

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.9**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Taxi and Accessible Services

**BRIEF DESCRIPTION:**

Urging the Board of Supervisors to approve an uncodified ordinance authorizing the SFMTA to include in the next contract it executes for brokerage services for the SF Paratransit Program after issuing a competitive solicitation, provisions that require payment of prevailing wages by the contractor and subcontractors for drivers, dispatchers and reservationists providing services for the SF Access Program, and transitional employment and retention for the prior contractor's employees performing such services.

**SUMMARY:**

- The current paratransit broker contract expires on June 30, 2016. The SFMTA is preparing a Request for Proposals for a new contract.
- SFMTA has prepared an uncodified ordinance, which, if approved by the Board of Supervisors, will authorize the SFMTA to require the payment of prevailing wages by the contractor and subcontractors for drivers, dispatchers and reservationists providing services for the SF Access program, as well as transitional employment and retention for the prior contractor's employees performing such services, in a new contract for paratransit services.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Uncodified Ordinance

**APPROVALS:**

**DATE**

DIRECTOR \_\_\_\_\_

9/9/15

SECRETARY \_\_\_\_\_

9/9/15

**ASSIGNED SFMTAB CALENDAR DATE:** September 15, 2015

## **PAGE 2.**

### **PURPOSE**

To urge the Board of Supervisors to approve an uncodified ordinance authorizing the SFMTA to include provisions that require payment of prevailing wages by the contractor and subcontractors for drivers, dispatchers and reservationists providing services for the SF Access Program, and transitional employment and retention for the prior contractor's employees performing such service in the next contract it executes for brokerage services for the SF Paratransit Program

### **GOAL**

The SFMTA will further the following goals of the Strategic Plan through adoption of the Prevailing Wage Ordinance.

Goal 1: Create a safer transportation experience for everyone.

Objective 1.3 Improve the safety of the transportation system.

Goal 4: Create a workplace that delivers outstanding service

Objective 4.3 Improve employee accountability

### **DESCRIPTION**

The SFMTA provides approximately 800,000 Paratransit trips per year to persons with disabilities in San Francisco. The SFMTA contracts with a paratransit broker (currently, Transdev Services Inc.) to provide these services. Under its contract with the SFMTA, the paratransit broker operates the SF Access program, which provides door-to-door, shared-ride van services for people who are unable to use Muni's accessible buses, trains, and streetcars some or all of the time due to their disability.

The current Paratransit Broker contract with Transdev will expire on June 30, 2016. The SFMTA is preparing a request for proposals (RFP) for a new paratransit broker contract, and will seek authorization to issue it from the SFMTA Board in the near future. The SFMTA Board must approve issuance of an RFP because the final contract will be over \$10 million and therefore must also be approved by the Board of Supervisors. The turnover of experienced operations staff resulting from a potential change in contractors could jeopardize the quality, efficiency, safety and cost-effectiveness of paratransit services.

The City and County of San Francisco has a prevailing wage ordinance that applies to some contracts with outside vendors; however, it does not currently apply to the contract with the vendor that operates paratransit broker services including SF Access. Following research of salaries and benefits from comparable paratransit systems and discussions with the SF Access employees, including drivers, bus aides, dispatchers, reservations and clerical staff, the current paratransit broker, Transdev, developed a comprehensive wage and benefit package with the union representing the SF Access employees that features a progressive pay scale as well as increased salaries, additional paid time off, and increases to the employer contribution for health care. During these discussions, SF

## **PAGE 3.**

Access employees expressed a desire for assurance that any future contractor will provide SF Access employees with a comparable wage and benefits package. The SFMTA wishes to be pro-active regarding a possible transition in contractors and is requesting that the Board of Supervisors approve an uncodified ordinance to authorize the SFMTA to include a requirement that the contractor and/or subcontractors that provide SF Access services pay prevailing wages, and retain the prior contractor's drivers, dispatchers, and reservationists for at least six months. Such provisions are subject to compliance with all applicable federal, state and local laws and other requirements, including, but not limited to, State licensing requirements, federal drug and alcohol testing rules, and SFMTA-required background checks.

This uncodified ordinance would ensure that the selected contractor would provide a comparable wage and benefit package as SFMTA is committed to retaining the most experienced and skilled employees for the SF Paratransit program.

This uncodified ordinance exceeds the requirements of the California Labor Code. Under California Labor Code Section 1070, if a new contractor is awarded a contract from a public transit agency to provide transportation services, the new contractor is encouraged to retain these qualified employees of the existing contractor for at least 90 days by receiving a preference of ten percent in the evaluation of its proposal. However, should the selected contractor choose to hire these employees, there is no requirement that they provide the same wages or benefits as the existing contractor. With this ordinance, we would require that all proposers offer an equivalent wage and benefit package to the current SF Access employees and retain them for at least six months.

## **PUBLIC OUTREACH**

SFMTA is in the process of drafting the Paratransit Broker RFP. The SFMTA is working with members of the Paratransit Coordinating Council, the SFMTA's advisory committee for the paratransit program, and has explained the need for a prevailing wage ordinance to be included for any successor contractor. They are supportive of this measure. The SFMTA will work to ensure that any potential proposers are made well-aware of this requirement.

## **ALTERNATIVES CONSIDERED**

The alternative would be to not include a prevailing wage and retention requirement in the Paratransit Broker RFP, which could result in current, experienced, employees not being hired by a new contractor and wages proposed by a new contractor that may not be comparable to current rates. If that were the case, it could have a detrimental effect on the ability of a new contractor to attract these experienced employees. Failure to include the requirements of the ordinance would have consequences for disabled customers using the Paratransit Services, most of whom are low income and dependent on SF Access service for regular transportation to life support services.

**PAGE 4.**

**FUNDING IMPACT**

These wages will result in a \$564,414 increase in FY17 and \$960,841 increase in FY18 from the current budget.

**ENVIRONMENTAL REVIEW**

The San Francisco Planning Department concurred with the SFMTA's determination that the uncodified prevailing wage ordinance is not a "project" for purposes of environmental review under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Section 15060(c).

The Planning Department's concurrence is on file with the Secretary to the SFMTA Board of Directors.

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The uncodified prevailing wage ordinance must be approved by the Board of Supervisors.

The City Attorney's office has reviewed this calendar item.

**RECOMMENDATION**

Staff recommends that the Board of Directors urge the Board of Supervisors to approve an uncodified ordinance authorizing the SFMTA to include provisions that require payment of prevailing wages by the contractor and subcontractors for drivers, dispatchers and reservationists providing services for the SF Access Program, and transitional employment and retention for the prior contractor's employees performing such service, in the next contract it executes for brokerage services for the SF Paratransit Program

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The SFMTA provides approximately 800,000 paratransit trips per year to persons with disabilities in San Francisco through its contract with a paratransit broker; and,

WHEREAS, Under its contract with the SFMTA, the paratransit broker operates the SF Access program, which provides door-to-door, shared-ride van services for people who are unable to use Muni's accessible buses, trains, and streetcars some or all of the time due to their disability; and,

WHEREAS, The driver, dispatchers and reservationists providing services for the SF Access program are integral to the day-to-day lives and the quality of life of paratransit customers, and the experience and expertise of these employees are invaluable to the program; and,

WHEREAS, Since the current Paratransit Broker Contract will expire on June 30, 2016, the SFMTA is preparing a request for proposals for a new paratransit broker contract; and,

WHEREAS, The SFMTA has prepared an uncodified ordinance, which, if approved by the Board of Supervisors, will authorize the SFMTA to include provisions in a new paratransit broker contract that would require the payment of prevailing wages by the contractor and subcontractors to any driver, dispatcher or reservationist providing SF Access Service, as well as transitional employment and retention for the prior contractor's employees; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors urges the Board of Supervisors to approve an uncodified ordinance authorizing the SFMTA to include provisions that require payment of prevailing wages by the contractor and subcontractors for drivers, dispatchers and reservationists providing services for the San Francisco Access Program, and transitional employment and retention for the prior contractor's employees performing such service, in the next contract it executes for brokerage services for the San Francisco Paratransit Program.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of September 15, 2015.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

FILE NO.

ORDINANCE NO.

[Contract Requirements – Paratransit SF Access Employees]

**Ordinance authorizing the Municipal Transportation Agency to include, in any contract for brokerage services for the SF Paratransit Program it executes within the next year after issuing a competitive solicitation, provisions that require the contractor and subcontractors: (1) to pay prevailing wages to drivers, dispatchers and reservationists providing services for the SF Access program, and (2) to provide transitional employment and retention to the prior contractor’s employees performing such services, subject to compliance with all applicable federal and state laws and regulations.**

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. Findings.

1. San Francisco Administrative Code Section 21C.7 requires, for certain types of contracts, that contractors pay prevailing wages to any employee performing services under the contract, and provide transitional employment and retention for the prior contractor’s employees.
2. The requirement to pay prevailing wages includes wage rates for overtime and holiday work and fringe benefits as paid for similar work performed in the City by private employers.
3. The Board of Supervisors has previously determined that the turnover of experienced workers resulting from a change in City contractors for certain types of services

FILE NO.

ORDINANCE NO.

jeopardizes the quality, efficiency and cost-effectiveness provided under the successor contract.

4. The Municipal Transportation Agency (SFMTA) intends to issue a request for proposals (RFP) for paratransit brokerage services within the next six months because the existing contract will expire on June 30, 2016.

5. Under its contract with the SFMTA, the paratransit broker operates the SF Access program, which provides door-to-door, shared-ride van services for people who are unable to use Muni's accessible buses, trains, and streetcars some or all of the time due to their disability. Because the possibility of turnover of experienced workers resulting from a potential change in contractors will jeopardize the quality, efficiency and cost-effectiveness of the SF Access program provided under a successor contract, the SFMTA is seeking authorization from the Board of Supervisors to include, in any contract for paratransit brokerage services the SFMTA executes within the next year after issuing an RFP, provisions that would require: (1) payment of prevailing wages by both the contractor and subcontractors to any individual providing driving, dispatching, or reservation services for the SF Access program under the contract; and (2) transitional employment and retention for the prior contractor's SF Access employees performing such services.

6. Similar to the requirements in Section 21.C.7 of the Administrative Code, the SFMTA intends to include, in its new contract, requirements that the successor contractor: (a) retain, for a six-month period, employees who have worked at least 15 hours per week and have been employed by the prior contractor or its subcontractors, if applicable, for the preceding 12 months; (b) retain employees of the prior contractor by seniority within job classifications if fewer employees are required to perform the new contract; (c) maintain a preferential hiring list of eligible employees that were not retained by the successor contractor; (d) not discharge any retained employee without cause; and (e) offer continued employment to retained employees, if the employee's performance is satisfactory, under the

FILE NO.

ORDINANCE NO.

terms and conditions established by the successor contractor (collectively, Retention Requirements).

7. Based on information provided by the SFMTA, the Board of Supervisors finds that the greatest number of workers providing the subject SF Access services in San Francisco are paid prevailing wages at the rates set forth in the table entitled "Wages and Benefits for SF Paratransit SF Access Service, Collective Bargaining Operating Staff" and "Wages and Benefits for SF Paratransit SF Access Service, Collective Bargaining Maintenance Staff," on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_; accordingly, the Board of Supervisors sets the prevailing wage rates for the subject workers in accordance with the rates in the table.

Section 2. The Municipal Transportation Agency is authorized to include, in any contract for paratransit brokerage services it executes within the next year after issuing an RPF, provisions that would require: (1) payment of prevailing wages by both the contractor and subcontractors to any individual providing driving, dispatching, or reservation services for the SF Access program under the contract; and (2) transitional employment and retention for the prior contractor's SF Access employees performing such services, in accordance with the Retention Requirements set forth above. Such provisions are subject to compliance with all applicable federal, state and local laws and other requirements, including, but not limited to, State licensing requirements, federal drug and alcohol testing rules, and SFMTA-required background checks.

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

By: \_\_\_\_\_  
ROBIN M. REITZES  
Deputy City Attorney

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