

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.

14

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

16

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

19

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 \$15.86.~~

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

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

24 ~~(CB) (i) For Contracts and Contract Amendments with Nonprofit~~
25 ~~Corporations and public entities entered into on or after the Effective Date of the Amendment,~~

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

12 ~~———(ii) YEARS WITH PROJECTED BUDGET SHORTFALL. When submitting the~~
13 ~~annual proposed budget to the Board of Supervisors for any upcoming fiscal year in which~~
14 ~~there is a projected shortfall, the Mayor shall transmit a written report to the Clerk and to each~~
15 ~~member of the Board of Supervisors stating whether the proposed budget contains funding to~~
16 ~~pay all of the costs of the projected CPI increase for Nonprofit Corporations and public entities~~
17 ~~for the upcoming fiscal year, as well as for any prior fiscal years for which the Agency has~~
18 ~~granted a waiver. If the proposed budget does not contain sufficient funding for all of such~~
19 ~~costs, the report shall state the extent to which any portion of the CPI increase has been~~
20 ~~funded in the proposed budget and, in addition, shall set forth the basis for the Mayor's~~
21 ~~determination that no alternative funding sources or prudent reductions in City expenses were~~
22 ~~available to enable the City to pay the additional costs of the CPI increase for the upcoming~~
23 ~~fiscal year, and for any prior fiscal years for which the Agency has granted a waiver, without~~
24 ~~jeopardizing City operations.~~

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

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

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

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

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

25 _____ (i) Beginning on July 1, 2017, an hourly gross compensation of \$14.39.

1 (ii) Beginning on January 1, 2018, an hourly gross compensation of
2 \$15.86.

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

4 (iv) In order to prevent inflation from eroding the value of this rate, on
5 July 1, 2019, the hourly gross compensation rate shall increase by an amount corresponding to the
6 prior year's increase, if any, in the Consumer Price Index. Annually thereafter on July 1, the hourly
7 gross compensation in effect for the prior calendar year shall increase by an amount corresponding to
8 any prior year's increase in the Consumer Price Index.

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

17 (3) Uncompensated time off in an hourly amount that, on an annualized basis
18 for a full-time employee, equals ten (~~10~~) days per year. Such time off shall vest with the
19 Covered Employee at the end of the applicable Pay Period and may be used, at the option of
20 the Covered Employee, for sick leave for the illness of the Covered Employee or such
21 Covered Employee's spouse, domestic partner, child, parent, sibling, grandparent or
22 grandchild.

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

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

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

10
11 **SEC. 12P.4. SAN FRANCISCO INTERNATIONAL AIRPORT.**

12 The requirements of this Chapter 12P shall apply to a written agreement (including,
13 without limitation, any lease, concession, franchise or easement agreement) for the exclusive
14 use of real property that is owned by the City or of which the City has exclusive use, if such
15 property is under the jurisdiction of the San Francisco Airport Commission and the term of the
16 agreement exceeds twenty-nine ~~(29)~~ days in any calendar year, whether by single or
17 cumulative instruments. If cumulative instruments cause the term of the agreement to exceed
18 twenty-nine ~~(29)~~ days, the agreement in question shall be subject to this Article only on and
19 after the effective date of the instrument which causes the term to exceed twenty-nine ~~(29)~~
20 days. The requirements of this Chapter shall also apply to (i) any sublease or other agreement
21 allowing other parties the exclusive right to occupy or use all or any portion of the property
22 covered by the agreement and (ii) any agreement between a tenant or subtenant and any
23 other person or entity to perform services on the airport property. Contractors who have
24 agreements covered by this Section shall comply with the requirements of this Chapter insofar
25 as they have "Covered Employees." For purposes of this Section, "Covered Employee" shall

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

11
12 Section 2. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor’s veto of the ordinance.

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

23
24 Section 4. If any section, subsection, sentence, clause, phrase, or word of this Chapter
25 12P, or any application thereof to any person or circumstance, is held to be invalid or

1 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
2 affect the validity of the remaining portions or applications of the Article. The Board of
3 Supervisors hereby declares that it would have passed this Article and each and every
4 section, subsection, sentence, clause, phrase, and word not declared invalid or
5 unconstitutional without regard to whether any other portion of this Article or application
6 thereof would be subsequently declared invalid or unconstitutional.

7

8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

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11 By: _____
12 JOSHUA WHITE
13 Deputy City Attorney

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