

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE No. 3719

AN ORDINANCE AMENDING PORT ORDINANCE NO. 3666 TO CONFORM PORT OF OAKLAND LIVING WAGE REQUIREMENTS THEREIN TO REQUIREMENTS SET FORTH IN SECTION 728 OF THE CHARTER OF THE CITY OF OAKLAND, ENTITLED, "LIVING WAGE AND LABOR STANDARDS AT PORT-ASSISTED BUSINESSES" AND ADDING PROVISIONS MAKING EFFECTIVE APPLICATION OF SECTION 728 OF THE CHARTER TO CERTAIN MONTH-TO-MONTH TENANCIES.

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

Section 1. The Statement of Purpose shall be amended by the addition thereto of the following paragraphs:

"7. On December 4, 2001, the Oakland City Council passed Resolution 76664 C.M.S., "A 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, 200..."

"8. The City Council approved Resolution 76664 C.M.S., reciting, among the reasons and purposes for its actions, the following:

"...[that] 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

"9. Measure I (hereinafter "\$728") was approved by the voters of the City of Oakland on March 5, 2002, and became effective on April 25, 2002.

"10. On August 6, 2002, the Board of Port Commissioners (hereinafter "Board") approved Board of Port Commissioners Resolution No. 02244, a resolution finding and determining that it is in the best interest of the Port to terminate holdover and

other month to month tenancies with tenants that meet certain minimum threshold requirements for coverage Under City Charter Section 728, and authorizing and directing the Executive Director to terminate same and enter into new agreements or where appropriate in lieu of termination, amend the terms of said tenancies and to extend coverage of Section 728 to same.

"11. The Board approved Resolution No. 02244, reciting, among the reasons and purposes for its actions, the following:

"...[that] 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

"...[that] 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

"... [that] said existing month-to-month tenancies are terminable, and many are also expressly subject to change, upon 30 days written notice.

"12. The Board finds and determines that to effectuate the intent of voters, in approving §728, to raise wage rates to living wage rates for employees of businesses with Port contracts who otherwise meet the requirements for coverage under §728, and avoid depriving workers of the benefit of living wage rate(s) for an indeterminate length of time, it is necessary to terminate certain holdover and other month-to-month tenancies that would remain unchanged, long term, under usual Port practices, and enter into new or amended agreements that incorporate the employer obligations and minimum employee wage rates under §728 into said agreements.

"13. The Board finds and determines that it is in the best interest of the Port to reconcile and simplify living wage requirements applicable to Port contractors, financial assistance recipients and Port tenants by amending Port Ordinance No. 3666 to conform employer obligations and minimum compensation rates thereunder to the requirements set forth in Section 728 of the Charter of the City of Oakland.

Section 2. The definitions set forth in Section 2 of Port Ordinance No. 3666 for "Contractor", "Port Assistance and "Service Contract" shall be amended to read as follows:

"Contractor" means any person employing more than 20 employees per pay period, unless in the prior 12 pay periods the person has not had more than 20 such employees and will not have more than 20 such employees in the next 12 pay periods, that enters into a 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.

"Port Assistance" means direct assistance in the form of grants or financial subsidies in an amount exceeding \$50,000 in any fiscal year.

"Service Contract" means a contract by the Port for the funding of services to or for the Port, to be performed at the Port, except where services are incidental to the delivery of products, equipment or commodities, that involves an expenditure in excess of \$50,000. 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".

Section 3. Section 3 of Port Ordinance No. 3666 shall be amended to read as follows:

"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, adjusted annually in the same manner as provided in Section 3(a) above. 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. Port Ordinance No. 3666 shall be amended by the addition thereto of Section 13.A to read as follows:

"Section 13.A. Incorporation of Section 728 of the Charter of the City of Oakland by Reference and Application to Month-to-Month Tenancies, and Commencement Date.

"The Provisions of Section 728 of the Charter of the City of Oakland are by this reference incorporated herein and made a part hereof. As a part of this Ordinance, Section 728 of the Charter of the City of Oakland shall be applicable to all holdover and other month-to-month tenants of the Aviation or Maritime divisions, that meet Section 728's other minimum threshold requirements, where the tenants have contracts, leases, license and concessionaire agreements, use permits, preferential assignments or other forms of tenancy, occupation or operations agreements with the Port lasting 29 consecutive days or longer, commencing, on or after the Effective Date of this Ordinance, upon the first day of the month of the respective term of said agreement(s), or their renewal."

Section 5. Port Ordinance No. 3666 shall be amended by the addition thereto of Section 13.B to read as follows:

"Section 13.B. Provision of Minimum Compensated Days to Employees by Port-Assisted Businesses.

"Port-Assisted Businesses" as that term is defined in Section 728 of the Charter of the City of Oakland and all other businesses subject to the provisions of Section 728 of the Charter pursuant to the provisions of this Ordinance, shall provide to employees, in addition to the minimum compensation set forth in Article 728.3 of the Charter of the City of Oakland, the compensation set forth in Section 3(c) of Port Ordinance No. 3666.

Section 6. Port Ordinance No. 3666 shall be amended by the addition thereto of Section 13.C to read as follows:

"Section 13.C. Effective Date of Sections 1 through 5 of this Ordinance.

"Port Ordinance No. 3666, as amended by Sections 1 through 5 of this Ordinance shall be effective commencing November 1, 2002, subject to the following limitation. The provisions of this Ordinance, as amended, shall not reduce the living wage compensation of any person that is in effect and applicable under the terms of Port Ordinance 3666 prior to the effective date hereof."

In Board of Port Commissioners, Oakland, California, October 1, 2002. Passed to print for one day by the following vote: Ayes: Commissioners Ayers-Johnson, Kramer, Protopappas, Tagami, Uribe and President Kiang - 6. Noes: None. Absent: Commissioner Scates - 1.

John T. Betterton
Secretary of the Board

Adopted at a adjourned regular meeting held October 22, 2002

By the following Vote:

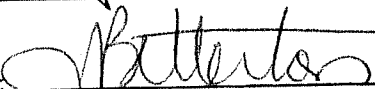
Ayes: Commissioners Ayers-Johnson, Kramer, Protopappas, Scates, Tagami and President Kiang - 6

Noes: None

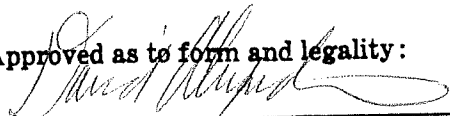
Absent: Commissioner Uribe - 1



President.

Attest 

Secretary.

Approved as to form and legality:


Port Attorney