CITY OF OAKLAND

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City Council Rules and Legislation Committee
Oakland, California

Subject: **Proposed Charter Amendment Regarding Living Wage and Labor Peace at Port –Assisted Businesses**

Chairman Spees and Members of the Committee:

Introduction

The Council has been asked to place a proposed charter amendment on the March 5, 2002 ballot. The measure, entitled "Living Wage and Labor Peace at Port-Assisted Businesses," includes four provisions:

(1) **Living Wage**: requires that Port tenants, contractors and assignees of such contractors whose contracts exceed $50,000, pay a "living wage" of not less than $10.50 per hour without health benefits (contractors receive a credit against the living wage of up to $1.37 per hour for the average amount they expend for health benefits for employees covered by the measure.);

(2) **Preventing Worker Displacement ("Worker Retention")**: requires, with certain exceptions, that a new Port contractor, doing more than $50,000 of business with the Port of Oakland, retain for 90 days the non-management, non-supervisory employees of the Port contractor it replaces if the employees can perform the new contractor's work, and permits termination of such employees only for just cause during the 90-day period if the employees can perform the new contractor's work;

(3) **Contracting Out**: prohibits the Port from entering into any private contract for work that was performed by Port employees as of June 30, 2001, except in the case of an emergency;

(4) **Labor Peace**: requires that future Port contractors in the hospitality (e.g. hotel or motel businesses) or retail food industry, shall be or become signatory to a

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valid collective bargaining agreement or other labor contracts containing no-strike provisions with each labor organization representing or seeking to represent any of that contractor's employees on Port property, if over the term of the Port contract the Port is entitled to receive a percentage of the revenues or income of the contractor's business as rents, royalties or other income equal to at least $50,000. This requirement also applies to subcontractors, sublicensees, etc., in the hospitality or retail food industry in which the Port has a proprietary interest.

This report outlines the provisions of the proposed charter amendment, compares its provisions to the City of Oakland Living Wage Ordinance and provides the City Attorney's analysis of the legal issues pertaining to the amendment.

A copy of the proposed charter amendment is attached as Exhibit A. Attached as Exhibit B is a copy of the Port's Living Wage Ordinance which was adopted in October of this year and the Port's Quality Standards Program for Checkpoint security Screeners which was adopted by the Port Board on October 2, 2001. Exhibit C is a chart comparing the provisions of the City of Oakland Living Wage Ordinance and the proposed Charter amendment

Summary Conclusion

Preliminarily, we note that there are no cases directly on point in the state (California) or federal appellate courts (United States Court of Appeals for the Ninth Circuit) regarding the legality of the living wage, worker retention or labor peace provisions of the proposed Charter amendment. Therefore, we can not say with absolute certainty that those provisions would be upheld against a legal challenge.

Nonetheless, we believe there are strong legal arguments that support the legal validity of the living wage provision. Living wage laws have been adopted by more than 60 jurisdictions, including the City of Oakland. We are not aware of any successful challenges to such laws that could be used to invalidate the terms of the proposed charter amendment.

We also believe that there is a strong legal basis for the worker retention provisions of the proposed charter amendment. Rejecting a legal challenge, the federal Court of Appeals for the District of Columbia Circuit recently upheld a similar law passed by the District of Columbia.

There is less legal guidance regarding the labor peace provision of the proposed charter amendment. There are two decisions in the California federal district courts (Northern District of California) on somewhat similar, but not identical, labor peace provisions. Those decisions reached opposite conclusions about the validity of those laws. Because the labor peace provision in the proposed charter amendment is more similar to the law that was upheld, we believe there is a solid basis for defending the

proposed labor peace provision. We also believe the provision has been crafted in a way to minimize the bases for a successful legal challenge by addressing issues that have been raised in other cases.

The fact that the labor peace provision applies only to the Port - rather than to the entire City of Oakland's contracts - should make it easier to establish that the labor peace provision is designed to protect the Port's proprietary interests (e.g. revenues and rental income from its contractors and tenants) rather than as an impermissible regulatory activity. The Port is generally viewed as a business entity that is involved in maritime and other business/commercial activities. By contrast, the City of Oakland regularly serves the interests of its residents through the exercise of its police powers, enactment of ordinances, development of affordable housing, issuance of loans and establishment of programs and policies that protect the health, safety and welfare of its citizens.

The contracting out provision in our view is legally defensible. It gives the Port the option to contract out work in an emergency. Current Charter provisions allow the Port to contract with private parties if the contracts will not result in the loss of employment or salary by permanent civil service employees. Section 902(e) of the Charter.

If the proposed Charter amendment were adopted, and the City or Port were successfully sued in a legal challenge to its provisions, the City and/or Port could be held responsible for the costs of defense and for attorneys' fees.

Finally, we point out that it is not customary to have within the City Charter detailed provisions such as those in the proposed charter amendment. When times change and amendments to the provisions are warranted, voter approval of any amendments would be required. Nevertheless, although the proposed charter amendment could be cast as an ordinance, the measure might be declared invalid by the courts because the charter provisions would override any contrary ordinance. The provisions of the charter give the Board of Port Commissioners the exclusive authority and control over many aspects of the operations of the Port. The measure does address the issue of future changes in two ways: (1) it provides for a cost of living increase in the living wage provision; and (2) it permits the City Manager to promulgate rules and regulations pertaining to the implementation of the measure. The increases in the living wage to offset inflation are self-executing and would not require a charter amendment; nor would the establishment or amendment of rules and regulations promulgated by the City Manager require a charter amendment.

Summary of the Provisions

1. Who's Covered by the Proposed Charter Amendment? - The proposed Charter amendment applies to Port-Assisted Businesses (PABs), which are defined as any Port Contractor and any person who receives in excess of $50,000 of Port financial assistance. A Port Contractor is defined to mean a party to a Port Contract, which is defined in turn to mean "any service contract with the Port for work to be performed at the Port under which the Port is expected to pay more than $50,000 over the term of the contract; (2) any contract, lease, or license from the Port involving payment to the Port expected to exceed $50,000 either (a) over the term of the contract, lease or license, or (b) during the next 5 years if the current term is less than 1 year but may be renewed or extended, either with or without amendment; or (3) any subcontract, sublease, sublicense, management agreement or other transfer or assignment of a right, title or interest received from the Port pursuant to any of the foregoing contracts, leases or licenses." (Section 1(C).) The measure applies only to new contracts and leases and contract amendments that benefit "in any way the party dealing with the Port". (Section 1.)

2. Exemptions - Businesses with fewer than 20 employees, youth trainees and employees spending less than 25% of their time on Port-related business. (Section 2.)

3. Requirements:

a. **Living Wage:** PABs must pay their workers at least $10.50 per hour, or the wage level of the Oakland Living Wage, whichever is greater ("living wage"). The living wage adjusts annually to offset inflation. PABs may receive a credit of up to $1.37 per hour against the living wage level for health benefits payments. The $10.50 is the same as the amount currently provided under the City of Oakland Living Wage Ordinance. (Section 3(A).)

b. **Worker Retention:** A PAB that replaces a prior PAB is required to retain non-management, non-supervisory employees of the prior PAB for at least 90 days, unless just cause exists to discharge them. To qualify for retention the prior PAB's employees must have been employed for the prior PAB for at lease 90 calendar days and must be able to perform the work of the replacement PAB. A PAB replaces another PAB if (1) it assumes all or part of the lease, contract or subcontract of a prior employer or obtains a new lease contract, or sublease, and (2) offers employment which employees of the prior PAB can perform. This provision allows the PAB to operate at lower staffing levels but the PAB t must place the prior employees who are not retained on a preferential reinstatement list based on seniority. The provision also provides for merger of the seniority lists of the prior PAB's employees and the

replacement PAB's employees when the replacement PAB relocates from another location. (Section 5 (A).)

c. **Contracting Out:** Except in the case of emergency the Port is prohibited from contracting out work that Port employees performed as of June 30, 2001. This provision would limit the Port's ability to contract out. The current charter provision allows contracting out so long as the contract does not result in loss of employment or salary to permanent civil service employees. (Section 5(B).)

d. **Labor Peace:** PABs in the hospitality and retail food industries which have contracts in which the Port has a "proprietary interest" (at a minimum, the Port receives a percentage of the employer's income or profits) are required to "be or become a signatory to a valid collective bargaining agreement or other contracts under 22 USC section 185(a) with any labor organization representing or seeking to represent any of the PAB's employees on Port property". Such agreement must contain a no-strike pledge that lasts for five years or the length of the Port's proprietary interest, whichever is less. The labor peace requirements also apply to any work that will be done by any PAB's "contractors, subcontractors, tenants or subtenants, licensees or sublicensees in the hospitality and retail food industry that are likely to impact the Port's proprietary interest". The PAB is relieved of this duty if an arbitrator finds that a union is placing unreasonable conditions upon its no-strike pledge, or that the Port lacks a proprietary interest, or that the proposed agreement is otherwise unlawful. Proprietary interest is defined to mean "at a minimum that the Port be entitled to receive as rents, royalties or other income a percentage of the revenues of a business; and that such amounts are expected to be at least $50,000 over the duration of the contract, lease of license." (Section 6.)

4. **Enforcement:**

a. PAB Reporting and Notification Requirements:

(1) The PAB is required to maintain records documenting the name, pay rate and health benefit payments for each person in Port-related employment and the PAB is required to submit such records to the Port by the end of each quarter of the calendar year. There is an exception to the quarterly reporting requirement for businesses that employed fewer than 20 persons during the preceding calendar quarter; such businesses' reports are due at the end of the calendar year. (Section 4.)

(2) The PAB must notify each current employee and new employee at their time of hire of rights under the charter amendment and of the possible right to federal Earned Income Credit under the federal tax laws if the employee makes less than $12.00 per hour.

(3) The PAB must permit access to its work sites and relevant payroll records for Port representatives to monitor compliance with the provisions of the charter amendment, and to investigate complaints and evaluate the operation and effects of the provisions.

(4) The PAB must produce to Port representatives, upon request, for inspection and copying, its payroll records for all persons employed by the PAB

(5) The PAB must permit a representative of the labor organizations in its industry to have access to its workforce at the Port during non-working time and in non-work areas for the purpose of ensuring compliance with the provisions of this charter amendment.

b. Right of PAB Employee to Sue PAB in Court to Enforce Provisions:

The Charter amendment creates a private right of action in the Superior Court against the PAB to enforce the provisions of this Charter amendment. No cause of action is available against the Port. Upon proof of a violation, the PAB employee is entitled to treble the amount of the employee's daily compensation and fringe benefits, plus interest and consequential damages. Attorneys' fees, witness fees and costs are awarded if the employee prevails in the enforcement action.

5. Other

a. Severability Clause: The proposed Charter amendment includes a clause which provides that if any provision of the measure is held invalid or declared illegal by a court, the remaining provisions shall remain in full force and effect. This provision allows a court to reform or amend the provisions or portions of the provisions to insure compliance with applicable law.

b. The Port Cannot Waive the Provisions, But the Provisions Are Inapplicable to the Extent Port Would Lose Federal or State Funding

The measure does not apply if its application would cause the Port to lose state or federal funding.

c. No Retaliation or Discrimination:

The proposed Charter amendment prohibits retaliation and discrimination against an employee who complains about noncompliance by a PAB.

d. City Manager's right to issue rules and regulations:

The proposed charter amendment allows the City Manager to promulgate rules and regulations pertaining to the proposed charter amendment. These rules and regulations would be used by the Port in reviewing contracts, to insure compliance with the charter amendment and for purposes of the Port's monitoring and review of violations of the proposed charter amendment.

Analysis

I. Charter Amendment vs. Ordinance; Single Subject Rule

The existing Charter provisions concerning the Port Department make it self-governing except as to certain issues on which City policies govern. (Article VII of the Oakland City Charter.) Section 706 enumerates the complete and exclusive powers of the Board of Port Commissioners. For that reason, an ordinance enacted by the voters could be superseded by the Charter powers granted to the Port Board. Although it is not customary to place in the Charter detailed provisions such as those proposed in the measure, a charter amendment is the only means to insure that the Port would be subject to the measure. For example, the Port is not subject to the City's Living Wage Ordinance.

If the Council declines to put the measure on the ballot, proponents could place it on the ballot by collecting signatures from 15% of the voters.

The State Constitutional provisions and statutes concerning amendment of local charters do not expressly limit each proposed amendment to a single subject. (Article XI section 3.) According to the League of California Cities Municipal Law Handbook, 2000 Edition, Section III-25, most city attorneys have advised local officials that local initiatives are not governed by the single-subject rule that applies to statewide initiatives. The single subject rule is contained in a separate provision of the state constitution that provides for statewide initiatives (Article II section 8(d).) Article XI section 3 gives local voters the power to approve or amend their charter and the Legislature did not include in that provision a single-subject limit as it did elsewhere in the Constitution for statewide matters. (Article II section 11 and Article IV section 9.)

The California Attorney General has approved the practice of placing several charter amendments before the voters in one proposal. The Attorney General opined:

> "Extensive revisions of an existing city charter may be placed before the electorate as proposed amendments under Constitution, Article XI, section 8, subdivision (h) without going through the freeholder procedure provided for new charter proposals. The revisions may be in the form of a single proposal or broken into several individual proposals. Both types of proposals may appear on the same ballot, even though one may be included within the other". (58 Ops. Cal. AG 208, 209 (Oct. 24, 1969.)

The Attorney General concluded that statewide initiatives are governed by different authorities and are distinguishable because they are authorized under a different article of the state constitution than the provision that applies to city charter amendments.

Even if a single subject limit were applied to a city charter amendment, we believe the provisions of the proposal are sufficiently interrelated to pass muster under the approach traditionally used by the California courts in applying the single subject rule. The courts have found it permissible to combine distinct measures into one, as long as there is some logical thread or interrelationship between them. Only recently has the California Supreme Court upheld a single subject challenge to a state initiative. In Senate v. Jones, 21 Cal.4th 1142, 1157 (1999), the court rejected Proposition 24 which included legislative salaries and reapportionment. The Court determined that that there was an insufficient connection between the two provisions where the proponents argued the link was "legislative self-interest", despite the fact that salaries were set by an independent commission appointed by the Governor. The Jones Court explained the test set by prior cases:

> "In the past we have upheld a variety of initiative measures in the face of a single-subject challenge, emphasizing that the initiative process occupies an important and favored status in the California constitutional scheme and that the single-subject requirement should not be interpreted in an unduly narrow or restrictive fashion that would preclude the use of the initiative process to accomplish comprehensive, broad-based reform in a particular area of public concern [citations omitted]. In articulating the proper standard to guide analysis in this context, the governing decisions establish that 'an initiative measure does not violate the single subject requirement if, despite its varied collateral effects, all of its parts are reasonably germane to each other, and to the general purpose or object of the initiative.' [citations omitted] As we recently have explained, 'the single subject provision does not require that each of the provisions of a measure effectively interlock in a functional relationship [citation omitted]. It is enough that the various provisions are reasonably related to a common theme or purpose." 21 Cal. 4th at 1157.

II. Charter Amendment Provisions

A. Executive Summary

The proposed charter amendment contains three main substantive provisions that raise legal issues: a "living wage" requirement (Section 3), a "worker retention" requirement (Section 5), and a "labor peace" provision (Section 6). We believe there is no controversy about the legal validity of the fourth provision, which limits contracting out by the Port to emergency situations if the type of work to be contracted was performed by Port employees as of June 30, 2001. Accordingly, we do not address that provision in our analysis.

There is no controlling precedent from the Ninth Circuit or the California appellate courts regarding the legality of living wage, worker retention, or labor peace provisions, so any conclusions must necessarily be circumscribed. However, as we explain in more detail below, there is a strong basis for believing that the living wage and worker retention provisions would survive legal challenge. Living wage laws have been adopted by more than 60 jurisdictions, including Oakland, and we are not aware of any successful challenges to these laws that would have application to the living wage provision in the proposed charter amendment. There is a pending lawsuit that challenges a living wage ordinance recently adopted by the City of Berkeley, but the living wage provision of the proposed charter amendment does not include the features of the Berkeley ordinance that are the focus of that pending legal challenge.

There also is a strong basis for believing that the worker retention provision of the charter amendment would survive legal challenge. A very similar law passed by the District of Columbia was upheld by the United States Court of Appeals for the District of Columbia Circuit.

It is more difficult to predict the outcome of any legal challenge to the labor peace provision because there is little appellate authority addressing analogous laws. There are two decisions on somewhat similar labor peace ordinances by the United States District Court for the Northern District of California and they reached opposite conclusions about the validity of the ordinances they reviewed. We believe that the provision in the proposed charter amendment is closer to the ordinance that was upheld because of its similarly close nexus between the labor peace requirement and protection of the Port's proprietary interests. Accordingly, the City would have a solid basis for defending the labor peace provision.

The Council may wish to consider making findings about the proprietary interests that support the labor peace requirement so that they can be relied upon if a legal challenge is brought.

B. Legal Issues

A number of possible legal challenges would apply equally to all three provisions of the Charter Amendment. First, a challenge could assert that imposing labor-related requirements on businesses that contract with (or receive financial assistance from) the Port, but not on other businesses, violates the Equal Protection Clause. In order to uphold economic legislation such as the Charter Amendment against such a challenge, however, a court would merely need to find that applying these requirements only to Port-Assisted Businesses (PABs) has a rational relationship to some legitimate state interest. See Pennell v. City of San Jose, 485 U. S. 1, 14 (1987). Because PABs receive substantial benefits from their presence in and/or relationship with the Port, and because the Port's financial health is dependent in part upon the success of these businesses, the Charter Amendment could easily pass such a deferential legal test.

Second, the Charter Amendment could be challenged as violating the "dormant" Commerce Clause, which prohibits state and local legislation that discriminates against out-of-state businesses. The clause allows even-handed regulation to have incidental effects on out-of-state commerce as long as the burden imposed is not "clearly excessive in relation to the putative local benefits." Air Transport Ass'n of Am. v. City and county of San Francisco, 992 F. Supp. 1149, 1161, 1164 (N.D. Cal. 1998), *aff'd and remanded*, 266 F.3d 1064 (9th Cir. 2001). Under this clause, a city or state may "impose burdens on commerce within the market in which it is a participant," as long as it does not "exert a substantial regulatory effect outside that particular market." South-charter amendment does not appear to raise any serious Commerce Clause concerns, because it makes no distinction between in-state and out-of-state businesses and applies only to employees engaged "in Port-related employment." (Section 1(D).) Therefore, it is analogous to portions of an anti-discrimination ordinance that were recently upheld by the Ninth Circuit. See Air Transport Ass'n, 992 F. Supp. at 1163-65 (upholding application of anti-discrimination ordinance to contractors working in San Francisco, for the City and County of San Francisco, or operating elsewhere in California).

Third, an affected business could argue that the charter amendment is preempted by the National Labor Relations Act (NLRA) and/or the Railway Labor Act (RLA) (which applies to railroads and airlines). The same standard applies to NLRA and RLA preemption claims, but the nature and analysis of the preemption argument would differ for each of the Charter Amendment's provisions.

Under some circumstances, laws that impose substantive terms on collective bargaining agreements are preempted by the NLRA, because Congress intended to leave resolution of such matters to the bargaining of the parties. *See* Machinists v. Wisconsin Employment Relations Comm'n, 427 U.S. 132, 140, 153 (1976); Local 24, Teamsters v. Oliver, 358 U.S. 283, 295-96 (1959). The living wage provision might be challenged under this rule. However, the Supreme Court has made clear that states

and localities may adopt "minimal . . . labor standards" that grant protections to individual workers, even if such minimums apply to the negotiated terms of collective bargaining agreements. Metropolitan Life Insurance Co. v. Massachusetts Travelers Insurance Co., , 471 U.S. 724, 755 (1985). While the Ninth Circuit has found that one ordinance that set minimum wage and benefit standards did not to fall under the *Metropolitan Life* rule, this ordinance was unlike the charter amendment in that its wage and benefit levels were based on collectively bargained rates in each locality, varied by location and by craft, and applied only to certain construction projects. *See* Chamber of Commerce v. Bragdon, 64 F.3d 497, 502 (9th Cir. 1995). The charter amendment, in contrast, establishes a single standard that applies to all job classifications and to all businesses of a certain size that have contracts with or receive significant financial assistance from the Port. It is therefore similar to the type of minimum labor standards laws that have been held to be consistent with federal labor law.

An NLRA preemption challenge to the worker retention provision would argue that mandating that a new contractor hire the employees of its predecessor effectively requires the new contractor to become a "successor employer" for purposes of the NLRA (which means that the new contractor would have a duty to bargain with the union representing its predecessor's employees). . However, a very similar law, adopted by the District of Columbia, was upheld in Washington Service Contractors Coalition v. District of Columbia, 54 F.3d 811 (D.C. Cir. 1995), *cert. denied* 516 U.S. 1145 (1996), which held that the law did not require new contractors to become successor employers, but merely that the employees be retained, and that it was analogous to other minimum labor standards under Metropolitan Life. *See* Washington Service Contractors, 54 F.3d at 817-18. There do not appear to be any relevant differences between the Charter Amendment and the District of Columbia law, and so similar reasoning should apply here.

The labor peace provision could be challenged as NLRA-preempted because it requires PABs to negotiate and enter into either a collective bargaining agreement or another contract with a labor organization that falls within 29 U.S.C. §185(a). However, in Building & Construction Trades Council v. Associate builders and Contractors, 507 U.S. 218, 231-32 (1993), the Supreme Court held that the NLRA does not preempt state action when the state is acting in its proprietary interests as an owner and manager of property. The key question is therefore likely to be whether the courts view the labor peace provision as a permissible effort by the Port to protect its proprietary interests rather than an impermissible effort by the Port to regulate labor relations matters already regulated by federal law.

Two district court decisions have reached opposite conclusions in ruling on preemption challenges to similar labor peace provisions. In Hotel Employees & Restaurant Employees Union, Local 2 v. Marriott Corp., 1993 WL 341286 (N.D. Cal. 1993), a labor peace provision was upheld as an appropriate exercise of proprietary power because the local agency that imposed the requirement would receive a

percentage of the business's revenues as part of lease payments and so had a substantial proprietary interest in labor peace. In Aeroground, Inc. v. City of San Francisco, 2001 WL 1048459 (N.D. Cal. 2001), in contrast, a labor peace provision which applied to most employers that operated at an airport was struck down as preempted because the provision had a weak nexus to the airport commission's proprietary interests. Here, the strong nexus between the labor peace requirement and the Port's proprietary interest makes the labor peace provision of the Charter Amendment closer to the provision that was upheld as permissible in Hotel Employees than to the one at issue in Aeroground. Further protection against such a challenge is provided by the Charter Amendment's statement that its labor peace provision will *not* apply to a particular situation if a neutral decisionmaker concludes that "the Port lacks a legally-sufficient proprietary interest." Section 6(b). [1]

Conclusion

The proposed charter amendment contains three provisions that raise legal issues: Living Wage, Worker Retention and Labor Peace. The Living Wage provision is supported by substantial legal authority and similar provisions have been adopted in many jurisdictions. Although fewer decisions have addressed the validity of the second provision, Worker Retention, the authority that does exist, from the Court of Appeals for the D.C. Circuit, provides strong support for its validity. Little case law exists in regard to the third provision, Labor Peace. Although a federal district court in this Circuit upheld a Labor Peace provision which is similar in pertinent respects to the Labor Peace provision in the charter amendment, no appellate court has issued a decision

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[1] A challenge to the Berkeley living wage ordinance, which is currently pending in federal court, raises two additional legal arguments. First, the plaintiff argues that the Berkeley ordinance violates the Contracts Clause by imposing new requirements upon parties to *existing* lease agreements. However, this theory is inapplicable to the Charter Amendment, which, by its terms, applies only to businesses that enter or amend contracts *after* its enactment. (*See* Section 1(C)(3).) Second, the plaintiff in the Berkeley case argues that allowing these provisions to be waived by a collective bargaining agreement impermissibly delegates governmental authority in violation of the Due Process Clause. However, provisions that allow unionized workforces to opt out of otherwise applicable labor standards are commonly included in labor legislation, *see, e.g.*, Viceroy Gold Corporation v. Aubry, 75 F.3d 482, 489-91 (9th Cir. 1996), and the argument that such provisions involve the delegation of government authority is without any apparent legal merit.

squarely addressing the validity of such provisions. Therefore, although it is difficult to predict the outcome of a legal challenge, based on the analysis provided in this report, we believe the City could present a solid basis for defending the labor peace provision.

Very truly yours,

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City Attorney

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Rev. 11/14/01 - EXHIBIT A

The Charter of the City of Oakland is hereby amended to add the following section:

728. LIVING WAGE AND LABOR PEACE AT PORT-ASSISTED BUSINESSES

1. Scope and Definitions.

The following definitions shall apply throughout this Section:

A. "Port" means the Port of Oakland.

B. "Port-Assisted Business" or "PAB" means (1) any person receiving in excess of $50,000 worth of financial assistance from the Port, or (2) any Port Contractor. "Port Contractor" means any person party to a Port Contract as herein defined.

C. "Port Contract" means:

(1) Any service contract with the Port for work to be performed at the Port under which the Port is expected to pay more than $50,000 over the term of the contract;

(2) Any contract, lease or license from the Port involving payments to the Port expected to exceed $50,000 either (a) over the term of the contract, lease or license, or (b) during the next 5 years if the current term is less than 1 year but may be renewed or extended, either with or without amendment;

(3) any subcontract, sublease, sublicense, management agreement or other transfer or assignment of any right, title or interest received from the Port pursuant to any of the foregoing contracts, leases or licenses.

A contract, lease or license with the Port or any agreement derived therefrom shall not be deemed a Port Contract unless entered into after enactment of this Section, or amended after enactment of this Section to benefit in any way the party dealing with the Port.

D. "Employee" means any individual employed by a PAB in Port-related employment if the PAB employs more than 20 persons per pay period, unless in the prior 12 pay periods the PAB has not had more than 20 such employees and will not have more than 20 in the next 12 pay periods. A PAB shall be deemed to employ more than 20 persons if it is part of an "enterprise" as defined under the Fair Labor Standards Act employing more than 20 persons.

E. "Person" include any natural person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity.

F. "Valid collective bargaining agreement" as used herein means a collective bargaining agreement entered into between the person and a labor organization lawfully serving as the exclusive collective bargaining representative for such person's employees.

G. "Contract under 29 U.S.C.§185(a)" as used herein means a contract to which 29 U.S.C. §185(a) applies, as that provision has been interpreted by the United States Supreme Court.

2. Exemptions from coverage

In addition to the above exemption for workforces of fewer than 20 workers, the following persons shall also be exempt from coverage under this Section:

A. An Employee who is (1) under twenty-one (21) years of age and (2) employed by a nonprofit entity for after-school or summer employment or for training for a period not longer than ninety (90) days, shall be exempt.

B. An Employee who spends less than 25 percent of his work time on Port-related employment.

3. Payment of minimum compensation to Employees

Port-Assisted Businesses shall provide compensation to each Employee of at least the following:

A. Minimum Compensation

The initial minimum compensation shall be wages and health benefits totalling at least ten dollars and fifty cents ($10.50) per hour, or if greater, the rate of any living wage ordinance of the City of Oakland.

B. Credit for Health Benefits

The PAB shall receive a credit against the minimum wage required by this Section of up to $1.37 per hour for the amount it spends on average for health benefits for all Employees covered by this Section and their dependents. For example, if an employer spends an average of $1.25 per hour for health insurance, then the employer need only pay each Employee at least $9.25 per hour in wages.

C. Adjustments

Beginning one year after the effective date of this Section, the above rates shall be upwardly adjusted annually, no later than April 1st, in proportion to the increase as of the preceding December 31st over the prior year in the Bay Region's Consumer Price Index as published by the U.S. Bureau of Labor Statistics. Tips or gratuities received by Employees shall not be credited or offset against the rates of compensation required by this Section. The Port shall publish a bulletin by April 1st of each year announcing the adjusted rates, which shall take effect upon such publication. Such bulletin will be distributed to all PABs covered by this and to any other person who has filed with the Port a request to receive such notice. A PAB shall provide written notification of the rate adjustments to each of its Employees and to its covered tenants, contractors and subcontractors, who shall provide written notices to each of their Employees, if any, and make the necessary payroll adjustments by July 1 following the Port's notice of the adjustment.

4. Notifying Employees of their potential right to the federal earned income credit.

Each PAB shall inform each Employee who makes less than twelve dollars ($12.00) per hour of his or her possible right to the federal Earned Income Credit ("EIC") under Section 2 of the Internal Revenue Code of 1954, 26 U.S.C. §32, and shall make available the forms required to secure advance EIC payments from the business. These forms shall be provided to the eligible Employees in English (and other languages spoken by a significant number of such Employees) within thirty (30) days of employment under this Section and as required by the Internal Revenue Code.

5. Preventing Displacement of Workers

(A) Each PAB which is to replace a prior PAB shall offer employment to the nonmanagement and nonsupervisory Employees of the prior PAB, if these Employees worked for the prior PAB for at least 90 calendar days. Such Employees may be not be terminated by the new PAB during the first 90 work days except for just cause. The new PAB may operate at lower staffing levels than its predecessor but in such event, shall place the prior Employees on a preferential reinstatement list based on seniority. For purposes of this Section, a PAB "replaces" another if it (1) assumes all or part of the lease, contract or subcontract of a prior employer or obtains a new lease, contract, or sublease, and (2) offers employment which Employees of the prior PAB can perform. In the case of a replacement connected to the new PAB relocating from another location, in staffing decisions the new PAB may recognize seniority from its prior locations in addition to the seniority of the prior PAB's workforce.

(B) Notwithstanding Section 902(e) or any other provision of the City Charter, except in an emergency the Port shall not enter into any private contract for work which was performed by persons employed by the Port as of June 30, 2001, nor for the same class of work, including such work at new or expanded Port facilities.

6. Agreements required to protect Port's proprietary interests from effects of labor disputes

(A) As a condition precedent to any Port Contract in which the Port has a proprietary interest and which is in the Hospitality or Retail Food Industry, each such PAB shall be or become signatory to valid collective bargaining agreements or other contracts under 29 U.S.C. §185(a) with each labor organization representing or seeking to represent any of that PAB's Employees on Port property. Each such agreement or contract must contain a provision limiting the ability of the labor organization and its members (and in the case of a collective bargaining agreement, all employees covered by the agreement) to engage in picketing, work stoppages, boycotts or other economic interference with the Port for the duration of the Port's proprietary interest in such PAB's operation or for 5 years, whichever is less ("No-Strike Pledge"). Each such PAB shall also be required to ensure that any of its contractors, subcontractors, tenants, subtenants, licensees or sublicensees in the Hospitality or Retail Food Industry which are likely to impact the Port's proprietary interest will also be covered by No-Strike Pledges.

(B) For purposes of this subsection, "Hospitality or Retail Food Industry" includes hotels, motels or similar businesses, or on-site preparation, service or retailing of food, beverage or medication. A "proprietary interest" shall not be deemed to exist without (1) the Port being entitled to receive a percentage of the revenues or income of a business as rents, royalties or other income, and (2) the Port being expected to receive $50,000 or more in such rents, royalties or other income over the duration of the contract, lease or license.

(C) A PAB shall be relieved of the obligations of this subsection for any period of time during which a third-party neutral agreeable to the Port, the PAB and the Alameda Central Labor Council has found, after notice and hearing, either (a) that the labor organization is placing unreasonable conditions upon its No-Strike Pledge, or (b) that the Port lacks a legally-sufficient proprietary interest in such PAB's operation or the proposed agreement would be otherwise unlawful. If the parties are unable to agree upon a neutral, the PAB may contact the Federal Mediation and Conciliation Service (FMCS) to obtain a list of seven arbitrators affiliated with the National Academy of Arbitrators, from which the parties shall select a neutral by striking off names. At the PAB's request, such proceeding shall be conducted according to the FMCS expedited arbitration procedure. The Port shall bear the neutral's fees.

7. Retaliation and discrimination barred; no waiver of rights.

A. A PAB shall not discharge, reduce the compensation of or otherwise discriminate against any person for making a complaint to the Port, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Section.

B. Any waiver by an individual of any of the provisions of this Section shall be deemed contrary to public policy and shall be void and unenforceable, except that Employees shall not be

barred from entering into a written valid collective bargaining agreement waiving a provision of this Section (other than subsection 6) if such waiver is set forth in clear and unambiguous terms. Any request to an individual by a PAB to waive his or her rights under this Section shall constitute a violation of this Section.

8. Enforcement

A. Each PAB shall maintain for each person in Port-related employment a record of his or her name, pay rate and, if the PAB claims credit for health benefits, the sums paid by the PAB for the Employee's health benefits. The PAB shall submit a copy of such records to the Port at least by March 31st, June 30th, September 30th and December 31st of each year, unless the PAB has employed less than 20 persons during the preceding quarter, in which case the PAB need only submit a copy of such records every December 31st. Failure to provide a copy of such records within five days of the due date will result in a penalty of five hundred dollars ($500.00) per day. Each PAB shall maintain a record of the name, address, job classification, hours worked, and pay and health benefits received of each person employed, and shall preserve them for at least three years.

B. If a PAB provides health benefits to persons in Port-related employment but does not pay for them on a per-hour basis, then upon the PAB's request, the amount of the hourly credit against its wage obligation shall be the Port's reasonable estimate of the PAB's average hourly cost to provide health benefits to its Employees in Port-related employment. The PAB shall support its request with such documentation as is reasonably requested by the Port or any interested party, including labor organizations in such industry.

C. Each PAB shall give written notification to each current Employee, and to each new Employee at time of hire, of his or her rights under this Section. The notification shall be in the form provided by the Port in English, Spanish and other languages spoken by a significant number of the Employees, and shall also be posted prominently in areas at the work site where it will be seen by all Employees.

D. Each PAB shall permit access to work sites and relevant payroll records for authorized Port representatives for the purpose of monitoring compliance with this Section, investigating employee complaints of noncompliance and evaluating the operation and effects of this Section, including the production for inspection and copying of its payroll records for any or all persons employed by the PAB. Each PAB shall permit a representative of the labor organizations in its industry to have access to its workforce at the Port during non-working time and in non-work areas for the purpose of ensuring compliance with this Section.

E. Notwithstanding any provision in Article VI of this Charter to the contrary, the City Manager may develop rules and regulations for the Port's activities in (1) Port review of contract documents to insure that relevant language and information are included in the Port's RFP's, agreements and other relevant documents, (2) Port monitoring of the operations of the

contractors, subcontractors and financial assistance recipients to insure compliance including the review, investigation and resolution of specific concerns or complaints about the employment practices of a PAB relative to this section, and (3) provision by the Port of notice and hearing as to alleged violations of this section.

9. Private Rights of Action.

A. Any person claiming a violation of this Section may bring an action against the PAB in the Municipal Court or Superior Court of the State of California, as appropriate, to enforce the provisions of this Section and shall be entitled to all remedies available to remedy any violation of this Section, including but not limited to back pay, reinstatement or injunctive relief. Violations of this Section are declared to irreparably harm the public and covered employees generally.

B. Any employee proving a violation of this Section shall recover from the PAB treble his or her lost normal daily compensation and fringe benefits, together with interest thereon, and any consequential damages suffered by the employee.

C. The Court shall award reasonable attorney's fees, witness fees and costs to any plaintiff who prevails in an action to enforce this Section.

D. No criminal penalties shall attach for any violation of this Section, nor shall this Section give rise to any cause of action for damages against the Port or the City.

E. No remedy set forth in this Section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This Section shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

10. Severability

If any provision or application of this Section is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Section, including limiting the scope of coverage or striking the five-year provision of subsection 6, in order to preserve the maximum permissible effect of each subsection herein. Nothing herein may be construed to impair any contractual obligations of the Port. This Section shall not be applied to the extent it will cause the loss of any federal or state funding of Port activities.

Port of Oakland's Quality Standards Program for Checkpoint Security Screeners

On October 2, 2001, the Port of Oakland's Board of Port Commissioners adopted a Quality Standards Program for Checkpoint Security Screeners ("Program") that sets minimum standards for hiring practices, training, equipment, and compensation by firms that employ persons who perform checkpoint security screener services. The Program reinforces FAR Part 108 requirements and sets total minimum hourly compensation for covered employees at $10.00 per hour with benefits, and $11.25 without benefits. Benefits include HMO membership, 12 paid days off per year and 10 unpaid days off per year.

Covered employers include any firm, including airlines and third party vendors, that employs personnel involved in performing checkpoint security screening services. Currently, Part 108 of Federal Aviation Regulations (FAR) governs air carriers and their covered employees, some of whom are also covered by the Program.

Covered employees are those who work as checkpoint security screeners at Oakland International Airport.

Standards that must be met encompass the following areas:

1. Hiring practices
   - Most of the specified hiring requirements, such as high school diploma or equivalent work experience, match Federal regulatory requirements (FAR Part 108)
   - Additional requirements address employees' communications, interpersonal, observational and crisis-management skills. The Program also requires that each employee achieve a score of 85% on tests of detection and judgmental skills. A remedial testing program is provided for employees involved in checkpoint failures.
2. Training
   - Initial and recurrent training programs and employee records management must comply with Federal and other applicable regulations.
3. Equipment
   - Use and maintenance of equipment must meet Federal and other applicable requirements
4. Compensation
   - Minimum hourly wage is $10.00 if health and time-off benefits are provided; $11.25 if health and time-off benefits are not provided, with annual CPI adjustments on January 1. Employees are not entitled to the higher wage if they reject the employer's offer of benefits.
   - Benefits are defined as:
     - Company-paid membership in a group medical plan
     - Twelve days of paid leave per year
     - Ten days of unpaid leave per year

In addition, each employer is required to establish an internal quality assurance program that meets the specifications of the Program.

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BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

PORT ORDINANCE NO. 3666

AN ORDINANCE ESTABLISHING A LIVING WAGE REQUIREMENT.

WHEREAS the Board of Port Commissioners desires to establish a policy providing for payment of a prescribed minimum level of compensation to employees of Port contractors and recipients of Port subsidies; and

WHEREAS the following conditions and procedures are hereby adopted; now therefore,

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Statement of Purpose

1. The Board of Port Commissioners is vested with the complete and exclusive power to make decisions concerning the expenditure of Port funds, whether such funds are expended within the Port Area or outside the Port Area.

2. The Port of Oakland awards many contracts to private firms to provide services to the public and to the Port.

3. The Port of Oakland provides subsidies and grants to nonprofit organizations and governmental entities for the benefit of the public.

4. The Port of Oakland has an interest in promoting an employment environment in which nothing less than a prescribed minimum level of compensation is paid to employees of firms contracting with the Port to provide services to the Port.

5. The Port of Oakland also has an interest in promoting an employment environment in which nothing less than a minimum level of compensation is paid to the employees of nonprofit organizations receiving subsidies or grants from the Port.

6. The Port of Oakland has an interest in encouraging contractors or subsidized organizations to provide health care benefits to their employees or to provide their employees with an employer contribution toward the cost of health benefits.

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Section 1. Title and Purpose

This Ordinance shall be known as the "Port of Oakland Living Wage Ordinance." The purpose of this Ordinance is to require that nothing less than the prescribed minimum level of compensation (living wage) be paid to employees of Port service contractors and recipients of Port financial assistance and their respective subcontractors.

Section 2. Definitions

"Contractor" means any person employing five (5) or more individuals that enters into a service contract with the Port in an amount equal to or greater than $25,000.

"Covered Activities" means the activities funded by the Port service contract or the activities for which a nonprofit organization receives Port Assistance.

"Employee" means any *individual* who is employed as a service employee of a contractor or subcontractor under the authority of one or more Service Contracts and who expends any of his or her time on Covered Activities, including but not limited to clerical and support staff; *provided, however, Employee shall not include any individual who expends less than twenty five percent (25%) of his or her compensated time on Covered Activities.*

"Employer" means any person who is a Port Assistance recipient, Contractor or subcontractor.

"Nonprofit organization" means a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code which is exempt from taxation under Section 501(c)(3) of that code, or any nonprofit educational organization qualified under Section 23701(d) of the California Revenue and Taxation Code.

"Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability trust, association, or other entity that may employ individuals or enter into contracts.

"Port Assistance" means direct assistance in the form of grants or financial subsidies in an amount of $100,000 or more in any fiscal year.

"Service Contract" means a contract by the Port for the funding of services to or for the Port, except where services are incidental to the delivery of products, equipment or commodities, and that involves an expenditure equal to or greater than $25,000. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a "service contract" for purposes of this definition. A construction contract covered by a local, state or federal prevailing wage statute is not a "service contract".

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"Subcontractor" means any person who enters into a contract with a Contractor to assist the Contractor in performing a Service Contract or *with* a Port Assistance recipient to assist the recipient in performing the work for which the Port Assistance is being *given* or to perform services on the property, which is the subject of Port Assistance.

"Trainee" means a person enrolled in a bona fide job training program recognized as such by the Port.

Section 3. Payment of Minimum Compensation to Employees

(a) Wages: Employers shall pay employees a wage of no less than the hourly rates set under the authority of this Ordinance. The initial rate *for fiscal year 2001-2002* shall be $9.13 per hour worked with health benefits, as described below, or otherwise $10.50 per hour. Such rates shall be upwardly adjusted annually in proportion to the increase on December 31 of each year over the immediately preceding December 31 of the Consumer Price Index - U for the San Francisco - Oakland - San Jose Area. The Port shall publish a bulletin by April 1 of each year announcing the adjusted rates, which shall take effect on the following July 1. *The adjusted rates for fiscal year 2001-2002 are $9.13 per hour worked with health benefits and $10.50 without health benefits.*

(b) Health Benefits: Health benefits required by this Ordinance shall consist of the payment of at least *$1.25* per hour worked toward the provision of health care benefits for employees and/or their dependents. Employees who decline health benefits shall not qualify for the higher wage rate established in (a) above.

(c) Compensated Days Off: Employees shall be entitled to at least twelve (12) compensated days off for sick leave, vacation or personal necessity upon reasonable request. Employees who work part time shall be entitled to accrue compensated days off in increments proportional to that accrued by full-time employees. Employees shall be eligible to use accrued days off after the first 6 months of satisfactory employment or consistent with employer policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off.

Section 4. Exemptions

The Requirements of this Ordinance to pay minimum compensation shall not be applicable to the following employees:

(a) Employees of Port tenants, subtenants, licensees, concessionaires, franchisees, permittees or grantees of rights of entry.

(b) Employees of subtenants or licensees of the City of Oakland occupying Port property pursuant to an agreement which is covered by the City of Oakland's Living Wage Ordinance.

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(c) An employee participating in a bona fide temporary job training program in which a significant component of the employees' compensation consists of acquiring specialized knowledge, abilities or skills in a recognized trade.

(d) An employee who is under 21 years of age, employed by a governmental agency or nonprofit organization for after school or summer employment, or as a trainee for a period of not longer than 90 days.

(e) An employee working for the employer less than 20 hours per week for a period not *longer than* 6 months.

(f) An employee working for an employer who employs 5 or fewer employees.

(g) Employees of employers who have obtained a waiver from the Port of the applicability of this Ordinance as provided herein.

(h) When the Board of Port Commissioners finds and determines that waiver of the applicability of the requirements of this Ordinance to a particular service contract is in the best interest of the Port.

(i) Volunteers *who are not compensated for their work other than for incidental expenses or stipends.*

(j) Employees of contractors on Port public works projects subject to the requirements of Division 2, Part 7, of the California Labor Code, or subject to the provisions of a comparable federal, state or local prevailing wage requirement.

Section 5. Waiver

A service contractor or Port assistance recipient may apply to the Executive Director or his assignee for a waiver of the applicability of the requirements of this Ordinance to a particular service contract or award of Port assistance. Such application for waiver shall set forth with specificity the reasons why the service contractor or Port assistance recipient is unable to comply with the requirements of this Ordinance. Any application for waiver must be made and acted upon prior to execution of a service contract or award of Port assistance.

Section 6. Emergency; Suspension

(a) Emergency: The Executive Director may suspend the applicability of this Ordinance in whole or in part for a maximum of thirty (30) days upon finding of an emergency.

(b) Suspension: The Board of Port Commissioners reserves the right to suspend the applicability of this Ordinance by adoption

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of a Resolution setting forth the basis for suspension and the duration of the suspension.

Section 7. Retaliation and Discrimination Prohibited

(a) No employer shall retaliate or discriminate against an employee in his or her terms and conditions of employment by reason of the *individual's* status as an employee protected by the requirements of this Ordinance.

(b) No employer shall retaliate or discriminate against an *individual* in his or her terms and conditions of employment by reason of the *individual* reporting a violation of this Ordinance or for prosecuting an action for enforcement of this Ordinance.

Section 8. Employee Complaints to Port

(a) An employee who alleges violation of any provision of the requirements of this Ordinance may report such acts to the Port. The Executive Director may establish a procedure for receiving and investigating such complaints and take appropriate enforcement action.

(b) Any complaints received shall be treated as confidential matters, to the extent permitted by law. Any complaints received and all investigation documents related thereto shall be deemed exempt from disclosure pursuant to California Government Code, Sections 6254 and 6255.

Section 9. Employees' Private Right of Action to Enforce this Ordinance; Damages, Back Pay, Reinstatement, Reasonable Attorneys Fees and Costs

(a) An employee claiming violation of this Ordinance may bring an action in the Municipal Court or Superior Court of the State of California, as appropriate, against an employer and obtain the following remedies:

(1) Back pay for each day during which the employer failed to pay the compensation required by this Ordinance.

(2) Reinstatement, compensatory damages and punitive damages.

(3) Reasonable attorney's fees and costs.

(b) Notwithstanding any provision of this Ordinance or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

(c) No remedy set forth in this Ordinance is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This Ordinance shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

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(d) Nothing in this Ordinance authorizes any person to bring an action against the Port and nothing in this Ordinance authorizes a right of action against the Port for the Port's failure to take action hereunder.

(e) Nothing in this Ordinance shall require the Port to take any action authorized herein, and nothing in Ordinance shall be interpreted as requiring the Port to take or refrain from taking any action.

Section 10. Monitoring, Investigation and Compliance

(a) The Executive Director is authorized to develop and implement procedures to carry out the purposes of this Ordinance, and is authorized to promulgate regulations to insure the implementation of this Ordinance, including but not limited to regulations for resolution of employee complaints and regulations for monitoring the operations and compliance of employers, which may include establishing requirements for employers submission to the Port of employment records and requirements for uncompensated days off.

(b) Penalties imposed *on* employers who violate this Ordinance shall include but not be limited to any or all of the following:

(1) Suspension and/or termination of the service contract, subcontract or Port Assistance.

(2) Repayment of any or all sums paid by the Port.

(3) Deeming the employer ineligible for future Port contracts or Port Assistance.

(4) Payment of a fine payable to the Port of $500 for each week for each employee found by the Port not to have been paid in accordance with this Ordinance;

(5) Payment of wages to affected employees in accordance with this Ordinance, including wage restitution.

Section 11. Obligations of Employers

(a) Employers shall inform all employees earning less than $12 per hour of their possible right to the earned income credit.

(b) Employers shall file a declaration of compliance with their obligations under this Ordinance under penalty of perjury and as consideration for receipt of payment from the Port, in substantially the form of the Certificate of Compliance set forth in Section 17, as it may be modified from time to time by regulations adopted hereunder.

Section 12. Collective Bargaining Agreement

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The provisions of this Ordinance, or any part hereof, may be waived by a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement.

Section 13. Effective Date

This Ordinance shall apply to service contracts and awards of Port assistance entered into after the effective date of this Ordinance. In the event that a contract is amended after the effective date and such amendment results in expenditure of Port funds in an amount otherwise covered by this Ordinance, the terms of this Ordinance shall apply to wages payable to employees from and after the effective date of such amendment.

Section 14. Review

The Executive Director shall periodically report to the Board on the effects and implementation of this Ordinance.

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Section 15. Regulations

The Executive Director is hereby authorized to adopt and promulgate regulations, consistent with this Ordinance, as shall be necessary or convenient to implement this Ordinance.

Section 16. Severability

In the event any provision of this Ordinance is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provisions hereof.

Section 17. Form of Certificate of Compliance with Port of Oakland Living Wage Ordinance

(a) The undersigned (hereafter "Contractor") submits this certificate under penalty of perjury and as a condition of payment of its invoice(s) for services provided under the _____ agreement between the Port and Contractor.

(b) Contractor hereby certifies that all Employees of Contractor engaged in Covered Activities (both as defined in Port Ordinance No. ____ (hereafter the "Port's Living Wage Ordinance") shall be compensated in compliance with the requirements of the Port's Living Wage Ordinance.

(c) Contractor acknowledges that the Port is relying on Contractor's certification of compliance with the Port's Living Wage Ordinance as a condition of payment of Contractor's invoice(s).

(d) Contractor hereby certifies that claims, records and statements relating to Contractor's compliance with the Port's Living Wage Ordinance are true and accurate, that such claims, records and statements are made with the knowledge that the Port will rely on such claims, records and statements, and that such claims, records and statements are submitted to the Port for the express benefit of Contractor's Employees engaged in Covered Activities.

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(e) All terms used herein and not defined shall have the meaning ascribed to such terms in the Port's Living Wage Ordinance.

In Board of Port Commissioners, Oakland, California, October 2, 2001. Passed to print for one day by the following vote: Ayes: Commissioners Ayers-Johnson, Kiang, Protopappas, Scates, Uribe and President Tagami - 6. Noes: None. Absent: Commissioner Kramer - 1.

Christopher C. Marshall
Secretary of the Board

Adopted at a regular **meeting held** October 16, 2001

By the following Vote:

Ayes: Commissioners Ayers-Johnson, Kiang, Protopappas, Scates, Uribe and President Tagami - 6

Noes: None

Abstained: Commissioner Kramer - 1

Absent: None

President.

Attest **Secretary.**

Approved as to form and legality:

Port Attorney

35751

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DRAFT
OAKLAND CITY COUNCIL

RESOLUTION NO. _____C.M.S.

INTRODUCED BY COUNCILMEMBER_____

RESOLUTION SUBMITTING, ON THE CITY COUNCIL'S OWN MOTION, A PROPOSED CHARTER AMENDMENT, ENTITLED, "LIVING WAGE AND LABOR PEACE AT PORT-ASSISTED BUSINESSES", TO BE SUBMITTED TO THE ELECTORS AT THE NOMINATING MUNICIPAL ELECTION ON MARCH 5, 2002; DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS, TO PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE STATEWIDE PRIMARY ELECTION, EACH TO BE HELD ON MARCH 5, 2002

WHEREAS, Oakland City Charter Article VII specifies the role and responsibilities of the City's Port Department and created the Board of Port Commissioners; and

WHEREAS, the Board of Port Commissioners oversees the operations of the Port Department which includes the Port of Oakland and the Oakland airport; and

WHEREAS, with certain exceptions the ordinances passed by the Oakland City Council do not apply to the Port Department; and

WHEREAS, due to the Board of Port Commissioners' role and responsibilities under the current City Charter, the City of Oakland's Living Wage Ordinance does not apply to the Port of Oakland; and

WHEREAS, contractors and lease holders receive a substantial benefit from doing business at the Port of Oakland, in part because of the large public investment in infrastructure, such that it is fair to require them to adhere to certain minimum labor standards in dealing with their employees at the Port; and

WHEREAS, the Port has a substantial proprietary interest in certain contracts with employers in the hospitality and retail food industry because the Port will receive a percentage of the revenues or income from the business, and that proprietary interest would be affected by labor

disruptions at the Port; and

WHEREAS, an amendment to the Oakland City Charter adding section 728 to Article VII would:

(1) require payment of a "living wage" of not less than $10.50 without health benefits, which is the same amount the City of Oakland Living Wage ordinance currently requires, by Port tenants and contractors doing more than $50,000 in business with the Port,
(2) require, with certain exceptions, that new Port contractors doing more than $50,000 with the Port, who replace a prior Port contractor; hire the non-management and non-supervisory employees of the prior Port contractor for a period of not less than 90 days and terminate such employees only for just cause during the 90 day period if the employees can perform the new contractor's work; and
(3) prohibit the Port Department from entering into private contracts to perform work that Port employees performed as of June 30, 2001 except in the case of an emergency; and
(4) require that in exchange for a no-strike agreement, future Port contractors in the hospitality (e.g. hotel or motel businesses) or retail food industry, shall be or become signatory to valid collective bargaining agreements or other contract with each labor organization representing or seeking to represent any of that contractor's employees on Port property, if over the term of the Port contract the Port is entitled to receive a percentage of the revenues or income of the contractor's business as rents, royalties or other income equal to at least $50,000; and

WHEREAS, the proposed Charter amendment would provide for a living wage for employees of Port contractor who do significant business with the Port; protect workers from displacement by private contractors by requiring that Port contractors who replace a prior Port contractor assume the non-management and non-supervisory workers of the prior Port contractor and limiting contracting out of work performed by Port employees; and prevent labor disputes from injuring the Port's revenue stream by requiring no strike clauses in the Port contractor's agreements with labor organizations; now, therefore, be it

RESOLVED: That the Oakland City Charter is amended to add the following section which shall read as follows:

"Section 728. LIVING WAGE AND LABOR PEACE AT PORT-ASSISTED BUSINESSES

1. Scope and Definitions.

The following definitions shall apply throughout this Section:

A. "Port" means the Port of Oakland.

B. "Port-Assisted Business" or "PAB" means (1) any person receiving in excess

of $50,000 worth of financial assistance from the Port, or (2) any Port Contractor. "Port Contractor" means any person party to a Port Contract as herein defined.

C. "Port Contract" means:

(1) Any service contract with the Port for work to be performed at the Port under which the Port is expected to pay more than $50,000 over the term of the contract;

(2) Any contract, lease or license from the Port involving payments to the Port expected to exceed $50,000 either (a) over the term of the contract, lease or license, or (b) during the next 5 years if the current term is less than 1 year but may be renewed or extended, either with or without amendment;

(3) any subcontract, sublease, sublicense, management agreement or other transfer or assignment of any right, title or interest received from the Port pursuant to any of the foregoing contracts, leases or licenses.

A contract, lease or license with the Port or any agreement derived therefrom shall not be deemed a Port Contract unless entered into after enactment of this Section, or amended after enactment of this Section to benefit in any way the party dealing with the Port.

D. "Employee" means any individual employed by a PAB in Port-related employment if the PAB employs more than 20 persons per pay period, unless in the prior 12 pay periods the PAB has not had more than 20 such employees and will not have more than 20 in the next 12 pay periods. A PAB shall be deemed to employ more than 20 persons if it is part of an "enterprise" as defined under the Fair Labor Standards Act employing more than 20 persons.

E. "Person" include any natural person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity.

F. "Valid collective bargaining agreement" as used herein means a collective bargaining agreement entered into between the person and a labor organization lawfully serving as the exclusive collective bargaining representative for such person's employees.

G. "Contract under 29 U.S.C.§185(a)" as used herein means a contract to which 29 U.S.C. §185(a) applies, as that provision has been interpreted by the United States Supreme Court.

2. Exemptions from coverage

In addition to the above exemption for workforces of fewer than 20 workers, the following persons shall also be exempt from coverage under this Section:

A. An Employee who is (1) under twenty-one (21) years of age and (2) employed by a nonprofit entity for after-school or summer employment or for training for a period not longer than ninety (90) days, shall be exempt.

B. An Employee who spends less than 25 percent of his work time on Port-related employment.

3. Payment of minimum compensation to Employees

Port-Assisted Businesses shall provide compensation to each Employee of at least the following:

A. Minimum Compensation

The initial minimum compensation shall be wages and health benefits totaling at least ten dollars and fifty cents ($10.50) per hour, or if greater, the rate of any living wage ordinance of the City of Oakland.

B. Credit for Health Benefits

The PAB shall receive a credit against the minimum wage required by this Section of up to $1.37 per hour for the amount it spends on average for health benefits for all Employees covered by this Section and their dependents. For example, if an employer spends an average of $1.25 per hour for health insurance, then the employer need only pay each Employee at least $9.25 per hour in wages.

C. Adjustments

Beginning one year after the effective date of this Section, the above rates shall be upwardly adjusted annually, no later than April 1st, in proportion to the increase as of the preceding December 31st over the prior year in the Bay Region's Consumer Price Index as published by the U.S. Bureau of Labor Statistics. Tips or gratuities received by Employees shall not be credited or offset against the rates of compensation required by this Section. The Port shall publish a bulletin by April 1st of each year announcing the adjusted rates, which shall take effect upon such publication. Such bulletin will be distributed to all PABs covered by this and to any other person who has filed with the Port a request to receive such notice. A PAB shall provide written notification of the rate adjustments to each of its Employees and to its covered tenants, contractors and subcontractors, who shall provide written notices to each of their Employees, if any, and make the necessary payroll adjustments by July 1 following the Port's notice of the adjustment.

4. Notifying Employees of their potential right to the federal earned income credit.

Each PAB shall inform each Employee who makes less than twelve dollars ($12.00) per hour of his or her possible right to the federal Earned Income Credit ("EIC") under Section 2 of the Internal Revenue Code of 1954, 26 U.S.C. §32, and shall make available the forms required to secure advance EIC payments from the business. These forms shall be provided to the eligible Employees in English (and other languages spoken by a significant number of such Employees) within thirty (30) days of employment under this Section and as required by the Internal Revenue Code.

5. Preventing Displacement of Workers

(A) Each PAB which is to replace a prior PAB shall offer employment to the nonmanagement and nonsupervisory Employees of the prior PAB, if these Employees worked for the prior PAB for at least 90 calendar days. Such Employees may be not be terminated by the new PAB during the first 90 work days except for just cause. The new PAB may operate at lower staffing levels than its predecessor but in such event, shall place the prior Employees on a preferential reinstatement list based on seniority. For purposes of this Section, a PAB "replaces" another if it (1) assumes all or part of the lease, contract or subcontract of a prior employer or obtains a new lease, contract, or sublease, and (2) offers employment which Employees of the prior PAB can perform. In the case of a replacement connected to the new PAB relocating from another location, in staffing decisions the new PAB may recognize seniority from its prior locations in addition to the seniority of the prior PAB's workforce.

(B) Notwithstanding Section 902(e) or any other provision of the City Charter, except in an emergency the Port shall not enter into any private contract for work which was performed by persons employed by the Port as of June 30, 2001, nor for the same class of work, including such work at new or expanded Port facilities.

6. Agreements required to protect Port's proprietary interests from effects of labor disputes

(A) As a condition precedent to any Port Contract in which the Port has a proprietary interest and which is in the Hospitality or Retail Food Industry, each such PAB shall be or become signatory to valid collective bargaining agreements or other contracts under 29 U.S.C. §185(a) with each labor organization representing or seeking to represent any of that PAB's Employees on Port property. Each such agreement or contract must contain a provision limiting the ability of the labor organization and its members (and in the case of a collective bargaining agreement, all employees covered by the agreement) to engage in picketing, work stoppages, boycotts or other economic interference with the Port for the duration of the Port's proprietary interest in such PAB's operation or for 5 years, whichever is less ("No-Strike Pledge"). Each such PAB shall also be required to ensure that any of its contractors, subcontractors, tenants, subtenants, licensees or sublicensees in the Hospitality or Retail Food Industry which are likely to impact the Port's proprietary interest will also be covered by No-Strike Pledges.

(B) For purposes of this subsection, "Hospitality or Retail Food Industry" includes hotels, motels or similar businesses, or on-site preparation, service or retailing of food, beverage or medication. A "proprietary interest" shall not be deemed to exist without (1) the Port being entitled to receive a percentage of the revenues or income of a business as rents, royalties or other income, and (2) the Port being expected to receive $50,000 or more in such rents, royalties or other income over the duration of the contract, lease or license.

(C) A PAB shall be relieved of the obligations of this subsection for any period of time during which a third-party neutral agreeable to the Port, the PAB and the Alameda Central Labor Council has found, after notice and hearing, either (a) that the labor organization is placing unreasonable conditions upon its No-Strike Pledge, or (b) that the Port lacks a legally-sufficient proprietary interest in such PAB's operation or the proposed agreement would be otherwise unlawful. If the parties are unable to agree upon a neutral, the PAB may contact the Federal Mediation and Conciliation Service (FMCS) to obtain a list of seven arbitrators affiliated with the National Academy of Arbitrators, from which the parties shall select a neutral by striking off names. At the PAB's request, such proceeding shall be conducted according to the FMCS expedited arbitration procedure. The Port shall bear the neutral's fees.

7. Retaliation and discrimination barred; no waiver of rights.

A. A PAB shall not discharge, reduce the compensation of or otherwise discriminate against any person for making a complaint to the Port, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Section.

B. Any waiver by an individual of any of the provisions of this Section shall be deemed contrary to public policy and shall be void and unenforceable, except that Employees shall not be barred from entering into a written valid collective bargaining agreement waiving a provision of this Section (other than subsection 6) if such waiver is set forth in clear and unambiguous terms. Any request to an individual by a PAB to waive his or her rights under this Section shall constitute a violation of this Section.

8. Enforcement

A. Each PAB shall maintain for each person in Port-related employment a record of his or her name, pay rate and, if the PAB claims credit for health benefits, the sums paid by the PAB for the employee's health benefits. The PAB shall submit a copy of such records to the Port at least by March 31st, June 30th, September 30th and December 31st of each year, unless the PAB has employed less than 20 persons during the preceding quarter, in which case

the PAB need only submit a copy of such records every December 31st. Failure to provide a copy of such records within five days of the due date will result in a penalty of five hundred dollars ($500.00) per day. Each PAB shall maintain a record of the name, address, job classification, hours worked, and pay and health benefits received of each person employed, and shall preserve them for at least three years.

B. If a PAB provides health benefits to persons in Port-related employment but does not pay for them on a per-hour basis, then upon the PAB's request, the amount of the hourly credit against its wage obligation shall be the Port's reasonable estimate of the PAB's average hourly cost to provide health benefits to its Employees in Port-related employment. The PAB shall support its request with such documentation as is reasonably requested by the Port or any interested party, including labor organizations in such industry.

C. Each PAB shall give written notification to each current Employee, and to each new Employee at time of hire, of his or her rights under this Section. The notification shall be in the form provided by the Port in English, Spanish and other languages spoken by a significant number of the employees, and shall also be posted prominently in areas at the work site where it will be seen by all Employees.

D. Each PAB shall permit access to work sites and relevant payroll records for authorized Port representatives for the purpose of monitoring compliance with this Section, investigating employee complaints of noncompliance and evaluating the operation and effects of this Section, including the production for inspection and copying of its payroll records for any or all persons employed by the PAB. Each PAB shall permit a representative of the labor organizations in its industry to have access to its workforce at the Port during non-working time and in non-work areas for the purpose of ensuring compliance with this Section.

E. Notwithstanding any provision in Article VI of this Charter to the contrary, the City Manager may develop rules and regulations for the Port's activities in (1) Port review of contract documents to insure that relevant language and information are included in the Port's RFP's, agreements and other relevant documents, (2) Port monitoring of the operations of the contractors, subcontractors and financial assistance recipients to insure compliance including the review, investigation and resolution of specific concerns or complaints about the employment practices of a PAB relative to this section, and (3) provision by the Port of notice and hearing as to alleged violations of this section.

9. Private Rights of Action.

A. Any person claiming a violation of this Section may bring an action against the PAB in the Municipal Court or Superior Court of the State of California, as appropriate, to enforce the provisions of this Section and shall be entitled to all remedies available to remedy any violation of this Section, including but not limited to back pay, reinstatement or injunctive relief. Violations of this Section are declared to irreparably harm the public and covered employees generally.

B. Any employee proving a violation of this Section shall recover from the PAB treble his or her lost normal daily compensation and fringe benefits, together with interest thereon, and any consequential damages suffered by the employee.

C. The Court shall award reasonable attorney's fees, witness fees and costs to any plaintiff who prevails in an action to enforce this Section.

D. No criminal penalties shall attach for any violation of this Section, nor shall this Section give rise to any cause of action for damages against the Port or the City.

E. No remedy set forth in this Section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This

Section shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

10. Severability

If any provision or application of this Section is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Section, including limiting the scope of coverage or striking the five-year provision of subsection 6, in order to preserve the maximum permissible effect of each subsection herein. Nothing herein may be construed to impair any contractual obligations of the Port. This Section shall not be applied to the extent it will cause the loss of any federal or state funding of Port activities.". ; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed charter amendment, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed charter amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED CHARTER AMENDMENT

MEASURE PROVIDING FOR LIVING WAGE AND LABOR PEACE AT PORT-ASSISTED BUSINESSES

MEASURE _____

Measure _____. Shall Oakland City Charter be amended to add section 728 which would 1) require that certain Port of Oakland contractors pay employees at least $10.50 per hour; 2) require that certain new Port contractors retain their predecessors' nonmanagement and nonsupervisory employees for 90 days; 3) prohibit the Port from contracting out work performed by Port employees as of June 30, 2001, except in an	Yes	

emergency; 4) require that certain Port contractors in the hospitality and retail food industry obtain no-strike agreements from labor organizations to protect the Port's proprietary interests?		
	No	

FURTHER RESOLVED: that the City Clerk and City Manager are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the March 5, 2002 election and appropriate all monies necessary for the City Manager and City Clerk to prepare and conduct the March 5, 2002 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, (DATE), 20(YEAR)

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE, NADEL, REID, SPEES, WAN AND PRESIDENT DE LA FUENTE

NOTES-

ABSENT-

ABSTENTION-

ATTEST:_____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

Port of OaklandTenants (partial listing)

COMMERCIAL REAL ESTATE TENANTS	
NAME	ADDRESS
AFI Marketing (Mingles)	370 Embarcadero Oakland, CA 94607
Alameda City of Bureau of Electricity	Underground below estuary
American Lung Association of California	424 Pendleton Way Oakland, CA 94621
Artship Foundation	Adjacent to Ninth Avenue Terminal
Athens Baking Company, LLC	Vacant land on Embarcadero near Diesel St.
Bank of America (ATM)	Washington Street Garage
Barnes and Noble Bookstore	98 Broadway Oakland, CA 94607
Barnes and Noble Coffee Shop	98 Broadway Oakland, CA 94607
Bay Area Rapid Transit	Open area south side of 7th Street
Beverages and More!	525 Embarcadero Oakland, CA 94607
Blickman Turkus DBA BT Commercial Real Estate	530 Water Street #750 Oakland, CA 94607
Butterflies and Critters	423 Water Street Oakland, CA 94607
Buttner, Edgar L. Trustee 7717 Oakport	Land at 7717 Oakport
Buttner, Edgar L. Trustee 7719/21/23 Oakport	7719/21/23 Oakport
Buttner, Edgar L. Trustee 7729 Oakport	7729 Oakport
California Alliance for Jobs	70 Washington Street #425 Oakland, CA 94607
California Canoe & Kayak, Inc.	409 Water Street Oakland, CA 94607
California Canoe & Kayak, Inc.	415 Water Street Oakland, CA 94607
California Canoe & Kayak, Inc., Storage	409 Water Street Oakland, CA 94607
Cavin, Lyle C., Jr. Law Offices	70 Washington Street #325 Oakland, CA 94607
City of Oakland	Estuary Park
City of Oakland DBA Police Training Center	70 Washington Street #210 Oakland, CA 94607
City of Oakland, A Municipal Corp. DBA Port of Oakland	530 Water Street 1st - 6th Floors
Concept Marine Associates, Inc.	Port Building J-120, 2nd Floor, 1853 Embarcadero
Cost Plus	Parking Lot 2nd & Embarcadero
Creamer, J. Fletcher & Son, Inc.	Land at 2121 Diesel Street
D. Philbrick (Philbrick Boat Works)	603 Embarcadero Oakland, CA 94606
Dealey, Renton & Associates	66 Jack London Square, #210 Oakland, CA 94607
Dockside Boat and Bed	Potomac Yard Oakland, CA 94607
Dockside Boat and Bed-Boat Concession Agreement	Various vessels in the Jack London Marianas
Dow-Pac Properties	100 Washington Street Oakland, CA 94607
East Bay Regional Park District-Easement	
East Bay Regional Park District-Park Area	
EBMUD-Estuary Park Estuary Park Easements	
EBMUD-Roadway Easement near 5th Avenue	San Antonio Creek near 5th Avenue Oakland
EBMUD-San Antonio Wet Weather Facility	
Creek Plant	
EBMUD-Wet Weather Dechlor Easement	
Edgewater Associates	8407 Edgewater Drive Oakland, CA 94621
El Torito Restaurants, Inc.	67 Jack London Square Oakland, CA 94607
Embarcadero Business Park, LLC	1900 Embarcadero-Cove
Ericksen, Arbuthnot, Kilduff, Day & Lindstrom, Inc.	530 Water Street #720 Oakland, CA 94607
Executive Inn	1755 Embarcadero Oakland, CA 94607
Forman, William & Shannon (Courtyard on the Cove)	1940-1946 Embarcadero
Fraser Mechanical	Dennison and Embarcadero
G.K.W., Inc.	One Embarcadero Cove Oakland, CA 94606
G.K.W., Inc.	One Embarcadero Cove Oakland, CA 94606

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G.K.W., Inc. Berth	One Embarcadero Cove Oakland, CA 94606
Golden State Diesel Marine	351 Embarcadero Oakland, CA 94606
Hahn's Hibachi	66 Jack London Square Oakland, CA 94607
Heinolds	90 Franklin Street Oakland, CA 94607
Hilken-Hansen Enterprises	295 Hegenberger Road Oakland, CA 94612
Il Pescatore Ristorante	75 Jack London Square Oakland, CA 94607
ILWU Local 91	1851 Embarcadero Oakland, CA 94606
Intigre Marine, Ltd.	1155 Embarcadero Oakland, CA 94606
Intigre Marine, Ltd.	1155 Embarcadero Oakland, CA 94606
J.W. Silviera Company	One Fifth Avenue Oakland, CA 94606
Jal Vue Window	295 6th Avenue Oakland, CA
John Baker,DBA Oakland Marine Service	Water/Land @ foot of 5th Avenue Oakland, CA
Joyce S. Hooks DBA Time Out for Fun and Games	435 Water Street Oakland, CA 94607
Kaiser Sand and Gravel	5th and Embarcadero
Karibu Ethnic Gifts and Accessories	425 Water Street Oakland, CA 94607
KTVU, Inc.	296 5th Avenue Oakland, CA 94606
Lad Food Services	66 Jack London Square, #200 Oakland, CA 94607
Lakeside Metals	455 Ninth Street Oakland, CA 94606
Lee, Laura DBA Oyster Reef	1000 Embarcadero Oakland, CA 94606
Ma. Teresita E. Banguis DBA ORCS Mgmt. Systems	70 Washington Street #215 Oakland, CA 94607
Main Street California Inc. DBA TGI Friday's	Water Street II 450 Water Street
Marine Max	Bldgs. P-104,P-113,P-114,P-108,P-106, + water/vacant land
Motel 6 (Formerly Apple Inn Motel)	1801 Embarcadero Oakland, CA
Murasaki Jack London Square	419 Water Street Oakland, CA 94607
Murphy, Kerry J.	7727 Oakport Oakland, CA
Narin, Norman et al	105 Embarcadero Oakland, CA 94606
National Furiture Liquidators, Inc.	845 Embarcadero Oakland, CA 94606
National Railroad passenger Corp.-Amtrak	530 Water Street 5th Floor Oakland, CA 94607
New York Life Insurance Company	70 Washington Street #200 Oakland, CA 94607
Northern California marine Assn-Boat Show	Center Basin Marina JLS
Northern California Marine Association-Fuel Dock	2 Webster Street Oakland, CA 94607
Oakland Airport Hilton	One Hegenberger Road Oakland, CA 94614
Oakland Hospitality LLC	Homewood Suites Hotel 714 Franklin Street
Oakland International Trade & Visitors Center	530 Water Street #740 Oakland, CA 94607
Oakland Telecard, LLC	Ports Bldgs. F111 & F601
Oakland, City of -City Service Center	7101 Edgewater Drive Oakland, CA
Oakland, City of -Fire Station and Fire Boat #2	Building E-503
Oakland, City of-San Antonio Sewer pipeline Ease	Easement near San Antoino Creek
OFD Historical Society	2400 Embarcadero Oakland, CA 94606
Orient Reefer Container Services	Vacant land, foot of 5th Avenue
OSF International, Inc. Old Spaghetti Factory	61 Webster Street Oakland, Ca 94607
Out and About	476 Water Street Oakland, CA 94607
Pacific Bell Mobile Services	Pacific Bell Mobile Services
Pacific Coast Container	70 Washingto Street #450 Oakland, CA 94607
Park Tilden Corporation	2400 Embarcadero Oakland, CA 94606
Patelco Credit Union	Pavillion Kiosk 1 98 Broadway Oakland, CA 94607
Peninsula Holdings, Inc. DBA Tony Roma's	55 Washington Street Oakland, CA 94607
Port of Oakland Commercial Real Estate	70 Washington Street #205 Oakland, CA 94607
Port of Oakland Crane Division	70 Washington Street #495 Oakland, CA 94607
Port of Oakland-Equal Opportunity	70 Washington Street #205 Oakland, CA 94607
Praxair Distribution	901 Embarcadero Oakland, CA 94606

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Restaurants Unlimited Kincaids	1 Franklin Street Oakland, CA 94607
Samuel Fredericks DBA Samuel's Gallery	70 Franklin Street Oakland, CA 94607
Score Holdings, Inc. DBA Score!	66 Jack London Square 3rd Floor Oakland, CA
Scotland Gifts Dot Com LLC	472 Water Street Oakland, CA 94607
Scott's Jack London Square	2 Broadway Oakland, CA 94607
Scott's Jack London Square-Banquet Facility	2 Broadway Oakland, CA 94607
Seabreeze Cafe	280 6th Avenue Oakland, CA 94606
Ship Shape Marine	280 6th Avenue Oakland, CA 94606
Sonni of California Inc. DBA Hat Generation	431 Water Street Oakland, CA 94607
Telemedia Communication Systems, Inc.	351 Embarcadero Oakland, CA 94606
The Assoc. For the Preservation of the Potomac	540 Water Street Oakland, CA 94607
Thunderbird Properties	296 6th Avenue Oakland, CA
Two Dog Net, Inc.	70 Washington Street #310 Oakland, CA
United Parcel Service, Inc.	8400 Pardee Street Oakland, CA
Uno's Jack London Square	70 Washington/499 Embarcadero West
Van Matre Lumber Company	251 5th Avenue Oakland, CA 94606
Waterfront Plaza Hotel-West Basin Parking	10 Washington Street Oakland, CA 94607
Waterfront Plaza Hotel-Jack Bistro	10 Washington Street Oakland, CA 94607
Waterfront Plaza Hotel	10 Washington Street Oakland, CA 94607
Waterfront Plaza Hotel-Banquet and Meeting Rooms	Water Street II 473 Water Street Oakland, CA 94607
Waterfront Plaza Hotel-Expansion	10 Washington Street Oakland, CA 94607
Waterfront Plaza Hotel-Gift Ship	Water Street III # 493
Waterfront Valet Parking Service	Parking Lot, Broadway
Wells Farge ATM	70 Washington/Washington Street II Oakland, CA
Wulfing, Elam & Associates	Service Station-Business Park, 451 Hegenberger Rd
Yoshi's Japanese Restaurant, Inc.	510 Embarcadero Oakland, CA 94607

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AIRPORT TENANTS	
Name	Address
AP Enterprises	P.O. Box 281943 San Francisco, CA 94128
Aero Nova, Inc.	905 E. Martin Luther King Jr. Drive #270
A2Z Aircraft Services	P.O. Box 250368 San Francisco, CA 94028
Air Terminal Services, Inc. (ATS)	#1 Airport Drive, Box 42 Oakland, CA 94621
Airborne Freight Corporation	7683 Earhart Road, Hangar 9 Oakland, CA
Airport Terminal Service, Inc.	500 Northwest Plaza, Suite 1100 Saint Louis, MO
Airwell, Inc.	8300 Earhart Road Oakland, CA 94621
Alaska Airlines	#1 Airport Drive, Box 24 Oakland, CA 94621
Allegro Air	2787 Sussex Way Redwood City, CA 94061
Aloha Airlines	#1 Airport Drive, Box 32 Oakland, CA 94621
American West	#1 Airport Drive, Box 26 Oakland, CA 94621
American Airlines	#1 Airport Drive, Box 14 Oakland, CA 94621
American Building Service	P.O. Box 32 San Leandro, CA 94577
Ameriflight	9717 Earhart Road, Hangar 2 Oakland, CA 94621
A.O.G. Services	P.O. Box 57041 Hayward, CA 94545
Argenbright Security, Inc.	1860 El Camino Real, #300 Burlingame, CA 94010
Artisan Manufacturing Company	P.O. Box 2653 Bldg. L-553 Oakland, CA 94614
Astro-Aire Enterprises	P.O. Box 2335 Bldg. L-820 Oakland, CA 94614
Avis Rent A Car Systems, Inc.	P.O. Box 2521 Oakland, CA 94614
Bank of America	P.O. Box 4127 Bldg. L-810 Oakland, CA 94614
Bayair, Inc.	7951 Earhart Road Bldg. L-810/L-710/Land
Bay Avionics	P.O. Box 6636, Airport Station Oakland, CA 94603
Budget Rent A Car Systems, Inc.	#1 Airport Drive Oakland, CA 94621
Cal-Air Aviation Service	P.O. Box 281103 San Francisco, CA 94128
Chevron Real Estate Mgmt. Co.	7799 Earhart Road Bldg. L-881/ (Hgr. 10)
Chevron U.S.A., Inc.	P.O. Box 6565 Bldg. L-503 Oakland, CA 94621
Civil Air Patrol	P. O. Box 1596 Bldg. L-631 San Leandro, CA 94577
Continental Airlines	#1 Airport Drive, Box 26 Oakland, CA 94621
Delta Airlines	#1 Airport Drive, Box 38 Oakland, CA 94621
Dollar Rent A Car System, Inc.	P.O. Box 2642 Oakland, CA 94614
Enterprise Rent A Car Company of S. F.	192-98th Avenuen Oakland, CA 94603
Federal Express Corporation	#1 Sally Ride Way Oakland, CA 94621
Hallmark Aviation Service	5757 W. Century Blulevard, # 860 L. A. CA 90045
Hilltop Aviation Service	9351 Earhart Road, # 113 Oakland, CA 94621
Huntleigh USA Corporation	10332 Old Olive Street Road St. Louis MO 63141
JetBlue Airways Corporation	#1 Airport Drive, Box 9 Oakland, CA 94621
Kaiser, Inc.	P.O. Box 2626 Bldg. L-310 Oakland, CA 94614
Link Services	P.O. Box 6605 L-710 Oakland, CA 94621
LSG/SKYCHEFS	P. O. Box 14088 Oakland, CA 94614
Mexicana Airlines	#1 Airport Drive, Box 27 Oakland, CA 94621
Mosher Management	8517 Earhart Road Oakland, CA 94621
Mosher Management	605 Chenery Street #B San Francisco 94131
National Car Rental System, Inc.	#1 Airport Drive, Box 36 Oakland, CA 94621
Next Century	123 Second Street L-820 Sausalito, CA 94965
Night Hawk, Inc.	1070 Beachy Street L-629 Oakland, CA 94621
North Field Aviation	P.O. Box 6087 L-908 Oakland, CA 94603
Oakland Flyers	P.O. Box 6033 Oakland, CA 94603

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Ogden Aviation Services	#1 Airport Drive, Box 33 Oakland, CA 94621
One Source Building Services, Inc.	1735 E. Wilshire Avenue Santa Ana, CA 92705
Pacific Gas & Electric	P.O. Box 2641 L-810 Oakland, CA 94614
Pegasus Aviation	8991 Earhart Road L-310 Oakland, CA 94621
Rainin Instrument	7951 Earhart Road Oakland, CA 94621
Rolls-Royce	P.O. Box 6069 Oakland, CA 94603
Runex Enterprises	5061 Toyon Way Antioch, CA 94509
Safeway, Inc.	7843 Earhart Road Oakland, CA 94621
Sierra Academy of Aeronautics, Inc.	P. O. Box 2429 Oakland, CA 94614
SkyWest Airlens, c/o Delta Airlines	#1 Airport Drive, Box 38 Oakland, CA 94621
Southwest Airlines	#1 Airport Drive, Box 25 Oakland, CA 94621
Space Air Supply, Inc.	9260 Earhart Road Oakland, CA 94621
Swissport Fueling	P.O. Box 6366 Oakland,CA 94614
Tag Aviation USA	7951 Earhart Road Oakland, CA 94621
The Hertz Corporation	#1 Airport Drive, Box 40 Oakland, CA 94621
Thrifty Car Rental	70 Hegenberger Loop Oakland, CA 94621
Today's Aircraft	7683 Earhart Road Oakland, CA 94621
Today's Aircraft Maintenance Contracting Org.	P.O. Box 2237 Vacaville, CA 95696
Trans-Box Systems	P.O. Box 6278 Oakland, CA 94603
Trans-Pacific Aviation Services	P. O. Box 282656 San Francisco 94128
United Airlines	#1 Airport Drive, Box 2 Oakland, CA 94621
United Airlines OAKFL	1100 Airport Drive Oakland, CA 94621
United Parcel Service, Inc.	8400 Pardee Drive Oakland, CA 94621
United States Postal Service	7201 Earhart Road Oakland, CA 94621
USS/FAA/DOT	8250 Earhart Road Oakland, CA 94621
USS/FAA/DOT	1027 Grumman Street Oakland, CA 94621
USS/FAA/DOT	1029 Grumman Street Oakland, CA 94621
USS/FAA/DOT	8517 Earhart Road #100 Oakland, CA 94621
Western Aerospace Museum	P. O. Box 14264 Airport Station
Worldwide Flight Services	#1 Airport Drive, Box 5 Oakland, CA 94621

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CHART - EXHIBIT C

Proposed Port Living Wage and Labor Peace Charter Amendment	**Oakland Living Wage Ordinance, O.M.C. Chapter 2.28**
Service Contracts	**Service Contracts**
Applies to **all contracts for services** over $50,000	Applies to **all contracts for services** over $25,000 *Secs. 2.28.010, 2.28.020*
Service contract threshold $50,000	Service contract threshold $25,000 *Secs. 2.28.020*
No explicit provision regarding duration of requirement to pay living wages.	Wages and other benefits requirements last for duration of service contract *Sec. 2.28.040(B)*
Applies to **all employees** of **PABs with > 20 employees/pay period** who spend 25% or more time on Port-related employment, unless PAB has not employed > 20 employees for prior 12 pay periods, and will not employ that number for future 12 pay periods. **Applies automatically** to an **"Enterprise"** as **defined** under **FLSA**	Applies to employees of contractors or subcontractors who **actually perform work for** the **City** *Sec. 2.28.020(2)(1)*
Applies to **contracts and amendments** executed after effective date of Charter Provision.	Applies to **contracts and amendments** executed after effective date of ordinance.
Port Assisted Business ("PAB")	**City Financial Assistance Recipient ("CFAR")**
Applies to Port Agreements and sub-agreements involving	Applies to City and Redevelopment Agency

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real property interests when certain threshold is met	development projects when receiving "financial assistance" from the City/Agency *Secs. 2.28.010 & 2.28.020*
Applies to Port leases and licenses	*Does **not apply** to City leases and licenses*
Threshold **$50,000*** ****No time limit on calculating receipt of threshold amount***	Financial assistance threshold is **$100,000 during 12 month period** *Sec. 2.28.020*
No definition or description of events that trigger threshold	Detailed description of circumstances or situations considered "financial assistance" *Sec. 2.28.020(1)*
Applies to **all employees** of **PABs with > 20 employees/pay period** who spend 25% or more time on Port-related employment, unless PAB has not employed > 20 employees for prior 12 pay periods, and will not employ that number for future 12 pay periods. **Applies automatically** to an **"Enterprise"** as **defined** under **FLSA**	Applies to CFAR tenants and leaseholders with at least **20 employees** for **each working day** in **20 calendar weeks during 12 months after occupation or use** of property *Sec. 2.28.020(2)*
Applies to employees of **PABs** that **spend 75%** or more of their **time** on "Port-related employment"	Applies to employees of **CFARs** that **spend 50%** or more of their **time** on funded **program/activity** or **property** *Sec. 2.28.020(2)(2)*
No such limit on PABs.	Applies to employees of **service contractors** (greater than $25,000) **of CFARs** that **spend 50% or more** of their **time** on funded **program/activity** or **property** *Sec. 2.28.020(2)(3)*
No duration of requirement	Duration of requirement for

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DRAFT: 3:17 PM
11/20/01

	life of assistance contract - **Or, 5 years** in cases of assistance for real or tangible property purchase or for construction *Sec. 2.28.040(A)*
Applies to **contracts, leases, licenses and amendments** executed after effective date of Charter Provision.	Applies to **contracts and amendments** executed after effective date of Charter Provision.
No requirement	**Service & CFAR Subcontractor Duty**
N/A	Duty to pay living wage extends to employees of Subcontractors of Service Contractors & certain CFAR Tenants/Leaseholders *Sec. 2.28.110(B),(C),(D) & (E)*
No Requirement	**RFP, Contract & Declaration** *Sec. 2.28.100*
N/a	Requires City and Agency to include specific language in contracts and RFPs to put contractors and CFARs on notice *Sec. 2.28.100*
N/a	Requires contractor to sign declaration of intent to pay prevailing wage *Sec. 2.28.110(A)*
Wages/Benefits	**Wages/Benefits**
Wage/health benefit requirement <u>not</u> limited to employees performing work under Port contract	*Wage/health and other benefits limited to employees performing work under City Contract.*
Sets apparent "credit"* up	Provides initial

to $1.37/hour for wages w/out h.b. *"Credit" is not defined as part of "wages"	differential between wages w/h.b. and wages w/out h.b. of $1.25/hour Sec. 2.28.030(A)
Not provided	Provides 12 compensated days off per year Sec. 2.28.030(B)(1)
Not provided	Provides 10 uncompensated days off per year for employee or family member sick leave Sec. 2.28.030(B)(2)
No post-execution requirement	Evidence of health insurance due 30 days post-execution of contract Sec. 2.28.030(C)
Displacment of Workers	DISPLACEMENT OF WORKERS
Requires PAB that replaces a PAB to offer jobs to prior, non-management, non-supervisory workforce, for at least 90 days (if workers worked for prior PAB for 90 days or more); Termination for just cause during first 90 days; Replacement PAB must maintain seniority list* and reinstate prior PAB's employees. Defines what constitutes replacement *Unclear whether list must be maintained for first 90 days or some longer period.	*No requirement*
Contracting Out	***Contracting Out***

Prohibits contracting out of work if Port employees performed work as of 6/30/2001, except if emergency	*No such requirement - City is subject to current Charter § 902(e) which allows contracting out if no loss of employment or salary to permanent employees.*
Labor Peace Provisions	***Labor Peace Provisions***
Requires that Port Contracts in which Port has proprietary interest* and which are involved in hospitality or retail food industry sign labor agreements that include no-strike clauses. **Proprietary interest is defined in section 6(B). Provides relief from requirement if 3rd party neutral makes certain findings	*No requirement*
Waiver by Labor Agreement	**Waiver by Labor Agreement**
Waiver prohibited except that employees may waive provisions other than labor peace (section 6) in a valid collective bargaining agreement.	Living Wage ord. may be **explicitly, clearly and unambiguously waived** by employees **in collective bargaining agreement** *Sec. 2.28.160*
Exemptions	**Exemptions** *Sec. 2.28.090*
Exempts PABs that have not employed > than 20 people for prior 12 pay periods, and will not employ > 20 persons for future 12 pay periods	Employers with fewer than 5 employees *Sec. 2.28.090(A)*
	Trainees in a City-approved job training program - for training period *Sec. 2.28.090(B)*
Youth employees under 21 -	Youth employees under 21 -

after school, summer work, less than 90 days employed	after school, summer work, less than 90 days employed *Sec. 2.28.090(C)*
PAB employees who spend less than 25% time on "Port related employment"	CFAR employees who spend less than 50% time on City funded **program/activity** or **property**
	Employees of **service contractors** (greater than $25,000) **of CFARs** that **spend less than 50%** of their **time** on funded **program/activity** or **property**
	Employees of CFAR tenants and leaseholders who employ fewer than **20 employees** for **each working day** in **20 calendar weeks during 12 months after occupation or use** of property
No right of Port to waive	**One-year Waiver by Council, Renewable** *Sec. 2.28.080*
N/A	CITY MANAGER RECOMMENDATION & CITY COUNCIL FINDING: 1) **ECONOMIC HARDSHIP**, 2) WAIVER **WILL FURTHER CITY'S INTERESTS IN CREATING TRAINING JOBS** LIKELY TO LEED TO PERMANNENT LIVING WAGE JOBS, 3) **NO DISPLACEMENT** OR REPLACEMENT OF EXISTING EMPLOYEES, 4) **BALANCE OF COMPETING INTERESTS** WEIGHS CLEARLY IN FAVOR OF WAIVER
N/A	CITY COUNCIL FINDS THAT ITS IN THE **BEST INTERESTS OF THE CITY** TO WAIVE
Enforcement	**Enforcement** *Secs. 2.28.120, 2.28.130, 2.28.140*
City Manager **may** promulgate implementation rules & regulations	City Manager **required** to promulgate implementation rules and regulations, &

	provide reports to City Council *Sec. 2.28.120*
Not provided	Authorizes City to take action/remedies against contractor/CFAR (e.g., suspend payments; get money back; debar contractor/CFAR; $500/week fine; wage restitution) *Sec. 2.28.130*
Not provided	City process for reviewing employee complaint *Sec. 2.28.140*
Savings Clause	**Savings Clause**
Not applicable to extent will cause loss of any federal or state funding of Port activities.	This Ord. is applicable to all City, Federal and State funded contracts/CFARs to the extent that it is consonant with laws that authorize the funding *Sec. 2.28.170*

REVISED 11/20/01

OAKLAND CITY COUNCIL

RESOLUTION NO. _____C.M.S.

INTRODUCED BY COUNCILMEMBER_____

RESOLUTION SUBMITTING, ON THE CITY COUNCIL'S OWN MOTION, A PROPOSED CHARTER AMENDMENT, ENTITLED, "LIVING WAGE AND LABOR STANDARDS AT PORT-ASSISTED BUSINESSES", TO BE SUBMITTED TO THE ELECTORS AT THE NOMINATING MUNICIPAL ELECTION ON MARCH 5, 2002; DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS, TO PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE STATEWIDE PRIMARY ELECTION, EACH TO BE HELD ON MARCH 5, 2002

WHEREAS, Oakland City Charter Article VII specifies the role and responsibilities of the City's Port Department and created the Board of Port Commissioners; and

WHEREAS, the Board of Port Commissioners oversees the operations of the Port Department which includes the Port of Oakland and the Oakland airport; and

WHEREAS, with certain exceptions the ordinances passed by the Oakland City Council do not apply to the Port Department; and

WHEREAS, due to the Board of Port Commissioners' role and responsibilities under the current City Charter, the City of Oakland's Living Wage Ordinance does not apply to the Port of Oakland; and

WHEREAS, contractors and lease holders receive a substantial benefit from doing business at the Port of Oakland, in part because of the large public investment in infrastructure, such that it is fair to require them to adhere to certain minimum labor standards in dealing with their employees at the Port; and

WHEREAS, the Port has a substantial proprietary interest in certain contracts with employers in the hospitality and retail food industry because the Port will receive a percentage of the revenues or income from the business, and that proprietary interest would be affected by labor

disruptions at the Port; and

WHEREAS, an amendment to the Oakland City Charter adding section 728 to Article VII would:

(1) require payment of a "living wage" of not less than $10.50 without health benefits, which is the same amount the City of Oakland Living Wage ordinance currently requires, by Port tenants and contractors doing more than $50,000 in business with the Port,
(2) require, with certain exceptions, that new Port contractors doing more than $50,000 with the Port, who replace a prior Port contractor; hire the non-management and non-supervisory employees of the prior Port contractor for a period of not less than 90 days and terminate such employees only for just cause during the 90 day period if the employees can perform the new contractor's work; and
(3) prohibit the Port Department from entering into private contracts to perform work that Port employees performed as of June 30, 2001 except in the case of an emergency; and
(4) require that in exchange for a no-strike agreement, future Port contractors in the hospitality (e.g. hotel or motel businesses) or retail food industry, shall be or become signatory to valid collective bargaining agreements or other contract with each labor organization representing or seeking to represent any of that contractor's employees on Port property, if over the term of the Port contract the Port is entitled to receive a percentage of the revenues or income of the contractor's business as rents, royalties or other income equal to at least $50,000; and

WHEREAS, the proposed Charter amendment would provide for a living wage for employees of Port contractor who do significant business with the Port; protect workers from displacement by private contractors by requiring that Port contractors who replace a prior Port contractor assume the non-management and non-supervisory workers of the prior Port contractor and limiting contracting out of work performed by Port employees; and prevent labor disputes from injuring the Port's revenue stream by requiring no strike clauses in the Port contractor's agreements with labor organizations; now, therefore, be it

RESOLVED: That the Oakland City Charter is amended to add the following section which shall read as follows:

"Section 728. LIVING WAGE AND LABOR PEACE AT PORT-ASSISTED BUSINESSES

1. Scope and Definitions.

The following definitions shall apply throughout this Section:

A. "Port" means the Port of Oakland.

B. "Port-Assisted Business" or "PAB" means (1) any person receiving in excess

of $50,000 worth of financial assistance from the Port, or (2) any Port Contractor. "Port Contractor" means any person party to a Port Contract as herein defined.

C. "Port Contract" means:

(1) Any service contract with the Port for work to be performed at the Port under which the Port is expected to pay more than $50,000 over the term of the contract;

(2) Any contract, lease or license from the Port involving payments to the Port expected to exceed $50,000 either (a) over the term of the contract, lease or license, or (b) during the next 5 years if the current term is less than 1 year but may be renewed or extended, either with or without amendment;

(3) any subcontract, sublease, sublicense, management agreement or other transfer or assignment of any right, title or interest received from the Port pursuant to any of the foregoing contracts, leases or licenses.

A contract, lease or license with the Port or any agreement derived therefrom shall not be deemed a Port Contract unless entered into after enactment of this Section, or amended after enactment of this Section to benefit in any way the party dealing with the Port.

D. "Employee" means any individual employed by a PAB in Port-related employment if the PAB employs more than 20 persons per pay period, unless in the prior 12 pay periods the PAB has not had more than 20 such employees and will not have more than 20 in the next 12 pay periods. A PAB shall be deemed to employ more than 20 persons if it is part of an "enterprise" as defined under the Fair Labor Standards Act employing more than 20 persons.

E. "Person" include any natural person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity.

F. "Valid collective bargaining agreement" as used herein means a collective bargaining agreement entered into between the person and a labor organization lawfully serving as the exclusive collective bargaining representative for such person's employees.

G. "Contract under 29 U.S.C.§185(a)" as used herein means a contract to which 29 U.S.C. §185(a) applies, as that provision has been interpreted by the United States Supreme Court.

2. Exemptions from coverage

In addition to the above exemption for workforces of fewer than 20 workers, the following persons shall also be exempt from coverage under this Section:

A. An Employee who is (1) under twenty-one (21) years of age and (2) employed by a nonprofit entity for after-school or summer employment or for training for a period not longer than ninety (90) days, shall be exempt.

B. An Employee who spends less than 25 percent of his work time on Port-related employment.

3. Payment of minimum compensation to Employees

Port-Assisted Businesses shall provide compensation to each Employee of at least the following:

A. Minimum Compensation

The initial minimum compensation shall be wages and health benefits totaling at least ten dollars and fifty cents ($10.50) per hour, or if greater, the rate of any living wage ordinance of the City of Oakland.

B. Credit for Health Benefits

The PAB shall receive a credit against the minimum wage required by this Section of up to $1.37 per hour for the amount it spends on average for health benefits for all Employees covered by this Section and their dependents. For example, if an employer spends an average of $1.25 per hour for health insurance, then the employer need only pay each Employee at least $9.25 per hour in wages.

C. Adjustments

Beginning one year after the effective date of this Section, the above rates shall be upwardly adjusted annually, no later than April 1st, in proportion to the increase as of the preceding December 31st over the prior year in the Bay Region's Consumer Price Index as published by the U.S. Bureau of Labor Statistics. Tips or gratuities received by Employees shall not be credited or offset against the rates of compensation required by this Section. The Port shall publish a bulletin by April 1st of each year announcing the adjusted rates, which shall take effect upon such publication. Such bulletin will be distributed to all PABs covered by this and to any other person who has filed with the Port a request to receive such notice. A PAB shall provide written notification of the rate adjustments to each of its Employees and to its covered tenants, contractors and subcontractors, who shall provide written notices to each of their Employees, if any, and make the necessary payroll adjustments by July 1 following the Port's notice of the adjustment.

4. Notifying Employees of their potential right to the federal earned income credit.

Each PAB shall inform each Employee who makes less than twelve dollars ($12.00) per hour of his or her possible right to the federal Earned Income Credit ("EIC") under Section 2 of the Internal Revenue Code of 1954, 26 U.S.C. §32, and shall make available the forms required to secure advance EIC payments from the business. These forms shall be provided to the eligible Employees in English (and other languages spoken by a significant number of such Employees) within thirty (30) days of employment under this Section and as required by the Internal Revenue Code.

5. Preventing Displacement of Workers

(A) Each PAB which is to replace a prior PAB shall offer employment to the nonmanagement and nonsupervisory Employees of the prior PAB, if these Employees worked for the prior PAB for at least 90 calendar days. Such Employees may be not be terminated by the new PAB during the first 90 work days except for just cause. The new PAB may operate at lower staffing levels than its predecessor but in such event, shall place the prior Employees on a preferential reinstatement list based on seniority. For purposes of this Section, a PAB "replaces" another if it (1) assumes all or part of the lease, contract or subcontract of a prior employer or obtains a new lease, contract, or sublease, and (2) offers employment which Employees of the prior PAB can perform. In the case of a replacement connected to the new PAB relocating from another location, in staffing decisions the new PAB may recognize seniority from its prior locations in addition to the seniority of the prior PAB's workforce.

(B) Notwithstanding Section 902(e) or any other provision of the City Charter, except in an emergency the Port shall not enter into any private contract for work which was performed by persons employed by the Port as of June 30, 2001, nor for the same class of work, including such work at new or expanded Port facilities.

6. Agreements required to protect Port's proprietary interests from effects of labor disputes

(A) As a condition precedent to any Port Contract in which the Port has a proprietary interest and which is in the Hospitality or Retail Food Industry, each such PAB shall be or become signatory to valid collective bargaining agreements or other contracts under 29 U.S.C. §185(a) with each labor organization representing or seeking to represent any of that PAB's Employees on Port property. Each such agreement or contract must contain a provision limiting the ability of the labor organization and its members (and in the case of a collective bargaining agreement, all employees covered by the agreement) to engage in picketing, work stoppages, boycotts or other economic interference with the Port for the duration of the Port's proprietary interest in such PAB's operation or for 5 years, whichever is less ("No-Strike Pledge"). Each such PAB shall also be required to ensure that any of its contractors, subcontractors, tenants, subtenants, licensees or sublicensees in the Hospitality or Retail Food Industry which are likely to impact the Port's proprietary interest will also be covered by No-Strike Pledges.

(B) For purposes of this subsection, "Hospitality or Retail Food Industry" includes hotels, motels or similar businesses, or on-site preparation, service or retailing of food, beverage or medication. A "proprietary interest" shall not be deemed to exist without (1) the Port being entitled to receive a percentage of the revenues or income of a business as rents, royalties or other income, and (2) the Port being expected to receive $50,000 or more in such rents, royalties or other income over the duration of the contract, lease or license.

(C) A PAB shall be relieved of the obligations of this subsection for any period of time during which a third-party neutral agreeable to the Port, the PAB and the Alameda Central Labor Council has found, after notice and hearing, either (a) that the labor organization is placing unreasonable conditions upon its No-Strike Pledge, or (b) that the Port lacks a legally-sufficient proprietary interest in such PAB's operation or the proposed agreement would be otherwise unlawful. If the parties are unable to agree upon a neutral, the PAB may contact the Federal Mediation and Conciliation Service (FMCS) to obtain a list of seven arbitrators affiliated with the National Academy of Arbitrators, from which the parties shall select a neutral by striking off names. At the PAB's request, such proceeding shall be conducted according to the FMCS expedited arbitration procedure. The Port shall bear the neutral's fees.

7. Retaliation and discrimination barred; no waiver of rights.

A. A PAB shall not discharge, reduce the compensation of or otherwise discriminate against any person for making a complaint to the Port, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Section.

B. Any waiver by an individual of any of the provisions of this Section shall be deemed contrary to public policy and shall be void and unenforceable, except that Employees shall not be barred from entering into a written valid collective bargaining agreement waiving a provision of this Section (other than subsection 6) if such waiver is set forth in clear and unambiguous terms. Any request to an individual by a PAB to waive his or her rights under this Section shall constitute a violation of this Section.

8. Enforcement

A. Each PAB shall maintain for each person in Port-related employment a record of his or her name, pay rate and, if the PAB claims credit for health benefits, the sums paid by the PAB for the employee's health benefits. The PAB shall submit a copy of such records to the Port at least by March 31st, June 30th, September 30th and December 31st of each year, unless the PAB has employed less than 20 persons during the preceding quarter, in which case

the PAB need only submit a copy of such records every December 31st. Failure to provide a copy of such records within five days of the due date will result in a penalty of five hundred dollars ($500.00) per day. Each PAB shall maintain a record of the name, address, job classification, hours worked, and pay and health benefits received of each person employed, and shall preserve them for at least three years.

B. If a PAB provides health benefits to persons in Port-related employment but does not pay for them on a per-hour basis, then upon the PAB's request, the amount of the hourly credit against its wage obligation shall be the Port's reasonable estimate of the PAB's average hourly cost to provide health benefits to its Employees in Port-related employment. The PAB shall support its request with such documentation as is reasonably requested by the Port or any interested party, including labor organizations in such industry.

C. Each PAB shall give written notification to each current Employee, and to each new Employee at time of hire, of his or her rights under this Section. The notification shall be in the form provided by the Port in English, Spanish and other languages spoken by a significant number of the employees, and shall also be posted prominently in areas at the work site where it will be seen by all Employees.

D. Each PAB shall permit access to work sites and relevant payroll records for authorized Port representatives for the purpose of monitoring compliance with this Section, investigating employee complaints of noncompliance and evaluating the operation and effects of this Section, including the production for inspection and copying of its payroll records for any or all persons employed by the PAB. Each PAB shall permit a representative of the labor organizations in its industry to have access to its workforce at the Port during non-working time and in non-work areas for the purpose of ensuring compliance with this Section.

E. Notwithstanding any provision in Article VI of this Charter to the contrary, the City Manager may develop rules and regulations for the Port's activities in (1) Port review of contract documents to insure that relevant language and information are included in the Port's RFP's, agreements and other relevant documents, (2) Port monitoring of the operations of the contractors, subcontractors and financial assistance recipients to insure compliance including the review, investigation and resolution of specific concerns or complaints about the employment practices of a PAB relative to this section, and (3) provision by the Port of notice and hearing as to alleged violations of this section.

9. Private Rights of Action.

A. Any person claiming a violation of this Section may bring an action against the PAB in the Municipal Court or Superior Court of the State of California, as appropriate, to enforce the provisions of this Section and shall be entitled to all remedies available to remedy any violation of this Section, including but not limited to back pay, reinstatement or injunctive relief. Violations of this Section are declared to irreparably harm the public and covered employees generally.

B. Any employee proving a violation of this Section shall recover from the PAB treble his or her lost normal daily compensation and fringe benefits, together with interest thereon, and any consequential damages suffered by the employee.

C. The Court shall award reasonable attorney's fees, witness fees and costs to any plaintiff who prevails in an action to enforce this Section.

D. No criminal penalties shall attach for any violation of this Section, nor shall this Section give rise to any cause of action for damages against the Port or the City.

E. No remedy set forth in this Section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This

Section shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

10. Severability

If any provision or application of this Section is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Section, including limiting the scope of coverage or striking the five-year provision of subsection 6, in order to preserve the maximum permissible effect of each subsection herein. Nothing herein may be construed to impair any contractual obligations of the Port. This Section shall not be applied to the extent it will cause the loss of any federal or state funding of Port activities.". ; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed charter amendment, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed charter amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED CHARTER AMENDMENT

MEASURE PROVIDING FOR LIVING WAGE AND LABOR STANDARDS AT PORT-ASSISTED BUSINESSES

MEASURE _____

Measure _____. Shall the Oakland City Charter be amended to add section 728 to (a) require that specified Port of Oakland contractors pay a minimum living wage of $10.50 and retain qualified employees of the previous contractor for at least 90 days; (b) prohibit contracting-out of Port employees' work except in emergencies;, and (c) require that certain hospitality and retail food contractors sign labor agreements with labor organizations that include no-strike pledges?	Yes	
	No	

FURTHER RESOLVED: that the City Clerk and City Manager are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the March 5, 2002 election and appropriate all monies necessary for the City Manager and City Clerk to prepare and conduct the March 5, 2002 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2001

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE, NADEL, REID, SPEES, WAN AND PRESIDENT DE LA FUENTE

NOTES-

ABSENT-

ABSTENTION-

ATTEST:_____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

Living Wages at the Port of Oakland

Carol Zabin***
Michael Reich**
Peter Hall*

with the assistance of
Melanie McCutchan, Christopher Niedt and Egon Terplan

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December 1999

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Living Wages at the Port of Oakland

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Summary and Main Findings

In June of 1999, a coalition of citizen groups proposed that the City of Oakland's Living Wage Ordinance should be extended to cover workers employed by leaseholders and contractors of the Port of Oakland. The Port is currently excluded from the City law. The Port of Oakland is the city's biggest public asset and is frequently touted as the city's principal engine of economic growth. Businesses at the Port's three divisions-- the maritime port, Oakland International Airport, and the waterfront real estate division, which includes Jack London Square-- employ over 11,000 workers and generate indirectly another 11,000 jobs. The Port is planning expansions that will increase these numbers dramatically.

This study estimates the costs and benefits of implementing a specific living wage policy proposal which would cover the leaseholders and on-site service contractors of the Port of Oakland. We based our analysis on the assumption that the living wage policy would follow the provisions of the Oakland law, except that the Port policy would include the category of leaseholders. Leaseholders are only covered in the Oakland law if they receive direct city financial assistance. Following the Oakland law, the proposal we analyzed would require covered businesses to pay their workers $8.30 per hour if they provide health benefits or $9.55 per hour without benefits, with wages indexed to cost-of –living adjustments every year. The proposal would also provide a floor of 12 days of paid leave (and 10 days unpaid leave) for illness, holidays and vacation.

The information used in this analysis is based largely on contract and economic data that we obtained from the Port and from a detailed survey that we conducted of the Port's leaseholders and on-site contractors. Our survey examined the 140 businesses at the Port who would be covered by the proposed ordinance because they are leaseholders or on-site subcontractors, and who employ over five workers. The survey compiled extensive information on firms, jobs and workers, supplemented when necessary by estimates derived from government data sources, by a briefer survey we conducted of firms located near Jack London Square and by selected on-site interviews. We also obtained useful comments from Port officials and other stakeholders.

What kinds of jobs does the Port create and who holds them?

Thirty years ago much of the employment at the Port consisted of highly-paid longshoring jobs in the maritime division. Since then, the number of longshoring jobs in the Bay Area has fallen by half, while employment at the Port's airport and real estate divisions both have increased and are expected to continue to grow in the coming decade. As a result, the maritime division currently contains the lowest number of jobs at the Port (about 2,050), although at the highest average wages (about $32 per hour). The airport is by far the biggest job generator at the Port, with almost 7,300 employees and average wages of $14.50. The real estate division, with 2,100 jobs, produces the lowest wage employment, with an average wage just under $11. Unionized jobs are concentrated

in the maritime division and pay much higher wages than non-union jobs, which are most concentrated in the real estate division. The individual economic sectors with the lowest average wage rates at the port are the hotel, restaurant, parking, security and skycaps, and other services sectors.

Approximately 54 percent of Port workers live in Oakland and about 35 percent are women. About 36 percent of Port workers are African American, about the same as their representation in Oakland as a whole. Asian Americans and Latinos comprise 14 percent and 24 percent of Port workers, respectively.

Average wage disparities among ethnic groups in the Port as a whole are fairly small, with the notable exception of Asian Americans, who earn substantially less than other groups. Within the Port's divisions, however, racial wage disparities have been overcome only in the maritime division, where African Americans constitute about half of the highly-paid longshore workers. In both the airport and the real estate divisions, average wages of whites are about 50 percent higher than those of African Americans.

What would be the benefits of a living wage policy at the Port?

About 2,600 low-paid workers at the Port of Oakland would benefit directly from the proposed living wage ordinance. They would receive an average pay and benefits increase of $2.25 per hour, and up to 12 days of paid leave per year. In total, these low-wage workers would receive an additional $4.7 million in wages and $3.3 million in health benefits each year.

In addition, approximately 500 more workers would benefit indirectly because of a "wage push" effect. They would receive an average pay increase of $1.16 per hour. The total indirect wage push for workers just above and below the living wage level amounts to a $2.1 million increase each year.

The 3,100 living wage beneficiaries would comprise about 27 percent of all non-supervisory employees of Port leaseholders.

About 41 percent of the direct beneficiaries would be African American, 25 percent would be Latino, 19 percent would be Asian American and 15 percent would be white. People of color, especially African Americans, are represented in greater proportions among the benefiting workers than among Port workers as a whole, because currently they are over-represented in low wage jobs. Oaklanders would also benefit disproportionately, comprising 65 percent of the beneficiaries.

What are other benefits of the ordinance?

Firms would receive some benefits due to lower turnover costs and higher productivity among workers earning the living wage standard.

The ordinance would contribute to the county, state and federal public coffers through savings in county health expenditures for the uninsured and increased revenues from income and payroll taxes. This is a small but positive but effect on public finance.

What would be the costs of a living wage policy at the Port?

Living wage costs would increase Port leaseholders' wage bill by 4.4 percent and comprise about 1 percent of leaseholders' annual business revenues.

The total cost to employers of the living wage policy would be about $13 million per year. The cost of increasing wages to $8.30 an hour is about $4.7 million; the costs of providing more health care coverage is $3.3 million; the costs of paying an indirect wage push is $2.1 million; and the costs of paying 12 days of paid leave is $2 million. Employers would also pay an additional $1 million in payroll tax, bringing the total cost increase to about $13 million.

Since not all leases are up for renewal every year, the costs would be phased in over time.

Who would bear the costs and would business growth in Oakland be hurt?

The maritime division would experience almost no increase in cost. Cost increases in the airport and real estate divisions would constitute about 1.5 percent and 4.3 percent of leaseholders' business revenues, respectively.

For the airport, this cost amounts to $0.59 per passenger departure, not enough to change passenger preference for flying out of Oakland. Low wages are concentrated in a few firms who are subcontractors to the major airlines. The airlines could easily absorb these small cost increases and would pass some of them on to consumers.

For the real estate division, the increase in wages and benefits amounts to $0.66 per visitor to Jack London Square annually. The increase in costs to the affected restaurants and hotels is smaller than the premium they get for locating near the waterfront and in Jack London Square, compared to similar businesses in less desirable locations. With business growing in the area, the relatively small increase in costs should not affect the overall business climate.

Employment at the Port would continue to grow and at a rate that is unlikely to be affected by the proposed ordinance. Revenues collected by the Port are also likely to continue to increase.

Conclusions

Enacting a living wage ordinance at the Port of Oakland would help increase the incomes of 3,100 low-wage workers. The costs of the proposed ordinance are about $13 million and comprise only about 1 percent of Port leaseholders' business revenues.

We conclude that these costs will be absorbed easily by Port leaseholders, visitors to the waterfront, and passengers at the Oakland airport. Business will not be driven away and Port revenues will not go down. Bond ratings for the Port should remain unaffected.

The Port will continue to generate large numbers of jobs for Oakland and the region but, without public policy intervention to affect the quality of jobs, many of these will be low-wage jobs. Moreover, racial wage disparities will be perpetuated by this pattern of growth. The structure of job growth at the Port is not unique; it parallels the private economy as a whole. The question facing policy-makers is whether or not a public agency like the Port should act to reverse this pattern of increasing wage polarization as well as the growth of the working poor.

1. Introduction and overview of Living Wage Ordinances

Purpose of this report

This report estimates the costs and benefits of a Living Wage Ordinance that would cover the Port of Oakland. The Oakland City Council unanimously passed a Living Wage Ordinance in March of 1998. Oakland is one of forty cities and counties across the United States that have adopted living wage laws; over fifty others currently are in the process of considering such an ordinance. The Oakland Ordinance did not include the Port of Oakland, which is a semi-autonomous department of the city, governed by an appointed Port Commission.

In June of 1999, a number of citizen's groups, under the banner of the Coalition for an Accountable Port, proposed that the Oakland Ordinance should be extended to cover contracts, rental agreements or leases with the Port of Oakland. The basis for the extension is that the Port of Oakland is the city's biggest public asset and it is frequently touted as the city's principal engine of economic growth. The Port's three divisions-- the maritime port, Oakland International Airport, and the waterfront real estate division, which includes Jack London Square-- generate over 22,000 jobs and the Port is planning expansions that will increase this number dramatically.

The proposed living wage ordinance is designed to increase the pay and benefits of low-wage workers by requiring covered employers to pay a "living wage. Absent a specific written policy proposal from the citizen's groups, we evaluated a living wage proposal that assumed the same wage and benefit provisions as those stipulated in the City of Oakland's ordinance. This would set a wage floor of $8.30 per hour if the employer also pays for health benefits, or $9.55 without health benefits, to be is indexed to inflation in future years. The proposed ordinance would also mandate a floor of 12 days of compensated time off for illness, holidays and vacation. However, it should be noted that the City of Oakland ordinance currently covers leaseholders only if they receive direct public assistance, while the proposal we analyze includes all leaseholders at the Port of Oakland.

Living wage campaigns have arisen in response to the growing problem of inequality and of poverty even among full-time workers. The idea of a living wage is simple. Workers should be able to support themselves and their dependents at a basic self-sufficiency standard on the earnings they receive from full-time employment.

At one time, the minimum wage was set to provide self-sufficiency but it no longer does so. The real buying power of the California minimum wage in 1999 is three-quarters of what it was in 1968, despite the fact that the U.S. economy is 54 percent more productive in 1999 than it was in 1968. If the 1968 minimum wage had kept pace with inflation and productivity growth, it would now be about $11.80 per hour. Since the statewide minimum wage has not been raised to a level sufficient to support a family, the Living Wage campaign represents an attempt to use local government to reinstate a meaningful minimum wage.

A weakness of living wage laws is that in some cases they cover a small number of workers. Estimates of the impact of the City's ordinance have ranged from 400 to 2,200 employees (City of Oakland, 1998). However, only 56 workers on service contracts and 31 workers employed by City financial assistance recipients had received wage increases as of October 1999.[1] This figure is expected to rise as contracts are executed, but even when fully implemented, City personnel have concluded that the number of affected workers will be much closer to the estimate of 400 than to the larger estimate of 3,000.

In some cities, the numbers of workers benefiting from living wage policies is much greater. In Los Angeles, about 9,000 workers may benefit, largely because leaseholders at the Los Angeles International Airport are covered (Uchitelle, 1999). Living wage proponents in Oakland targeted the Port as a way to extend the benefits of the living wage idea to more workers.

This study estimates both costs and the benefits of the proposed ordinance, in the hopes of promoting informed debate among Oakland residents, elected officials, and Port commissioners. While proponents see the living wage as a way to bring low-wage workers out of poverty, there are costs. Opponents are concerned that the proposed policy could drive business away from the Port of Oakland, or could lower revenues for the Port, which is self-supporting. We analyze who is likely to bear the costs of the proposed living wage policy, and whether or not the costs are affordable.

The study was carried out by a team of economists and students from the University of California, Berkeley. It was funded by the UC California Policy Research Seminar, at the request of Senator Don Perata.

We organize the report as follows. We first provide background information on Living Wage ordinances around the country. We then discuss Oakland's economy, with emphasis upon how recent economic growth continues to generate inequality. Next we profile the employment created by businesses who hold leases at the Port of Oakland, using data from a survey of employers that we conducted over the spring and summer of 1999. Using this survey data, we then estimate the benefits and costs of the proposed ordinance and examine the affordability of the ordinance in the context of the Port's overall economic activity.

The Oakland Living Wage Ordinance in national perspective

The Oakland Living Wage Ordinance covers all private businesses and non-profit organizations that have city contracts worth at least $25,000 or receive at least $100,000 in city subsidies per year (and their tenants and leaseholders). The Ordinance initially required a wage of $8.00 per hour with health benefits, and $9.25 without, and is adjusted each year in accordance with the Bay Region Consumer Price Index. The 1999 adjusted

[1] Personal communication, Vivian Inman, Office of Contract Compliance, City of Oakland.

wage level is $9.55 an hour, or $8.30 if the firm provides health benefits.[2] The Ordinance also entitles covered workers to 12 paid days off per year (and 10 days unpaid leave) and it contains an "opt out" provision by which a collective bargaining contract can supersede the requirements of the ordinance.

Oakland's wage standard and coverage

The wage standard in Oakland's Ordinance is lower than estimates of a self-sufficiency wage for the city and lower than the levels mandated in some of the living wage ordinances elsewhere. The California Budget Project has estimated a self-sufficiency wage for Alameda County at $12.92 per hour, substantially above the current Oakland living wage (California Budget Project, 1999). This self-sufficiency wage is based on a family with two parents who are both working and with two children who squeeze into a one-bedroom apartment and use family day care (generally the most inexpensive kind of childcare).

The Oakland standard is also modest compared to other cities that have adopted living wage ordinances, once Oakland's high cost of living is taken into account. As Table 1-1 shows, Baltimore's living wage of $7.90 is equivalent in purchasing power to a wage of $13.27 in Oakland, and Boston's living wage of $8.23 would be $9.29 in Oakland. The $7.51 Los Angeles living wage is equivalent in purchasing power to a wage of $9.52 in Oakland. This ordinance includes workers at LAX airport. The recently announced living wage agreement at the SFO airport provides for $9 per hour, increasing to $10 per hour after one year (Epstein, 1999). This level is equivalent to purchasing power of $8.62 in Oakland.

The City of Oakland's Living Wage Ordinance covers the city's contractors and subsidy recipients. The proposed living wage policy for the Port would include leaseholders, a category of employers not currently covered by the City's Ordinance unless they are also city financial assistance recipients (CFARs) or their tenants. Leaseholders have been included in a number of other living wage policies around the country, including the Los Angeles and Miami airports, and have been proposed for San Francisco's airport and maritime port.

Living wage ordinances around the country vary with respect to the set of employers they cover. However, the underlying principle is similar in all cases: the ordinances recognize the impact of local governments' business decisions on job creation. The living wage mandates that public entities directly or indirectly create good jobs in a particular locality, whether through direct expenditures on contractors or the opportunities created by publicly owned assets such as waterfront property or port facilities.

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[2] An official at the Port of Oakland has questioned the accuracy of the cost of living adjustment of the current City of Oakland Living Wage. The small adjustment suggested - to $8.22 rather than $8.30 - does not materially affect the estimates presented here, and thus we have used the official living wage.

Some living wage ordinances contain additional provisions, such as local hiring requirements, and public disclosure and/or enforcement stipulations. Most living wage laws provide exemptions for small firms: Oakland's Living Wage Ordinance, and the proposal evaluated here, only applies to firms with more than five employees.

2. Recent growth and income distribution trends in Oakland

The Oakland economy is currently undergoing an upswing, with high rates of job and income growth. However, this economic prosperity is distributed unevenly and the area faces a legacy of inequality that will be exacerbated by the current growth trajectory. In this context, policies such as a living wage ordinance can help to distribute the benefits of growth more equitably.

Economic growth in Oakland

Like the rest of California, Oakland experienced an economic recession in the early 1990s. From 1990 to 1993, employment among Oakland residents fell from 167,600 to 162,700, while the city's unemployment rate increased from 6.4 percent to 10.3 percent. With the state's economic recovery in recent years, job and income growth in Oakland has also resumed and the ingredients for a substantial economic boom are in place. In 1998, employment had risen to 174,000; the unemployment rate had fallen to 6.5 percent, and by the third quarter of 1999 it was down to 5.3 percent (Employment Development Department, 1999). Between 1998 and 1999, the Oakland MSA created a net 28,100 new jobs, for a growth rate of 2.9 percent[3] (CB Richard Ellis, 1999). Oakland's central location, good public transportation infrastructure, strong maritime port and air cargo airport, potentially highly valuable housing stock and a number of other elements have combined to create strong growth.

This growth is reflected in rising commercial and residential property values. Class A rents in the East Bay office market have increased 9 percent in the past year, and are projected to increase further (CB Richard Ellis, 1999). Nonresidential construction grew 68 percent between 1996 and 1997, more than double the statewide average of 28 percent, although lagging the Bay Area rate of 83 percent (SF Airport Commission, 1999). The residential housing market is also healthy. Median home prices in Alameda County rose to $247,000 in 1999, nearly double the U. S. urban average, and grew 7.4 percent over the previous year. These real estate statistics provide evidence that Oakland is becoming a more attractive investment and development location.

Those left behind

California has experienced substantial increases in income inequality over the last two decades, even more than the nation as a whole (California Budget Project, 1998; Daly and Royer, 1999). Although we have no detailed studies of recent patterns of inequality in the Bay Area, there are strong indications that the Bay Area is still experiencing growing inequality. We can document continuing inequality both between Oakland and other Bay Area cities and within Oakland itself.

Although Oakland's economy as a whole has begun to catch up to other Bay Area cities, income in Oakland is still lower than elsewhere in the Bay Area. Average wage

[3] The Oakland MSA includes Alameda County and Contra Costa County. Wherever possible, we use data for the City of Oakland.

data also indicate an ongoing between Oakland and its richer neighbors, San Francisco and San Jose, as is shown in Table 2-1.

A large fraction of Oakland residents earn low wages. The latest government survey data show that 45 percent of Oakland workers earn below the self-sufficiency wage of $12.74 per hour while 28 percent earn below the Oakland's living wage of $8.30.[4] By contrast, 40 percent of workers in the Bay Area earn below $12.74 and less than 20 percent earn below the $8.30 wage.

Paralleling the rest of California, wage rates of local jobs are increasingly polarized. Many middle-income jobs have declined in number and the new jobs that are being created are concentrated at the high and low ends of the income scale. As Table 2-2 shows, the two occupations with the greatest projected job growth between 1995 and 2002 in Alameda County are cashiers and retail salespersons, both of which paid on average less than $8 per hour in 1997. Among the top ten occupations in Oakland, about half the total projected number of jobs in 2002 and half of the projected increase from 1995 to 2002 are in jobs earning less than $20,000 per year (in 1997 dollars).

Low wages and poverty are still concentrated in communities of color. African Americans represent 44 percent of the city's total population, but comprise 56 percent of those living below the federal poverty level (Bay Area Economics, 1999). Substantial inequality also exists within Oakland, with significant numbers of the working poor and pockets of poverty concentrated among certain neighborhoods and ethnic groups, especially among African Americans and Latinos. The West Oakland neighborhood that abuts the Port suffers from many of the negative side effects of a successful port, such as traffic congestion, noise, dust, and air pollution. In 1998, median household income in West Oakland was $14,788 and an estimated 22 percent of West Oakland residents received welfare (Bay Area Economics, 1999).

[4] The percentages are calculated in constant 1999 dollars using the CPS March Supplement sample of Oakland and Bay Area residents between 1996 and 1999.

3. Employment and pay at the Port of Oakland

In 1995, as Table 3-1 indicates, about 22,500 jobs were directly or indirectly attributed to the Port of Oakland, according to surveys carried out by consultants to the Port (Martin Associates, various years). This estimate includes Port tenants, leaseholders and contractors, and other firms whose businesses are directly dependent on the Port of Oakland.[5] At one time, the Port provided mainly middle-income jobs in its main activity, maritime shipping, where largely unionized longshore and trucking jobs provided important opportunities for upward mobility, particularly for African American workers in Oakland. As we discuss below, the transformation of the Port's uses and its projected expansions have resulted in the growth of low-wage jobs and will continue to do so in the future.

The Port's transformation

The Port has undergone substantial change over the past thirty years. During this period, revenues and shipping volume have grown rapidly in the maritime port, as San Francisco traffic has shifted to Oakland and trade volumes have risen. However, the number of jobs created for each dollar of goods shipped has declined, and the number of longshore jobs in the Bay Area has fallen to half the level of thirty years ago (Pacific Maritime Association, various years). In contrast, the Port's air and real estate divisions, while producing smaller revenue growth, have created growing numbers of jobs and will continue to do so in the future. The real estate division, and to a lesser degree the airport division, create substantial numbers of low wage jobs.

In the maritime port, automation in containerized shipping has sharply reduced the number of jobs generated per ton of cargo moved. The San Francisco Bay longshore workforce fell from 5,366 in 1951 to 1,049 in 1998, while throughput increased from 7 million to 23 million tons during the same period (Pacific Maritime Association, various years).[6] The leading West Coast ports in Southern California and Seattle have maintained longshore employment only because of tremendous growth in the volume of cargo. Cargo throughput in Oakland has grown at a healthy 2.5 percent per year since 1992, but this growth is much less than the annual growth at Long Beach (14 percent), Los Angeles (6.7 percent) and Seattle (5.0 percent) (Port of Oakland, 1998). The Port of Oakland expects to increase cargo throughput as a consequence of its expansion plans, which may lead to a one-time jump in maritime jobs, but long-term employment growth remains limited by on-going automation and constraints on increasing Oakland's market share.

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[5] The latter category comprises port-related businesses such as freight forwarders, customs brokerage houses, and trucking and warehousing firms. These businesses would not be located in the Bay Area without the Port of Oakland, but may not be located on Port land or have a direct financial relationship to the Port. Consequently, they would not be affected by a Living Wage ordinance.

[6] A significant portion of the loss of longshore jobs occurred in San Francisco, although we cannot give an exact breakdown because of lack of data. Oakland essentially has taken over shipping from San Francisco.

Besides stevedoring, short haul trucking is the main on-site occupation in the maritime port (Thurston, 1999). As a consequence of deregulation and de-unionization, about 85 percent of these workers are now owner-operators. While their employment status disqualifies them from coverage under a typical living wage policy, it should be noted that their annual net earnings are quite low.[7]

At the same time, air transport has grown tremendously. Centrally located, Oakland is well situated to serve Alameda and Contra Costa County, which in 1997-8 had the highest population growth in the Bay Area (Willis, 1999). In the last ten years, the number of passengers at Oakland grew by 130 percent, and Oakland's market share for passenger travel for the three major Bay Area airports increased from 10 percent to 15 percent. More dramatically, Oakland has become the main air cargo terminal in the Bay Area. In 1998 Oakland International Airport managed around 50 percent of all Bay Area domestic air cargo, up from around 20 percent in 1987 (Port of Oakland, 1999).

Alternative uses of the Port of Oakland's waterfront real estate have also grown, and created many more jobs in entertainment, leisure and recreation activities. As in other urban areas, there are mounting pressures to make waterfront land accessible for the public use. Over the next few years, uses that are compatible with public access, such as Jack London Square and similar developments, are likely to be supported and prosper. Indeed, after many years of disappointing activity, Jack London Square is becoming a lively commercial and entertainment locale, producing $60 million in business revenues in 1996, with further growth projected (Howe, 1997). Embarcadero Cove, on the southern tip of the estuary, is also slated for mixed use development in the coming years.

The Port's expansion

The Port of Oakland has just begun an unprecedented expansion that involves up to two billion dollars of capital improvements over the next five years. The maritime expansion plan includes the Vision 2000 program of building new berths and a new joint intermodal terminal, and dredging the channel to 50 feet. The expansion plan for Oakland International Airport includes new terminal buildings, a parking garage, and a cross-airport roadway. Revenue bonds will finance maritime and airport expansion. The Port has also recently proposed a $200 million plan for developing the waterfront in the Jack London Square area and has requested bids from private developers (DelVecchio, 1999). The Port does not expect to borrow funds to support this development.[8]

Port expansion is projected to lead to over 5,000 new jobs in the airport and close to 5,000 jobs in the maritime port.[9] Job projections are not yet available for the real estate division.

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[7] A recent survey of short-haul independent operators in Seattle found that average hourly wages were about $8.50 (Farb and Tomescu, 1999).
[8] Personal communication, Omar Benjamin, Director of the Port of Oakland's Real Estate Division.
[9] Personal communication, Ann Whittington, Strategic Planner, Port of Oakland.

Current Port employment patterns

The process of transformation and growth described above has created many more low-wage jobs, while many well-paid, largely unionized jobs have been lost. Here we analyze the current employment and workforce profiles of Port leaseholders in more detail. We find a pattern of high wages in the maritime division, low wages in the real estate division, and a range of wages in the airport division.

This analysis is based on a survey carried out by the UC Berkeley research team. The survey was necessary because the Port does not maintain detailed information about the employment generated by their tenants. (See Appendix A for a detailed description of our survey methodology.) Our survey comprises all businesses that hold leases with the Port and draws upon a list of tenants provided to us by Port officials. Contractors are included only if they have a substantial on-site presence or are direct subcontractors of leaseholders. We excluded building contractors and professional services firms because they are unlikely to employ workers at less than Oakland's living wage level. We did not include any port-related employers that were off-site, since they would not be covered by the proposed ordinance. We excluded employers with five employees or less, since Oakland's Living Wage Ordinance exempts such employers.

After these exclusions, we obtain a total of 140 Port leaseholders who employ about 11,400 workers (see Table 3-2a). These are the employers who would be covered by the proposed ordinance. In Section 4 we will analyze which of these employers would actually be *affected* by the ordinance because they currently pay low wages.

As Table 3-2a shows, the maritime division generates the highest average wages (about $32 per hour), but the lowest number of jobs, about 2,050. The real estate division produces slightly more jobs, but at much lower average wages, under $11. The airport is by far the biggest job generator, with 7,270 jobs, at average wages of $14.50. The wage differences among the Port's divisions correlate with widely different unionization rates. The maritime division is highly unionized, and the real estate division mostly non-union.

We provide a more detailed breakdown of employment, by economic sector rather than port division, in Table 3-2b. The lowest average wage rates at the port are concentrated in the hotel, restaurant, parking, security and skycaps, and entertainment and personal services sectors.[10]

The Port's workforce is unevenly distributed across ethnicity, gender, and residence. These patterns are presented in Table 3-3. About 54 percent of Port workers live in Oakland and about 35 percent are women. About 36 percent of Port workers are African American, similar to their representation in Oakland as a whole (US Bureau of the Census, 1990).

[10] Since retail, restaurant, car rental and parking establishments are located in both the airport and real estate divisions, the sectoral breakdowns do not correspond to different port divisions.

Average wages within Port divisions also vary by demographic group. Table 3-4 presents these patterns, weighted by the number of workers in each category. The wage gap between white and African American workers has been overcome only in the highly unionized maritime division. While overall average wages for African Americans are only slightly lower than for whites ($18.75 compared to $19.73), the wage gap is greater for the airport division ($10.96 compared to $15.80) and the real estate division ($8.88 compared to $12.53). The small number of women in the maritime division partly accounts for their low overall wage relative to workers as a whole.

A relatively small number of jobs and sectors account for most of the low-wage employment. Table 3-5 illustrates the kinds of low wage jobs that exist at the Port. Prominent low-wage occupations include restaurant waiters, rental car agents, airport ramp agents, and entertainment and personal services.

In sum, the survey data tell a powerful story about the types of jobs that are generated by the Port of Oakland. Clearly, the highly unionized maritime division provides the best-paid jobs for Oakland's diverse (male) population. However, these jobs stand in sharp contrast to the many low-wage jobs created in the real estate and airport divisions. Without public policy intervention to affect the quality of jobs, the Port will continue to contribute to the polarized growth trajectory of Oakland and the region. Moreover, racial inequities will be perpetuated by this pattern of growth.

4. The benefits of a living wage ordinance

Enacting a living wage ordinance at the Port could change the mix of jobs and increase wages for the lowest-paid workers. However, such a policy will generate costs as well as benefits. In this section we present our best estimates of the benefits to workers, to employers and to governmental entities of a living wage ordinance at the Port. The benefits for workers are the pay and health coverage increases among workers employed by Port leaseholders, including the indirect pay increases that result from wage push. We discuss how different demographic groups would benefit from the living wage ordinance. Benefits to employers consist of reduced turnover costs and increases in worker productivity. Benefits to governmental entities include reduced demands upon public health facilities and increased income and payroll taxes. We present our estimates of the costs in the succeeding section. Our estimates of both benefits and costs are the most careful that can be developed from the available data.

Benefits to workers

We present the number of low-wage workers who will be affected by the living wage ordinance in Table 4-1. The first and second columns estimate the direct beneficiaries of the ordinance. The first column shows that about 1,750 workers currently earn less than the living wage ($8.30 per hour) and would thus become eligible for a wage and benefit increase. This increase would bring them up to $8.30 per hour with health benefits or $9.55 without health benefits. The second column shows an additional 815 workers currently earn $8.30, but do not receive full health benefits. They are eligible for an improvement in their health benefits or for an increase in their wage to $9.55 per hour. We assume, following the proposed ordinance, that health benefits cost employers $1.25 per hour worked.

Table 4-2 indicates the demographic composition of the workers who would benefit directly from the living wage ordinance. African Americans, Latinos and Asian Americans, comprise a disproportionate number of living wage beneficiaries because they are currently over-represented in low wage jobs. For example, as is shown in Table 4.2b, African Americans comprise 36 percent of all workers at the Port, but 41 percent of workers making less than $9.54 per hour. Whites are over-represented among higher wage workers who would not be affected by the proposed ordinance. Women are over-represented among low-wage workers. Oakland residents are also over-represented among the low-wage category, and thus will also benefit disproportionately from the living wage ordinance.

Following previous research, we estimate that those workers who earn between $7.65 and $11.44 receive a wage increase due to the effect of a "wage push." This effect occurs because employers tend to raise the wages of the next tier of workers when the lowest paid workers in a firm receive a wage hike. Employers do this in order to maintain some of the relative pay differences for those with longer service, more skills or responsibility, or other job-related factors. Studies of wage-push effects find that wage

push pressure is generally confined to wage rates just above the floor wage (see Appendix B). To estimate this effect, we have drawn on research by Card and Krueger (1995), and followed the methodology used in the San Francisco living wage study by Reich et al (1999a and 1999b).

Table 4-3 summarizes the benefits for workers. About 2,600 workers will be directly affected by an increase in wages and/or benefits; and an additional 550 workers will be affected due to the wage push effect, bringing the total number of beneficiaries to over 3,100 workers. Directly affected workers will experience, on average, an increase of $2.25 in their hourly wage, totaling an additional $4.7 million in wages and $3.3 million in health benefits each year (see Table 4.4). Indirectly affected workers will gain $1.16 per hour. The total indirect wage push for workers just above and below the living wage level amounts to a $2.1 million increase each year. These total benefits to workers add up to $10.1 million. The 3,100 living wage beneficiaries would comprise about 27 percent of all non-supervisory employees of Port leaseholders. In addition, employees in covered firms would receive 12 days paid leave per year.

Benefits to employers

The living wage ordinance will increase worker pay, which frequently leads to some savings for employers. We examine here two sources of such savings: the reduced employee turnover costs and the increased productivity that economists expect to occur when wages are increased. These benefits to employers from paying higher wages will offset some of the increased costs, especially among the lowest-paying employers, and it is useful to consider the amounts involved.

Our best data on potential savings concern turnover, which we obtained through our employer survey. According to our summary calculations from the survey data, employee turnover at the Port averages about 25 percent per year, but it is nearly 20 percentage points higher among low-wage firms than among high-wage firms. A recent National Restaurant Association annual survey also found that turnover is about 20 percentage points lower in higher-wage establishments (Restaurants USA, 1999).[11]

Using the 20 percent expected decline in turnover, we calculated the savings in turnover costs as follows. According to the findings in the previous section, we estimate that the proposed ordinance would create an average wage increase of about $2.05 for over 3,000 workers. Increasing pay from $7.50 to $9.55 is equivalent to an increase of about 27 percent. According to the current research literature, as summarized by Card

[11] The same survey reports annual turnover rates among low-wage restaurants that are often in excess of 100 percent (see also Card and Krueger, 1995). The reported turnover rates in our sample may understate considerably the true turnover, especially at low-wage firms at the Port. Some of the respondents may have misinterpreted the survey question on this topic and reported monthly rather than annual turnover statistics. For this reason, we do not present a table with the turnover data, and we use only the summary figures to generate an estimate of the savings that are likely if turnover were reduced. Our calculations do not depend upon the turnover level, only the reduction, and this figure is likely to be robust .

Affordability at the Real Estate Division

The affordability issues at the Real Estate Division are somewhat different from those at the Airport and Maritime Divisions of the Port. First, the overall percentage cost increase is larger: 4.3 percent of business revenue. Second, many of the activities at the port are more subject to competition from nearby businesses. Location at the airport and the port is essential to most of the activities there, so the issue of competition with offsite businesses that pay lower wages is small. At the waterfront, offsite competition is a greater issue. Nonetheless, location of restaurants and other retail businesses at the waterfront provides them with competitive advantages: scenic views, city and port-supported infrastructure created by previous public investment, and a critical concentration of retail businesses. Whether this premium is sufficient to offset the cost increases is the principal issue.

The Port's revenue from the real estate division is also much lower than in the other two divisions. Not counting the revenue growth related to Oakland Portside Associates, operating revenue in the commercial real estate division has hovered at about $10 million in recent years, or one-seventh of the operating revenue in each of the other two divisions. More disturbing, the real estate division has been losing money. Its net operating income has been negative, even before taking depreciation and interest expenses into account (Table 5-3). Any possible reduction in rents in this division consequently generates a great affordability concern for the Port.

Our findings suggest that most of the firms that would be significantly affected by the proposed ordinance are concentrated in the real estate division. Except for about a dozen of these firms, the impact is less than 10 percent of their business costs. To examine whether the Port location provides a corresponding premium, we examined prices charged by businesses at Jack London Square to others at nearby locations.

Businesses on Port-owned land do charge more for their services than in nearby locations, presumably because of the locational advantages. For example, the Motel 6 on Port property is 18 percent more expensive than the Motel 6 adjacent to Port property. Additionally, the Airport Hilton, the Waterfront Plaza Hotel, and the Embarcadero Executive Inn charged on average 32 percent more than hotels immediately adjacent to Port property. Compared to similar hotels in surrounding cities, the three hotels on Port property charged 6 percent more.[14]

For another comparison, we sampled the prices of restaurants in and near Jack London Square. Comparing similar menu items, we found that restaurants on Port land charge on average 16 percent to 30 percent more than restaurants in the surrounding area.[15] These differences are greater than the cost of the proposed ordinance to

[14] Comparable hotels are Radisson, Clarion Suites, Four Points Hotels-Sheraton, and Holiday Inn in the Berkeley Marina, Lake Merritt, and Emeryville respectively.

[15] We compared prices at five restaurants in Jack London Square with prices at five restaurants in the surrounding area. The methodology involved comparing menu prices among the restaurants for both the least expensive seafood and the cost of dinner with the seafood entrée and a caesar salad.

Oakland of over $5 million. California One Services has subsidiaries or branches at 17 other airports. At most of these they have a very similar presence to Oakland: $1-2.5m sales and 50-99 employees.

The implementation of the proposed ordinance at the airport would not occur in a single year. Since the air passenger license and temporary use agreements typically are renewed annually, the Airport has significant flexibility in setting rates and it is not locked into long-term contracts. Consequently, without long lease durations in the way, the implementation of a living wage ordinance could take place rather quickly for this group of airport workers. But the rental car, air cargo, air maintenance, and restaurant and bar facilities typically have long-term lease agreements. For these sectors, the implementation of an ordinance is likely to take place over time. Such a phase-in implies that the costs per year would also be phased in over time.

In summary, only a few firms at the airport will actually have significant cost increases. Demand for departures from Oakland is not likely to be affected by a 59 cent increase. Airline services will be able to pass on increases to the airlines, and the airlines will be able to pass on increases to their customers. Many of the firms at the airport have a high ability to pay a living wage. The revenue implications for the Airport consequently are minimal and should not affect any bond-financed expansion costs.

Affordability at the Maritime Division

The impact of a living wage on the Maritime division will be significantly less than in the other divisions. According to Table 5-1a, the cost will be $1.68 million, equivalent to 0.25 percent of business revenue. As is shown in Table 5-1b, the impact within the maritime division upon maritime shipping activities themselves is 0.02 percent, which is essentially zero.

The impact on trucking and warehousing within the maritime division will be larger, about 4.2 percent of business revenue. Some of the trucking companies that will experience a cost increase are large firms that may be able to pay higher wages. For example, according to publicly available business sources, Pacific America, a trucking company and a major employer in the Maritime Division, has over $5 million in sales.

From our survey (but not reported in the table), we know that the bulk of the costs of enacting the living wage will be carried by non-maritime businesses that are located on maritime port land, such as a car rental agency and a restaurant.

In summary, taking all the sectors within the maritime division into account, the overall costs are so small and the pass-through and impact upon the firms' revenue is likely to be even smaller. Consequently, there should not be much impact upon the Port's revenues or bond ratings.

Airlines, the Oakland Airport's largest airline and second highest revenue source, accounts for nearly 13 percent of all the airport's revenue. Southwest has had significant growth in recent years as net income in 1998 increased to $433 million, up from $207 million in 1996[12]. Oakland's second largest airline, United, had net earnings in 1998 of $6.83 billion, up from $5.06 billion in 1996.

The airline service sector (fuelers, cabin cleaners, caterers, baggage handling) generally faces slightly higher costs increases of 1.2 percent of business revenue (see Table 5-1b). These costs are distributed unevenly, but are never greater than 6 percent per firm. The cost increases for these firms presumably would be passed on to the airlines themselves. Some of the firms in this sector are also large. For example, LSG Sky Chef has annual sales of $1.6 billion and is owned by Lufthansa, the German airline company.

The same pattern of small increases applies for airport security. Most of the employment in this sector is for baggage screeners. Again any increased costs are likely to be passed on to the airlines. If the Port pays a security company for overall guard service, it should be possible for the Port to easily pass increased costs to the airlines as well. For example, the landing fees the Airport charges to airlines currently are much lower than for other leading airports: one-half lower than at LAX and one-third lower than at SFO (Reich and Hall, 1999b).

The biggest cost increase-- 40 percent of business costs-- in our sample is for a firm that provides curbside and wheelchair assistance. This firm operates as a subcontractor for the airline companies. Although the cost increase to the firm is substantial, insofar as the organization of work does not permit improving productivity, the firm is likely to pass its increased costs to the airlines, who have a much greater ability to pay. The cost for the airlines would constitute a minimal increase of 1 percent or less. Whether the full cost increase would in turn be passed onto airline passengers and to cargo customers is difficult to determine. Although a partial pass-through is more likely, even a full pass-through would not be noticeable to the airlines' customers.

The other low-wage workers in the Aviation Division are located primarily in car rental, parking and restaurant sectors. Six car rental companies operate at the airport: Alamo, Avis, Budget, Dollar, Hertz, and National. Half of the rental companies in our sample would experience a cost increase of just over 1 percent, an easily-absorbed amount. One company would experience a 4 percent increase, which is also easily affordable. Each of the car rental companies is a well-known national corporation. For example, the parent company of National Car Rental, one of the largest car rental employers, had revenues of nearly $10 billion in the first six months of 1999 alone. National Car Rental sales at the Oakland location are over $10 million per year.

Many of the other low-wage employers at the airport are likely to have a significant ability to pay. Such firms include Huntleigh and ABC Security. Huntleigh Corporation has sales of over $5 million per year.[13] ABC Security has annual sales in

[12] Company revenue details provided in this section are drawn from the American Business Directory.
[13] This is the figure for the Los Angeles office.

66 cents per visitor to Jack London Square. These figures, while small, are not definitive, as we have not yet considered who would actually bear these costs. Nonetheless, their modest size suggests that enacting a living wage for the Port of Oakland could have a minimal financial impact on the Port while benefiting over 3,000 low-wage workers and their families.

For a fuller affordability analysis, we supplement these aggregate costs and the costs per customer figures with a more analytical discussion and examine the affordability issues separately for each of the Port's divisions.

The logical place to begin the analysis is with the firms. To simplify the analysis, we first consider the proportion of firms that would experience little or no direct cost impact from the proposed ordinance and we then turn to the firms that would experience a greater impact. Based upon our survey data and as reported in Table 5-4, 43 percent of all the firms at the port would experience a direct impact that amounted to less than 1 percent of their business revenue. About 14 percent of firms would experience an impact greater than 1 percent but less than 3 percent of business revenue. For this combined 57 percent of the firms, we expect that reductions in turnover costs and normal productivity improvements alone would mean that the firms could offset the entire cost without reducing sales, employment or profits.

A second group in Table 5-4 consists of firms that would experience moderate cost increases. We estimate that 21 percent of the firms would have increases of more than 3 percent but less than 6 percent and that 9 percent would see increases between 6 and 10 percent. A combined 30 percent of firms thus falls into this second group.

Finally, some firms in Table 5-4 would see higher cost increases. About 12 percent of the firms would experience an increase of between 10 and 15 percent of their costs. Only one firm would face a cost increase over 15 percent; as we discuss below, this firm is a subcontractor to the airline companies.

We turn next to considering the likely behavioral response of the firms, separately by port division and economic sector, limiting the discussion to the firms with moderate or greater costs.

Affordability at the Airport

As mentioned, the aggregate cost of the proposed ordinance at the airport amounts to $0.59 per departing passenger. This cost to pay for the living wage will not affect airport demand. Even if passengers were to absorb the entire increase, they would not choose to fly out of another airport to avoid paying this minor expense. The costs to the Airport Division of the Port consequently will be small.

At the airport, the major sectors are the airlines themselves, airline servicing, airport security and curbside assistance, parking, car rental and retail. Of these, the airline companies generally face very small direct cost increases, under 2 percent in Table 5-1b. This sector consists of very large companies that can absorb these costs easily. Southwest

revenue. The effect upon the maritime division is nearly insignificant: 1.2 percent of the wage bill and 0.25 percent of business revenue.

Table 5-2b presents a breakdown in the costs of complying with the living wage ordinance by economic sector. Several activities and industry sectors account for the lion's share of low-wage workers, and therefore of the costs of the proposed ordinance. The sectors that would experience a cost increase greater than 10 percent of their business revenues are airport security, airport curbside assistance, and entertainment and personal services. Restaurants, hotels, warehousing, retail stores, car rental agencies and parking lots all would experience smaller, but significant, increases in costs.

Costs to workers

Economics students are taught that the quantity of labor demanded by firms goes down when the price of labor goes up. Much of the evidence for this prediction comes from past studies of minimum wage increases, which reported declines of about one to three percent in employment for each 10 percent increase in the minimum wage. However, more recent studies have found no measurable decline in employment resulting from minimum wage increases, even when they were comparable in percentage terms to the increases that the living wage ordinance would generate (for a survey, see Card and Krueger, 1995). When studies did find employment reductions, they tended to be concentrated among teenagers.

The relevance of the minimum wage literature for the proposed ordinance is only suggestive, since the pay rates considered here are at higher levels and are greater in absolute terms. Nonetheless, the recent studies indicate that employment reductions are likely to be much smaller than is often considered. The earlier literature neglected to examine the savings in turnover and the increases in productivity that permit wage increases to occur without employment declines. The Port has smaller than average rates of teenage employment, even in the commercial real estate division, which also mitigates employment effects. Finally, since employment at the Port is projected to grow in coming years, we do not expect employment declines to result from a living wage ordinance, although there could be a small decline in the rate of growth of employment.

Affordability

We have estimated that enactment of the proposed living wage ordinance would cost about $13 million in the aggregate. To put this figure in perspective, it amounts to about 8.5 percent of the overall revenue generated by the Port in 1998 (Table 5-3), and 1.1 percent of Port leaseholders' annual revenue. It is also equivalent to the Port's biennial growth rate in revenue over the past five years.

Another perspective on the affordability of a living wage ordinance relates the cost for each of the port's divisions to the business done per customer in each division. These comparisons indicate that living wage costs are equal to 59 cents per passenger departure at the airport, 6 cents per ton of containerized cargo at the Maritime Port, and

5. The costs and affordability of the proposed ordinance

In this section we examine the increased costs to Port leaseholders and the portion of these costs that are likely to be passed on to the Port of Oakland or to consumers. We begin by presenting our estimates of the aggregate costs of complying with the proposed ordinance, in both absolute dollars and relative to the magnitude of Port businesses. We then examine the distribution of those costs among Port divisions and economic sectors. We also consider the impact of higher pay upon employment trends at the Port.

To analyze the affordability of the proposed ordinance we focus on how many firms in each sector would experience cost increases of different magnitudes. We can then consider how the costs might be shifted and borne by the various parties. Finally, we address whether Port firms would lose business or leave the Port and whether other firms would be deterred from locating on the Port because of the proposed ordinance.

Costs to employers

A first approximation of the total cost of the proposed ordinance is equal to the direct and indirect wage and benefit increases documented in the previous section. These costs are shown in Table 5-1. The cost of bringing wages up to $8.30 an hour is about $4.7 million, the costs of providing more health care coverage is $3.3 million, the costs of paying an indirect wage push is $2.1 million, and the costs of paying 12 days of paid leave is $2 million. These costs add up to a total of $12.1 million. In addition, employers must also pay an additional $1 million in payroll taxes, bringing the total cost of the proposed ordinance to about $13 million.

To put this figure in perspective, we have computed the cost as a percentage of the total wage bill that Port leaseholders paid to their workers and as a percentage of the business revenue received by the leaseholders. As Table 5-1 indicates, our calculations show that enacting the living wage ordinance would increase leaseholders' aggregate wage bill by 4.4 percent and that the increase would constitute 1.1 percent of their current revenue. These aggregate figures indicate that the overall cost increases could be absorbed relatively easily. However, the costs of complying with the living wage ordinance will be felt unevenly, and some sectors will experience smaller impacts than others.

We present the distribution of the costs by Port division and economic sector in Table 5-2. As Table 5-2a shows, the maritime division would bear less than $2 million of the cost and the airport and real estate divisions would each bear close to $6 million. To place these absolute dollar amounts in context we also present the increases as percentages of the relevant leaseholders' wage bill and business revenue. Using this yardstick, the real estate division, with an increase equivalent to 14.4 percent of the wage bill and 4.3 percent of revenue, would be most affected by the proposed ordinance. The effect on the airport would not be as great: 4.9 percent of the wage bill and 1.5 percent of

Without much more data than are available, we cannot quantify the magnitudes of these effects for firms at the Port. We do know that labor productivity improvements have averaged 2 percent per year in the nonfarm private economy over the past 4 years. An older literature (reviewed by Freeman and Medoff, 1984) showed that firms experienced even greater productivity increases when unionization created a one-time shock to pay of 20 percent or more. More recently, when minimum wages in California went up by 27 percent in 1988 and by 35 percent in 1996-98, low-wage sectors such as restaurants and retail did not experience declines in employment and their prices did not increase faster than overall inflation. In the current era of rapid technological change associated with the computer and the Internet, many establishments have been able to achieve cost reductions in purchasing of supplies, management of records and a host of other improvements. These cost reductions have occurred in low-wage sectors such as restaurants and would be further accelerated by pay increases.

Benefits to governmental entities

The proposed living wage ordinance will also have some impact on public finances. In general we find that these effects will be positive but small. The public sector will collect more revenue as a result of the proposed ordinance, and will contribute less to various subsidy programs.

Increasing pay will mean that the Federal and state governments will collect higher payroll and income tax revenues. We estimate that employers will pay an additional $1 million in payroll taxes (see Table 4-4). This amount includes social security payments, and training, disability and unemployment insurance levies. Individual employees will also pay higher taxes, and/or qualify for a smaller Earned Income Tax Credit. We have not calculated the changes in individual tax payments since we do not have data on the household and tax status of employees.

Public agencies will see savings as some low-wage workers reduce their usage of various public assistance programs. The main decreases probably involve reduced usage of county public health services and reduced food stamp usage. We have not attempted to estimate the reduced food stamp usage since we do not have data on the household characteristics of employees or on program uptake rates. We can, however, indicate the order of magnitude of the impact on the public health system.

Using data provided by the Alameda County Health Department and the state's Medically Indigent Care Reporting System, we estimate that indigent health care currently costs Alameda County approximately $160 annually for each person who does not have private insurance or HMO/prepaid plan. Since we have estimated that the Living Wage Ordinance would extend health benefits to at least 1,550 currently uninsured people, the County's public health savings could amount to some $250,000 per year. This relatively small financial impact is likely to be felt as a positive reduction in waiting times and in the burden on over-worked public-sector health care providers.

and Krueger, this increase should reduce quits by an equal 27 percent. To be conservative, we use an estimate of 20 percent instead.

This reduction of 20 percentage points in turnover means that in a workplace of 100 people, there will be 20 fewer quits and consequently 20 fewer replacement hires will take place to keep the firm at the same size. Each quit that does occur generates a cost to the firm to replace the worker. This replacement cost consists of lost output while the vacancy has not been filled as well as the recruiting, interviewing, screening and training costs of filling the vacancy and then bringing the new worker up to speed. The training costs usually involve both formal and informal on-the-job training and take the time both of coworkers and the new workers. Replacement costs generally are a higher proportion of pay for occupations higher on the skill ladder, but an estimate of 20 percent of annual salary for each replacement is in the middle of a range for low-paid and unskilled jobs (Brown et al 1997). We use this figure of 20 percent as the replacement cost per replaced worker.

The firm's overall turnover costs consist of the replacement cost per replaced worker multiplied by the number of replaced workers. If 20 fewer workers out of a workforce of 100 have to be replaced, the firm saves the replacement cost per replaced worker (20 percent) multiplied by the 20 percent reduction in the replacement rate, for a 4 percent saving of its labor costs. Since the wage bill usually amounts to 25 to 50 percent of business costs for these firms, a 4 percent saving on labor costs translates into a 1 to 2 percent offset to increased business costs. In other words, the 1.1 percent increase in business costs could be offset entirely by reduced turnover costs.

Productivity is also known to respond to wage increases, as recent economic theory and research findings have emphasized (Freeman and Medoff, 1984; Katz, 1986). This research literature on efficiency wages identifies a number of possible channels through which wage increases generate productivity improvements. For example, higher wages can increase productivity through improved management incentives and efforts to utilize labor more efficiently and to economize on nonlabor inputs. Some of the increase can arise because new hires may come from a more experienced or skilled labor pool. Other productivity improvement sources that are associated with higher wage rates include lower employee supervision costs, increased morale and lower absenteeism and greater amounts of informal and formal training.

Improvements in productivity are particularly important in creating room for firms to increase wages without having to reduce employment or profits or to increase prices. Whenever productivity growth occurs, by definition output per worker hour goes up. Also by definition, wage costs per unit of output are equal to wages per hour divided by output per hour. Consequently, wages per hour can increase at the same rate as output per hour without increasing wage costs per unit of output. Wage costs per unit of output are also known as unit labor costs. If unit labor costs do not increase, firms can maintain profit margins without increasing prices.

restaurants. They suggest that an increase in costs of 66 cents per customer is affordable without hurting revenue.

Some of the employers in this division are large and profitable companies with a regional or national presence. Potentially affected companies leasing property from the commercial real estate division include Best Western, Motel 6 and the Old Spaghetti Factory. Best Western is an independently owned member of Best Western International, whose hotels had sales in 1998 of $70 million. The Motel 6 on Port property has sales of over $1 million per year while the Motel 6 not on Port property has sales of less than $1 million. The Old Spaghetti Factory has annual revenues of between $2.5 and $5 million and is part of a private company with over 40 total restaurants and $54.6 million in sales.

Vacancy rates at Jack London Square are currently low, which supports recent publicity suggesting that retail establishments at or near Jack London Square are facing increasing market rents. The rent increases reflect the success of local economic development and again indicate that a living wage ordinance can be absorbed by this sector. Indeed, cost increases as a result of rising rents may well dominate any labor cost increases in coming years. It does not seem likely that businesses would be deterred from locating at Jack London Square in such an environment.

In summary, the cost increases for leaseholders in the commercial real estate division are greater than in the other divisions, but are below 10 percent of current business revenue for all but a dozen firms. Even without taking into account the likely business savings due to lower turnover costs and higher productivity, most firms should be able to adjust to the higher labor costs without reducing their workforce or relocating from the Port. Of the dozen firms with greater impact, most will be able to pass on increases to consumers without hurting sales.

In a context of rising rents near Jack London Square, the firms that are most affected are much more likely to increase prices than to obtain reductions in the rent they pay to the Port. Firms that are less affected are also not likely to obtain rent reductions. We conclude that Port revenues in the commercial real estate division should not decline significantly as a result of the proposed ordinance.

6. Conclusion

The Port of Oakland is Oakland's largest public asset and is one of the most important generators of jobs in the City and its environs. In the past, work in the maritime industry provided substantial numbers of well-paid jobs, which provided a path to the middle class for many Oaklanders, especially for African Americans, who currently comprise 50 percent of the Port's longshore workers.

In the future, however, the greatest job growth will occur in the airport and real estate divisions, not the maritime division. The lowest average wage rates at the port are concentrated in the hotel, restaurant, parking, security and skycaps, and other services sectors. These sectors are all part of the growing airport and real estate divisions, where we see both lower average wages and higher wage disparities between whites and people of color.

Without public policy intervention to affect the quality of jobs, the Port will continue to generate large numbers of jobs for Oakland and the region, but many of these will be low-wage jobs. Moreover, racial wage disparities will be perpetuated by this pattern of growth.

Enacting a living wage ordinance at the Port of Oakland would help increase the incomes of 3,100 low-wage workers. The average affected worker will see an increase in income including health benefits of $2.06 per hour. Employees will also get paid leave.

The costs of the proposed ordinance are about $13 million and comprise only about 1 percent of Port leaseholders' business revenues. The maritime division would experience only a very small increase in cost, with shipping activities essentially unaffected. Cost increases in the real estate and airport divisions would constitute about 4.3 percent and 1.5 percent of leaseholders business revenues, respectively.

For the airport, this amounts to $0.59 per departure, certainly not enough to change passenger preference for flying out of Oakland. Low wages are concentrated in a few firms, many of whom are subcontractors to the major airlines. Since they provide essential onsite services, they will be able to pass most cost increases to the airlines, who can easily absorb them and/or pass them on to passengers.

For the real estate division, the increase in wages and benefits amounts to $0.66 per visitor to Jack London Square annually. The increase in costs to the affected restaurants and hotels is smaller than the premium they get for locating near the waterfront and in Jack London Square, compared to similar businesses in less desirable locations. With business growing in the area, the small increase in costs should not affect the overall business climate.

We conclude that the increased wage bill costs can be absorbed by the Port's leaseholders, visitors to the waterfront and passengers at the Oakland airport. Businesses

should not be driven away, Port revenues should not go down and bond ratings for the Port should remain unaffected. The overall effects of a living wage ordinance--considering the benefits and as well as the costs-- should be to redirect economic growth at the Port toward the more equitable path that it had sustained in previous decades.

Appendix A: Survey method and data sources

The primary data source for the Port of Oakland study was a telephone and in-person survey of Port leaseholders and their on-site subcontractors that we conducted in the spring and summer of 1999. Where necessary, we collected supplementary data from a variety of official sources. This appendix discusses the sample universe, sample realization, weighting, estimation procedures, survey methodology, the survey instrument and the supplementary data.

Sample universe and realization

The universe – the list of all firms that are tenants of the Port of Oakland - for the sample survey was generated from the following sources. First, we obtained a list of tenants compiled by the Government Affairs Division of the Port of Oakland. When it became clear that some gaps existed in this data source, requests were directed at the Real Estate and Airport Divisions for further information. Their responses to our requests provided the second source of information. Third, we conducted field visits to complete the universe, in particular to complete the lists of sub-tenants at 80 Swan Way, Embarcadero Cove and Jack London Village and subcontractors such as security and skycap firms at the airport.

From these sources, we generated a list of leaseholders of the Port of Oakland. After duplications, name changes and other sources of error had been identified and corrected or removed, we were left with a list of 278 firms.

We attempted to survey all 278 firms on the list and continually monitored progress in order to ensure a balanced sample realization across port divisions, sectors and geographic areas. Our interviews revealed that 30 firms were no longer tenants of the Port, leaving a total of 248 firms in our universe. About one-third of the firms were not surveyed because they refused to answer our questions or were not traceable. Table A-1 shows the sample realization results.

Weighting procedure

The 168 surveyed tenants / service contractors of the Port of Oakland employ some 9,518 people (both managerial and non-managerial). When data from the American Business Directory for unsurveyed firms is added to this, the total estimated employment at the Port of Oakland is 13,787. The gap between these figures is explained by the fact that we successfully surveyed 68 percent of the possible firms. To adjust for this discrepancy, we weighted each surveyed firm.

The goal of weighting is to determine how many actual firms or employees is represented by each surveyed firm or employee. We generate a factor by which to 'expand' each surveyed firm and employee to generate the actual number of firms and employees. Following standard sample survey methodology, we tried to increase the

accuracy of our weighting (or expansion) factors by comparing apples with apples. For example, a restaurant in the airport should not be taken to represent a trucking firm in the port.

Thus, in the weighting procedure, we used 11 industrial classes (construction, manufacturing, truck, maritime, air, retail, restaurant, finance and related, hotel, services and other) and 7 port regions (Hegenberger, Airport, Embarcadero, Jack London Village, Jack London Square, Port). This means, for example, that each surveyed retail worker in Jack London Square is taken to represent 1.25 actual retail workers in Jack London Square. The weights thus vary by sector and region, thus minimizing the errors in the weighting process.

Once the weights had been applied, we estimated that there were 13,010 people working in the Port of Oakland. This is only slightly lower than the estimate that includes ABD data. Once managerial employees, and those working for firms employing fewer than 5 people are excluded, we are left with 11,430 people. These are the workers who would be covered by a Living Wage Ordinance.

Our overall employment estimate compares well with a combination of employment estimates derived from the Martin Associates (*various dates*) reports for the Real Estate, Airport and Maritime Port Divisions. This data source is out of date – the reports are dated from 1992 to 1997 – and includes all employment related to port activity, regardless of whether it is on Port property or not. However, a realistic estimate of on-site employment from this source ranges between 11,000 and 18,000.

The reported number of firms is also affected by weighting. The 123 surveyed firms that employ one or more non-managerial worker represent 174 firms when weights are applied. Of these, 140 have five or more employees (see Table 3.1). The 45 surveyed firms that have no employees represent 74 actual firms. Thus the weighted number of firms equals the universe of 248 firms.

Questionnaire

The questionnaire for the survey was designed and pilot-tested with restaurant and retail sector employment as the primary target. With minor modifications we made it applicable to other employment sectors. Survey interviews took between 10 and 20 minutes, depending on the number of job titles in the firm. Questions were directed only towards the employment at the establishment on port property (or on employment linked to port-related service contracts) and not the entire firm.

The first section of the questionnaire dealt with the employment profile of the workforce in terms of job permanence, demographic characteristics, unionization levels and benefits. In order to reduce the length of the questionnaire, these questions were applicable only to the non-managerial workforce, and thus demographic profiles per job title / occupation are estimates.

In the second section of the questionnaire, information was collected on each non-managerial job title. This included the number of people with the job title, minimum educational and other qualifications, and starting and average pay. In one-third of all job titles, the average wage was not provided, requiring supplementary information (see below).

The third section of the questionnaire dealt with the recruitment and training practices of the establishment. The questionnaire concluded with two very sensitive questions - the revenue and labor share of business costs - questions which most respondents would not or could not answer.

Supplementary data

Given these and other gaps it became necessary to supplement the survey data in four ways. First, we used the American Business Directory to identify the location, sector, employment and revenues of 190 of the firms. This information helped us to complete the sample universe, to identify potential respondents, to fill information gaps in the interviews, for purposes of weighting the sample, and to check the survey-based total employment estimate.

Second, as noted above, in about one-third of (119 out of 360) job titles surveyed we were not provided with average wage data. To fill this gap, we searched for comparable job titles in comparable firms within the sample, and where appropriate used this source. This filled 34 of the missing average wage rates. In a further 42 cases, we had been provided with the starting wage but no average wage. We multiplied the starting wage by a factor of 1.559 in the case of unionized job titles, and 1.341 in the case of non-unionized job titles to estimate average wages. These factors were generated from the available survey data, and reflect the fact that tenure-based pay increases are larger for unionized than for non-unionized workers. Finally, in 33 cases we were able to fill the average wage gap using average wage data for the 1997 Occupational Employment Series for the Oakland Primary Metropolitan Statistical Area. This left 10 job titles for which we were unable to generate an average wage.

Third, most of the firms employing members of the ILWU (i.e., stevedores and terminal operators) were unable to provide information on the number of longshoremen and clerks they employ, and their pay and benefit scales. This employment is distinguished from other (generally administrative) employment within such firms, and for which we generally were provided full information. In order to complete this component of employment by port tenants, we collected wage and demographic information from the Pacific Maritime Association and from Lawrence Tiebout, the President of ILWU Local 10, and his staff. Although this data is subject to inaccuracy because the San Francisco ILWU hiring hall covers the entire Bay Area, wage rates for these workers are all above $20 per hour. Thus this supplementary data will not bias estimates of the cost and benefit of a Living Wage Ordinance.

Fourth, we extracted microdata from the March Supplement of the Current Population Survey for 1996-9 for the Bay Area Statistical Area. This data provided hourly wage data for the entire Bay Area, for Alameda County and for the City of Oakland.

We also used this data source to supplement our health benefit coverage information. In the questionnaire, we did not distinguish whether employers or employees paid for health coverage, and thus we could not use our survey data to estimate this aspect of the impact of a Living Wage Ordinance. For each job title, we estimated the value of health benefits paid by the employer for each job title based on the average health coverage rates for similar job titles and sectors in the Bay Area.

Appendix B: Supplementary wage calculations

This appendix is devoted to two technical issues in the study. The first issue concerns the impact on wage scales within a firm when the lowest paid workers receive a wage increase. We discuss our methodology and assumptions for estimating these so-called wage push effects of the proposed living wage ordinance. The second issue concerns tip income. Our discussion highlights the complexities of this issue, although our estimates indicate that including a tip credit in the proposed ordinance would make little difference in the aggregate.

Wage push calculations

Although the proposed ordinance mandates pay increases only for workers who are paid less than $8.30 per hour, it is reasonable to ask whether employers would feel pressure to raise the pay of other workers as well. Such wage push pressure would be expected to arise primarily from workers whose wages fall just above the living wage level, since most pay comparisons involve workers in closely related job classifications. Pay increases might be required in order to maintain relative pay differences for those with longer service, more skills or responsibility, or other job-related factors. These indirect effects, which we have called "wage push," have also received such labels as "wage creep," "ripple effects" and "wage contour effects".

An accurate accounting of such increases depends upon our knowledge of the rigidities and flexibilities of the occupational wage structure. The current state of such knowledge is imperfect. Although relative wage structures have compressed in the past, notably in the 1960s and 1970s, in more recent decades they have widened. In the past three years they have stabilized and in some instances have narrowed. A large literature by economists has debated the relative importance of market-based and institutional-based causes of these patterns. Nonetheless, we can draw upon recent experience with minimum wage increases and with living wage ordinances in other cities to develop some reasonable estimates.

The best wage-push analysis of minimum wages is by Card and Krueger (1995), who examined the impact of minimum wage increases upon the pay of above-minimum workers. They found that the indirect effects did indeed concentrate at just above the new minimum. The percentage pay increase for those just above the new minimum averaged less than half of what the workers at the old minimum received. In other words, recent minimum wage increases have led to some compression of the wage structure.[16] This compression is not surprising in historical perspective, since wage inequality in the 1990s has been higher than at any other period since the Bureau of the Census began collecting reliable data in 1947.

[16] Sachdev and Wilkinson (1998) obtain similar findings for the United Kingdom. Both studies find negligible adverse employment effects. See also Reich (1999).

Card and Krueger's results do not apply directly to a living wage ordinance, but they are very suggestive. Since the increases contemplated by the ordinance are greater, in percentage terms, than the minimum wage increases studied by Card and Krueger, the indirect effects may also be greater. On the other hand, minimum wage increases apply to all low-wage workers in the labor market, while living wage ordinances apply only to a small percentage. Consequently, the indirect effects may be restrained by larger labor market forces and could be somewhat smaller. These two considerations work in opposite directions and probably cancel each other.

It therefore seems reasonable to translate Card and Krueger's findings as suggesting that if the largest wage increase at the Port of Oakland were about $4 per hour, an increase of up to $2 per hour might occur for workers currently paid $9.55 per hour. The total wage bill would not go up proportionately, however, because there are fewer workers at the more skilled and supervisory levels that receive higher pay.

Using the underlying survey data on the proportion of workers at each pay level, we have assumed that each worker currently earning between $7.65 to $9.55 would actually receive $10.03 per hour after the Living Wage is implemented. We have also calculated the cost of bringing all workers who are currently paid between $9.55 and $11.44 up to $11.45. We estimate that these indirect wage gains could amount to $2.2 million for employees of Port tenants.

Tip income calculations

The impact of the Living Wage Ordinance depends in part on how tip income is treated. This is a complicated issue that can become a source of controversy. In this appendix we present and discuss our findings in the interests of a more informed debate on this topic, without making a specific recommendation for dealing with tip income. We show that the overall impact of a tip credit would be relatively modest, although it may be important for specific sectors or employers.

Tips constitute an important source of income for employees in various service-sector occupations. In the Oakland Port context, over 1,000 restaurant workers, skycaps and parking valets may earn up to half their income in tips (see Table B-1). For this reason, employers may resist increasing the wages of workers who earn above the living wage level when tips are taken into account. A solution to this problem may be to estimate the value of tip income earned by each employee and allocate this as a tip credit.

However tips are by their nature highly irregular, prone to under-reporting and often inequitably distributed. These features make regulation very difficult and could in restaurants create great inequities since not all employees collect tips directly. Bussers, cleaners and cooks only receive tip income where a pooling system operates. Tips also vary considerably across different restaurants, and workers in fast-food and cafeteria-

style restaurants generally do not receive tips.[17] Enacting and enforcing an equitable tip credit system would be very complicated, and the impact on costs would be modest.

We estimated the value of tips for certain categories of workers. In the case of waiters, bartenders and cocktailers, we assumed that tips added a further 70 percent to an individual's wage. We based this estimate on interviews with restaurant workers and a review of the limited literature on this subject. For other restaurant workers, including bussers, food preparers and other employees, we assumed that tip income would increase an individual's earnings by 10 percent. This amount takes account of the tip sharing that occurs in some establishments. For skycaps and parking valets at the airport, we assumed tips to value of $2 per hour. This assumption was based on interviews with airport workers. In the report, wage data and estimates of the costs and benefits of a Living Wage Ordinance are generally presented without including tips as income

Table B-2 shows that the number of workers benefiting from the Living Wage Ordinance would only fall marginally with a tip credit – from 3,100 to 3,050. This small effect occurs because the estimated value of tip income brings most employees closer to the living wage level without taking them above it. However, the average hourly wage increase per worker falls from $2.06 to $1.67.

A tip credit would result in a decrease in the annual cost of the proposed ordinance of almost $2 million (see Table B-3). Most of this decrease – some $1.5 million - occurs within the restaurant sector. The decrease in costs for the Security and Curbside Assistance sector is small in absolute terms, but it is relatively important since it represents 10 percent of the wage bill in this sector.

[17] The 1988 bill to raise the California minimum wage originally contained a tip credit, but this provision was eliminated by a court decision.

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Table 1-1 Cost of Living and Living Wage Comparisons

	Living wage[1] (unadjusted)	Wage adjusted with Oakland Cost of Living[2]
Oakland	$8.30	$8.30
National Comparisons		
Baltimore	$7.90	$13.27
Boston	$8.23	$9.29
Miami	$8.56	$12.96
Regional Comparisons		
Los Angeles	$7.51	$9.52
San Francisco[3]	$11.00	$9.48
San Jose	$9.50	$8.35

Sources: ACCRA Cost of Living Index and Wider Opportunities for Women, Self-Sufficiency Worksheets.

Notes:
1. Living wage with health benefits.
2. Adjusting factor = Oakland CofL/City's CofL (using ACCRA Composite Index for Baltimore, Boston, Los Angeles and Miami, and W.O.W. index for San Francisco and San Jose).
3. Proposed Living Wage.
4. Cost data are for the city, except for Boston (PMSA) and Miami (Dade County).

Table 2-1 Comparison of wage rates for selected Bay Area Central Cities

	Average hourly wage, 1996-9
Oakland	$14.52
San Francisco	$15.97
San Jose	$18.99
All Bay Area Central Cities	$17.68

Source:
Hourly wage from authors analysis of March Supplement of the BLS Current Population Survey, Bay Area Counties, 1996-9 extraction. Adjusted for inflation using the San Francisco-Oakland-San Jose CMSA all urban consumers consumer price index.

Table 2-2 Top Ten Occupations with greatest absolute job growth in Alameda County 1995-2002

Job Title	**1995**	**2000**	**Total Change**	**Median Hourly Wage[1]**	**Mean Annual**
Low-wage occupations					
Cashiers	13,450	15,410	1,960	$7.65	$19,190
Retail Salespersons	19,500	21,450	1,950	$7.78	$19,910
Assemblers and Fabricators	7,720	9,210	1,490	$9.21	$20,550
Waiters/Waitresses	6,240	7,480	1,240	$5.67	$13,110
Low-wage total	**46,910**	**53,550**	**6,640**	**-**	**$18,904**
Medium-wage occupations					
Sales Representatives[2]	8,350	9,370	1,020	$19.17	$44,910
Secretaries[3]	11,810	12,700	890	$14.16	$29,870
Teachers (Secondary)	5,170	5,950	780	$24.29[4]	$50,530
Medium-wage total	**25,330**	**28,020**	**2,690**	**-**	**$39,045**
High-wage occupations					
General Managers	17,450	19,380	1,930	$36.93	$74,660
Computer Engineers	1,660	2,800	1,140	$33.81	$65,710
Systems Analysts	1,820	2,870	1,050	$31.41	$61,860
High-wage total	**20,930**	**25,050**	**4,120**	**-**	**$72,837**

Source: California Employment Development Department.

Note:
1. 1997 wage rates for the Oakland PMSA.
2. Sales representatives not including retail or scientific.
3. Secretaries not including legal or medical.
4. No median wage available for teachers. Median hourly wage given is mean yearly wage divided by 2080 hours.

Table 3-1 Port-related employment[1]

	1995	**Projected 2010**
Airport	10,200	16,500
Maritime	8,800	12,700
Commercial real estate	2,900	Not available
Port staff	580	Not available
Total port employment	22,480	32,680
Total Alameda County employment	525,444	784,840

Sources: County Business Patterns, ABAG web site, Martin and Associates

Note:
1. Includes off-site employment.

Table 3-2a Tenants of the Port of Oakland: firms and employment by revenue division

Revenue Division	Firms[1]	Employees[2]	Percentage of total workforce[3]	Average wage[4], $/hour	Percent of employees unionized
Airport	36	7270	63.6	14.50	44.1
Maritime port	20	2050	17.9	31.66	80.5
Real estate	84	2110	18.4	10.54	4.9
Total	**140**	**11430**	**100.0**	**16.80**	**43.4**

Table 3-2b Tenants of the Port of Oakland: firms and employment by sector

Industry Sector	Firms[1]	Employees[2]	Percent of total workforce[3]	Average wage, $/hour[4]	Percent of employees unionized
Air Cargo	4	4164	36.4	15.84	34.8
Passenger airlines	6	1109	9.7	16.00	82.3
Airline support services	8	745	6.5	12.91	27.5
Security and curbside assistance	3	223	2.0	7.02	0.0
Car rental	6	445	3.9	10.15	57.5
Parking services	3	300	2.6	9.90	69.3
Retail	22	371	3.2	10.65	5.4
Restaurant	16	918	8.0	8.07	23.5
Hotel	16	324	2.8	9.30	0.0
Maritime	9	1601	14.0	37.99	98.0
Trucking and warehousing	10	365	3.2	12.76	7.1
Construction and Manufacturing	4	113	1.0	12.54	72.2
FIRE[5]	7	146	1.3	18.4	0.0
Professional services	21	257	2.2	19.14	5.4
Entertainment and personal services	5	350	3.1	7.32	0.0
Total	**140**	**11430**	**100.0**	**16.80**	**43.2**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Excluding firms with fewer than 5 employees.
2. Non-managerial employees only.
3. Non-managerial employees in sector / total non-managerial employees.
4. Including health benefits. Based on the occupation-weighted sample.
5. Finance, Insurance, and Real Estate.

Table 3-3a Port employment and demographic profiles by revenue division

Revenue Division		Percent of employees who are:					
		Women	**Oakland residents**	**African-American**	**Asian-American**	**Latino**	**White**
Airport	7,270	40.8	69.0	41.9	22.0	16.4	19.6
Maritime Port	2,050	11.3	27.7	37.0	2.4	34.1	26.4
Real Estate	2,110	55.1	64.3	29.1	17.9	23.4	29.6
Total	**11,430**	**35.8**	**53.9**	**35.8**	**14.0**	**23.8**	**26.5**

Table 3-3b Port employment and demographic profiles by industry sector

Industry Sector		Percent of employees who are:					
		Women	**Oakland residents**	**African-American**	**Asian-American**	**Latino**	**White**
Air Cargo	4,164	25.5	60.0	12.1	0.9	2.8	84.1
Passenger airlines	1109	63.6	75.5	28.3	24.1	23.5	24.1
Airline support services	745	45.1	66.7	57.4	9.8	8.8	23.9
Security and curbside assistance	223	27.1	74.3	65.6	26.6	6.0	1.8
Car rental	445	43.9	81.4	63.7	13.8	16.0	6.5
Parking services	300	72.4	40.3	40.2	46.3	1.5	11.1
Retail	371	45.2	72.4	35.3	7.6	18.1	39.4
Restaurant	918	52.3	56.1	23.0	13.3	38.2	25.5
Hotel	324	67.8	85.0	30.0	16.6	40.9	12.4
Maritime	1,601	7.4	31.7	39.8	1.6	21.8	36.9
Trucking and warehousing	365	33.6	10.4	15.1	6.0	63.4	15.2
Construction and Manufacturing	113	4.2	15.7	3.6	4.2	71.4	20.3
FIRE[1]	146	60.5	27.0	14.6	4.9	3.5	77.0
Professional services	257	62.1	28.2	10.6	35.3	9.9	44.2
Entertainment and personal services	350	41.7	92.5	57.2	28.9	3.5	10.4
Total	**11,430**	**35.8**	**53.9**	**35.8**	**14.0**	**23.8**	**26.5**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Finance, Insurance, and Real Estate.
2. The number of employees by sector and the percent of employment by demographic group were calculated based upon the firm-weighted sample universe. See Appendix A.

Table 3-4 Average wage by revenue division and demographic group

Revenue Division	All Employees	Average wage, $/hr[1]						
		Women	Oakland residents	African-American	Asian-American	Latino	White	Unionized
Airport	14.50	13.42	12.18	10.96	11.80	13.07	15.80	14.91
Maritime Port	32.12	23.60	37.29	37.48	21.03	26.27	34.41	37.87
Real Estate	10.27	10.88	8.58	8.88	10.70	9.15	12.53	13.70
All Divisions	**16.81**	**13.41**	**15.27**	**18.75**	**11.88**	**17.89**	**19.73**	**22.19**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Including health benefits, not including tips.
2. Average hourly wages are weighted by the number of employees in each category.

Table 3.5 Low-wage employment at the Port of Oakland[1]

Industry Sector	Job Title	Employees	Average wage, $/hour[2]	Wage range, $/hour[3]
Airline Support services	Fueler / Ramp agent	250	8.40	6.50-9.15
	Food preparation	90	9.10	6.40-10.20
Security and skycap	Skycap and screeners	160	5.95	5.75-6.25
	Security	60	9.00	6.50-9.00
Rental Cars	Rental and service agents, shuttlers	350	8.90	5.75-12.85
Parking Services	Cashier, Valet	225	8.55	5.75-9.05
Retail	Cashier and sales	200	8.25	5.75-12.00
Restaurant	Busser	45	5.90	5.75-7.70
	Dishwasher	90	7.60	5.75-9.40
	Cook, food preparation	190	8.20	5.75-10.70
	Waiter, cocktail server, bartender, host	490	7.45	5.75-15.00
Hotel	Housekeeper / room cleaner	150	7.15	5.75-9.50
	General Maintenance	30	7.90	5.75-8.50
	Desk clerk	60	8.55	5.75-9.25
Trucking And warehousing	Packagers and general labor	200	6.75	5.75-8.50
Entertainment and personal services	Customer services, cleaning	240	6.25	5.75-6.25

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Low-wage job titles are defined as those where the starting wage is below $8.30 per hour. Due to tenure-based pay scales, average wage rates for some of these job titles may exceed $8.30 per hour. Since we do not have detailed data on wage scales, the number of workers reported includes all employees within the firm in the relevant job title.
2. Average hourly wages are weighted and do not include tips.
3. Minimum of wage range is lowest starting wage and maximum of wage range is highest average wage.
4. All numbers have been rounded.

Table 4-1a Number of employees by wage category and revenue division

Industry	All Employees	Earning below the proposed living wage[1]	Earning below the proposed living wage plus health benefit level[2]	Indirectly affected by the proposed living wage ordinance[3]	Unaffected by the proposed living wage ordinance[4]
Airport	7265	551	513	321	5880
Maritime Port	1979	175	66	50	1688
Real Estate	2050	1032	236	167	615
Total	**11294**	**1758**	**815**	**538**	**8183**

Table 4-1b Number of employees by wage category and sector

Industry	All Employees	Earning below the proposed living wage[1]	Earning below the proposed living wage plus health benefit level[2]	Indirectly affected by the proposed living wage ordinance[3]	Unaffected by the proposed living wage ordinance[4]
Air Cargo	4164				4164
Passenger airlines	1109	54	22	178	855
Airline support services	745	48	66	127	504
Security and curbside assistance	223	157	66		
Car rental	445	86	193		166
Parking services	300	50	176		74
Retail	371	119	60	56	136
Restaurant	918	691	65	38	124
Hotel	324	171	26	66	61
Maritime	1509			45	1464
Trucking and warehousing	362	140	65		157
Construction and Manufacturing	101			5	96
FIRE[5]	146				146
Professional services	252			20	232
Entertainment and personal services	325	242	76	3	4
Total	**11294**	**1758**	**815**	**538**	**8183**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Earning below $8.30 per hour.
2. Earning between $8.30 and $9.54 per hour.
3. Earning between $9.55 and $11.44 per hour.
4. Earning more than $11.45 per hour.
5. Finance, Insurance, and Real Estate.

Table 4-2a Wage groups by gender

	Directly benefited employees (percent) [1]	All employees (percent)
Men	54.3	64.0
Women	45.7	36.0
Total	**100.0**	**100.0**

Table 4-2b Wage groups by ethnicity

Ethnic Group	Directly benefited employees (percent) [1]	All employees (percent)
White (nonHispanic)	14.7	26.5
African-American	41.1	35.8
Asian and Pacific Islander	18.9	14.0
Latino	25.2	23.8
Total	**100.0**	**100.0**

Table 4-2c Wage group by place of residence

	Directly benefited employees (percent) [1]	All employees (percent)
Oakland residents	64.6	53.9
Non-Oakland residents	35.4	46.1
Total	**100.0**	**100.0**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Those earning less than $9.55 per hour, including health benefits, not including tips. Those workers whose wage plus health benefits are greater than $9.55 are excluded.

Table 4-3 Affected workers and wage and benefit increases

Wage Category	Average hourly wage increase[1]	Average annual wage increase[2]	Number of employees
Directly affected workers (earning under $9.55/hr.)	$2.25	*Full-time*: $4,500 *Part-time*: $2,300	2,573
Indirectly affected workers[3] (earning between $9.55 and $11.44/hr.)	$1.16	*Full-time*: $2,400 *Part-time*: $1,200	538
Total affected workers	**$2.06**	***Full-time*: $3,800** ***Part-time*: $2,00**	**3,111**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Average wage increase attributable to the proposed living wage ordinance, including health coverage but excluding paid days off.
2. Full-time employees are assumed to work 2000 hours per year; part-time employees work on average 1070 hours per according to survey data.
3. Indirectly affected workers are those workers who would benefit from upward wage push pressure with the new higher wage floor.

Table 4-4 Total annual costs

	Total Costs $ millions	Percent of original wage bill
Original annual wage bill, including health insurance	**296.5**	**100.0**
Cost of increasing Wages to $8.30	4.7	1.6
Cost of providing health insurance ($1.25/hour)[1]	3.3	1.1
Cost of the indirect wage push[2]	2.1	0.7
Cost of paid days leave[3]	2.0	0.7
Subtotal (benefits to workers)	**12.1**	**4.1**
Cost of employer-paid taxes on increase[4]	1.0	0.3
Total cost	**13.0**	**4.4**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Health insurance costs are the cost of raising each employee's total compensation to $8.30 per hour with health benefits or $9.55 per hour, less the direct costs of raising workers' wages to $8.30 per hour.
2. Indirect wage push refers to upward wage pressure with the higher floor wage of a living wage. We assumed that wages between $7.65 and $11.44 would be subject to wage push effects.
3. Paid leave costs provide all employees with a leave benefit at the post-ordinance wage rate, taking into account currently received paid leave. Full-time workers are to get 12 days paid leave per year and part-time workers get 6 days.
4. Employer paid taxes are 11.15% of wage bill, including health insurance. Oakland payroll taxes are fixed per employee and are thus unaffected by the living wage ordinance.

Table 5-1a Cost summary, by revenue division

Revenue Division	Total cost $ millions	As percent of old wage bill	As percent of business revenue
Airport	5.84	4.92	1.52
Maritime Port	1.68	1.21	0.25
Real Estate	5.53	14.37	4.31
Total	**13.0**	**4.41**	**1.11**

Table 5-1b Cost summary, by sector

Industry sector	Total cost $ millions	As percent of old wage bill	As percent of business revenue
Air cargo	0.11	0.32	0.10
Passenger airline	1.34	3.63	1.45
Airline services	0.88	4.03	1.21
Security and curbside assistance	1.38	40.0	28.0
Car rental	0.82	9.69	1.94
Parking services	0.55	8.58	6.00
Retail	0.76	10.8	2.15
Restaurant	3.44	28.1	6.56
Hotel	1.11	17.2	5.17
Maritime	0.10	0.08	0.02
Trucking and warehousing	1.41	14.0	4.20
Construction and Manufacturing	0.05	1.91	0.76
FIRE	0.04	0.92	0.37
Professional services	0.06	0.57	0.17
Entertainment and personal services	0.98	29.9	12.0
Total	**13.0**	**4.41**	**1.11**

Notes:
Estimated using labor shares of business revenue derived from the 1998 American Restaurant Association Survey, and the Economic Censuses of Construction, Service Industries, Retail Trade, Manufacturing and Transportation, Communication and Utilities as reported in the US Bureau of the Census web site and the Statistical Abstract of the United States, 1997 and adjusted according to authors' survey.

Table 5-2 Port of Oakland Revenue Divisions: Annual Revenues 1993-1998 (millions $)

Revenue Division	Years ended June 30	Property Lease Rentals[1]	Parking	Dockage and wharfage, and landing fees[2]	Other Operating Revenue[3]	Total Operating Revenue	Net Operating Income (loss)[4]
Aviation	1993	25.9	14.3	7.9	8.8	56.9	4.9
	1994	25.9	15.5	8.4	8.4	58.0	(0.2)
	1995	26.9	17.6	10.2	8.2	62.7	4.6
	1996	28.2	19.1	10.2	8.7	66.1	3.1
	1997	29.3	21.6	9.6	8.4	69.1	6.2
	1998	30.7	21.9	9.9	8.9	71.3	5.4
Maritime	1993	1.7	-	42.6	7.2	51.5	15.6
	1994	1.5	-	43.7	7.1	52.3	11.1
	1995	2.5	-	49.3	8.3	60.1	11.5
	1996	4.6	-	51.9	9.4	65.9	13.8
	1997	6.0	-	53.5	8.2	67.6	11.9
	1998	6.8	-	56.7	9.2	72.6	14.7
Commercial Real Estate[5]	1993	6.7	0.9	-	1.0	8.6	(6.2)
	1994	6.9	0.9	-	1.0	8.9	(5.8)
	1995	7.0	1.0	-	1.0	9.0	(12.1)
	1996	7.5	1.3	-	1.0	9.7	(8.4)
	1997	7.8	1.9	-	1.0	10.7	(8.8)
	1998	6.9	2.6	-	1.1	10.6	(9.0)
Total	1993	34.3	15.2	50.5	17.0	117.0	14.3
	1994	34.3	16.1	52.0	16.5	118.9	5.1
	1995	36.4	18.6	59.4	17.4	131.8	4.0
	1996	40.2	20.3	62.1	19.0	141.7	8.5
	1997	43.1	23.5	63.1	17.6	147.4	9.3
	1998	44.4	24.5	66.6	19.1	154.6	11.1

Source: Port of Oakland Supplementary Schedule of Revenues and Expenses

Notes:
1. Includes airport terminal rental, concessions and other aviation rentals, maritime space assignments and rentals, and lease rentals.
2. Includes dockage, wharfage and related accounts and landing fees.
3. Includes airport field revenue and ground access revenue, cranes, storage and demurrage, marinas and utilities.
4. Net operating income is Total Operating Revenue less Operating Expenses, Depreciation, Amortization and Interest Expense.
5. Excludes Oakland Portside Associates, a subsidiary property management company of the Port of Oakland. According to port officials, Oakland Portland Associates has made a loss during recent years.

Table 5-3 Distribution of firms by increase in business costs

Costs of living wage as percent of business revenue	Percent of firms	Percent of increased costs	Percent of non-managerial employment
0-1%	43.1	5.8	62.9
1-3%	13.8	15.4	12.8
3-6%	20.6	23.7	9.1
6-10%	9.0	19.5	6.6
10-15%	12.6	26.1	7.1
15%+	0.9	9.5	1.4
Total	100.0	100.0	100.0

Source: UC Berkeley (CLRE) Employer Survey

Notes:
For details of business revenue estimates, see Table 5-1.

APPENDIX TABLES

Table A-1 Sample Realization

Survey Result		Firms	
		Number	**Percent**
Done	Interview completed	123	44
	No employees on site	45	16
Not Done	Refusal	58	21
	Not traceable	22	8
Closed / no longer tenants		30	11
Total		**278**	**100**

Table B-1 Tipped Employees

Occupation	Number of workers	Average wage[1], $/hour	Average wage, with tips[2], $/hour
Waiters, bartenders, cocktail server	420	7.87	13.63
Other restaurant employees	500	8.24	9.04
Valet parking	40	7.19	9.19
Skycaps, curbside assistants	100	5.94	7.94

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Including health benefits. Based on the occupation-weighted sample.
2. See Appendix A for details.

Table B-2 Wage and benefit increases (with and without tip credit)

Wage Category	Without tip credit		With tip credit[1]	
	Average hourly wage increase[2]	Number of workers	Average hourly wage increase[2]	Number of workers
Directly affected workers (earning under $9.55/hr.)	$2.25	2,573	$1.89	2,192
Indirectly affected workers[3] (earning between $9.55 and $11.44/hr.)	$1.16	538	$1.09	855
Total affected workers	**$2.06**	**3,111**	**$1.67**	**3,047**

Source: UC Berkeley (CLRE) Employer Survey

Notes:
1. Tip credit added to employer-provided wage including health benefits. Hourly tips were estimated for waiters, valets, and skycaps. See Appendix A.
2. Average wage increase attributable to the proposed living wage ordinance.
3. Indirectly affected workers are those workers who would benefit from upward wage push pressure with the new higher wage floor.

Table B-3. Cost summary for sectors with tipped employees

Industry sector		Total cost $ millions	As percent of old wage bill	As percent of business revenue
Security and curbside assistance	Without tip credit	1.38	40.0	28.0
	With tip credit	1.04	30.2	21.2
Parking services	Without tip credit	0.55	8.58	6.00
	With tip credit	0.43	6.74	4.72
Restaurant	Without tip credit	3.44	28.1	6.56
	With tip credit	1.98	16.1	3.77
All Sectors	**Without tip credit**	**13.0**	**4.41**	**1.11**
	With tip credit	**11.1**	**3.76**	**0.95**

Notes: See Table 5-1b.