Ordinance amending the Administrative Code to require prevailing wages in City contracts for security guard services and that prevailing wages be paid for security guard services at certain events on City property; and amending the Police Code to make a technical clarification regarding worker retention requirements for security guards.

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

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

Section 1. The Administrative Code is hereby amended by revising Section 21C.7 and adding Section 21C.11, to read as follows:

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

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

"Covered Contract" shall mean an agreement between the City and a Contractor for the following services: "Motor Bus Services" as defined in Section 21C.1, subject to the
provisions of Section 21C.1; "Janitorial Services" as defined in Section 21C.2; "Public Off-
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
Section 21C.6; "Trade Show and Special Event Work" as defined in Section 21C.8; and
"Broadcast Services" as defined in Section 21C.9; and "Security Guard Services" as defined in
Section 21C.11.

SEC. 21C.11. PREVAILING RATE OF WAGES FOR SECURITY GUARD SERVICES IN
CITY CONTRACTS AND FOR EVENTS ON CITY PROPERTY.

(a) Definitions. For purposes of this Section 21C.11, the following definitions shall apply:

"Event" means any organized gathering of people, including but not limited to a live
performance, dance, convention, conference, parade, or exposition on City property.

"Security Guard Services" means services to protect persons or property or prevent theft,
performed by nonsupervisory employees who are licensed by the California Bureau of Security and
Investigative Services (BSIS) or a successor agency to provide security guard or proprietary security
guard service, including but not limited to men and women serving as security guards, watchmen,
patrolmen, and security officers.

(b) City Contracts.

(1) Prevailing Wage Requirement. Every Contract issued by the City must require that
any individual performing Security Guard Services thereunder at any facility or on any property owned
or leased by the City be paid not less than the Prevailing Rate of Wages, including fringe benefits or
the matching equivalents thereof, paid in private employment for similar work in the area in which the
Contract is being performed. All Contracts subject to this Section 21C.11 shall include a provision in
which the Contractor agrees to comply with, and to require Subcontractors to comply with, the
obligations imposed by this Section.
(2) **Exclusions.** For purposes of this subsection (b), "Contract" shall mean an agreement to be performed at the expense of the City or to be paid out of moneys deposited in the City treasury or out of trust moneys under the control of or collected by the City, but shall not include the following:

(A) Contracts issued by the San Francisco Airport Commission or to be performed at any facility owned, leased, or otherwise under the jurisdiction of the San Francisco Airport Commission.

(B) Contracts for a cumulative amount of $10,000 or less per Security Guard Services provider in each fiscal year. Contracts may not be split for purposes of evading the requirements of this Section.

(c) **Events on City Property.**

(1) **Prevailing Wage Requirement.** Every Contract, Lease, Franchise, Permit, or Agreement awarded, let, issued, or granted by the City for the use of property owned by the City must require that any individual engaged in Security Guard Services for an Event on City property be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract, Lease, Franchise, Permit, or Agreement is being performed. All Contracts, Leases, Franchises, Permits, or Agreements subject to this Section 21C.11 shall include a provision in which the Contractor (including a lessee, franchisee, permittee or other party to an Agreement) agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(2) **Exclusions.** For purposes of this subsection (c), "Contract, Lease, Franchise, Permit, or Agreement" shall mean an agreement with the City for the use of property owned by the City, but shall not include any contract, lease, franchise, permit, or agreement for:

(A) Celebration of a marriage, domestic partnership, or similar civil union.
(B) The presentation of an Event to which the public has free access when the Event is in a public park, on a public street, or on property under the jurisdiction of the Port Commission, and the advertising and promotion for the Event is less than $10,000.

(C) Any permit or agreement to engage in film production pursuant to Chapter 57 of this Code or under the circumstances set forth in Section 57.7 of this Code.

(D) In any circumstance where application of this Section 21C.11 would be preempted by federal or state law, or

(E) Any Event for which the total number of employees providing Security Guard Services for the Event is less than fifteen persons.

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

(e) Operative Date and Prospective Effect.

(1) This Section 21C.11 shall become operative upon the initial setting of a Prevailing Rate of Wages for Security Guard Services by the Board of Supervisors. This initial Prevailing Rate of Wages shall be set in accordance with the process established in Section 21C.7(c)(1), except the Civil Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the effective date of this Section 21C.11. Thereafter, the Commission shall submit data as to the Prevailing Rate of Wages for Security Guard Services on or before the first Monday in November each year in accordance with Section 21C.7(c)(1).

(2) This Section 21C.11 is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or Agreement issued or entered into by the City, unless such pre-existing agreement is amended after the effective date of this Section and such amendment extends the term of the pre-existing agreement.

(f) Severability. If any part or provision of this Section 21C.11, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of
such part or provisions to other Persons or circumstances, shall not be affected thereby and shall
continue in full force and effect. To this end, the provisions of this Section are severable.

Section 2. The Police Code is hereby amended by revising Article 33C, Section
3300C.1, to read as follows:

ARTICLE 33C: DISPLACED WORKER PROTECTION

SEC. 3300C.1. DEFINITIONS.

The following definitions shall apply throughout this Article:

(a) "Awarding authority" means any person that awards or otherwise enters into
contracts for security and janitorial or building maintenance services performed within the City
and County of San Francisco, except that the City and County of San Francisco is not an
"awarding authority" under this Section with respect to City contracts for janitorial services as
defined in Administrative Code Section 21C.2 or City contracts for security guard services as
defined in Administrative Code Section 21C.11, because the worker retention requirements for
those City contracts are governed by Section 21C.7 of the Administrative Code.

* * * *

Section 3. Undertaking for the General Welfare. In enacting and implementing this
ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
is liable in money damages to any person who claims that such breach proximately caused
injury.

Section 4. Effective Date. This ordinance shall become effective 30 days after
enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
of Supervisors overrides the Mayor's veto of the ordinance. However, as indicated in Administrative Code Section 21 C.11(e), Section 21 C.11 shall become operative only upon the initial setting by the Board of Supervisors of a Prevailing Rate of Wages for the categories of work covered by that Section.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: FRANCESCA GESSNER Deputy City Attorney

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File Number: 160891  Date Passed: October 18, 2016

Ordinance amending the Administrative Code to require prevailing wages in City contracts for security guard services and that prevailing wages be paid for security guard services at certain events on City property; and amending the Police Code to make a technical clarification regarding worker retention requirements for security guards.

September 28, 2016 Budget and Finance Committee - RECOMMENDED

October 04, 2016 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

October 18, 2016 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 10/18/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board