I FILE NO. 061584

[Defining material collected for recycling to be solid waste under prevailing wage/displaced worker ordinance pertaining to City contracts for hauling of solid waste.]

Ordinance amending Administrative Code Section 21.25-5 – requiring payment of prevailing wages to workers engaged in the hauling of solid waste generated by the City in the course of City operations, and retention of such workers upon a change in contractor – to include material collected for recycling in the definition of solid waste.

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

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

Section 1. The San Francisco Administrative Code is hereby amended by amending Section 21.25-5(a) to read as follows:

Sec. 21.25-5. PREVAILING RATE OF WAGES AND WORKER RETENTION REQUIRED FOR WORKERS ENGAGED IN HAULING OF SOLID WASTE GENERATED BY THE CITY IN THE COURSE OF CITY OPERATIONS.

(a) Definitions. For purposes of this Section, the following definitions shall apply to the terms used herein.

(1) "City" shall mean the City and County of San Francisco.

(2) "Contracting Officer" shall mean any officer or employee of the City authorized to enter into a Contract on behalf of the City.

(3) "Contract" shall mean an agreement with the City for the hauling of solid waste, generated by the City in the course of City operations, to be performed at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City. For purposes of this Section, "Contract" shall not include (a) a permit issued under the Refuse Collection and Disposal Ordinance, Appendix 1 of the San Francisco Administrative Code.

Supervisors Ma, Peskin, Daly, Duffy, Mirkarimi
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11/21/2006
(4) "Contractor" shall mean any Person who submits a bid and/or enters into a Contract with the City for the hauling of solid waste generated by the City in the course of City operations.

(5) "Employee" shall mean any individual engaged in the hauling of solid waste, generated by the City in the course of City operations, for a Contractor or Subcontractor. For purposes of this Section, "Employee" shall not include a person who (a) is a managerial, supervisory, or confidential employee, including those employees who would be so defined under the Fair Labor Standards Act; or (b) does not possess or has not maintained a required occupational license.

(6) "Hauling" of solid waste shall mean collection and transport of solid waste generated by the City in the course of City operations. For purposes of this Section, "hauling" shall not include "solid waste disposal" or "disposal" as defined in Section 40192 of the California Public Resources Code.

(7) "Person" shall mean any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts, or any combination thereof.

(8) "Prevailing Rate of Wages" shall mean that rate of compensation, including fringe benefits or the matching equivalents thereof, being paid to a majority of workers engaged in the hauling of solid waste, if a majority of such workers are paid at a single rate; if there is no single rate being paid to a majority, then the prevailing rate shall be that single rate being paid to the greatest number of workers.
(9) "Solid Waste" shall mean "solid waste" as defined in Section 40191 of the California Public Resources Code and includes material collected for "recycling" as defined in Section 40180 of the California Public Resources Code.

(10) "Subcontract" shall mean any agreement under or subordinate to a prime Contract.

(11) "Subcontractor" shall mean any Person who enters into a Subcontract with a Contractor.

Section 2. The foregoing amendment to Section 21.25-5(a) of the Administrative Code shall have no force and effect until Section 21.25-5 becomes law.

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

By: [Signature]
PAUL ZAREFSKY
Deputy City Attorney
Ordinance amending Administrative Code Section 21.25-5 - requiring payment of prevailing wages to workers engaged in the hauling of solid waste generated by the City in the course of City operations, and retention of such workers upon a change in contractor - to include material collected for recycling in the definition of solid waste.

December 12, 2006  Board of Supervisors — PASSED ON FIRST READING
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

January 9, 2007  Board of Supervisors — FINALLY PASSED
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 9, 2007 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Gavin Newsom