

1 [Prevailing Wage for Janitors]

2 AMENDING PART I OF THE SAN FRANCISCO MUNICIPAL CODE (ADMINISTRATIVE  
3 CODE) BY ADDING SECTION 21.25-1 TO PROVIDE THAT CONTRACTS FOR  
4 JANITORIAL SERVICES MUST REQUIRE THAT ANY PERSON PERFORMING  
5 JANITORIAL SERVICES THEREUNDER BE PAID NOT LESS THAN THE GENERAL  
6 PREVAILING RATE OF WAGES IN PRIVATE EMPLOYMENT FOR SIMILAR WORK.

7 Note: **This entire section is new**

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

9 Section 1. Chapter 21 of the San Francisco Administrative Code is hereby amended by  
10 adding Section 21.25-1, to read as follows:

11  
12 **SEC. 21.25-1. PREVAILING RATE OF WAGES REQUIRED IN CONTRACTS**  
13 **FOR JANITORIAL SERVICES; NONPROFIT ORGANIZATIONS EXCLUSION; SMALL**  
14 **BUSINESS EXCLUSION.** Every Contract issued by the City and County of San Francisco for  
15 Janitorial Services to be performed at any facility owned or leased by the City and County of  
16 San Francisco, where such work is to be done directly under the contract awarded (a "prime  
17 contract") must require that any individual performing Janitorial Services thereunder be paid  
18 not less than the Prevailing Rate of Wages, including fringe benefits or the matching  
19 equivalents thereof, paid in private employment for similar work in the area in which the  
20 Contract is being performed, as determined by the Civil Service Commission.

21 (a) **Exclusions.** This Section shall not apply to the following:

- 22 (1) **Non-Profit Exclusion.** This Section shall not apply to a Contract where  
23 the Janitorial Services are to be performed by a non-profit organization  
24 that provides job training and work experience for disadvantaged  
25 individuals in need of such training.

1 (2) **Small Business Exclusion.** This Section shall not apply to any  
2 contracting party employing fewer than 10 employees. For purposes of  
3 this exclusion, the term "employees" excludes owner-operators and  
4 members of an owner-operator's Immediate Family.

5 (b) **Definitions.** For purposes of this Section, the following definitions shall apply  
6 to the terms used herein:

7 (1) "Contract" shall mean an agreement for Janitorial Services to be  
8 performed at the expense of the City and County of San Francisco or to  
9 be paid out of moneys deposited in the treasury or out of trust moneys  
10 under the control or collected by the City and County of San Francisco,  
11 and does not include property contracts, contracts for the sale of goods,  
12 subcontracts, contracts issued by the San Francisco Airport Commission  
13 or to be performed at any facility owned, leased or otherwise under the  
14 jurisdiction of the San Francisco Airport Commission, agreements  
15 entered into before the effective date of this Section, or contracts for a  
16 cumulative amount of \$10,000 or less per janitorial service provider in  
17 each fiscal year.

18 (2) "Contracting Officer" shall mean any officer or employee of the City and  
19 County of San Francisco authorized to enter into a Contract on behalf of  
20 the City and County of San Francisco.

21 (3) "Contractor" shall mean any Person who submits a bid and/or enters into  
22 a Contract with the City and County of San Francisco.

23 (4) "Immediate Family" shall mean grandparents, grandchildren, parents,  
24 children, brothers and sisters, spouses and domestic partners, nieces  
25 and nephews, and aunts and uncles.

1 (5) "Janitorial Services" shall mean maintenance and cleaning services on  
2 property owned or leased by the City and County of San Francisco.

3 (6) "Person" shall include any individual, firm, proprietorship, partnership,  
4 corporation or combination thereof.

5 (7) "Prevailing Rate of Wages" shall mean that rate of compensation being  
6 paid to a majority of workers engaged in a specified category of personal  
7 services, if a majority of such workers be paid at a single rate; if there be  
8 no single rate being paid to a majority, then the prevailing rate shall be  
9 that single rate being paid the greatest number of workers.

10 (8) "Subcontract" shall mean and include any agreement under or  
11 subordinate to a prime contract or lease.

12 (c) **Determination of Prevailing Rate of Wage.** It shall be the duty of the Board of  
13 Supervisors, from time to time and at least once during each calendar year, to fix and  
14 determine the Prevailing Rate of Wages paid in private employment in the City and County of  
15 San Francisco for Janitorial Services, including such rate of wages paid for overtime and  
16 holiday work, which said Prevailing Rate of Wages shall be fixed and determined as follows:

17 The Civil Service Commission shall furnish to the Board of Supervisors, on or before  
18 the first Monday in November of each year, data as to the Prevailing Rate of Wages for  
19 Janitorial Services as paid in private employment in the City and County of San Francisco,  
20 including wages for overtime and holiday work, and the Board of Supervisors shall, upon  
21 receipt of such data, fix and determine the Prevailing Rate of Wages for Janitorial Services as  
22 paid for similar work in the City and County of San Francisco in private employment. Such  
23 Prevailing Rate of Wages as so fixed and determined by the Board of Supervisors shall  
24 remain in force and shall be deemed to be the Prevailing Rate of Wages paid in private  
25 employment for similar work, until the same is changed by the Board of Supervisors.

1 In determining the Prevailing Rate of Wages, as provided for in this Section, the Board  
2 of Supervisors shall not be limited to the consideration of data furnished by the Civil Service  
3 Commission, but may consider such other evidence upon the subject as the Board of  
4 Supervisors shall deem proper and thereupon base its determination upon any or all of the  
5 data or evidence considered.

6 (d) **Noncompliance with Wage Provisions; Termination; Penalty.** Where the  
7 Contracting Officer determines that a Contractor for Janitorial Services may have violated the  
8 prevailing wage requirements of this Section, the Contracting Officer shall send written notice  
9 to the Contractor of the possible violation (a "violation notice"). In addition to and without  
10 prejudice to any other remedy available, the Contracting Officer may terminate the contract, in  
11 which case the Contractor shall not be entitled to any additional payment thereon unless  
12 within 30 days of receipt of the violation notice the Contractor has either (i) cured the violation  
13 or (ii) has established by documentary evidence, including but not limited to payroll records,  
14 the truth and accuracy of which is attested to by affidavit, proof of compliance with the  
15 provisions of this Section. For purposes of this Section, where a Contractor fails to pay at  
16 least the Prevailing Rate of Wages to individuals performing Janitorial Services under a  
17 Contract for Janitorial Services, the Contractor shall have "cured the violation" once the  
18 Contractor reimburses such individuals by paying each individual the balance of what he or  
19 she should have earned in accordance with the requirements of this Section. In addition to, or  
20 instead of terminating the contract, where the Contracting Officer finds that the Contractor has  
21 willfully violated the requirements of this Section, the Contracting Officer may assess a  
22 penalty (a "willful violation penalty") in an amount not more than 10 percent of the dollar  
23 amount of the contract, such sums to be deposited in the fund out of which the Contract is  
24 awarded. The Contracting Officer may impose such willful violation penalty regardless of  
25 whether the Contractor has cured the violation.

1 (e) **Collective Bargaining Agreements.** Notwithstanding anything to the contrary  
2 in this Section, if a Contract for Janitorial Services conflicts with an existing collective  
3 bargaining agreement to which a Contractor is a party, the collective bargaining agreement  
4 shall prevail. However, the Contractor will be obligated to make good faith efforts to comply  
5 with the requirements of its Contract for Janitorial Services that do not conflict with the  
6 collective bargaining agreement.

7 (f) **Preemption.** Nothing in this Section shall be interpreted or applied so as to  
8 create any power or duty in conflict with any federal or state law.

9 (g) **Effective Date and Application.** This Section shall become effective 30 days  
10 after it is enacted, is intended to have prospective effect only, and shall not be interpreted to  
11 impair the obligations of any pre-existing agreement to which the City is a party, unless such  
12 pre-existing agreement has been amended after the effective date of this Section.

13 (h) **Severability.** If any part or provision of this Section, or the application thereof to  
14 any Person or circumstance, is held invalid, the remainder of this Section, including the  
15 application of such part or provisions to other Persons or circumstances, shall not be affected  
16 thereby and shall continue in full force and effect. To this end, the provisions of this Section  
17 are severable.

18  
19 APPROVED AS TO FORM:

20 LOUISE H. RENNE, City Attorney

21  
22 By: Mario M. Kashou  
23 MARIO M. KASHOU  
24 Deputy City Attorney  
25

SUPERVISOR YEE  
BOARD OF SUPERVISORS



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 990877

**Date Passed:**

Ordinance amending Administrative Code by adding Section 21.25-1 to provide that contracts for janitorial services must require that any person performing janitorial services thereunder be paid not less than the general prevailing wages in private employment for similar work.

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July 19, 1999 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Leno, Newsom, Teng,  
Yaki, Yee

Noes: 1 - Kaufman

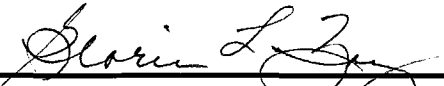
July 26, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Leno, Newsom, Teng, Yaki, Yee, Ammiano, Becerril, Bierman, Brown,  
Katz

Noes: 1 - Kaufman

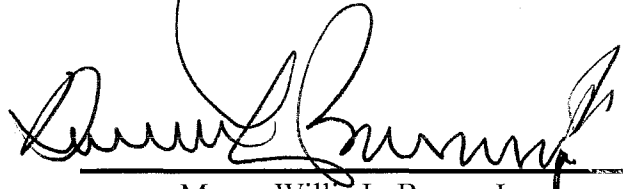
File No. 990877

I hereby certify that the foregoing Ordinance was FINALLY PASSED on July 26, 1999 by the Board of Supervisors of the City and County of San Francisco.

  
\_\_\_\_\_  
Gloria L. Young  
Clerk of the Board

AUG - 6 1999

\_\_\_\_\_  
Date Approved

  
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Mayor Willie L. Brown Jr.