shall apply to those persons
16 engaged in Broadcast Services;

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

19 (5) For a street fair, block party, parade, or festival, or any celebration directly
20 associated with such street fair, block party, parade, or festival, or any other expressive activity such as
21 a protest, demonstration, or similar public assembly, that is free and open to the public and does not
22 have as a primary purpose the advertising or promotion of a commercial product or commercial
23 service;

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

1 (7) In any circumstances where video and/or audio content is being captured solely for
2 personal use;

3 (8) For a concert in a public park to which the public has free access;

4 (9) For any event sponsored by a nonprofit entity where the primary purpose of the
5 event is fundraising for that nonprofit entity and/or other nonprofit entities; provided, however, that
6 this exemption shall not apply if the event is a collegiate sporting event or a professional sporting
7 event. For purposes of this subsection (b)(9), "professional sporting event" means an event at which
8 athletes receive compensation for their performance;

9 (10) In any circumstance where application of this Section 21C.9 would apply to work
10 covered by a collective bargaining agreement; or

11 (11) For any event sponsored by a primary or secondary educational institution.

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

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

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

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

24 (2) This Section 21C.9 is intended to have prospective effect only, and shall not be
25 interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or

1 Agreement issued or entered into by the City. This Section shall only apply to Contracts, Leases,
2 Franchises, Permits, or Agreements issued or entered into on or after the operative date of this Section.

3 (f) Exemption. This Section 21C.9 shall not apply to Broadcast Services being performed by a
4 news service or similar entity engaged in on-the-spot broadcasting of news events that does not require
5 a Contract, Lease, Franchise, Permit, or Agreement.

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

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

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

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

24 By: _____
25 FRANCESCA GESSNER
Deputy City Attorney

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