

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

RESOLUTION NO. 02244

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO TERMINATE HOLDOVER TENANCIES WITH TENANTS THAT MEET CERTAIN MINIMUM THRESHOLD REQUIREMENTS FOR COVERAGE UNDER CITY CHARTER SECTION 728 ("SECTION 728") ENTITLED "LIVING WAGE AND LABOR STANDARDS AT PORT-ASSISTED BUSINESSES", AUTHORIZING AND DIRECTING THE EXECUTIVE DIRECTOR TO TERMINATE SAME, AND AUTHORIZING AND DIRECTING THE EXECUTIVE DIRECTOR TO ENTER INTO NEW AGREEMENTS, OR WHERE APPROPRIATE IN LIEU OF TERMINATION OF SAID HOLDOVER TENANCIES, AMEND THE TERMS OF SAID TENANCIES, AND TO EXTEND COVERAGE OF SECTION 728 TO SAME.

WHEREAS the voters of the City of Oakland voted and approved the amendment of the Charter of the City of Oakland to add Section 728 (hereinafter "Section 728") entitled "Living Wage And Labor Standards At Port-Assisted Businesses; and

WHEREAS the Secretary of State accepted and filed the amended Charter on April 25, 2002; and

WHEREAS the application of Section 728 according to its own terms requires legal interpretation over disputed terms pertaining to its application to existing holdover month-to-month tenants, where the tenants meet certain minimum threshold requirements for coverage under Section 728; and

WHEREAS said existing holdover tenants receive substantial benefit from doing business at the Port of Oakland because of among, other things, the opportunity such tenants enjoy to benefit from the Port's large public investment in infrastructure; and

WHEREAS it is in the best interest of the Port to facilitate the enjoyment of certain benefits derived from the Port's infrastructure investment to employees of said existing holdover month-to-month tenants who provide Airport or Maritime related or Airport or Maritime area services, but who are least able to enjoy such benefits because of limited market driven compensation levels paid outside the Port area, by adopting a policy that broadly interprets and applies Section 728 to said existing holdover month-to-month tenants; and

WHEREAS it is in the best interest of the Port to adopt a policy that broadly interprets and applies Section 728 to said existing holdover month-to-month tenants, in part because such application enriches the Port community, provides for job-force stability in and around the Maritime and Aviation facilities, and allows Port contractors to attract and retain talented individuals for Port-related work; and

WHEREAS said existing month-to-month tenancies are terminable, and many are also expressly subject to change, upon 30 days written notice; now, therefore, be it

RESOLVED that the Board of Port Commissioners (“Board”) finds and determines that it is in the best interest of the Port for the reasons stated above, and further described in Agenda Sheet Item 2, dated August 6, 2002, to terminate holdover tenancies with tenants that meet certain minimum threshold requirements for coverage under City Charter Section 728, and be it

FURTHER RESOLVED that the Executive Director is hereby authorized and directed to terminate said holdover tenancies as the earliest opportunity, provided, however, that the Board hereby authorizes the Executive Director undertake this direction on a scheduled basis as determined by the Executive Director to minimize disruption to the Port and to Port tenants; and be it

FURTHER RESOLVED that the Executive Director is authorized and directed to provide to said tenants an option, upon termination of said holdover tenancies to enter into new agreements, either on a month-to-month basis or for a term not to exceed one year as determined by the Executive Director in the best interest of the Port; and be it

FURTHER RESOLVED that said new tenancy agreements shall provide for compliance with law, incorporating therein an obligation to comply with the Charter of the City of Oakland, including Section 728; and be it

FURTHER RESOLVED that in lieu of termination of said holdover tenancies the Executive Director is authorized to amend same when deemed appropriate by the Executive Director to include Section 728 coverage; and be it

FURTHER RESOLVED Section 728 shall apply to all tenancies of the Aviation or Maritime divisions that meet Section 728’s other minimum threshold requirements, where such tenants have contracts, leases, license and concessionaire agreements, or use permits lasting twenty-nine consecutive days or longer, upon extension of their respective term either contractually or by operation of law; and be it

FURTHER RESOLVED that should Section 728 be determined to be invalid by a court of law, in whole or in part, the Board will consider as soon as possible approval of a Resolution and/or Ordinance adopting by the Board of Port Commissioners, itself, the applicable Section 728 employee rights, employer requirements and application to Aviation and Maritime division tenants.

At a regular meeting held **August 6, 2002**

Passed by the following vote:

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

Noes: **None**

Absent: **Commissioner Scates - 1**