

ID	Timestamp	Email body	Notes
20180612001	6:00 PM	Please see the attached.	One attachment.
20180614001	11:17 AM	I work at newark airport for midfield as a server. I have work in the airport for 3 years in a half. I'm a member of UniteHere local 100. All Port Authority workers deserve a fair wage of \$19.00 per hour and we encourage the Port Authority to approve this wage increase. The wage increase will help create long term stable jobs that will improve the safety and security of our airports.	
20180614002	12:19 PM	I work at Newark airport for midfield as a bartender. I've worked at the airport for 4 years. I support the new port authority wage policy of \$19.00 per hour. We look forward to working with all airport stakeholders to create better airports with great customer service for port authority passengers.	
20180614003	12:25 PM	I work at Newark Airport for Medfield Concessions as a waiter. I've worked at the Airport for 3 years. I support the new Port Authority wage policy of \$19.00 per hour. We look forward to working with all Airport Stakeholders to create better airports with great customer service for Port Authority Passengers	
20180614004	1:11 PM	I work at newark airport terminal a Phillips seafood as a server. I've worked at the airport for 3 years, I support the new port authority wage policy of 19.00 pper hr. We look forward to working with all airport stakeholders to create better airports with gray customer service for port authority passengers	
20180614005	1:21 PM	One attachment.	One attachment.
20180615001	7:41 PM	I'm a packer for British Airways and we pack the most flights in this company 10 to be exact. I make sure that all the meals are inside the trolley and meets temperature all at the same time. I feel that we deserve the 19 dollars an hour because our job is very competitive. Trying to do multiple things at once and in a certain time frame while reaching food safety temperature. It would change my life as well as my co workers. It would be a better living lifestyle and also feel like I'm working and getting paid accordingly. We work hard and have a big responsibility we provide to one of the most popular airports. We can't service being paid minimum wage rent is too high and child care is too expensive. Low wages nobody wants to train and most people are ready to quit and not put 100 percent in their job duties. So I support the proposed wage increase to 19 dollars.	
20180705001	11:29 AM	Please reconsider delaying the wage increase due to airport workers. Have you calculated your own hourly wage recently? Yes, even including your extra hours. According to a recent Star Ledger article, it takes a minimum wage of \$28 per hour to afford a two bedroom apartment in New Jersey. People who work hard and perform needed services deserve a living wage.	
20180712001	2:06 PM	Please see the attached letter from Public Advocate Letitia James. Feel free to reach out to me with any questions or concerns.	One attachment.
20180715001	6:48 PM	I work at Newark Airport for OTG as a food runner. I've worked at the airport for 4 months. I am a member of UNITE HERE Local 100. All Port Authority workers deserve a fair wage of \$19 an hour and we encourage the Port Authority to approve this wage increase. This wage increase will help create longer term jobs that will improve the safety and security of our airports.	
20180716001	2:16 PM	Please find attached Assemblyman Peter Abbate's letter of support for NY/NJ Airport Workers. Please feel free to contact our office if you should have any comments or questions.	One attachment.

ID	Timestamp	Email body	Notes
20180716002	1:06 PM	<p>My name is <> I work at Do & Co Catering as a Kitchen Helper. I am writing to urge you to support the proposed minimum wage increase to \$19. It will change my life and the lives of my coworkers for the better. It will also benefit the airports and all of their customers.</p> <p>Low wages lead to higher turnover, low employee morale, and poorly trained workers. At Do & Co, we prepare and deliver food for many long distance flights. The safety of the passengers is in our hands, and we take this responsibility seriously. We do important work and all we ask for is a living wage by which we can support our families and live with dignity.</p>	
20180717001	11:30 AM	See attached comments from New York State Senator Marisol Alcantara.	One attachment.
20180717002	2:02 PM	Mi nombre es <> y trabajo para Do & Co en el departamento de equipment department. Tengo 10 años trabajandoen Do co. Estoy apoyado que el salario minimo suba por que ahora mismo no me alcanza para apoyar a mi familia y trabajo muy fuerte para servir a los pasajeros.	
20180717003	2:09 PM	Mi nombre es <> y trabajo para do & co en el departamento equipment department. Tengo 1 año y 2 meses trabajando en do & co . Estoy apoyando el salario minimo suba por que no alcanza apoyar a mi familia trabajo muy fuere para servir a los pasajeros.	
20180717004	1:24 PM	<p>Dear Chairman Kevin J. O'Toole, and Members of the Board of Commissioners,</p> <p>My name is <> I work at Do & Co Catering In the Equipment Package Department. I am writing to urge you to support the proposed minimum wage increase to \$19. It will change my life and the lives of my coworkers for the better. It will also benefit the airports and all of their customers.</p> <p>Low wages lead to higher turnover, low employee morale, and poorly trained workers. At Do & Co, we prepare and deliver food for many long distance flights. The safety of the passengers is in our hands, and we take this responsibility seriously. We do important work and all we ask for is a living wage by which we can support our families and live with dignity.</p> <p>Thank you for your time,</p>	
20180718001	11:40 AM	Attached please find a comment on the Wage Order from UFCW Local 2013 President Louis Mark Carotenuto. Thank you for your time and consideration.	One attachment.
20180718002	1:39 PM	<p>Dear Chairman Kevin J. O'Toole, and Members of the Board of Commissioners,</p> <p>My name is <> I work at Do & Co Catering In the Kitchen Department. I am writing to urge you to support the proposed minimum wage increase to \$19. It will change my life and the lives of my coworkers for the better. It will also benefit the airports and all of their customers.</p> <p>Low wages lead to higher turnover, low employee morale, and poorly trained workers. At Do & Co, we prepare and deliver food for many long distance flights. The safety of the passengers is in our hands, and we take this responsibility seriously. We do important work and all we ask for is a living wage by which we can support our families and live with dignity.</p> <p>Thank you for your time,</p>	

ID	Timestamp	Email body	Notes
20180720001	1:57 PM	Hello, and good day to whom it may concern, I work at Newark Airport for OTG as a Porter. I've loyally worked at the airport for 1.5 years . I am a member of UNITE HERE Local 100. All Port Authority workers deserve a fair wage of \$19 an hour and we encourage the Port Authority to approve this wage increase. This wage increase will help create longer term jobs that will improve the safety and security of our airports	
20180721001	12:48 PM	Enclosed please find the Supplemental Comments of Flying Food Group, LLC re the Proposed Rules for Implementation of the Minimum Wage Policy.	One attachment.
20180723001	10:44 AM	Public Comment from N.Y. State Senator James Sanders	One attachment.
20180723002	1:11 AM	Mi nombre es <> y trabajo do & Co en el departameno equipment deparment. tengo un año y un mes trabajando en do & Co . estoy apoyando el salario mínimo suba por que no alcanza apoyar a mi familia trabajo muy fuertemente para servir a los pasajeros.	
20180725001	via mail		One attachment.
20180725002	11:30 AM	My name is <> I work at Do & Co Catering as a Pastry Helper. I am writing to urge you to support the proposed minimum wage increase to \$19. It will change my life and the lives of my coworkers for the better. It will also benefit the airports and all of their customers. Low wages lead to higher turnover, low employee morale, and poorly trained workers. At Do & Co, we prepare and deliver food for many long distance flights. The safety of the passengers is in our hands, and we take this responsibility seriously. We do important work and all we ask for is a living wage by which we can support our families and live with dignity.	
20180727001	12:30 PM	To the Board of the Port Authority of New York and New Jersey: <u>Attached are Airlines for America's Supplemental Comments on the Proposed Minimum Wage Policy.</u>	One attachment.
20180728001	12:24 PM	Dear Members of the Board of Commissioners of the Port Authority of New York and New Jersey, As a small operator in Newark Liberty International Airport, your proposed wage increase for the next year would increase our payroll expense, at scale, over 50%. There's no guarantee of increased sales or price increase to off-set this additional expense. As a small operator we would be forced to economize through layoffs and/or hour reductions to insure we could stay afloat. If the proposed wage increases were spread over more years, with benefits included as an add-on to the wage minimum, we could better manage the economics of our business. Would the Port be willing to reduce it's Rent in order to assist in giving us the ability to pay this increase in wages? I think not. We realize that the state is going to increase minimum wages in the coming years, but asking us to do this overnight may actually put out our lights.	

ID	Timestamp	Email body	Notes
20180802001	8:35AM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180802002	8:42AM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180802003	9:00AM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p><></p>	
20180802004	9:01AM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <> <></p>	

ID	Timestamp	Email body	Notes
20180802006	5:58PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180802007	6:21PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180802008	7:45PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180802009	7:45PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	

ID	Timestamp	Email body	Notes
2018080210	7:46PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180803001	10:47AM	<p>I am trying find out information on a PA mandated wage increase for Sept 1, 2018. I am being told that the following airports are being increased to JFK and LGA non tipped employees \$13.60 EWR-non tipped employees \$12.45 Could you please send me any information you have on this increase.</p>	
20180804001	6:52PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180806001	11:27AM	Attached please find additional comments submitted by NELP.	One attachment.
20180806002	6:27PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	

ID	Timestamp	Email body	Notes
20180807001	1:15PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180807002	4:08PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180807003	4:43PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Jose Maldonado Sincerely, <></p>	

ID	Timestamp	Email body	Notes
20180807004	4:56PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180807005	8:04PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180807006	9:46PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	

ID	Timestamp	Email body	Notes
20180807007	9:47PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180808001	8:17AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180808002	9:04AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	

ID	Timestamp	Email body	Notes
20180808003	1:57PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180809001	11:01AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	

ID	Timestamp	Email body	Notes
20180809002	12:05PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180809003	8:14pm	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180810001	3:21PM	<p>Please find as an attachment my comments regarding the PANYNJ's proposed rules for implementation of minimum wage policy for non-trade labor service contracts.</p> <p>You may contact me below if additional information is required.</p> <p>Ray White Aviation Security Consultant</p>	Two attachments.

ID	Timestamp	Email body	Notes
20180813001	1:00PM	<p>I work for [OCCUPATION] and am a member of UNITE HERE Local 100. I am writing in support of the \$19 minimum wage policy. This is a great policy that will improve the lives of workers and the quality of the airports where we work. It is time for the policy to go into effect. I believe the Port Authority should call a special meeting in August so that we can get the raise in September that we were expecting.</p> <p>I also urge you to pass it without any benefits offset. To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits.</p> <p>Finally, I am very happy to see that airline catering workers are finally included in the policy. Catering workers provide an important security function at airports that is also critical to on-time flight departures. Catering workers off-site are especially important to airport security, serving as a front line against materials getting smuggled onto airport property.</p> <p>This policy's time has come. I ask you to pass it now so we get the raises we are expecting in September.</p> <p>Sincerely,</p> <p><></p>	
20180813002	1:51PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	

ID	Timestamp	Email body	Notes
20180814001	2:54PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180814002	6:21PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180814003	6:34PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	
20180814004	7:35PM	<p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely,</p> <p><></p>	

ID	Timestamp	Email body	Notes
20180815001	9:02AM	<p>Please find attached supplemental comments from the Communications Workers of America, District 1. You may keep our identity unredacted when you publish our comments.</p> <p>Thank you.</p> <p>--</p> <p>Nell Geiser Assistant Director of Research Communications Workers of America Office - 202-434-0597 Cell - 646-296-5927</p>	One attachment.
20180815002	9:05 AM	<p>Jim Kilkenny Vice President Teamsters Local 641</p>	One attachment.
20180815003	11:20AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180815004	11:20AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	

ID	Timestamp	Email body	Notes
20180815005	11:40AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	
20180815006	11:41AM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <> <></p>	
20180815007	1:55PM	Good Afternoon: I am submitting the attached Supplemental Comments on The Proposed "Rules For Implementation Of Minimum Wage Policy For Non-Trade Labor Service Contracts on behalf of Hector Figueroa, President of SEIU 32BJ.	One attachment.
20180815008	2:52PM	<p>These comments are sent to you on behalf of RWDSU, RWDSU Local 1102, UNITE HERE and UNITE HERE Local 100 regarding the proposed Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport ("proposed minimum wage rules"). Please see the attached document for our comments on the issues that were raised in the initial comment period. A legal memorandum from UNITE HERE counsel is also attached.</p> <p>Thank you for your consideration of our positions on these issues.</p>	One attachment.

ID	Timestamp	Email body	Notes
20180815009	3:57PM	<p>Authority Commissioners,</p> <p>I work for United Airlines Catering Operations at Newark Liberty International Airport. I am writing in support of the \$19 minimum wage policy, and I urge you to pass it without any benefits offset.</p> <p>To support working families and ensure our airports run as efficiently and safely as possible, a \$19 wage should be the minimum on top of which employers provide benefits. Thank you for your leadership.</p> <p>Sincerely, <></p>	

The Port Authority of NY & NJ
4 World Trade Center
150 Greenwich Street, 22nd Floor
New York, NY 10007

Submitted via e-mail to: wagepolicy@panynj.gov

June 5, 2018

**NY STATE SENATOR ROXANNE PERSAUD - Comment to Port Authority in Support of Raising
Wages for NY/NJ Airport Workers**

Dear Port Authority Board of Commissioners,

I am writing to urge you to approve the Port Authority Resolution passed in March to raise wages to \$19 an hour by 2023 for all airport service workers at John F. Kennedy, LaGuardia and Newark Airports. As the main sponsor of a bill in the New York State Senate that would raise wages for subcontracted transportation center workers (the Safe Transportation Jobs and Fair Employment Rules, or STAFER Act A.7886/S.6451), I have met with many airport service workers. The expertise, readiness, and value that airport service workers bring to their jobs cannot be overstated.

As a Senator who represents a Brooklyn district in which many airport workers live, I have firsthand experiences of the effects of systemic lack of investment in workers in the community. Major transportation centers like JFK and LaGuardia Airports can only be economic engines for the community when they provide jobs that allow employees to provide for themselves and families. Investing in employees leads to strong, motivated teams that are highly productive; and as a result everyone wins.

I urge you to give security officers, baggage handlers, cabin cleaners, wheelchair attendants, and other low-wage airport service workers employed by airlines or sub-contractors, what they deserve: basic dignity and respect on the job, starting with \$19/hour by 2023. In the interest of creating a uniform standard, all workers should receive the full wage, in which employers should not be permitted to take tip credits. These measures will help improve the safety, security, and readiness of our airports, benefiting us all.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Roxanne Persaud". The signature is written in a cursive, flowing style.

Roxanne Persaud, NY State Senator

, including RANKING MEMBER:

CONSUMER PROTECTION

COMMITTEE MEMBER:

LABOR

AGING

CORPORATIONS, AUTHORITIES
AND COMMISSIONS

CULTURAL AFFAIRS, TOURISM,
PARKS AND RECREATION

HIGHER EDUCATION

INFRASTRUCTURE AND
CAPITAL INVESTMENT

SOCIAL SERVICES

**THE SENATE
STATE OF NEW YORK**



MARISOL ALCÁNTARA
SENATOR
31ST DISTRICT

ALBANY OFFICE:
LEGISLATIVE OFFICE BUILDING
ROOM 311
ALBANY, NEW YORK 12247
PHONE: (518) 455-2041
FAX: (518) 426-6847

DISTRICT OFFICE:
5030 BROADWAY, ROOM 701
NEW YORK, NEW YORK 10034
PHONE: (212) 544-0173
FAX: (212) 544-0256

EMAIL:
ALCANTARA@NYSENATE.GOV

WEBSITE:
ALCANTARA.NYSENATE.GOV

July 17, 2018

Dear Port Authority Board and Commissioners:

I write now to urge you to approve the Port Authority Resolution passed in March, to raise wages to \$19 per hour by 2023 for all airport service workers, including off-site food prep and delivery workers, at John F. Kennedy, LaGuardia and Newark Airports. As the cost of living continues to increase, airport service workers are sadly being left behind.

As co-sponsor of a bill in the New York State Senate (S.6451), that would raise wages for subcontracted transportation center workers (Safe Transportation Jobs and Fair Employment Rules - STAFER Act), I have met personally with many airport service workers and greatly empathize with the diligence, expertise, and value they bring to our airports.

As you are aware, New York and New Jersey's airports are some of the most heavily trafficked in the world. As such, New York & New Jersey airports are among the largest employers in the two states. While passengers come and go, service workers (both onsite and offsite) clean planes in between flights, direct traffic, assist the elderly and disabled, report unattended luggage, prepare and cook food, package meals that are served during international flights and so much more.

Increasing the minimum wage to \$19 an hour will have a much needed impact, benefitting our families, communities and our economy. Studies have shown that by raising the minimum wage to \$19 per hour, an additional 2,700 jobs will be created. In addition, more than \$43 million a year will be contributed to public service spending by increased Federal tax revenues.

When minimum wages are raised, I hope any so called 'benefit offsets' that unfairly and illegally try to use benefits to count towards the minimum wage are rejected. As it is, many transportation workers have few meaningful benefits and are forced to rely on taxpayer-funded programs to survive.

I greatly appreciate your attention to this matter,

Marisol Alcántara
New York State Senator
31st Senate District



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Committee on
Governmental Employees

CHAIRMAN
Subcommittee on
Safety in the Work Place

COMMITTEES
Aging
Banks
Consumer Affairs & Protection
Labor

PETER J. ABBATE, JR.
Assemblyman 49TH District
Kings County

July 16, 2018

The Port Authority of NY & NJ
4 World Trade Center
150 Greenwich Street, 22nd Floor
New York, NY 10007

Submitted by email: wagepolicy@panynj.gov

Dear Port Authority Commissioners,

I am writing to urge your support of the Port Authority Resolution passed in March 2018 to raise wages to \$19.00 an hour by 2023 for all airport service workers at John F. Kennedy, LaGuardia and Newark Airports.

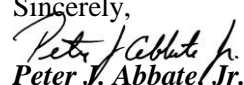
Both New York and New Jersey's airports are some of the most heavily utilized airports in the world. The service workers provide essential services to passengers, including reporting unattended luggage, clean planes between flights, direct traffic, transport the disabled and elderly. Airport Service Workers provide many unappreciated services on the ground and are not earning the wages that they so rightfully deserve.

Many of these workers who receive low wages and few benefits often need to rely on taxpayer-funded social service programs to survive.

If passed, this wage resolution would provide significant gains for our region, and would benefit families, communities and our economy.

I therefore ask those security officers, baggage handlers, cabin cleaners, wheelchair attendants and other low-wage airport service workers employed by the airlines and sub-contractors, earnings starting at \$19 an hour by 2023.

Thank you for your consideration. Please feel free to contact me at any time at 718-236-1764 or at: abbatep@nyassembly.gov.

Sincerely,

Peter J. Abbate, Jr.
Member of Assembly

PJA/kis



The Port Authority of New York and New Jersey
Corporate Offices
4 World Trade Center
150 Greenwich Street
New York, NY 10007

10 July, 2018

Dear Chairman Kevin J. O'Toole and Members of the Board of Commissioners:

United Food and Commercial Workers Local 2013 strongly supports the Port Authority of New York and New Jersey's proposed rule to increase the minimum wage of workers serving LaGuardia Airport, John F. Kennedy Airport, and Newark Liberty International Airport, to \$19 per hour. This increase should be applied to workers who serve at the airports, as well as those who provide catering services to the airports. As detailed below, Local 2013 believes that the increase in minimum wage will result in more secure airports and airplanes, reduced worker turnover and training costs, and enhance the quality of services received by passengers.

UFCW Local 2013 is a progressive labor union that represents approximately 15,000 hardworking Americans in the New York City metropolitan area. We are members of the large UFCW International Union, which collectively represents approximately 1.3 million workers across the country.

Workers in the three major airports in the New York City metropolitan area and throughout the country are woefully underpaid. As was pointed out by the New York Times Editorial Board on July 2, 2018, "Real wages for the men and women who do much of the work at airports declined by 14 percent between 1991 and 2011, according to a study by the Center for Labor Research and Education at the University of California, Berkeley.The board of the Port Authority of New York and New Jersey needs to buck that trend and approve a resolution to raise the minimum pay to \$19 an hour at John F. Kennedy, La Guardia, and Newark Liberty International Airports." *New York Times, June 2, 2018, retrieved from: <https://www.nytimes.com/2018/07/02/opinion/airport-worker-wages.html>.*

Increasing the minimum wage paid to workers helps prevent worker turnover. As a result, the workforce becomes stable, requires less training and "onboarding," and develops expertise in the job's requirements. A stable workforce experiences higher morale, reduced absenteeism, and improved service. This directly increases the safety and security of the airports. Well trained workers are can easily identify odd behavior, flawed processes, and other abnormalities that could be exploited by those intent on harming our Nation's transportation infrastructure.

Louis Mark Carotenuto, President
Eugene Hickey, Secretary Treasurer
Marietta Real - Recorder

United Food & Commercial Workers Local 2013
9235 4th Avenue
Brooklyn, New York 11209
718-745-3487 Fax: 718-745-2976



Off-site workers must be covered by this minimum wage increase. They must be treated as part of airport community, not relegated to second-class status which can lead to feelings of alienation and exclusion. Common sense and logic dictate that the same security and quality concerns posed by on-site workers are inherent in off-site workers. Caterers who prepare, cook, and package meals for international flights are entrusted with ensuring the safety, health, and vitality of passengers who can be on an airplane for 10 or more hours. If these important positions are areas of high turnover and low job satisfaction, they can become an obvious point of entry for those who wish America harm. Rather, these workers must be protected by the minimum wage necessary to ensure that they part of the stable, trained, and vigilant members of the airport community.

UFCW is troubled by industry's attempt to inject a "benefits offset" concept into the propose minimum wage rule. As Huntley A. Lawrence, Director of Aviation, pointed out in his 26 June, 2018, memorandum to the Board of Commissioners, benefits offset is not contemplated in existing New York State or State of New Jersey minimum wage laws. It is therefore inconceivable that industry would call on the Port Authority of New York and New Jersey to apply such a concept to the proposed rule. Further, the benefits offset scheme introduces the elements of unpredictability and inequity into the wage calculation, which undermines the concept of a minimum wage. Depending on the employer's subjective calculation of the "value" of any benefits included in the benefits offset, a worker could be paid a different wage for the same or similar work performed by her colleague. We ask the Port Authority to categorically reject the benefits offset concept in favor of the proposed rule as promulgated.

In conclusion, UFCW Local 2013 strongly supports the Port Authority's proposed minimum wage increase. We believe that the rule should be applied to both on-site and off-site workers as proposed. The higher minimum wage will protect American families as well as the millions of travelers who rely on the regional airports they serve.

Respectfully submitted,



Louis Mark Carotenuto
President

Louis Mark Carotenuto, President
Eugene Hickey, Secretary Treasurer
Marietta Real - Recorder

United Food & Commercial Workers Local 2013
9235 4th Avenue
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The Public Advocate

for the City of New York

Letitia James – Public Advocate

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July 12, 2018

Submitted via e-mail to: wagepolicy@panynj.gov

The Port Authority of New York & New Jersey
4 World Trade Center
150 Greenwich Street, 22nd Floor
New York, New York 10007

Dear Port Authority Board of Commissioners:

I am writing to urge you to approve the Port Authority Resolution passed on March 22, 2018 to raise the wages of all airport support workers at John F. Kennedy, LaGuardia and Newark Airports to \$19 per hour by 2023. I applaud your recognition that those who help maintain the safety, security, and positive customer service experience of those traveling through our local airports deserve to earn a living wage.

In 2012, I was proud to join 200 fast-food workers in New York City who started a movement to raise the minimum wage to \$15 per hour. These workers shed much-needed light on an issue that I have seen firsthand among my constituents: the cost of living in our city far exceeds the wages of hourly workers, making more people reliant on public benefits despite working full-time. Since 2012, underpaid workers from many different industries across the country have joined The Fight for \$15 and have made laudable gains.

Just as these New York City fast-food workers demonstrated strong leadership in highlighting this issue, you too have the opportunity to show leadership and an understanding of the needs of working New Yorkers by advancing this important cause. Approving the March resolution would set a wage rate that allows airport workers to continue to live in the New York City metropolitan area, one of the most expensive in the United States, and ensure that full-time airport support workers will not need to rely on public benefits simply to survive. Paying a living wage will also ensure that our local airports continue to have a supply of experienced and dedicated employees who do not have to split their time between multiple jobs to make ends meet. Most importantly, a living wage will affirm the importance of the work and the dignity of those employed at our local airports.

Sincerely,

Letitia James

Public Advocate for the City of New York



Roy Goldberg
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202.728.3005 **DIRECT**
202.572.9942 **DIRECT FAX**
roy.goldberg@stinson.com

July 21, 2018

Submitted via email to wagepolicy@panynj.gov

Board of Commissioners
The Port Authority of New York and New Jersey
4 World Trade Center
150 Greenwich Street
New York, NY 10007

Re: Supplemental Comments of Flying Food Group, LLC re
Proposed Rules for Implementation of Minimum Wage Policy for
Non-Trade Labor Service Contracts

Dear Members of the Board of Commissioners of the Port Authority of New York and New Jersey:

Pursuant to the Port Authority's June 28, 2018 Resolution, Flying Food Group, LLC ("Flying Food" or "FFG"), through undersigned counsel, respectfully and timely submits these supplemental comments in opposition to the Port Authority's proposed "Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport" (the "Proposed Rules").

In Flying Food's initial comments filed on June 11, 2018, we demonstrated that the geographic breadth of the Proposed Rules is unlawful because of their *ultra vires* application to employees of privately-owned airline catering facilities located outside the boundaries of airports or other transportation facilities owned and operated by the Port Authority. Specifically, the Port Authority's attempt to impose minimum wage requirements on employees not working at the airports or transportation facilities owned or operated by the Port, or making deliveries to those locations (but merely within the "Port District"): (1) exceeds the jurisdiction and power of the Port Authority; (2) is preempted by federal law, which pervasively regulates the safety and security of meals delivered to airlines at airports such as JFK, EWR and LGA; and (3) will have the perverse effect of shuttering the catering facilities and causing the dismissal of catering company employees, rather than an increase in their wages.

During the Commission meeting on June 28, 2018, neither the Commissioners nor any staff sought to refute any of these points. Nor were the points refuted in the staff Summary Memorandum dated June 22, 2018 or the Board Resolution of June 28 which created the supplemental comment period. The Board also has not refuted the fact that federal law preempts application of the Proposed Rules outside of the airports and transportation facilities owned by the Port. In the comments below, we provide yet further legal support for the fact that the Board lacks authority to regulate minimum wage levels generally, and most certainly at locations beyond the airports and transportation facilities owned and operated by the Port.

The Port is confined to what is authorized in the 1921 interstate Compact authorized by Congress which created the Port. 67th Cong. Sess. I, Ch. 77. And, the Compact does not authorize the Port Authority to regulate the level of wages paid to employees working at facilities outside the airports and other transportation facilities owned or operated by the Port Authority.

1. The Port's Jurisdiction Does Not Include Catering Facilities Located External to Airports and Transportation Facilities Owned or Operated by the Port.

The Compact does not authorize the Port to regulate the wages of employees even if they work at a Port-operated airport. The statutory authority to manage Port properties does not provide the Port with general police powers needed to enact social welfare policies. The Proposed Rules are, therefore, *ultra vires*. But even if it was assumed (for the sake of argument) that the Port could regulate wages at airports or other transportation facilities owned or operated by the Port, this authority would not extend beyond those borders. It most certainly would not cover Flying Food's kitchen facilities located outside the footprint of any building owned or operated by the Port.

Article VIII of the Compact states that the Port's authority "shall apply to railroads and to any transportation, terminal, or other facility owned, operated, leased or construction by the port authority, with the same force and effect as if such railroad, or transportation, terminal, or other facility, were owned, leased, operated, or constructed by a private corporation." This language demonstrates that the Port's powers are limited to buildings owned or operated by the Port, such as airports, railroads, or other transportation facilities. There is nothing in the Compact that authorizes the Port to regulate wages for employees working at privately-owned and operated catering facilities located outside the bounds of the Port's airports and other transportation facilities.

2. The New York and New Jersey Legislatures Have Not "Concurred in or Authorized" the Proposed Rules, Much Less their Application External to the Airports and Transportation Facilities Owned and Operated by the Port.

The Port's attempt to apply the Proposed Rules to Flying Food's operations located external to the airports is contrary to Article XVIII of the Compact. Article XVIII states as follows:

The port authority is hereby authorized to make suitable rules and regulations not inconsistent with the Constitution of the United States or of either State, and subject to the exercise of the power of Congress, for the improvement of the conduct of navigation and commerce, which, **when concurred in or authorized by the legislatures of both States**, shall be binding and effective upon all persons and corporations affected thereby. (Emphasis added)

This language does not authorize the Port to apply the new minimum wage rules to privately-owned facilities located external to the airports. But even assuming for the sake of argument that Article 18 could theoretically be used as authority for the Proposed Rules, the fact is that the New York and New Jersey legislatures have not "concurred in or authorized" the Proposed Rules. Thus for this reason alone there is no lawful basis for applying the Proposed Rules to Flying Food's operations which are external to the airports.

In *Port of N.Y. Authority v. Weehawken Tp.*, 14 N.J. 570, 103 A.2d 603, 604 (N.J. 1954), the Supreme Court of New Jersey held that the Port Authority could "not proceed with the construction" of an third tube for the Holland Tunnel "until expressly authorized by the two States," because "without such authorization the Port Authority may not lawfully proceed with construction." The court properly recognized that the Port was powerless to extend its authority without the sanction of its two legislative bodies. The court explained: "The proper determination of what will best serve the overall public interest in such cases is the particular responsibility of the Legislatures, who answer directly to the people." *Id.* at 606. The same is true here. At a minimum the Board cannot take it on itself to *legislate* matters that if they can be mandated at all, must be enacted by the New York and New Jersey legislative bodies.

Similarly, in *State Dep't of Transp. v. Port Authority of New York and New Jersey*, 151 N.J. Super. 127, 376 A.2d 591 (N.J. Super. 1977), the court held that the Port Authority was not authorized under existing legislation to participate in the costs of a bridge construction project. The court stated:

In 1921 the States of New York and New Jersey entered into a compact whereby the Port Authority was created. N.J.S.A. 32:1-4. This compact envisioned a plan for comprehensive development of the Port Authority district. N.J.S.A. 32:1-11. In accordance with said plan, the Authority was granted power to make recommendations to the Legislatures of New York and New Jersey "for the better conduct of the commerce passing in and through the Port of New York, the increase and improvement of transportation and terminal facilities therein, and the more economical and expeditious handling of such commerce." (*Id.* (citing N.J.S.A. 32:1-13)).

Plaintiffs contend that the Route 81 project is within the scope of a "transportation" or "terminal" facility as defined above. **The court finds no support for this proposition. To hold otherwise would clearly violate the plain intent of the Legislatures.** The statute is express in defining "transportation facility" as facilities "for the use of the transportation or carriage of persons or property," i.e., vehicles or vessels of various kinds. The phrase "and every kind of transportation facility" deserves some consideration. Under the statutory rule of ejusdem generis, general terms which follow specific terms are limited to matters similar to those so specified. . . . The general words, "and every kind of transportation facility," must be construed as embracing only vessels or vehicles of the class delineated in the statute. . . . To expand the definition of "terminal facility" to include the proposed Route 81 project would defeat the intention of the Legislature. (*Id.* at 594) (emphasis added)

See *also id.* at 595 ("The desires and goals of the Port Authority . . . cannot run counter to the legislative mandate. To grant the relief which plaintiffs seek would be, in effect, to sanction the Port Authority building, without bi-state approval, not merely the Route 81 project but as many highways as it deems beneficial to the public and in accord with the comprehensive plan. Certainly, this is not the plain intent of the Legislatures, especially where, as here, they have remained silent. Not even an inference of the delegation of power to the Port Authority to construct Route 81 is permissible under the existing legislation").

There is equally no support for the position that the Port can impose a wage increase without receiving authorization from both the New York and New Jersey legislatures – especially where, as here, the Port is trying to extend its jurisdiction beyond the airports and other buildings it owns and operates.

3. Lack of Any Link Between Increased Wages and Airport Safety and Security.

Finally, the Port's assertion that an increase in minimum wages would enhance safety and security at the airports operated by the Port is not supported by any evidence. The Port may not use the alleged justification of safety and security to justify social welfare policies and then apply them to buildings not even owned or operated by the Port.

Sincerely,

Roy Goldberg

Roy Goldberg
Counsel for FLYING FOOD GROUP, LLC

cc: Flying Food Group, LLC

RANKING MINORITY MEMBER

BANKS
LABOR

MEMBER

CIVIL SERVICE AND PENSIONS
COMMERCE, ECONOMIC DEVELOPMENT
AND SMALL BUSINESS
INSURANCE
RACING, GAMING AND WAGERING
VETERANS, HOMELAND SECURITY AND
MILITARY AFFAIRS

THE SENATE
STATE OF NEW YORK



JAMES SANDERS JR.
SENATOR, 10TH DISTRICT

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July 23, 2018

The Port Authority of NY & NJ
4 World Trade Center
150 Greenwich Street, 22nd Floor
New York, NY 10007

Submitted by email: wagepolicy@panynj.gov

Dear Port Authority Commissioners:

I am writing in support of the hardworking men and women employed at New York's area airports. The workers, including the off-site food service workers who prepare, cook, and deliver meals to the airlines, deserve a livable salary that allows them to support themselves and their families. The Port Authority of New York/New Jersey promised them a wage increase to \$19 per hour, but backed down after pressure from industry groups, which is unfair.

Kennedy Airport is located in the 10th Senatorial District, which I represent, and many of its workers live in neighborhoods surrounding the airport. Workers at Kennedy, LaGuardia, and Newark Liberty-Airport are vital to our regional economy. The proposed wage increase is appropriate and it has the support of New York State Governor Andrew Cuomo.

In order for New York to remain internationally competitive, we require a workforce that will be compensated fairly and continue to dedicate their services to this great State. I am trusting that when this measure comes before the Port Authority board this September, they will do right by its workers and give them the wage increase they so greatly deserve.

Sincerely,

James Sanders Jr.
Senator, 10th District



Airlines for America®

We Connect the World

Via email: (wagepolicy@panynj.gov)

July 27, 2018

Mr. Kevin O'Toole
Chairman
Board of Commissioners
Port Authority of New York & New Jersey

Dear Chairman O'Toole:

RE: Supplemental Comments Regarding Proposed Minimum Wage Mandate

Airlines for America (A4A) is the trade association of the leading US passenger and cargo airlines,¹ all of which serve John F. Kennedy International, LaGuardia, and Newark Liberty International Airports providing safe, affordable services to residents and businesses throughout the tri-state area. Airlines are proud economic drivers in the local area, supporting over 700,000 jobs in New York and New Jersey. Airlines carry 130 million passengers, along with approximately 3 million tons of cargo in and out of the three airports each year.

In prior comments, A4A noted its strong opposition to the Port Authority of New York and New Jersey's (the Port or Port Authority) proposed minimum wage mandate (MWM) for airport workers and urged the Board of Commissioners to withdraw it. As noted, the MWM is legally defective. Further, as we and others have pointed out, there are substantial policy concerns raised by singling out one industry for a significant wage increase.

In response to the request from the Board for additional comments, A4A submits the following:

The Port Authority lacks the legal power to regulate wages of third parties.

A4A and others have provided substantial legal authorities demonstrating that the Port does not have the power to create minimum wage standards for workers employed by others, whether on the airport properties or elsewhere within the Port District. While acknowledging these comments, neither the staff Summary Memorandum dated June 22, 2018, nor the Board Resolution of June 28, 2018 creating the supplemental comment period, responds to these important legal precedents.

¹ A4A members are: Alaska Airlines, American Airlines Group, Atlas Air, Inc., Federal Express Corporation, Hawaiian Airlines, Inc., JetBlue Airways Corp., Southwest Airlines Co., United Continental Holdings, Inc., and United Parcel Service Co. Air Canada is an associate member.

- The MWM is a local action specifically targeted at the airline industry that will have a direct impact on air carrier prices and services at the three major Port Authority airports. As such, the MWM is preempted by the Airline Deregulation Act. 49 U.S.C. §41713(b)(1). *See, e.g., Air Transp. Ass'n of Am. v. Cuomo*, 520 F.3d 218 (2d Cir. 2008) (finding New York "passenger bill of rights" statute preempted as affecting airline services and rejecting argument that the statute should escape preemption as a health or safety measure).
- The bi-state compact establishing the Port Authority does not authorize it to regulate the wages of employees of airlines, airline contractors, and other third-parties, whether they work at the airports or elsewhere within the Port District. The statutory authority to manage Port properties does not provide the Port with general police powers needed to enact social welfare policies. The MWM is, accordingly, *ultra vires*.
- The MWM is preempted under New York and New Jersey Law. Both States prohibit local authorities from enacting minimum wage laws.

The Port Authority's assertion of safety and security to justify higher wages is "gloss" to mask social goals.

In an apparent attempt to provide justification for its social welfare policy, the Port asserts, without any evidence, that there are safety and/or security shortcomings at its three major airports. Of course, if there are any such deficiencies at the airports, the Port should be immediately addressing those issues with the Transportation Security Administration, the Federal Aviation Administration, and the airlines. The purported use of the MWM to alleviate safety or security deficiencies raises additional federal preemption concerns.

Further, the Port offers no evidence that increasing the minimum wage would improve either safety or security. Minimum wages applicable at airports throughout the US – generally established on a state or locality wide basis - currently range from \$7.25 to \$14.14. The Port has presented no evidence that airports in jurisdictions with lower minimum wage floors have more – or less - safety or security issues than airports in jurisdictions with higher minimum wages.

That the safety and security claims are mere "gloss" for social welfare policies is demonstrated by a report that the Port itself commissioned in 2016 to study "possible future changes in its Wage and Benefit Policies." *Summary Report: Potential Impacts of Increases in Wages and Benefits on the Port Authority of New York and New Jersey*. (InterVISTAS Consulting Inc., Draft of July 21, 2016 at page 1).
<https://www.panynj.gov/pdf/intervista-report-072116.pdf>

The objectives of the Port in commissioning the *Wages and Benefits* report were focused on economic and consumer concerns:

1. What effect would further minimum wage increases, or health benefit mandates...have on the price of products and services purchased onsite by the millions of travelers...?
2. What impact would further minimum wage increases or health care mandates have on the Authority's competitive position with respect to tenants and potential tenants...?

Nowhere in the 25-page draft report is there a mention of the Port having concerns about safety and security matters at the three airports. To the contrary, as laid out in the Introduction to the draft report, the subject of minimum wage or "living wage" is described as a "social concept," and the debate over increases in a minimum/ living wage is a "social debate." (p.1)

Accordingly, A4A once again urges the Board to withdraw the MWM resolution.

Respectfully,



Rob DeLucia
Vice President – Labor & Employment, and
Associate General Counsel



Christine L. Owens
Executive Director

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August 6, 2018

Dear Board of Commissioners:

Thank you for the opportunity to provide additional comments on the proposed Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts - LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport ("proposed minimum wage rules").

I am Senior Counsel at the National Employment Law Project (NELP). NELP is a non-profit research and policy organization that for more than 45 years has sought to ensure that America upholds for all its workers the promise of opportunity and economic security through work. NELP advocates for policies that create good jobs, expand access to work, and strengthen protections for low-wage workers and the unemployed. Prior to joining NELP, I served as United States Solicitor of Labor from 2010 to 2017. Before that, I served as New York State Commissioner of Labor from 2006 to 2010. Previously I served in the New York State Attorney General's Office Labor Bureau for almost 20 years, including 8 years as Chief of the Bureau.

First, I would like to submit additional comments on why I urge the Board of Commissioners to abolish the tipped minimum wage in their final rule. This two-tier system, tipped vs. regular minimum wage, creates an unnecessarily complex system, puts workers at a higher risk of wage theft, puts even well intentioned businesses at risk for unknowingly violating the law and puts pressure on very limited public enforcement resources. When an employer elects to take a tip credit, i.e. pay a cash wage below the regular minimum wage, the rules are complicated and difficult to implement. Because the rules are so complicated, employers and employees are often confused. Even when they are not confused, there are structural reasons why minimum wage violations are rampant in the tipped occupations. Some employers and employees are ignorant of the legal obligation for employers to increase the cash wage when their employees' total earnings fall short of the full minimum wage. It is also difficult for workers and employers to keep track of tips accurately. Tipped workers often work irregular schedules. Keeping track of tips is even more difficult when they come in the form of cash and

credit cards on the same shift. The variety of tip pooling arrangements add more complications to this task. Finally, some employees simply do not ask their employers to make up the difference, for fear of retaliation, which can be as subtle as assigning a worker to a less lucrative shift.

The Obama Administration's National Economic Council and the U.S. Department of Labor found that failure to properly keep track of employee's tips and to make up the difference between the cash wage and tips if the employee's earnings fell short of the minimum wage constituted some of the most prevalent violations issued by the U.S. Department of Labor's Wage and Hour Division.¹ When surveyed 10% of workers in predominately tipped occupations report hourly wages, including tips, that fall below the federal minimum wage. By contrast, only 4% of all workers report that their hourly wages fall below the federal minimum wage.² As you are well aware, public enforcement resources are extremely limited and that is especially true of the Port Authority's enforcement resources. Private enforcement increasingly is hampered by U. S. Supreme Court decisions that have upheld forced arbitration and limited the availability of class actions. Eliminating the two tiered minimum wage structure would eliminate many of the complexities that result in the high level of violations in the tipped industry.

Second, I write in opposition to the proposal to allow a benefit offset against the proposed minimum wage. The minimum wage level was proposed after a determination that this was the wage level necessary to support employees in this area. The minimum wage laws in neither New York nor New Jersey allow benefits offsets. The prevailing wage laws in New York and New Jersey require an enhanced minimum wage for contractors on public work projects. They also require contractors to pay a certain level of benefits, either by providing certain benefits, or by paying additional cash. See N.J.S.A. 34:11-56.25 et seq. and NY Lab Law Section 220 et seq. The important point is that benefits, to the extent they factor into a wage requirement at all, are in addition to, not an offset from the required minimum wage.

Even if the Commissioners wish to consider the importance and impact of the provisions of benefits, it cannot be accomplished in any well-considered

¹ White House Report, "The Impact of Raising the Minimum Wage on Women and the Importance of Ensuring a Robust Tipped Minimum Wage," National Economic Council, the Council of Economic Advisers, the Domestic Policy Council, and the Department of Labor (2014), Paper at <https://www.whitehouse.gov/sites/default/files/docs/20140325minimumwageandwomenreportfinal.pdf>.

² Id.

manner in this proposal. The design of a benefits requirement, be it an addition to or even an offset from the minimum wage, is a complicated issue that requires much more thought than this comment period allows.

Because the benefits provided by employers are subject to the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001 et seq., there are potential ERISA preemption issues to navigate. It is very complicated to determine what benefits will be required (or allowed to be offset against a minimum wage), how that will be accomplished and how the Port Authority will oversee the enforcement these requirements. In New York, the benefits provisions of the prevailing wage law were the subject of over a decade of litigation and required several modifications before they were in compliance with ERISA. See: *A.L. Blades & Sons, Inc. v. Roberts*, 136 A.D.2d 926, 927, 524 N.Y.S.2d 912 (4th Dept.1988); *General Elec. Co. v. New York State Dep't of Labor*, 891 F.2d 25, 29 (2d Cir.1989); *Burgio and Campofelice, Inc. v. New York State Dep't of Labor*, 107 F.3d 1000, 1007-08 (2d Cir.1997); *HMI Mechanical Systems, INC., Compensation Programs, Inc. and The CPI Open Shop Plan, by its Administrator, Everett P. Strong, Plaintiffs-Appellants, v. James J. McGowan, Commissioner, New York State Department of Labor et al.* 266 F. 3d 142(2^d Cir. 2001).

Finally, in my experience, enforcement of complex benefits provisions (whether they be an additional requirement or an offset against the minimum wage) requires specialized knowledge of how employee benefit plans subject to ERISA operate, which the Port Authority may not have. It also requires intensive enforcement resources. As the Port Authority is not primarily an enforcement agency, these are serious considerations. For these reasons, I would urge you to save any consideration of a benefits proposal for future consideration.

Sincerely Yours,



M. Patricia Smith
Senior Counsel

Ray White
Statement and Comments
Port Authority's Proposed Rules for Implementation of Minimum Wage Policy for
Non-Trade Labor Service Contracts

My name is Ray White and I am writing to offer my comments and expertise as a security professional to the Port Authority regarding its proposed rules for implementation of minimum wage policy and the impact low wages have on aviation security.

As background, I have over two decades of experience as an aviation security professional with responsibilities ranging from federal regulatory compliance oversight to the implementation and management of federal security screening operations. My most recent experience includes assignments as TSA's Deputy Assistant Administrator for Security Operations with management, operational and federal regulatory compliance oversight at all of the nation's commercial airports. Other assignments include time as a Federal Security Director, Assistant Federal Security Director for Inspections and as a Regional Unit Supervisor for Aviation Security and Hazardous Materials. My decades of experience include time with both the Federal Aviation Administration's Security Operations, pre-9/11, and time with the Transportation Security Administration (TSA) from November 2001 until my retirement in 2013. I have continued my time in the private sector as an aviation security consultant.

It is my recommendation the PANYNJ consider approving the proposed rules and schedule for wage increases for non-trade labor service contracts. To support my recommendation, there exists a large body of empirical evidence from universities, the Federal Aviation Administration and other airports across the industry, both domestic and foreign, that clearly demonstrates lower wages result in significantly higher attrition rates, inadequate airport security experience, lower work productivity, higher employee absenteeism and disciplinary problems, and generally, overall poor performance. All of these detractors from a quality workforce serve to not only increase hiring and training costs, but also serve to expose an airport and airlines to significant economic damage resulting from intentional or unintentional security breaches. Further, higher attrition rates serve to undermine airport emergency procedures in the event of active shooters, air crashes, or airport evacuations for any reason. My first-hand experiences dealing directly with airports, airlines, vendors, contractors and other airport users strongly support the evidence that has been collected over the past two decades. Other airports such as San Francisco International, Seattle-Tacoma, Boston, Fort Lauderdale, to name a few, have taken similar actions regarding minimum wage standards and have seen substantial positive results.

Prior to 9/11, airlines were responsible for security screening of passengers and generally opted for the lowest bid from security companies who provided the necessary screeners. Attrition rates were in the 125 – 150% range, while many airports experienced attrition rates exceeding 400%. Wage rates rarely exceeded the minimum of \$5.00-\$5.50 per hour, which were lower than fast food restaurant employees and customer service assistants (passenger wheel-chair attendants). The high turnover resulted in frequent security test failures as well as unintended security breaches due to the lack of experience and knowledge of airport or federal regulatory security protocols.

It should be noted the Aviation Transportation Security Act (ATSA) passed in November 2001 that created the Transportation Security Administration also included a provision to allow 5 airports to continue to use private security in a pilot program that became known as the Screening Partnership Program (SPP). That program now includes 22 airport participants with several others debating whether to enter the program. What is relative to this conversation is that the ATSA legislation recognized the need to reduce attrition for all of the reasons listed above and required those 5 pilot airports to meet or exceed the federal wage standards and benefits paid to the federalized Transportation Security Officers (TSOs) (screeners). Today, the starting wages for a newly hired TSO (screener) range from

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approximately \$15.00 to \$19.00 per hour, depending on airport location, locality pay and a competitive labor pool (retention pay). A fully funded (salary and benefits) TSO has a funded range of approximately \$35K - \$55K, depending on tenure, location and security function. It should also be noted the federal government has historically increased wages from 1-2% each year since creating the TSA federal workforce.

Airports have tens of thousands of vendor and other land-side and air-side employees with authorized direct access to not only the public areas, but also secure areas of the airport. Employee and airport user familiarity and compliance with established security protocols is paramount to creating a secure transportation operational environment. High attrition rates undermine that familiarity and compliance resulting security incidents that should and could be avoided through having a stable workforce. Prior airport employee – labor studies have adequately demonstrated higher livable wages significantly increase that stability. Most significantly, individuals experiencing economic deprivation due to low wages become prime targets for manipulation and bribery. Associated with the insider-threat are widely reported incidents of criminal activity such as theft, smuggling of weapons, drugs and other prohibited items. Low wages and high turnover serve to create instability in the workforce, which further increases the insider-threat risks.

Prior to 9/11 while employed with the FAA Security Operations I performed an annual analysis of federal security violations at airports across a 5-state region. Included in my analysis was consideration of length of tenure and type of employment, e.g. screener, vendor, ramp employee, aircraft fueler, aircraft cleaners, etc. As I recall, what I discovered was that approximately 75% of federal or airport regulatory security violations were caused by employees with between 90-180 days of tenure, a fact directly attributable to high turnover rates and lack of familiarity and experience with airport security protocols.

Also, prior to 9/11 the FAA recognized the need for better qualifying security companies providing passenger screening and working with them to reduce attrition. The FAA published a Notice of Proposed Rule Making (NPRM) in January 2000 that in the preamble spoke to both attrition rates and low minimum wages. The NPRM was open to comments, but never acted upon following the 9/11 attacks.

If there is one thing I could personally fix in aviation security today, it would be to increase low wages to a livable wage level in an effort to reduce turnover, increase workforce stability and experience, all which serve to enhance aviation security.

Again, for the reasons stated above, I strongly recommend the PANYNJ approve the proposed rules for implementation of the wage policy.

I am available to further discuss the security impact of low wages in an aviation environment. Thank you for the opportunity to comment.

Ray White
Aviation Security Consultant
r.pw@verizon.net

Ray White
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Port Authority's Proposed Rules for Implementation of Minimum Wage Policy for
Non-Trade Labor Service Contracts



To: The Board of Directors of the Port Authority of New York and New Jersey

From: Communications Workers of America, District 1

Re: Supplemental comments on "Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport"

Date: August 15, 2018

The Communications Workers of American, District 1 ("CWA") appreciates the opportunity to submit additional comments on the proposed "Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport" ("Rules").

CWA represents 20,000 airport workers across the country, including over 500 at LaGuardia and JFK. CWA members work at the American Airlines ticket counter and gates, assisting passengers with checking in and boarding. In some locations CWA members also work on the ramp, loading and unloading baggage, guiding planes on the tarmac and de-icing aircraft.

As we wrote in our original comments, CWA strongly supports the Port Authority's proposal to increase the minimum wage for all airport workers to \$19 by 2023. We believe that this policy will lead to lower turnover and higher quality service at Port Authority airports. The higher minimum wage will be a particularly meaningful improvement for our members who struggle to make ends meet on the wages offered by American Airlines subsidiary Envoy Air.

In order to have its full, intended effect, the Rules should be implemented on the original proposed schedule and should not be modified to allow for loopholes or disparate pay for different groups of airport workers, as would happen if a "benefits offset" were allowed, if tipped workers receive a lower wage, or if small businesses were held to a lesser standard.

Benefits offset

We oppose the addition of a "benefits offset" provision to the proposed Rules. Such a carve-out would present logistical challenges and may delay implementation of the Rules, which would have severe negative consequences for airport workers. While we whole-heartedly support incentives for employers to provide high-quality, affordable benefits, we believe a benefits offset credit is not an appropriate way to advance that goal.

First, the Rules were developed based on the need for higher wages in order to retain airport workers. The wage levels were set based on an assessment of appropriate incremental increases to the existing minimum wage set by the Port Authority in 2014. Allowing a benefits offset would undermine the intent of the Rules and reduce the differential with New York State's minimum wage, which will reach \$15 by the end of 2018. The minimum wage levels set out in the Rules should be considered a floor, and any efforts to incentivize the provision of benefits should build upon that floor.

Second, other jurisdictions in the region do not allow for benefits offsets. The prevailing wage laws in New York and New Jersey have separate requirements laying out minimum wage rates on the one hand, and minimum required benefits on the other. A method like this, or another type of incentive to provide a benefits supplement, would be a more reasonable way to achieve the goal of the Rules.

Third, the issue of benefits provision is complicated and requires more attention and time than the current proceeding allows. While there is a strong legal basis to establish standards for benefits provision, it is important to approach the issue with care.

While we appreciate that the proposed benefits offset was intended to protect employers who provide benefits to their employees from competitive disadvantage, we believe that this goal is best achieved through a different mechanism and after careful consideration. In the meantime, we believe the Rules will create a level playing field among employers and will not meaningfully disadvantage employers who offer higher quality benefits in order to attract workers.

Carve-Outs for Tipped Employees and Small Businesses

While CWA does not directly represent tipped employees or employees of small business at Port Authority airports, we believe that creating carve-outs that allow for lower wages is unwise and will be inequitable in practice.

As other commenters explain, tipped workers are not consistently tipped and often face wage theft, making it especially important that they have access to the same minimum wage as other airport workers.

In the case of small businesses, a lower minimum wage is not the appropriate way to provide support and opportunity; rather, existing state and federal programs offer various forms of financial and procedural aid to small businesses. Such a carve-out would undermine the intent of Rules to set a level playing field to attract and retain workers. This principle is acknowledged in other enhanced minimum wage policies – there are no carve-outs for small businesses under New York or New Jersey prevailing wage laws or the Federal Service Contract Act.

Correction to Proposed Rules

Finally, we would like to echo other commenters who have drawn the Board's attention to a serious error that appears in the proposed Rules. As published, the proposed Rules include the following language:

The Policy implemented by these Rules will not apply in instances where other applicable laws or regulations provide minimum rates for employees falling within the Policy and Rules, as demonstrated by the employer.

This provision would completely undermine the minimum wage standards set by the proposed Rules. All of the workers who are meant to benefit from the proposed Rule are covered by minimum wage rates set by the Fair Labor Standards Act and the New York or New Jersey minimum wage laws. We believe the language should be corrected to read that:

*The Policy implemented by these Rules will not apply in instances where other applicable laws or regulations provide **higher** minimum rates for employees falling within the Policy and Rules, as demonstrated by the employer.*

We urge you to correct this error when adopting the Rules.



MEMORANDUM

TO: THE BOARD OF COMMISSIONERS OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

FROM: HÉCTOR FIGUEROA, PRESIDENT, 32BJ SEIU

SUBJECT: SUPPLEMENTAL COMMENTS ON THE PROPOSED “RULES FOR IMPLEMENTATION OF MINIMUM WAGE POLICY FOR NON-TRADE LABOR SERVICE CONTRACTS – LaGuardia Airport, JOHN F. KENNEDY INTERNATIONAL AIRPORT AND NEWARK LIBERTY INTERNATIONAL AIRPORT”

DATE: 8/7/2018

Thank you for the opportunity to submit additional comments on the proposed “Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport” (“Rules”).

These comments are informed by 32BJ’s organizing and representation activities with service workers at LaGuardia Airport, JFK International Airport (JFK Airport) and Newark Liberty International Airport (Newark Airport) over the last six years. We currently represent more than 8,000 workers at the three airports. During this time, we have been advocating for more robust compensation standards.

The theme underlying our comments is that we strongly support the proposed Rules and believe they will enable the Port Authority to further the goal of reducing worker turnover and ensuring the retention of experienced and trained employees. We further believe that it is essential that the proposed Rules apply firmly across the board, without limitations or loopholes that allow for an erosion of that standard. We urge you to adopt the proposed Rules and to ensure the schedule of wage increases remains as the one in the proposed Rules published by the Port Authority on March 22, 2018.

Airport	9/18	9/19	9/20	9/21	9/22	9/23
JFK, LGA	\$13.60	\$15.60	\$16.20	\$17.00	\$18.00	\$19.00
EWR	\$12.45	\$15.60	\$16.20	\$17.00	\$18.00	\$19.00

Source: Port Authority of New York and New Jersey, Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport (March 22, 2018)

Airport workers are counting on those increases and that schedule.

The proposed Rules will make a transformational difference in the lives of the tens of thousands of men and women who will see their wages increase.¹ Moreover, it has been well-documented that increases in compensation reduce worker turnover and enable employers to retain experienced and trained employees.² This is particularly important because experience has shown that in the event of an emergency, such as an active shooting scenario, subcontracted services workers are on the frontline of public engagement in our airports. Whether or not they have received official training or support, service workers are called upon in emergencies because they are in uniform, already on-site when incidents begin (including in less accessible areas behind security checkpoints), and customers expect them to be resources. In November 2013, following a shooting incident at Los Angeles International Airport that left a TSA officer dead, Mayor Eric Garcetti immediately acknowledged the role contracted services workers had played – calling for help and attending to frightened passengers.³

At the same time, in comparison to the airlines' operating revenue, the total cost of the minimum wage increase would be *de minimis*. A revised analysis performed by researchers at Economic Roundtable, taking into consideration the anticipated statutory increases in the New York State minimum wage, projected the cost increases expected from the wage increases to be a cumulative total of \$356,222,590. This represents just 1.53% of the operating revenue of the top six airlines flying out of the three airports, and translates into an annual average difference of just .83%. The actual impact would likely be considerably lower since the savings from reduced turnover is not factored in, because the actual cost would be shared among hundreds of airlines (not just the top six) throughout the three airports, and because it is unlikely that the entire cost of the increase would be passed on from the contractors to the airlines.

Year-at-a-Time and Cumulative Wage Differential for Affected PANYNJ Airport Covered Service Workers, by Airport and Year of the Minimum Wage Proposal

	Year 1 9/1/18 \$13.60/hr. (NY) \$12.45/hr. (NJ)	Year 2 9/1/19 \$15.60/hr.	Year 3 9/1/20 \$16.20/hr.	Year 4 9/1/21 \$17.00/hr.	Year 5 9/1/22 \$18.00/hr.	Year 6 9/1/23 \$19.00/hr.
JFK	\$6,929,752	\$22,856,953	\$23,931,766	\$33,965,310	\$43,803,720	\$44,591,476
LGA	\$828,385	\$2,785,504	\$3,119,702	\$5,014,008	\$6,316,987	\$6,341,550
EWR	\$29,941,170	\$54,485,566	\$11,299,906	\$16,983,408	\$21,371,515	\$21,655,912

¹ Researchers at the Economic Roundtable estimated the number of workers covered by the proposed Rules as well as the number of workers who would see a wage increase as a result of the proposed Rules. Patrick Burns, Halil Toros, and Dan Flaming, *Restoring Altitude: Economic Impacts of the Port Authority of New York and New Jersey Minimum Wage Proposal, Addendum (July 2018)*, available at https://economicrt.org/wp-content/uploads/2018/08/Restoring_Altitude_Addendum_2018.pdf

² See, Amanda Galleary, *The Impact of Wages and Turnover on Security and Safety in Airports: A Review of the Literature*, UC Berkeley Labor Center, for the San Francisco Airport Commission (October 18, 2017), available at <http://laborcenter.berkeley.edu/the-impact-of-wages-and-turnover-on-security-and-safety-in-airports/>

³ SEIU-USWW. *Standing Up for Passenger Safety at LAX*. March 18, 2014. p. 6. Retrieved from <http://www.seiu-usww.org/files/2014/03/lax-white-pages-3-4-14.pdf>.

Total	\$37,699,307	\$80,128,023	\$38,351,374	\$55,962,726	\$71,492,222	\$72,588,938
Cumulative Total		\$117,827,330	\$156,178,704	\$212,141,430	\$283,633,652	\$356,222,590

Source: Patrick Burns, Halil Toros, and Dan Flaming, Addendum to Restoring Altitude: Economic Impacts of the Port Authority of New York and New Jersey Minimum Wage Proposal, at 3, Table A-2 Economic Roundtable, July 26, 2018

A comparison of the cumulative projected cost increases to the 2017 operating revenues for the top six airlines at the three Port Authority of New York and New Jersey airports demonstrates that the average annual cost difference would represent no more than .083% of the sum of those airlines' operating revenues.⁴

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Average
0.16%	0.51%	0.67%	0.91%	1.22%	1.53%	0.83%

The relatively small cost of the proposed wage increase, combined with the way in which pricing is set in the industry suggest that the proposed Rules should not impact passenger fares. As we have previously commented, post-airline deregulation, fare pricing is not based on costs. The Second Circuit has observed that airline pricing is not a "matter of simple economics," but that "airline fare pricing is based on "yield management," a unique formula largely controlled by the forces of demand and competition, not costs." The approach to passenger fares in the airline industry has been described thus, "[i]n no

⁴ In order to estimate the impact that the wage increases at JFK, EWR, and LGA would have on the operating revenues of the Top Six airlines (Delta Airlines, JetBlue Airways, American Airlines, Alaska Airlines, United Airlines, and Southwest Airlines) we took the following steps:

We estimated how much operating revenue the Top Six airlines (Delta Airlines, JetBlue Airways, American Airlines, Alaska Airlines, United Airlines, and Southwest Airlines) derive from their operations at JFK, LGA, and EWR for 2017. We identified the Top Six airlines' 2017 overall operating revenue from their 10-K filings released in 2018. We then identified the number of revenue passenger miles (based on point of origin) for each of these airlines originating at LGA, JFK, and EWR, as well as all airports overall, based on information from the Department of Transportation's Bureau of Transportation Statistics. For each of the Top 6 airlines, we calculated what percentage of revenue passenger miles came from LGA, EWR, and JFK as compared to their overall revenue passenger miles from all airports in the United States. We estimate that the operating revenue that each airline derived from JFK, LGA, and EWR is the same percentage of total operating revenue as the percentage of total revenue miles originating at these same airports for 2017.

From the Port Authority of New York and New Jersey's 2017 Annual Report, we were able to calculate the market share that each of these six airlines have at LGA, JFK, EWR, using the 2017 revenue passenger traffic data. Please note that we were unable to find the revenue passenger traffic of Alaska Airlines for their operations at JFK since they were not a top 20 carrier at the airport. We estimate that these six airlines have a total of 73.73% of the revenue passenger traffic at LGA, JFK, and EWR. Assuming that these airlines' market share is equal to the burden that each of these airlines would share for the wage increases, we applied this percentage to estimated wage increase figures provided by the Economic Roundtable in order to calculate the top six airlines' burden of the wage increase.

other industry has the idea of demand-based pricing been as thoroughly embraced as in the airline industry. Since the early days of deregulation, domestic carriers and, increasingly, international flag carriers, have realized that they cannot price on a cost plus basis.”⁵ In other words, fare pricing is based more on competition and demand, rather than on costs.

Employers Should Not Be Permitted to Take a Tip Credit for Skycaps or Wheelchair Attendants

As we have previously commented, given the Port Authority’s stated interest in uniformity of standards across the airports, it would not be appropriate to allow employers to take a tip credit for employees, such as skycaps and wheelchair attendants.

Skycaps have experienced stagnation in tip income as bag fees have led passengers to bring fewer bags. As we commented before, tips to skycaps declined precipitously following the introduction of a \$2.00 per bag fee at Logan Airport by American Airlines in 2005; this led to a number of lawsuits by skycaps.⁶ Skycaps at Newark Airport have reported receiving only \$2.13 an hour in their paychecks.⁷ This is the tipped worker minimum wage permitted under Federal law and the only applicable floor for tipped workers in New Jersey.⁸ However, they also report being instructed how much they must report in tips, even if they do not actually receive that amount.⁹ In fact, one skycap reported making around \$35-\$40 in tips on a slow day.¹⁰ Another reported making \$50-\$70 on a slow day.¹¹ The relatively low amount of tip income combined with the low tipped minimum wage permitted under New Jersey law as well as the pressure by employers to inflate reported tip income leads to concerns that as the minimum wage standard goes up, more and more skycaps may be subjected to wage theft. Moreover, per our earlier comments, newer business models in which passengers are charged for skycap services have also raised fears that workers providing those services will see a decline in tips.

The situation of wheelchair workers is particularly precarious. Based on our experience, workers providing wheelchair assistance services do not have a regular expectation of significant tip income. They are specifically instructed that it is a violation of federal regulations for them to solicit tips.¹² In the rare instances in which passengers are particularly grateful for their services and are generous in offering tips, the employees may face repercussions. The recent and troubling story of Issata Jalloh, a woman who had worked two jobs at Dulles International Airport for 14 years, illustrates this point. As

⁵ Steven S. Kretsch, Airline Fare Management and Policy, in Handbook of Airline Economics, 477, 480 (Darryl Jenkins et al. eds., 1995)

⁶ See, e.g., DiFiore v American Airlines, Inc., 646 F.3d 81, 83 (1st Cir. 2011)

⁷ Statement of Patrick Frimpong, June 5, 2018 ; Statement of Darcy Breon Martin, dated June 6, 2018.

⁸ <https://www.dol.gov/whd/state/tipped.htm>

⁹ *Id.*

¹⁰ Statement of Patrick Frimpong

¹¹ Statement of Darcy Breon Martin

¹² https://www.transportation.gov/sites/dot.gov/files/docs/Wheelchair_and_Guided_Assistance_Tips-Tip_Sheet.pdf

reported in a Washington Post column¹³, Ms. Jalloh worked as a cleaner at the airport at night and provided wheelchair assistance services during the day. She relied on her income to send money home to her children in Sierra Leone. One day, she received a \$20 tip from a couple that had been flying first class from Saudi Arabia. She was subsequently fired from her wheelchair job without an investigation or opportunity to defend herself. The basis for her termination was the unproven accusation that she had requested the tip. It simply makes no sense for employers to be permitted to take a tip credit for workers in such a precarious situation.

Finally, as we have commented before, as currently written, the proposed rule leaves the amount of money tipped workers receive in their paychecks up to the minimum wage requirements in the state in which they are working. This could lead to a significant difference in experience on the two sides of the Hudson. In New Jersey, the only floor for what tipped workers must receive in their paychecks is the Federal tipped minimum wage, which is \$2.13.¹⁴ The NY State wage order for miscellaneous industries requires employers to pay significantly more.¹⁵ Currently large employers in New York City must pay their tipped workers a minimum of \$9.80 for high-tipped employees and \$11.05 for low-tipped employees.¹⁶ This means tipped workers in New Jersey would receive significantly less money in their paychecks than tipped workers in New York.

We urge the Port Authority to make it clear that employers are not permitted to take a tip credit with respect to skycaps or wheelchair attendants in order to ensure that those workers reliably benefit from the proposed minimum wage increases as well as to ensure uniformity on both sides of the Hudson.

Employers Should Not Be Permitted to Take a Benefits Offset

We strongly object to the suggestion that the Port Authority Rule be amended to allow employers to take a benefits offset. While we would enthusiastically support a rule that ensures that workers at Port locations have access to a benefit supplement, it would not be appropriate to erode the proposed minimum wage through a benefits offset. The minimum wage should in fact be a real floor and not undermined. Also, a benefit supplement regulation would require significantly more public comment, thought, design and enforcement mechanisms. Incorporating a benefit supplement would impose an unacceptable delay in the implementation of the minimum wage policy.

The goals of the proposed minimum wage rule are to reduce worker turnover, retain experienced and security-screened workers, attract higher skilled and more motivated workers, and create a unified and integrated whole, by ensuring wage parity between the New York and New Jersey airports. A

¹³ Theresa Vargas, 'They have nothing': How a \$20 tip cost an immigrant her Dulles job and severed a lifeline to Sierra Leone, Washington Post, August 1, 2018, available at https://www.washingtonpost.com/local/they-have-nothing-how-a-20-tip-cost-an-immigrant-her-dulles-job-and-severed-a-lifeline-to-sierra-leone/2018/08/01/82d9aafc-952c-11e8-810c-5fa705927d54_story.html?utm_term=.6d559b2f74af.

¹⁴ <https://www.dol.gov/whd/state/tipped.htm>

¹⁵ NY State Wage Order for Miscellaneous Industries, Sec. 142-2.5(b)(2)(1)(a)(i), available at, <https://www.labor.ny.gov/formsdocs/wp/CR142.pdf>

¹⁶ *Id.*

determination has been made that the proposed trajectory-- bringing the workers to \$19 an hour by September 2023-- is the appropriate schedule to accomplish these goals. As discussed in our previous comments, employers at the airports have to compete with other employers in the New York City area who are already bound by a New York State minimum wage law which will reach \$15 an hour by the end of 2018. Undermining the Port's wage policy through an offset would compromise the wage policy's goals by threatening the differential between the Port policy and the state minimum wage.

A firm minimum wage requirement is particularly important given the reality that a significant number of covered employees work for service contractors. Labor costs make up a significant majority of the costs associated with service contracts and contracting decisions are often motivated by a desire to reduce costs.¹⁷ In our experience, service contractors compete against each other almost entirely on cost. Studies have found that cost savings associated with service contracting are often associated with lower employee compensation.¹⁸ This has certainly been the practice in our experience. An employer that is able to lower the cost of service contracts by reducing the minimum wage paid to employees will have a competitive advantage in winning contracts. This will create an incentive to maximize cost cutting and could lead to a race to the bottom among employers.

It is an awareness of this dynamic that informs the development of living or prevailing wage requirements. For example, the New Jersey prevailing wage law for building service employees provides:

*It is declared to be the public policy of this State to establish prevailing wage levels for the employees of contractors and subcontractors furnishing building services for any property or premises owned or leased by the State in order to safeguard the efficiency and general well-being of those employees **and to protect them and their employers from the effects of serious and unfair competition based on low wage levels which are detrimental to efficiency and well-being.***¹⁹ (emphasis added)

We appreciate that the proposed benefits offset was intended to protect employers who provide benefits to their employees from competitive disadvantage. As stated above, we would support a future policy that would encourage the provision of benefits. In fact, a number of other minimum wage standards applicable at airports around the country include benefits supplements. However, the supplements are in addition to a clear and firm minimum wage requirement.²⁰ We strongly believe that

¹⁷ See, e.g., 3Martin Wachs, Karen Trapenberg Frick, and Brian Taylor, Contracting for Public Transit Services in the US: Evaluating the Tradeoffs, in OECD/ITF, Privatisation and Regulation of Urban Transit Systems, OECD Publishing (2008), at 6, discussing reasons why the desire to reduce costs might drive decisions to contract out, and observing "[i]n the world of transit, labor costs are typically 70 percent of total costs; a reduction in these costs can result in significant savings."

¹⁸ See, *Id.* at 13.

¹⁹ N.J. Stat. § 34:11-56.58

²⁰ See, e.g., San Jose <https://www.flysanjose.com/sites/default/files/ALWO/ALWO%20REGULATIONS-sep2012.pdf>; https://www.flysanjose.com/sites/default/files/ALWO/ALWO_Wage_2018.pdf; Low Angeles

a minimum wage should be a firm floor. In fact, this is the norm when it comes to minimum wage requirements. As observed by the Port Authority, none of the New York, New Jersey, or federal minimum wage laws permits employers to take benefits offsets.²¹ Employers who currently provide additional benefits to their employees at the airports are bound by the current applicable minimum wage standard. These employers voluntarily pay the costs of benefits in addition to complying with the current minimum wage. They enjoy the advantages of a workforce recruited, retained, and motivated through attractive benefits. Nothing in the proposed wage policy would worsen the competitive position of such employers.

Moreover, as observed by the Port Authority, “administering a benefits offset regime could potentially require Port Authority administrators to become involved in complex judgments about the relative worth of cash wages or benefits.”²² There are complicated issues that must be carefully considered when devising a supplemental benefit requirement. For example, an offset rule would have to ensure that benefits are meaningful while avoiding preemption by the federal Employee Retirement Income Security Act of 1974 (ERISA). While it is entirely possible to develop a supplemental benefit requirement that does not conflict with ERISA, care must be taken in its development as well as the plan for enforcement.²³

The Port Authority would have to play a much greater hands-on enforcement role if it were to adopt a benefits offset. While compliance with a minimum wage standard can be ensured simply by requiring submission of certified payroll records, determining compliance with a benefits offset would require case by case determinations regarding the value of and sufficiency of benefits.

An Exemption to the Minimum Wage Requirement for Small Businesses Would Not Be Appropriate When it Comes to Service Contracts

The proposed exemption to the minimum wage requirement for small businesses would not be appropriate for a wage policy concerning service contracts. The Port Authority should not create a

<https://bca.lacity.org/Uploads/lwo/LAWA%202017%20Wage%20Chart%20draft%203.20.18.pdf> ; San Francisco
<https://media.flysfo.com/media/Quality-Standards-Program-2016.pdf>,
http://media.flysfo.com.s3.amazonaws.com/media/sfo/about-sfo/Quality_Standards_Program_Notice_2018.pdf,
<https://sfgov.org/olse/health-care-accountability-ordinance-hcao>; Miami Dade
<https://www.miamidade.gov/smallbusiness/library/reports/living-wage-notice-october-september-2018.pdf>,
https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.9LIWAORCOSECOEM ;
Broward County
<http://www.broward.org/Purchasing/Documents/2018%20Living%20Wage%20Rate%20Poster.pdf>,
https://library.municode.com/fl/broward_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH26PE_ARTVIIIWA;

²¹ Memorandum of Huntley A. Lawrence, Director of Aviation, to Board of Commissioners, dated June 26, 2018, at 6 and Exhibits K and L.

²² *Id.*, at 6.

²³ See, *Burgio & Campofelice, Inc. v. New York State DOL*, 107 F.3d 1000, 1003, 1997 U.S. App. LEXIS 4656, *1, 134 Lab. Cas. (CCH) P58,305, 3 Wage & Hour Cas. 2d (BNA) 1405, 20 Employee Benefits Cas. (BNA) 2593

competitive advantage for small businesses by suppressing labor costs. Such an exemption is not necessary since small businesses can win contracts while complying with the minimum wage.

Small businesses should be expected to comply with wage requirements. The Port Authority's own prequalification questionnaire for small business enterprises seeking to perform general cleaning and janitorial services includes an examination of "[t]he degree and extent to which the Respondent, or persons or entities owning and controlling the Respondent, have had experience in having satisfactorily operated and managed commercial/industrial cleaning contracts, *specifically, compliance with contractual requirements including, but not limited to, employee wage, health and supplemental benefits requirements.*" (emphasis added).²⁴

An exemption is not necessary to aid small businesses. States or other public entities frequently promote opportunities for small businesses to win public service contracts. For example, the federal government's Small Business Administration has an "8(a) Business Development Program" with a goal "to award at least five percent of all federal contracting dollars to small disadvantaged businesses each year."²⁵ The State of New Jersey has a Small Business Set-Aside Program, which "was established with the goal of awarding 25 percent of state contracting and purchase order dollars to small businesses."²⁶ The State of New York promotes opportunities for Minority and Women Owned Businesses.²⁷ However, the Federal Service Contract Act²⁸ does not include an exemption for small businesses. Similarly, neither New Jersey²⁹ or New York³⁰ provides an exemption to their service worker prevailing wage laws for small businesses or Minority and Women Owned businesses.

The goal of the proposed Rules is to ensure a uniform and across-the board minimum wage standard for the workers performing covered services at the three airports. When small businesses compete to win service contracts at the airport, they should be on a level playing field with larger companies with respect to the compensation they can provide to their employees and for which they can bill their clients. An erosion of that expectation would put small businesses at a disadvantage with respect to their ability to attract and retain experienced and qualified staff.

The Proposed Rules Must be Amended to Correct an Error that Would Render them Meaningless

Finally, as we raised in our previous comments, we would like to draw the Board's attention to a serious error that appears in the proposed Rules. As published, the proposed Rules include the following language:

²⁴ The Port Authority of New York and New Jersey, Request for Prequalification Information, General Cleaning and Janitorial Services-Small Business Enterprise, Collective #51670, at 3, *available at* <https://www.panynj.gov/business-opportunities/pdf/JMSBE-Solicitation-Document.pdf>

²⁵ <https://www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program>

²⁶ <https://www.nj.gov/njbusiness/contracting/sbsa/>

²⁷ <https://www.ogs.state.ny.us/mwbe/>

²⁸ [41 U.S.C. 351 et seq.](#)

²⁹ [N.J.S.A 34:11-56.58 et seq.](#)

³⁰ [NY Lab L § 230 \(2015\)](#)

The Policy implemented by these Rules will not apply in instances where other applicable laws or regulations provide minimum rates for employees falling within the Policy and Rules, as demonstrated by the employer³¹.

This provision would render meaningless the minimum wage standards required under the proposed Rules. All of the workers who are meant to benefit from the proposed Rule are almost certainly covered by applicable minimum rates under, for example, the Federal Fair Labor Standards Act³², and the New York³³ or New Jersey³⁴ minimum wage laws. Our understanding is that this is clearly an error, and that the provision is intended to read:

The Policy implemented by these Rules will not apply in instances where other applicable laws or regulations provide higher minimum rates for employees falling within the Policy and Rules, as demonstrated by the employer

We urge you to correct this error when adopting the final Rules.

³¹ <http://corpinfo.panynj.gov/documents/Rules-for-Implementation-of-Minimum-Wage-Policy-for-Non-Trade-Labor-Service-Contracts/>

³² <https://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>

³³ NY Labor Law, Article 19.

³⁴ N.J.S.A. 34:11-56a et seq. WAGE AND HOUR LAW, available at https://www.nj.gov/labor/wagehour/lawregs/nj_state_wage_and_hour_laws_and_regulations.html

McCRACKEN, STEMERMAN & HOLSBERRY, LLP

Counselors and Attorneys at Law

MEMORANDUM

To: Port authority of New York and New Jersey

From: Kimberley C. Weber, McCracken Stemerma & Holsberry, LLP



Date: March 13, 2018

Re: **The Port Authority and a living wage for in-flight catering employees**

San Francisco

595 Market Street, Suite 800
San Francisco, California 94105
415.597.7200
Fax 415.597.7201

Steven L. Stemerma (CA, NV)
Richard G. McCracken (CA, NV)
W. David Holsberry (CA, NV)
John J. Davis, Jr. (CA)
Florence E. Culp (CA, NV)
Kristin L. Martin (CA, NV, HI)
Eric B. Myers (CA, NV)
Paul L. More (CA, NV, MA)
Sarah Varela (CA, AZ, NV)
Sarah Grossman-Swenson (CA, NV)
Yuval Miller (CA, NV)
David L. Barber (CA, NV)
Kimberley C. Weber (CA, NV)
A. Mirella Nieto (CA)
F. Benjamin Kowalczyk (CA)

Robert P. Cowell (1931-1980)

Philip Paul Bowe (CA) (Ret.)
Barry S. Jellison (CA) (Ret.)

Las Vegas

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This memorandum discusses the Port Authority of New York and New Jersey's ability to contract for the wage rates of in-flight catering service employees, even when those employees complete their work away from the Port Authority's property. The Port Authority would not be the first mass-transportation board to set wage standards for contractors' employees on and off airport property. In 2010, Los Angeles World Airports, which owns and operates LAX and VNY, exercised its authority to cover its in-flight catering employees through its Living Wage Ordinance. (See Attachment.) Los Angeles World Airports reasoned that "[t]he work [in-flight catering] employees perform directly impacts the public's perception of the food services rendered to them and [in-flight catering] employees play a significant role in maintaining a secure transportation complex...." (Attachment at 2-3.) The compliance determination was not challenged in courts.

The Port Authority acts well within its power when it sets wage requirements for its contractors' employees. This memorandum expressly addresses (1) the Port Authority's proprietary power and extraterritoriality concerns; (2) NLRA preemption; and (3) ERISA preemption.

1. Proprietary Power and Extraterritoriality

As the Port Authority is already aware, the Port Authority's power as a market participant is different from its regulatory powers. *See Transport Limo. v. Port Auth. of New York*, 571 F. Supp. 576, 581 (E.D.N.Y. 1983) (dismissing concessionaire's allegations against the Port Authority because the Port Authority was acting as a market participant, not a market regulator). For example, when the Port Authority utilizes its proprietary power, its actions do not violate the dormant Commerce Clause. *See Reeves, Inc. v. Stake*, 447 U.S. 429, 436-37 (1980) (recognizing that states may choose to contract or not with particular parties when participating in the market). The Port Authority acted upon this power when passing its Minimum Wage Policy in the first instance.

Nothing about the proposed extension of the Minimum Wage Policy to in-flight catering service employees, either on or off Port Authority property, changes the proprietary power analysis. Under the market-participant doctrine, a State may “impose burdens on commerce within the market in which it is a participant . . .” *S.-Cent. Timber Dev., Inc. v. Wunnicke*, 467 U.S. 82, 97 (1984).

To determine if a state is acting “within the market,” the state’s funding conditions must: (1) “serve to advance or preserve the state’s proprietary interest”; and (2) be tailored to the proprietary interest. *TRI-M GROUP, LLC v. Sharp*, 638 F. 3d 406, 421 (3d Cir. 2011). Both prongs are met here. First, the proposal directly relates to the Port Authority’s proprietary interests. By ensuring a fair wage for *all* employees performing work under Port Authority contracts, the Port Authority can “reduce[] employee turnover and increase[] employee performance” and ensure that workers “are more familiar with airport security procedures.” See Resolution on Minimum Wage Policy, dated April 23, 2014. In other words, the wage requirement relates directly to the Port Authority’s interests as a market participant. See *Burns Int’l Security Servs. Corp. v. County of Los Angeles*, 123 Cal. App. 4th 162 (2004) (rejecting challenge to County’s proprietary power on the basis that its requirements went beyond the territorial limits of the county and required the contractor to provide paid jury leave to *all* employees). Second, the requirement is tailored because it affects only the “immediate parties with which the government transacts business” and only affects work on “one particular job.” See *Wunnicke*, 467 U.S. at 95 (reasoning that market participant interests are more likely to be tailored when the requirement affects only the contracting parties); *Bldg. & Constr. Trades Council v. Associated Builders & Contractors of Mass./R.I., Inc.* (“Boston Harbor”), 507 U.S. 218, 232 (1993) (finding market participant interest was tailored when its effect was limited to one job, not the general market). In other words, only contractors who choose to contract with the Port Authority are affected. If a company wishes to avoid the requirement, then the company does not have to contract with the Port Authority. It is not a general regulation.

Notably, so long as the government is acting within its power as a market participant, any extraterritorial effect on the contractors’ work is immaterial. See *White v. Mass. Council of Constr. Emps., Inc.*, 460 U.S. 204, 2010 (1983) (“Impact on out-of-state residents figures in the equation only *after* it is decided that the city is regulating the market rather than participating in it, for only in the former case need it be determined whether any burden on interstate commerce is permitted by the Commerce Clause.” (emphasis added)). In *Amaral v. Cintas Corp. No. 2*, a city contractor argued that the city acted beyond the scope of its market powers when it required contractors to pay a living wage to *all* employees performing work on city contracts, whether or not the workers performed the work in the city limits. 163 Cal. App. 4th 1157, 1177 (2008). The California Court of Appeal found the requirement to be lawful:

The LWO does not purport to regulate conduct outside of [the city’s] boundaries; rather it specifies certain conduct the City wants its contracting partners to follow. It does not matter, for constitutional purposes, whether contractors may have to perform this required conduct outside the City’s boundaries. The point is that the City’s only action is proprietary.

Ibid. Similarly, here, the Port Authority would not be enacting an extraterritorial regulation by requiring that contractors pay a living wage to all workers in the stream of production on the Port Authority's contracts. The Port Authority has a clear proprietary interest in ensuring that *all* workers on its contracts receive a living wage and perform to the best of their abilities.

2. National Labor Relations Act ("NLRA") Preemption

Nothing in the NLRA preempts state agencies' authority to set minimum labor standards. "States have traditionally sought to remedy the problem of depressed wages by regulating payment rates, and those efforts are 'not incompatible' with the 'general goals of the NLRA.'" *Concerned Home Care Providers, Inc. v. Cuomo*, 783 F.3d 77, 85 (2d Cir. 2015) (quoting *Metro. Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 754-55 (1985)). That principle remains true even where, as here, states act "to craft minimum labor standards for particular regions or areas of the labor market." *Id.* at 86. A state's authority to set minimum standards in contracts, pursuant to its proprietary power, is even greater. *See Boston Harbor*, 507 U.S. at 229 ("[A]s regulator of private conduct, the State is more powerful than private parties. These distinctions are far less significant when the State acts as a market participant with no interest in setting policy."); *Sprint Spectrum LP v. Mills*, 283 F.3d 404, 420 (2d Cir. 2002) (upholding minimum wage requirement under market-participant doctrine). Thus, the Port Authority has the power to require minimum labor standards for workers on and off Port Authority property.

3. ERISA Preemption

ERISA, the federal law regulating benefit plans, does not preempt the Port Authority's ability to require that contractors pay fringe benefits to their employees on or off Port Authority property. The location of the contractors' employees does not matter for the purposes of analyzing ERISA preemption. The only question for ERISA preemption is whether any requirement "mandate[s] employee benefit structures or their administration." *N.Y. State Conf. of Blue Cross & Blue Shield Plans v. Travelers Ins. Co.*, 514 U.S. 645, 658 (1995) (upholding NY state law despite ERISA preemption challenge). In the Minimum Wage Policy proposal, nothing regulates employee benefit plans or their administration; rather each contractor must pay a lump sum in fringe benefits. This provision permits contractors to comply in any manner they choose: "exclusively through ERISA plans, exclusively through non-ERA plans, though additional cash wages, or through some combination of the three." *Concerned Home Care Providers*, 783 F.3d at 89 (citation omitted). "Because the law leaves administrators free to comply through means unconnected to ERISA plans," the Minimum Wage Policy proposal is not ERISA-preempted. *Id.*

Attachment

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(213) 847-1922
<http://www.lacity.org/bca>

CERTIFIED MAIL

November 2, 2010

Mr. David Cotton
Flying Food Group
212 N. Sangamon
Chicago, IL 60607

RE: Living Wage Non-Coverage Determination for Flying Food Group Pacific, Inc.

Dear Mr. Cotton,

The Office of Contract Compliance (OCC) has been designated by the City Council as the administrative agency responsible for monitoring and enforcing the Living Wage Ordinance (Los Angeles Administrative Code Section 10.37 et. seq.). The purpose of this notice is to inform you that our Office has made a determination to in regard to your non-coverage request dated October 1, 2010.

Our office has determined that employees of **Flying Food Group Pacific, Inc. (FFG)** are covered by the Living Wage Ordinance (LWO). Irrespective, of any previous or pending lease agreement(s) between FFG and the Los Angeles World Airports, the determining factor in denying your request for non-coverage is that FFG satisfies the definition of a "subcontractor" as defined in the LWO Section 10.37.1(n)(2) which states:

(n) "Subcontractor" means any person not an employee that enters into a contract (and that employs employees for such purpose) with

(1) a contractor or subcontractor to assist the contractor in performing a service contract or

(2) a contractor or subcontractor of a proprietary lessee or licensee or sublessee or sublicensee to perform or assist in performing services on the leased or licensed premises. Vendors, such as service contractors or subcontractors, of City financial assistance recipients shall not be regarded as subcontractors except to the extent provided in Subsection (i).*

*Technical correction due to re-lettering of subsections: "Subsection (f)" corrected to "Subsection (i)".

AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER

FFG provides in flight catering services to various airlines at LAWA a.k.a. LAX, in particular Air France, thereby satisfying the definition above. Additionally, Air France and other airlines, have a Public lease or license with the Los Angeles World Airport (LAWA) and consequently the airlines and their "subcontractors" are covered by the LWO as stipulated in Section 10.37.1(l) which states in part:

(l) "Public lease or license".

(a) Except as provided in (l)(b)*, "Public lease or license" means a lease or license of City property on which services are rendered by employees of the public lessee or licensee or sublessee or sublicensee, or of a contractor or subcontractor, but only where any of the following applies:

*Technical correction due to re-lettering of subsections: "(i)(b)" corrected to "(l)(b)".

(1) The services are rendered on premises at least a portion of which is visited by substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities); or

(2) Any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources; or

(3) The DAA has determined in writing that coverage would further the proprietary interests of the City.

As stated in your October 1, 2010 letter, you indicate that since 2005 FFG has understood that the LWO requirements were not applicable to your operations. This Office acknowledges that the LWO was not applicable to FFG employees in 2005. Further, this Office affirms that FFG employees were not subject to the LWO requirements prior to May 1, 2010 because none of the criteria stipulated in the definition of Public Lease or License had been satisfied. However, as you are aware, on February 26, 2010, this Office issued a determination of coverage letter affecting all industry-specific services to or for the Los Angeles World Airport (LAWA). The determination whether the LWO applies rests on meeting any one of the two key factors; 1.) the work directly impacts the public's perception of services rendered to them by Airport Employers at LAWA and 2.) the positions are critical in maintaining a secure transportation complex. The determination listed a number of job classifications this Office had initially identified and expressly stated that the list was not all inclusive.

Your letter also stated that your business or employees are covered by the definition of "industry-specific" airport employees. However, you failed to support your position and did not offer an opinion as to why your company believes that factors one and/or two are not satisfied. Absent a position to the contrary, this Office has determined that the in-flight catering services provided by FFG to the airlines is industry-specific because it satisfies both of the aforementioned factors. The work FFG employees perform directly impacts the public's perception of the food services rendered to them and FFG employees play a significant role in

maintaining a secure transportation complex because of their potential accessibility to secure areas such as the tarmac and runways.

If and when a public lease agreement is executed between FFG and LAWA to occupy the premises located at 6751 Imperial Highway, FFG will become subject to the provisions of the LWO as Public Lessee.

We believe that we have clearly established our position and if you have any questions, please contact Faye Serafin at (213) 847-2643.

Sincerely,

A handwritten signature in black ink, appearing to read "Helmut Peindl". The signature is fluid and cursive, with the first name "Helmut" being more prominent than the last name "Peindl".

Helmut Peindl,
EEOE Supervisor
Bureau of Contract Administration



Dear Board of Commissioners,

These comments are sent to you on behalf of RWDSU, RWDSU Local 1102, UNITE HERE and UNITE HERE Local 100 regarding the proposed Rules for Implementation of Minimum Wage Policy for Non-Trade Labor Service Contracts – LaGuardia Airport, John F. Kennedy International Airport and Newark Liberty International Airport (“proposed minimum wage rules”). Thank you for the opportunity to comment.

For too long, New York and New Jersey’s airport workers who provide essential services that keep our airports running smoothly and safely have received inadequate wages, leading to low worker morale, high turnover, and a subpar experience for the traveling public. While the Port Authority spends billions of dollars on airport infrastructure upgrades, it is important that it also invests in the workforce that makes the airport function.

We could not have said it better than Mr. David Cotton, the CEO of Flying Food Groups, which caters in-flight food, when testifying in favor of a wage increase for all airport workers at SFO back in 2015. He said, “We believe that increasing wages will allow us to hire more high quality employees, reduce overtime, reduce turnover, improve training, and provide better service to our customers.” Raising wages is a win-win for the Port Authority, the airlines and other airport employers, the workers, and the public.

In the comment period following the Port Authority’s Commissioners unanimous vote to support the resolution to increase wages for the Port Authority’s airport workers to \$19.00 per hour by September 2023, several issues were raised that led to a delay in the final vote on this issue. Our comments below speak to each of those issues in turn, and we hope that, based on our comments and those of workers who have commented in favor of this proposal, the Commissioners will move forward without delay to invest in their workforce and the successful future of the region’s airports.

To summarize our comments, we recommend that the Port Authority do the following:

- Ensure that on-site and off-site workers are covered by the policy and reinforce that the Port Authority has the legal right as a market participant to set wage levels for all airport contractors.
- Oppose any benefits offset that creates a loophole in the minimum wage floor and that punishes workers who are fortunate enough to have benefits.
- Apply the same minimum wage level for all covered services including for employees of small businesses.
- Continue the existing street pricing policy or, if deemed necessary, implement a “street-pricing plus” policy.
- Eliminate tip credits for all “tipped” classifications.



Covering Off-Site and On-Site Workers, and the Legality of Minimum Wage Policy

Certain organizations raised objections to the legality of the Port Authority's minimum wage policy. These legal objections are entirely without merit. The Port Authority has the proprietary power as a market participant to require certain wage levels of companies with which it has a contractual relationship. This power extends to service providers with operations at off-site locations. The attached legal memorandum from UNITE HERE counsel details the case law supporting the Port Authority's right to implement a minimum wage policy.

In addition, there is a strong economic argument that establishing different wage standards for on-site and off-site companies would encourage current airport lessees to move their operations offsite, just outside of airport property, to take advantage of lower wages. This would harm an important revenue stream for the Port Authority. Accordingly, we support the Port Authority's proposal from the March wage resolution to establish one wage for on-site and off-site companies.

Benefit Offset

Workers who have struggled to achieve benefits packages that provide retirement security and adequate access to health care should not be punished by having their wages reduced through a benefits offset. This is an unfair policy proposal that will have the direct consequence of hurting those workers that we should instead be congratulating for having access to health care and other benefits.

Furthermore, a worker cannot rent an apartment or buy food with medical benefits. Workers need real money in order to pay real bills, thus benefits should not offset wages. Instead, the Port Authority could consider a Benefits Supplement that would be added on top of the \$19/hr wage floor. This would work by allowing an employer to either provide benefits or pay a benefits supplement to its workers in an amount determined by the Port Authority. While we support a Benefit Supplement, we believe that the Port Authority would need a more deliberative process to develop such a system and that this current 30-day comment period is insufficient to develop a policy proposal. We suggest that once the minimum wage increase is complete, that the Port Authority consider a future rule making process to create a supplemental benefits plan.

To bolster the argument that a benefits offset would not be helpful, it should be noted that the current minimum wage at the Port Authority does not have a benefit offset, and there is no evidence that employers were less competitive or that they cut back on benefits as a result of the existing policy.

Certain employers have argued that not having a benefits offset will put those businesses that provide benefits at a competitive disadvantage to those that do not provide benefits. The most simple and effective way to address this issue is to give businesses that provide benefits a leg up in contracting with the Port, by, for example, requiring that responsive bidders offer benefits packages to their workers. The aforementioned benefits supplement would also address any issue of competitiveness. However, resolving



competitiveness issues should certainly not be borne by workers by creating holes in the minimum wage floor.

There are practical matters to consider as well. If there is a benefit offset, there is no reasonable way for the Port Authority to calculate the offset. First, such a hastily-worded calculation could give rise to ERISA concerns. Second, such a calculation would by nature be arbitrary as different benefit programs are weighed against each other. Third, as benefits packages change, so too would the calculation, creating an undue burden on the Port Authority to continually update the calculation. And fourth, there is no simple way to ensure that the benefits data provided by employers to the Port Authority is accurate. Unlike wage data, which can be supplied through payroll records, there are no similarly standardized benefits records. For these reasons, it seems clear that the Port Authority should not engage in a benefits offset.

The proposal for ad hoc, case by case reviews would suffer from the same arguments as above. Every employer that offers a benefits package would seek an ad hoc review of their offset, again leading to ERISA concerns, arbitrary calculations, difficulty in ensuring accountability, and placing an undue burden on the Port Authority.

A fractional offset would be less burdensome on the Port Authority, but unless it is a fractional supplement, which would be above and beyond the minimum wage, any carveouts to the minimum wage that undermine wages for workers who are fortunate enough to have benefits is counterproductive. The Port Authority, through its own analysis, arrived at \$19/hr as the appropriate minimum wage for airport workers, who make significant sacrifices and are subject to significant risk simply by doing their job in and around the airports. Additionally, most workers who have achieved a benefits package have won them by accepting lower wage increases. Further undermining their wages would be unfair. All of these workers deserve the full minimum wage as defined by the Port Authority. Any loophole undermines the purpose of a wage floor, creates different classes of workers, punishes workers that have benefits, and does not serve to directly address any issues with competition.

Street Pricing

The Port Authority's street pricing policy for concessions workers can likely accommodate a higher minimum wage. We believe that the margins are sufficiently high for concessions operators to absorb a higher labor cost while remaining profitable. This view is based on both our experience in dealing with concessionaires on the desirability of operating in Port Authority airports and also the objective success of the airports' concessions programs.

In Airport Revenue News' 2017 rankings of "sales/enplanement" (the most common metric to measure the success of an airports' concessions program) for North American airports, JFK Airport was ranked 1st, Newark International ranked 12th and LaGuardia ranked 28th. The success per-passenger combined with heavy passenger traffic has resulted in high sales volume at all three airports. For 2017 the airports generated the following total sales (excluding duty free sales):



- JFK: \$444 million
- EWR: \$244 million
- LGA: \$159 million

The airport concessions industry is booming, with more revenue generated by concessions outlets every year and an increasing number of high-end concepts that attract consumer dollars. In this context, we believe the Port Authority's current street pricing policy can likely remain unchanged with a higher minimum wage.

If the Port Authority determines that concessionaires need an easing of pricing restrictions, there is a solution that still puts a cap on airport consumer prices: a "street-pricing plus" policy. The Port Authority's straight street pricing policy puts it in the minority of US airports on concessions pricing. According to a 2017 report from ACI-NA, 60% of 88 surveyed airports have a street-pricing plus policy and only 31% have a straight street pricing policy. A shift to a street-pricing plus policy would be a reasonable solution, but only if it is proven necessary.

Small Employer Exemption

Instituting a lower minimum wage for small business would create an unlevel playing field and result in substandard customer service and security at small businesses vis-à-vis their larger competitors. Common sense and experience indicate that any business offering lower wages at an airport is at risk of losing its best employees to a company down the terminal that offers higher wages for similar work. The result of small employer exemption or lower minimum for small business would result in higher worker turnover and a corresponding deterioration in service.

It is worth noting the many airport minimum wage policies have the same minimum for all types of businesses. Such airports have remained successful and continue to give small businesses opportunities at the airport while providing a consistent minimum wage.

If the Port Authority deems it necessary to address small business profitability, it should not do so on the backs of airport workers. Rather, the Port Authority should evaluate the rent rate or service payment in its agreements (or subleases) with small businesses and make adjustments to help these businesses be able to succeed without damaging their ability to attract quality employees by providing equal pay.

Tip Credit

Eliminating the tip credit for "wheelchair attendants" and "skycaps" would create a more equitable and rational wage policy. These job classifications are unique in that, while they are considered tipped positions, they do not typically receive the requisite sum of tips plus wages to meet the proposed \$19 minimum wage. Thus, these workers cannot rely on tips to achieve the minimum wage and should simply



receive the full minimum wage. The most sensible approach for these classifications is to eliminate the tip credit, while still allowing tips on top of the full minimum wage for exceptional service.

We also believe that tip credits should be eliminated across the board. UNITE HERE represents workers in tipped classifications, including servers, bartenders and bussers. Eliminating the tip credit for these classifications is sound policy. It would create more stable wages for many food service workers, resulting in lower turnover, better customer service and higher levels of airport security.

no. 24949 @ 10/10/2019

I WORK AT NEWARK AIRPORT FOR
_____ AS A _____. IVE

WORKED AT THE AIRPORT FOR _____ YEARS.

I SUPPORT THE NEW PORT AUTHORITY

WAGE POLICY OF \$ 19.00 PER HOUR.

WE LOOK FORWARD TO WORKING WITH ALL

AIRPORT STAKEHOLDERS TO CREATE

BETTER AIRPORTS WITH GREAT CUSTOMER

SERVICE FOR PORT AUTHORITY PASSENGERS.



The Port Authority of New York and New Jersey
Corporate Offices
4 World Trade Center
150 Greenwich Street
New York, NY 10007

10 July, 2018

Dear Chairman Kevin J. O'Toole and Members of the Board of Commissioners:

United Food and Commercial Workers Local 2013 strongly supports the Port Authority of New York and New Jersey's proposed rule to increase the minimum wage of workers serving LaGuardia Airport, John F. Kennedy Airport, and Newark Liberty International Airport, to \$19 per hour. This increase should be applied to workers who serve at the airports, as well as those who provide catering services to the airports. As detailed below, Local 2013 believes that the increase in minimum wage will result in more secure airports and airplanes, reduced worker turnover and training costs, and enhance the quality of services received by passengers.

UFCW Local 2013 is a progressive labor union that represents approximately 15,000 hardworking Americans in the New York City metropolitan area. We are members of the large UFCW International Union, which collectively represents approximately 1.3 million workers across the country.

Workers in the three major airports in the New York City metropolitan area and throughout the country are woefully underpaid. As was pointed out by the New York Times Editorial Board on July 2, 2018, "Real wages for the men and women who do much of the work at airports declined by 14 percent between 1991 and 2011, according to a study by the Center for Labor Research and Education at the University of California, Berkeley.The board of the Port Authority of New York and New Jersey needs to buck that trend and approve a resolution to raise the minimum pay to \$19 an hour at John F. Kennedy, La Guardia, and Newark Liberty International Airports." *New York Times, June 2, 2018, retrieved from: <https://www.nytimes.com/2018/07/02/opinion/airport-worker-wages.html>.*

Increasing the minimum wage paid to workers helps prevent worker turnover. As a result, the workforce becomes stable, requires less training and "onboarding," and develops expertise in the job's requirements. A stable workforce experiences higher morale, reduced absenteeism, and improved service. This directly increases the safety and security of the airports. Well trained workers are can easily identify odd behavior, flawed processes, and other abnormalities that could be exploited by those intent on harming our Nation's transportation infrastructure.

Louis Mark Carotenuto, President
Eugene Hickey, Secretary Treasurer
Marietta Real - Recorder

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Off-site workers must be covered by this minimum wage increase. They must be treated as part of airport community, not relegated to second-class status which can lead to feelings of alienation and exclusion. Common sense and logic dictate that the same security and quality concerns posed by on-site workers are inherent in off-site workers. Caterers who prepare, cook, and package meals for international flights are entrusted with ensuring the safety, health, and vitality of passengers who can be on an airplane for 10 or more hours. If these important positions are areas of high turnover and low job satisfaction, they can become an obvious point of entry for those who wish America harm. Rather, these workers must be protected by the minimum wage necessary to ensure that they part of the stable, trained, and vigilant members of the airport community.

UFCW is troubled by industry's attempt to inject a "benefits offset" concept into the proposed minimum wage rule. As Huntley A. Lawrence, Director of Aviation, pointed out in his 26 June, 2018, memorandum to the Board of Commissioners, benefits offset is not contemplated in existing New York State or State of New Jersey minimum wage laws. It is therefore inconceivable that industry would call on the Port Authority of New York and New Jersey to apply such a concept to the proposed rule. Further, the benefits offset scheme introduces the elements of unpredictability and inequity into the wage calculation, which undermines the concept of a minimum wage. Depending on the employer's subjective calculation of the "value" of any benefits included in the benefits offset, a worker could be paid a different wage for the same or similar work performed by her colleague. We ask the Port Authority to categorically reject the benefits offset concept in favor of the proposed rule as promulgated.

In conclusion, UFCW Local 2013 strongly supports the Port Authority's proposed minimum wage increase. We believe that the rule should be applied to both on-site and off-site workers as proposed. The higher minimum wage will protect American families as well as the millions of travelers who rely on the regional airports they serve.

Respectfully submitted,


Louis Mark Carotenuto
President

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Merchandise Drivers Northern New Jersey Local 641

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August 14, 2018

Dear Chairman O'Toole

International Brotherhood of Teamsters Local 641 strongly supports the Port Authority of New York and New Jersey proposed increase the minimum wage for workers at Newark Liberty Airport. However this Local Union believes this minimum wage rates should apply to all workers who serve the airport.

Teamsters Local 641 is a leader in New Jersey for workers rights and fair treatment in the work place. We represent approximately 2,400 members in New Jersey and New York, including over 500 workers at Newark Liberty Airport. The International Brotherhood of teamsters represents over 1.4 million workers in North America.

Increasing the minimum wage helps to keep a experienced work force. A experienced work force leads to higher morale, better customer service, less absenteeism, and a another pair of eyes and ears to help with the security of the airport. A employee who cares about their job and surrounding are more likely to be vigilant to protect their job. Our members can be the first and last person to see airport visitors. The value that adds to security alone is worth the minimum wage increase.

This Local Union disagrees with the definition of off-site workers. Our members who work for ABM in Newark Liberty are the on-site parking. On the Port Authority's own web site it is called "EWR On-Airport Parking". The Port Authority requires ABM to have secret mystery shoppers to evaluate their interaction with customers. Our members can be terminated for failing a mystery shopper. The Port Authority requires this to maintain the Port Authority's image. Yet they will not receive the minimum wage that someone else working on-site would?

Our members who work for Avis, Hertz, National, Alamo, Dollar, and Budget Car Rental also work on-site. Again, on the Port Authority's web site they are listed as "at Newark Airport". They are the face of the Airport, as this may be the first person they have contact with after getting off a flight or on a flight.

In conclusion Teamsters Local 641 supports the Port Authority's proposed minimum wage increase. We believe this wage increase should apply to all airport workers including parking and car rental workers. This wage increase help protects local families and countless travelers who rely on the services they supply.

Respectful Submitted

A handwritten signature in cursive script, appearing to read "William Cunningham".

William Cunningham
President Local 641