OAKLAND CITY ID CARD COALITION

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OAKLAND CITY ID CARD PROPOSAL

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I. INTRODUCTION & ENDORSEMENTS

A coalition of nonprofit organizations, political leaders, small businesses, and Oakland citizens founded the Oakland City ID Card Coalition in March 2008. Inspired by the municipal ID card programs in San Francisco and New Haven, the OCICC's mission is to organize a broad base of relevant stakeholders to plan, promote, and assist in the implementation of a successful Oakland City ID Card. This City ID Card, available to Oakland residents and certain neighbors and partners, will serve the critical needs of important groups within Oakland's diverse community. Through partnerships, the ID Card will also be used by and useful to a broader population. Equally important, the ID Card will provide both tangible and intangible benefits to the City of Oakland as a whole.

To achieve these benefits, however, it is critical that the City ID Card serve as a meaningful form of identification, not as a mere political gesture. The City must therefore ensure that the ID Card is used by a substantial and diverse population of Oakland residents. This serves two important purposes. First, a large and varied population of cardholders alleviates privacy and safety concerns for vulnerable groups, such as undocumented immigrants and the homeless. Otherwise, if the ID Card were primarily used only by those vulnerable communities, it could serve to identify members of these communities and subject them to discrimination. Second, the more Oakland residents that use a City ID Card, the more financially feasible and potentially even profitable the ID Card project will be.

In this proposal, the OCICC first describes in more detail the purpose and benefits of an Oakland City ID Card. Second, the proposal discusses the potential uses and partnerships planned for the ID Card, to ensure that it is as effective and successful as possible. Third, the proposal sets forth some specific substantive and technical characteristics of the ID Card. Lastly, the proposal addresses potential concerns that face the City ID Card and discusses possible solutions.

The OCICC and the Oakland City Card are currently endorsed by the following organizations and individuals: Black Alliance for Just Immigration; Centro Legal de la Raza; East Bay La Raza Lawyers Association; Green Party of Alameda County; Oakland CAN; International Institute of the Bay Area; Filipinos for Affirmative Action; Bay Area Immigrant Rights Coalition; Transgender Law Center; Homeless Action Center; Bay Area Committee for Peace and Justice; East Bay Alliance for a Sustainable Economy; Peralta Community College District Board of Trustees; Chiapas Support Committee; League of United Latin American Citizens, CA Chapter; Bay Localize; Anew America Community Corporation; Oakland Leaf; Alianza Latinoamericana por los Derechos de los Immigrantes; Equal Justice Society; National Lawyers Guild, San Francisco Bay Area Chapter; Alameda County Labor Council; East Bay Sanctuary Covenant; Ella Baker Center; East Bay Asian Local Development Corporation; East Bay Asian Consortium; Family Bridges; Youth Employment Partnership; East Bay Community Law Center; Sandre Swanson, California Assembly Member, 16th District; Michael Johnson, Assistant to Oakland City Council Member Jean Quan; Bill Hing, Professor, UC Davis Law School; Dr. Steven C. Pitts, UC Berkeley Center for Labor, Research, & Education; Albert J. Gautheir; Reginald Lyles; Godffrey Wilson; Herbert B. Lofton; and Leonard Searcy, Eric C. Edgerly, and Robert Heaney, residents of the City of Oakland.

II. PURPOSE & BENEFITS

Most directly, the Oakland City ID card will fill a void by providing an official form of personal identification for the many Oakland residents who currently lack one. More broadly, the City ID card will unify the Oakland community, make it safer and more secure, benefit the local economy, and facilitate participation in public and private City activities. Of course, beyond the practical benefits, implementing a City ID Card is a meaningful way for the City to recognize all of its residents and their contributions as citizens of Oakland.[1]

A. LACK OF IDENTIFICATION & CONSEQUENCES

Many people in Oakland—immigrants, children and students, the homeless and indigent, the disabled and elderly, runaway youth and adult survivors of domestic violence, and others—currently suffer from the lack of identification, which restricts their access to law enforcement, financial institutions, jobs, housing, and home and workplace protections. As a result, these individuals and communities suffer, and the City as a whole suffers from increased crime and civil violations and a decreased economy.

Many immigrants, for instance, are unable to obtain state identification. Without identification, they are afraid to report crimes to the police. They are also afraid to report

[1] Engle ("Yet, some state and local governments have in fact been quite creative in terms of creating membership opportunities for their residents who might not be documented, such as providing them with voting rights for local elections, supporting and helping to regulate day-labor sites, working with banks to issue ATM cards, offering identification cards to city residents regardless of their immigration status, and making employers criminally liable for failing to pay workers. A number of economic and non-purely economic factors weigh into these decisions, but I support such policies and would like to encourage them because of their basic respect for the human rights of the recipients, regardless of whether they are economically efficient for the municipalities and employers.").

labor and housing violations—such as blighted properties, slum landlords, and workplace health, safety, and wage violations—to the appropriate authorities. This underreporting of crime and civil violations reduces the quality of life for all of Oakland.[2] Indeed, the federal government has even crafted exceptions to its generally harsh immigration policies in order to improve such reporting.[3] Further, without appropriate identification, it is difficult to open bank accounts, and immigrants carrying large amounts of cash are therefore specifically targeted for robbery and other violent crime. Communities who face real or perceived barriers to traditional law enforcement and government authorities are also more likely to resort to self-protection, sometimes in the form of gangs. Finally, this limited access to financial institutions and fear of police and other city officials results in decreased participation in the formal city economy and other civic matters.

Children and students also suffer from the lack of appropriate identification. Minors tend not to have identification cards until they reach middle or high school. And even U.S. citizen students can then find it difficult or daunting to obtain state identification. With the cooperation of the Oakland Unified School District (OUSD), the

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[2] Wishnie ("The consequence [of such underreporting] has been to embolden lawbreakers who prey on immigrants, frustrate civil and criminal law enforcement generally, undermine public safety and health, entrench undocumented immigrants in a caste hierarchy, and foster an underground economy that depresses the terms and conditions of employment for all workers."); id. ("Public officials themselves recognize that immigrants' fear of deportation undermines the ability of government agencies to enforce laws generally within their jurisdictions, and that the reluctance of any single community to cooperate with law enforcement has negative consequences for public safety and order that extend beyond the borders of any one community.").

[3] Wishnie ("Policymakers have responded with modest steps to address the burdens on petitioning that result in the exclusion of undocumented immigrants from the mainstream of law enforcement. Congress has enacted 'whistleblower' protections for certain immigrants, including battered women and children, criminal informants, and victims of international trafficking, as well as certain other crime victims who petition authorities for redress. On the civil side, Congress has established whistleblower protections for H-1B visa holders who report labor abuses, and the U.S. Department of Labor (DOL) has narrowed its information-sharing agreement with the U.S. Immigration and Naturalization Service (INS) to encourage undocumented workers to report wage and hour violations.").

Oakland City ID Card will enable OUSD students to have an identification card in case of emergencies. Especially in the wake of immigration detention sweeps, enabling temporarily unsupervised children to have their own proof of identity would increase their safety. Similarly, following the recent immigration raids at homes and jobs near OUSD schools, parents of students have expressed fear for their children's safety at school. Some parents, frightened that their children will be detained or interrogated, have decided to hold their children out of school for days at a time, even when the children are U.S. citizens. Possession of a City-issued ID Card will provide much needed reassurance to these parents and students. The ID Card will also provide reassurance to immigrant high school graduates and their parents, who are sometimes afraid of submitting college applications. In addition, the ID Card can be used by OUSD to increase public safety at school. The ID Card can be labeled to identify OUSD students and the school each student attends, so staff can ensure that only eligible students are present on campus and at school functions. Lastly, a City ID Card will be helpful to minor students in providing proof of age, whether for transportation discounts or going to the movies.

Although elderly people with stable income and housing usually have no problem maintaining a state identification card or driver's license, for indigent people, especially those who are disabled or elderly and living on a fixed income, the cost of replacing a state identification card can be prohibitive. While the DMV does not charge "senior citizens" age 62 or older any fee for a California identification card, the regular cost to replace one is $23.00. The monthly income benefit from Supplemental Security Income (SSI) is $870.00. After paying rent and utilities, most SSI recipients use their benefit to pay for food. While a "reduced-fee ID card" program exists, many people do not know about the discounted rate or how to get it. For those who know, most must stand in long

Alameda County Social Services Agency lines in order to get a reduce-fee ID card form signed by a social worker. Moreover, limited ability to travel makes visiting the DMV difficult for some poor, disabled or elderly people, who live near downtown Oakland and city hall. The Oakland City ID Card would be less expensive and easier to obtain.

For the same reasons, homeless people—many of whom suffer from disabling conditions that go undiagnosed—can find it difficult or impossible to a state ID card. Additionally, homelessness makes it very difficult to keep important papers, including an ID card. Whether due to robbery, theft, accidental injury or detention and incarceration, many homeless people go without an ID card—making do with hospital or Santa Rita Jail discharge papers or identification bracelets until they wear out or get lost. Yet the homeless often need proof of identification to obtain public benefits, for access to shelters and programs, and for safe and positive interactions with law enforcement. Without an ID card, homeless people are therefore routinely denied services and benefits to which they are entitled. For example, shelters may require an ID card for a person to enter. The Social Services Agency also requires an ID card to apply for General Assistance, CalWorks or Food Stamps and when someone requests subsequent services, such as a replacement Electronic Benefit Transfer (EBT) card. Although state or federal program requirements may preclude the Oakland City ID Card from substituting for a state ID card for purposes of applying for benefits, for subsequent services where an ID card is required to prove one's identity, the City ID Card can help many homeless people. Furthermore, for the homeless, elderly, young children, and the disabled, the ID Card can identify immediate family members or medical needs where appropriate.

Runaway youth and adult survivors of domestic abuse, who often lack the documents required to obtain a state identification card or are fearful of contact with state authorities, would also greatly benefit from the option of a City ID Card. Most notably, the DMV requires a certified birth certificate to obtain an original California ID card, to verify a person's birth date and legal presence. But many people fleeing dangerous domestic situations, especially across state lines, have only whatever ID card is in his or her wallet or purse. Even another state's ID or driver's license is inadequate to verify birth date and legal presence for purposes of applying for an original California ID card. Moreover, if that ID card gets lost, or in the case of runaway youth, if no such ID card was originally available, domestic abuse survivors without substantial income, shelter and other resources will have a difficult time obtaining a certified birth certificate.[4] In contrast, the Oakland City ID Card could make less burdensome demands on domestic violence survivors and runaway youth. For example, San Francisco accepts a relatively easy to obtain Social Security Card and some photo identification as proof of identity for its city ID card. If Oakland were to follow suit, it would truly manifest the spirit of the City's sanctuary ordinance.

For the transgender community, the ID Card can be equally meaningful, but in a different manner—as the City can show greater sensitivity to this community in gender

[4] Due to recent increases in the federal regulation of ID, such as by the USA PATRIOT Act of 2001 and the Real ID Act of 2005, it is increasingly difficult for people who do not already possess a certified copy of their birth certificate to obtain one, especially if one was born in a poor county that has not modernized its record keeping. To resolve this Catch-22, an attorney must devote several hours of advocacy to obtain the limited documents available, provide them to a distant county recorders office, and follow up to ensure that the application is processed—and very few attorneys are available to do so. Alternatively, if the person has appeared before the Alameda County Superior Court, for example after being released from jail, then a certified court order, costing $15.00, can be used to apply for an original California ID card. In any case, a person with limited means and suffering from trauma has very little chance of success—in the mean time becoming further marginalized by being unable to prove who they are.

identification choices (or choices not to identify gender) than the state has done. Both New Haven's and San Francisco's city ID card, for instance, differ importantly from the California state identification card because they do not specify a person's gender. For transgender people, being able to present a form of ID that does not call into question their apparent gender reduces the risk of discrimination.

1. Crime & Missing Persons

Perhaps the most important benefit from the Oakland City ID Card will be the improved public safety for both particularly vulnerable communities in Oakland and all City residents. A City ID card will contribute to public safety by facilitating citizen-police contact and thereby improving the ability of police officers to identify crime victims, witnesses, and suspects. Because without other U.S.-based forms of identification, many immigrants, homeless, and members of other victimized communities, currently feel that they do not belong in Oakland and are afraid of contact with the police. As a result, there is less crime reporting and witness cooperation among these communities[5] and therefore decreased public safety for all Oakland residents. Even worse, this unreported crime is frequently violent, including armed robberies and domestic violence.

The impact of these perceived barriers should not be underestimated, as the relevant community groups constitute a large and growing portion of Oakland's diverse population. In 2006, for instance, the Bay Area Census estimated that Latinos, many of whom are recent immigrants, constituted more than one quarter of Oakland's total

population.[6] Further, that this large immigrant population is less likely to report crime is especially troubling because immigrants are more likely to be victims of crime, and violent crime in particular.

For instance, without identification to open bank accounts, many immigrants pay costly fees to cash their checks and carry large sums of cash, which makes them attractive targets for muggers. Immigrants are also more likely to be victimized because assailants believe (correctly, as discussed above) that immigrants are less likely to report the crime to law enforcement. This targeting of immigrants has been documented by the Oakland Police Department and the City Attorney,[7] as well as by researchers and law enforcement officials throughout the country.[8] Moreover, the police in New Haven have already

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[5] http://www.aila.org/content/default.aspx?docid=1997 ("In communities where people are afraid to talk to local police, more crimes go unreported, fewer witnesses come forth, and people are less likely to report suspicious activity.").

[6] http://www.bayareacensus.ca.gov/cities/Oakland.htm.

[7] http://clerkwebsvr1.oaklandnet.com/attachments/18224.pdf ("'Amigo Checking'" is a street term referring to the practice of committing street robberies targeting persons believed to be undocumented day laborers. Suspects have confessed that this type of victim is chosen because of the assumption that they will not report the crime to the police."); http://www.eastbayexpress.com/news/crimes_against_immigrants_provoke_call_for_more_police/Content?oid=811780.

[8] Brookings ("According to police statistics, nearly half of Austin's robbery victims in 2000 were Hispanic, although Hispanics made up only about 30 percent of the city's residents. The police determined that a root cause for the elevated rate of robbery was the large amounts of cash that immigrant laborers, who typically did not have bank accounts, carried on paydays. Immigrants had little choice other than to carry cash."); Wishnie (citing to studies demonstrating a "widespread consensus among law enforcement officials, lawyers, lay advocates, and immigrants themselves that noncitizens tend to underreport illegal activity, due in part to fear of deportation"); http://findarticles.com/p/articles/mi_qn4188/is_20060316/ai_n16229873 ("Reports of predatory lending and payday muggings in the Hispanic community have prompted officials at Federal Reserve Banks across the country to encourage lenders to develop alternative means to bring Latino families into the banking system."); http://www.dailylocal.com/site/news.cfm?newsid=19814060&BRD=1671&PAG=461&dept_id=635398&rfi=6 (police chief statement); http://www.ilw.com/articles/2006,0726-orrenius.pdf (noting that immigrants are "both more likely to be victimized by crime and less likely to report crime. The former suggests that immigrants are more vulnerable, while the latter suggests why that might be the case."); http://www.ojp.usdoj.gov/nij/topics/victims-victimization/immigrants.htm (Department of Justice survey of police and other government officials agreeing that immigrants are less likely to report crime); http://americancity.org/

reported steps towards reduced crime following the city's implementation of an ID card.[9] Law enforcement officials have also recognized that, without access to public safety protections, vulnerable community groups are more likely to turn to gangs and other forms of extra-judicial protection, further increasing violence.[10]

In addition, researchers have reported that fear of deportation prevents immigrant women from contacting law enforcement to report domestic violence.[11] These women also list their fear of being reported to immigration officials as a primary reason for remaining in abusive relationships.[12] Accordingly, any measure that can alleviate immigrants' fear of law enforcement will serve to increase reporting of domestic violence and the likelihood of survivors leaving their abusers. Indeed, with the Violence Against Women Act of 2000 and the implementation of U-Visas, Congress has already recognized and taken partial steps towards addressing this need to help immigrant women feel safe reporting domestic violence.[13]

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magazine/article/web-exclusive-undocumented-dream-gallagher. For extensive additional cites please see Wishnie.

[9] http://www.cityofnewhaven.com/pdf_whatsnew/municipalidfactsheet.pdf ("Providing residents who otherwise have no proof of ID with a municipal identification card will help overcome reluctance to report crimes they may suffer or witness and also provide identification to law enforcement and other officers if required."); http://newhavenindependent.org/archives/2008/05/casanova_releas.php (quoting police statement that "[t]he ID cards have also helped immigrants open bank accounts, which makes them less likely to be targeted by muggers because they're no longer 'walking ATMs'").

[10] http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20080630/NEWS/806300306/-1/SPECIAL62.

[11] For extensive additional cites please see Wishnie.

[12] 56 Ala. L. Rev. 557 (citing Battered Immigrant Women Protection Act of 1999: Hearing on H.R.3083, 106th Cong. 58 (2000)).

[13] 56 Ala. L. Rev. 557 (citing VAWA 2000 1513 (a)(2)(a), as recognizing "the dual goals of the new nonimmigrant visa classification to strengthen the ability of law enforcement agencies to prosecute crimes against immigrants and to protect the victims of such crimes. Therefore, this provision of the VAWA 2000 was designed to eliminate battered illegal immigrants fear of deportation and encourage every member of this vulnerable group to report abuse to the police.").

An Oakland City ID Card will also assist in the identification of lost children or the elderly, who often possess no identification or emergency contact information.

2. Financial Institutions & The Economy

Also important, an Oakland City ID Card will make it easier for all residents to participate in local and regional commerce—by opening a bank account, establishing credit, and accessing loans and the housing market. This improved access will benefit not only those Oakland communities who are currently underrepresented in the formal economy, but all City residents through the overall economic growth and improved public safety.[14]

Most notably, extensive research documents the limited use of financial institutions by the large and growing U.S. immigrant population.[15] As with crime reporting, a primary reason for this reduced participation is a real and perceived inability to access these institutions and fear of being reported to immigration.[16] Providing all

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[14] http://www.brookings.edu/metro/pubs/20060504_financialaccess.pdf ("Healthy communities offer broad financial access to all residents. In cities where a greater share of residents have a bank account, income, employment, and homeownership rates are higher, while crime rates are lower.").

[15] http://findarticles.com/p/articles/mi_qn4188/is_20060316/ai_n16229873 (reporting that "over half of all Mexican immigrants lack bank accounts, according to 2000 figures from the U.S. Census Bureau."); Coyle ("Undocumented immigrants residing in the United States typically do not have bank accounts. Instead, such persons tend to rely on so-called 'alternative' financial services providers such as check cashers and payday lenders."); Brookings ("Compared to individuals who were born in the United States, immigrants are much less likely to be connected to the financial mainstream.").

[16] http://findarticles.com/p/articles/mi_qn4188/is_20060316/ai_n16229873 ("Many undocumented Latino immigrants shy away from mainstream lenders for fear that giving over personal identification could result in deportation."); Coyle (noting fears that a bank may report suspected immigrants to federal authorities); Brookings ("For some immigrants, concerns about proper documentation contribute to a more general distrust of banks. Many fear that the failure to produce valid immigration papers at a bank will jeopardize their ability to stay in the United States."); Brookings ("Wire transfer firms do not require Social Security numbers, and no identification is needed for transactions less than $1,000. This anonymity is often welcomed by immigrants who are wary of doing business with institutions that they fear will report them to immigration authorities.").

Oakland residents with a legitimate form of U.S. identification will alleviate these barriers in two ways.

First, the City ID Card will eliminate real barriers because it is likely that national and community banks and lenders will accept the ID Card as a valid proof of identity document. Importantly, federal regulations provide banks with the discretion to accept reliable forms of identification such as the proposed City ID Card.[17] In fact, many banks already accept as proof of identity the national identification cards (such as Matricula Consular cards) provided by foreign countries.[18] Moreover, "[f]ederal bank regulators have repeatedly made clear that they do not oppose the efforts of banks to provide financial services to undocumented immigrants."[19] And the OCICC has communicated with financial institutions who have expressed willingness to work with the City around the ID Card and accepting it as a valid form of identification. Also encouraging, at least one community bank in New Haven has agreed to accept the city's ID Card.[20]

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[17] Brookings (noting, in a section titled "It's up to the banks… Accepting New Forms of Customer Identification" that: "One of the most important steps that many banks have taken to reach immigrant customers is accepting alternative forms of identification to open accounts. The regulatory environment has played a pivotal role in bolstering this trend. Antimoney laundering and anti-terrorism legislation, the main legislation that impacts this area, make it clear that Social Security numbers are not required to open bank accounts. The legislation establishes the rules that a Customer Identification Program must follow. Within these guidelines, banks can choose which types of identification to accept.").

[18] Coyle (The list of U.S. financial institutions that currently accept the [Matricula] card as a proof of identity includes Bank of America, Citibank, JPMorgan Chase, SunTrust, and Wells Fargo. As of June 2005, Wells Fargo had opened 525,000 accounts to persons who proved their identity, at least in part, by means of a matricula consular."); Brookings ("In established immigrant areas, identification cards issued by foreign consulates are widely accepted.").

[19] Coyle ("Other statements by federal officials have even gone so far as to suggest that banks have an affirmative obligation to provide banking services to underserved markets, including the market among the undocumented.").

[20] http://newhaveniependent.org/archives/2007/07/immigrants_line.php.

Second, the City ID Card can eliminate perceived barriers as well. Even though some financial institutions already accept certain foreign identification documents, many immigrants do not have those documents or reasonably believe to the contrary that such foreign identification will not be accepted or could cause them to be reported to immigration authorities. Other immigrants simply do not have and cannot easily obtain such identification from their country of origin.[21] A City ID Card, however, will be readily available to all Oakland residents and—as a U.S.-based form of identification—will provide reassurance to immigrants and other community groups that they are welcome to participate in the City's financial institutions without conveying their immigration status.

In public safety terms, as discussed above, this increased participation will benefit both those new bank account holders and immigrants generally, who will be targeted less for violent street robberies when they do not carry large amounts of cash.[22] New account holders and the City as a whole will also benefit greatly from the reduced costs for cashing checks and sending remittances, as well as the other notable benefits from access

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[21] Brookings ("A survey of Latin American immigrants living in the United States found that 25 percent believe opening an account requires a Social Security number or a driver's license."); Brookings ("Although Mexican immigrants, in particular, have embraced the Matricula Consular card, and many have used it to open bank accounts, the card is less available to Mexican immigrants living far from a consular office. In addition, not all countries issue similar documentation.").

[22] Brookings ("Law enforcement officials and residents of communities with large immigrant populations are also concerned about immigrant access to banks."); Engels ("In Austin, Texas, the local police department led the effort to convince banks to accept alternative forms of identification for opening bank accounts. Anna Paulson et al., Financial Access for Immigrants: Lessons from Diverse Perspectives 64 (2006), http://www.brookings.edu/metro/pubs/20060504financialaccess.pdf."); Brookings (noting that to address such crime in Austin "police officials worked with local banks to develop a program to allow foreign-issued identification for opening accounts. . . . Although there were regulatory issues to consider, the reasoning was straightforward: immigrants who have access to a safe place to keep their earnings are less likely to be victims of crime.").

to formal financial institutions.[23] These savings and other benefits are of course substantial on a personal level for the particular individuals and communities that gain access to the formal economy. But cumulatively these tremendous savings benefit all of Oakland, as millions of dollars are redirected from the small number of private companies that dominate the check-cashing and remittance markets, to community banks and credit unions that can provide the same services, for a lower cost, and reinvest proceeds in the Oakland community.[24]

3. Employment and Housing Violations & Medical Treatment

As with crime reporting, research confirms that immigrants are often afraid to report labor, housing, and other public safety violations.[25] Indeed, the federal agencies

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[23] Coyle ("The overall cost of accessing these alternative financial services, however, is generally higher than the cost of accessing comparable services provided by a bank. This means that undocumented immigrants, who as a group tend to earn less than other U.S. workers, also pay disproportionately more to access basic financial services."); Coyle ("Most undocumented workers would benefit if their paychecks were deposited directly into their bank accounts (thereby avoiding the need to pay a fee to a check casher), if they could use checks to pay bills (thereby avoiding the hassle and fees associated with paying bills in cash or by money order), and if they could earn interest on their savings."); Brookings ("Financial access is of utmost concern to immigrants themselves. Checking and savings accounts are indispensable tools in financial planning and security. Banks offer many benefits, including: Safer alternatives to cash, like checking accounts; Secure and insured ways to save; Lower fees for services like check-cashing and international money transfers; Access to home and small business financing; Competitive interest rates on loans; A means to build a financial identity and plan for the future, and Coverage under consumer protection and fair lending laws."); Hamilton ("[C]ashing a check outside of the banking relationship imposes external costs including the inability to save and an increase in criminal activity.").

[24] Brookings (noting that more than four billion dollars in fees each year are spent on check cashing and remittances).

[25] Wishnie (noting "the circumstances of the millions of undocumented persons who live in the United States, many of whom work long hours for illegally low pay, in workplaces that violate health and safety codes, for employers who defy labor and antidiscrimination laws," and that "[m]any of those workers are loathe to report their harsh working conditions for fear they will attract the attention of immigration authorities."); Wishnie ("A 2001 survey of documented and undocumented immigrants by the Center for Urban Economic Development at the University of Illinois-Chicago found widespread underreporting of workplace safety violations. Further, 'of the reasons identified for not reporting [unsafe working conditions] to OSHA [the Occupational Safety and Health Administration] . . . 30% relate specifically to the fear that workers might be deported if they report the conditions.' . . . In addition, a nonscientific

responsible for overseeing the relevant regulations have recognized the importance of encouraging immigrants to report violations and therefore taken initial steps to address this fear.[26] Importantly, the underreporting of civil violations results not only in a lack of justice and safety for these underrepresented groups, but in substantial harm to the City as a whole. For instance, all of Oakland's workers suffer when unscrupulous employers pay immigrant workers less than the minimum wage or fail to pay them at all. Equally, when immigrant tenants are afraid to report serious housing violations, the entire City and its economy suffer from public blight and slum housing.

On a related note, there is significant evidence that immigrants sometimes forego needed medical treatment due to a perceived fear of deportation. The City ID Card should help alleviate some of these fears, at least with regard to local hospitals, and thereby better protect the health of Oakland's residents.[27]

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survey of lay advocates and attorneys conducted in 1995 by the National Immigration Project of the National Lawyers Guild (NLG) supports the view that undocumented workers underreport labor violations for fear of deportation. Finally, a collection of statements by lay advocates and attorneys in immigrant communities gathered by Yale Law School students in 1998 also recorded a strong consensus that undocumented workers underreport labor and employment violations for fear of deportation."). For extensive additional cites please see Wishnie.

[26] Wishnie ("Law enforcement agencies themselves have recognized that undocumented workers underreport workplace violations. . . . [For instance, in] 1998, the U.S. Department of Labor (DOL) declared that a 'key goal' of its revised information-sharing agreement with INS was 'to allay fears in the immigrant community that prevent complaints about labor abuses by unscrupulous employers from being filed.' OSHA officials concede that 'sometimes workers are afraid to speak out about unsafe or unhealthful conditions for fear of being deported.' Similarly, Department of Justice officials have acknowledged that 'unauthorized workers are particularly vulnerable to threats to report them to INS.' Regional officials of federal labor and employment agencies have also registered their belief that immigrants underreport violations.").

[27] Wishnie ("While not implicating concerns about criminal or labor law enforcement, research into immigrant underreporting of medical problems reveals a similar dynamic. See, e.g., Marc L. Berk & Claudia L. Schur, The Effect of Fear on Access to Care Among Undocumented Latino Immigrants, 3 J. Immigrant Health 151, 153-54 (2001) (observing that, in survey of 756 undocumented Latino immigrants, thirty-nine percent reported 'that they had been afraid of not receiving medical service because of their undocumented status" and 'one-third of undocumented Latinos who expressed fear were unable to obtain

B. CIVIC PARTICIPATION

By providing tangible benefits and fostering civic pride, the ID Card will also help all residents feel welcome and encouraged to participate in Oakland's civic affairs, because of their vested interests as members of the Oakland community. For instance, the ID Card can provide access and discounts for residents to local resources such as libraries, museums, and zoos. As in New Haven, the ID Card could also be used as a debit card, to pay for purchases at local stores and coffee shops and to feed parking meters.[28] More expansively, the ID Card could even be used for city voting, if Oakland extends this right to all residents regardless of immigration status,[29] or for access to city-run health institutions, if Oakland chooses to implement such a form of health care.[30]

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at least one of the . . . services' they sought); Sana Loue et al., The Effect of Immigration and Welfare Reform Legislation on Immigrants' Access to Health Care, Cuyahoga, and Lorain Counties, 2 J. Immigrant Health 23, 29 (2000) ('Although not reaching statistical significance ... undocumented individuals consistently indicated that they would refrain from seeking care or delay seeking care due to fear of the immigration consequences.').").

[28] http://newhavenindependent.org/archives/2008/05/casanova_releas.php ("Scott works as a clerk in the City Hall office that issues the ID cards. She spoke of how the IDs can be used as debit cards, to pay for purchases at local stores and coffee shops. They also feed parking meters.").

[29] Engle ("Takoma Park, Maryland, was one of the first municipalities to permit non-citizen voting. The ordinance prohibits inquiries into citizenship. See Takoma Park, Municipal Code 9.04 ("Rights of Non-U.S. Citizens in Takoma Park"). The same statute prohibits inquiries into citizenship. See id. at 9.04.020, available at http://www.takomaparkmd.gov/code/Takoma Park Municipal Code/index.htm. For general information on non-citizen voting initiatives, see http://immigrantvoting.org/material/about.html.")

[30] Engle ("In November, 2007, the City of San Francisco approved a program to provide residents, regardless of immigration status, identification cards that 'qualify them for health services at city-run clinics, public library privileges and resident discounts at museums and other cultural institutions.' Associated Press, San Fran OKs ID Card for Immigrants, Nov. 28, 2007.").

III. PLANNED & POTENTIAL USES

A. PLANNED USES

1. Identification for Police & Government Agencies

The OCICC has already met with the Chief of Police, who has expressed his support for the City ID Card concept. He further indicated that, so long as appropriate security measures are taken (as discussed in more detail below), the Oakland Police Department would likely accept the ID Card as a primary form of identification. The Chief of Police similarly indicated that a secure ID Card could be accepted as valid proof of age where alcohol is served.

The City can also accept the ID Card as proof of identity for local agencies, such as the Rent Board and Housing Code Compliance. So long as the City ID Card is sufficiently reliable, state and county agencies, such as the Department of Labor and Alameda County Courts, might also accept the Card for proof of identity.

2. Identification for City Employees & Students

City employees can use the ID Card in lieu of other identification. As discussed above, the Card can also be used to indicate whether the cardholder is an OUSD student and, if so, which school the student attends.

3. Banking & Remittances

As discussed above, the City ID Card can be used for banking and other financial transactions. More expansively, the ID Card could eventually be used by the immigrant community to transmit remittances directly, an idea that is current being explored by Alianza Latinoamericana por los Derechos de los Immigrantes (ALDI).

4. City Access, Discounts & Debit Card

As discussed above, the City ID Card can be used to provide access and discounts to city institutions and possibly as a debit card for local shops and parking meters.

B. Potential Uses

1. Local Currency

In official recognition of the filial nature of the relationship that the City wants to promote among the residents and neighbors of Oakland, the City will create a municipal identification Card. The goal will be for every Oakland resident to acquire a City ID Card on a voluntary basis. The degree of accomplishment of this goal will be a measure of how, despite differences, of race, language, national origin, or social economic status, Oaklanders and Oakland's neighbors recognize and appreciate each other. The City will be charged by this ordinance to do everything reasonable within its power to ensure that the maximum number of Oaklanders voluntarily acquire a City ID Card.

Oakland residents and neighbors are, to one degree or another, participants in Oakland's micro-economy. If residents and neighbors pull together economically for

mutual benefit, we all prosper. Filial recognition is hollow without filial actions whereby we work with, rather than against, one another. That is the very core nature of civilized government. We join together to build and maintain roads and parks, stock libraries with books, underwrite redevelopment projects, and staff fire and police departments. Government's appropriate engagement in the economic sphere goes back to one of the nation's founding fathers, Alexander Hamilton, architect of the U.S. currency and treasury.

This aspect of the ID Card is based on the understanding that Oakland probably has the lowest currency turnover rate of any community in the Bay Area and that a higher currency turnover rate would positively impact the prosperity of Oakland's small businesses, increase the rate of pay and hiring of Oakland residents, and generally increase the prosperity of all those who function in Oakland's micro-economy. Oakland's economic history and present high unemployment rate thus conclusively establish the need for urgent action by the City to do what is appropriate and possible to lift the turnover rate. The City should also develop a contract or agreement with an academic institution or economic research firm to continually measure the currency turnover rate in Oakland.

In light of these considerations, the City will establish the means whereby the City ID Card will be able to retain currency in the sense of a magnetic strip on a credit or debit card. Small businesses will be encouraged to voluntarily participate in the structured micro-economy by being willing to accept the currency on the ID Card and at least partially pay their employees in the currency. In exchange, these businesses will receive a reduction, if not an elimination, of fees, payments, and other charges from the City.

Further, if participating businesses (those accepting the City ID Card for goods and services) give bargains and discounts to encourage the use of the Card, more residents and neighbors will want the Card, thus fulfilling the original intent of the City ID Card to maximize its usefulness to all residents.

The City will also enter into negotiations with the City unions, taking the position that what City employees are currently spending in Oakland businesses would be the minimum part of their compensation that they would be paid in local currency. The City will bargain to raise this portion above that minimum as well. The City will offer to partner with one or more local financial institutions to process accounts and City ID Card financial services. Credit unions have "best practices" mandates to serve all underserved communities and reinvest in community residents and businesses. The City's goal is therefore to make agreements with a credit union in West Oakland, a credit union in the Fruitvale neighborhood, and a credit union in East Oakland similar to the credit union that existed at Allen Temple Baptist Church. These institutions by agreement will be encouraged to process the sophisticated technology and safeguards associated with the currency carrying ID Cards. The City will thereby provide the micro-financial structure or "roads" to concretize the expression of filial community intra-support that is at the very heart of the municipal ID.

2. Transportation

The City ID Card could be used for transportation, as an AC Transit bus card or even to pay for BART. San Francisco is already planning to use their city ID card in this manner. Admittedly, it is easier for San Francisco to take this step because San Francisco is its own county, whereas Oakland would have to make arrangements with Alameda

County. Nonetheless, there is no reason to believe that such an arrangement could not be made in the near future, to the benefit of the City, County, and cardholders.

3. Voting & Health Care

As discussed above, the City ID Card could be used for voting in local elections, if the City extends voting rights to all of its citizens, regardless of immigration status. The ID Card could also be used to access city-run medical clinics, if the City decides to offer such health care.

IV. PARTNERSHIPS & PROMOTIONS

To ensure that the Oakland City ID Card is used by a large and diverse population, the City can partner with various organizations and use promotions to encourage use of the ID Card.

A. PARTNERSHIPS

Partnerships are essential to the early success of the City ID Card because they can guarantee that a significant number of diverse City residents—who do not share any particular characteristic that would subject them to discrimination—will use the ID Card.

1. Educational Institutions

The OCICC has already spoken with the president of the Peralta School District, who has expressed interest in using the City ID Card for student identification, in lieu of issuing separate student ID cards. For the reasons discussed above with regard to minor students, City ID Cards that double as student identification would also benefit the students, parents, and staff of the Oakland Unified School District.

The City should therefore approach and negotiate with both of these public agencies, as well as other agencies and educational institutions (such as Mills College), to jointly produce a card that will serve each agency's existing ID purposes and also reduce the costs of production and distribution through joint budgeting and volume savings.

2. City Employees

The City should use its ID Card as identification for City Employees. As with students, there will be a separate area to indicate employee status information, which can also be contained in a magnetic strip for verification purposes.

B. PROMOTIONS

1. Oakland Pride & City Discounts

The City should advertise the ID Card, beyond its tangible benefits, as a way to show pride in and support the City of Oakland and all of its residents. Importantly, in light of the aforementioned benefits to public safety and the economy, this advertising can be implemented in a genuine and authentic manner, not as a mere marketing tool.

As discussed, the City can also provide discounts to cardholders at City institutions, such as museums and zoos.

2. Sports & Other Events

The City should reach out to local sports teams and other organizations that sponsor popular events, to promote discount nights for cardholders as residents and neighbors of Oakland. Such promotions would be beneficial for the sponsoring organization as well, given the advertising and promotional opportunity. For instance, the Golden State Warriors— the National Basketball Association franchise located in Oakland—might be willing to have a “local fan” or “home crowd” night to honor faithful Oakland fans, where cardholders receive discounted ticket or concession stand prices.

V. POTENTIAL CONCERNS & POSSIBLE SOLUTIONS

A. SUFFICIENT USE & PRIVACY CONCERNS

As mentioned above, privacy issues may be the greatest concern facing the Oakland City ID Card. There is the risk that anti-immigrant groups or the federal government's Immigration and Custom Enforcement agency (ICE) could compel disclosure of any City ID Card database and information maintained by the City of Oakland. This information could potentially then be used to identify and take adverse action against immigrant cardholders. Fortunately, there are various solutions to alleviate this concern.

1. Legal Considerations

The OCICC has not yet had the opportunity to research the relevant California or federal laws regarding disclosure of identification records. Nonetheless, some insight can be gained from the experiences and decisions of New Haven and San Francisco.

In New Haven, an anti-immigrant group attempted to gain access to the city's database of cardholders through the state's Freedom of Information Act. Although the request was denied by the state agency because of safety concerns—as the city had received "violent anti-immigrant and anti-Hispanic rhetoric and threats" against cardholders—the anti-immigrant group can still appeal the decision to the state courts.[31] Furthermore, there is the risk that a more carefully orchestrated attack by anti-immigrant

[31] http://www.yaledailynews.com/articles/view/24864 ("This July, the Elm City Resident Card celebrated both its one-year anniversary and a long-awaited court victory—although opponents are looking to cut the celebrations short.").

groups in New Haven or elsewhere could circumvent such a ruling, by refraining from explicit and violent threats.

San Francisco, on the other hand, concerned in part by the possibility of similar efforts to compel disclosure, has decided not to maintain cardholder addresses in its database—*i.e.* this sensitive cardholder information is still placed on the card, but is not recorded by the City for future reference.

In light of these experiences, and our own background legal knowledge, the OCICC's best guess is that any City ID Card database—as a legal matter—could likely be kept safe from anti-immigrant groups. But, given the general deference in the law to the federal government, it is questionable whether such a database could be held confidential from federal efforts to compel disclosure to ICE.

2. Practical Considerations

On the one hand, it is clear from New Haven's experience that, if possible under California law, anti-immigrant groups may try to compel disclosure of any City ID Card database.

On the other hand, it is not clear whether the federal government would be interested in any ID database. Somewhat encouraging, it is the OCICC's understanding that—outside of workplace raids, which are not impacted one way or the other by the City ID Card—ICE currently focuses its enforcement efforts on those undocumented immigrants that already have a prior deportation order or criminal record. In fact, thousands of immigrants voluntarily submit I-130 petitions each year to request residency

for family members, even though doing so necessarily divulges to ICE that the family member being petitioned is in the U.S. without documents. Yet as far as the OCICC is aware, ICE has not taken action against these individuals, or at least those who do not have final deportation orders or criminal records. Accordingly, it is quite possible that ICE would not be interested in any City ID Card database even if the database did identify undocumented immigrants generally in Oakland (as opposed to undocumented immigrants with final deportation orders or criminal records in particular). At the same time, however, this apparent ICE policy can only provide so much assurance, given that ICE could always change it.

3. Possible Solutions

a. Limited Database (San Francisco Model)

One possible solution, as San Francisco has decided, is to not store sensitive information such as cardholder addresses in any City ID Card database. There may, however, be significant drawbacks to this model. For instance, the police, financial institutions, and other ID Card partners, may conclude that the ID is not sufficiently secure or useful if cardholder addresses and other sensitive information are not accessible through the City database. The Chief of Police for instance has suggested that OPD would benefit most from a fully functional ID database.

a. Large Number of Diverse Cardholders

Another possible solution, more difficult to implement but without the same drawbacks, is to ensure that there is a sufficiently large number of diverse cardholders.

Because if enough Oakland residents who are not immigrants or members of other vulnerable groups use a City ID Card, anti-immigrant groups and ICE will have little to gain by obtaining ID Card records. For this reason, the OCICC believes that it is critical to build partnerships, design creative promotions, and implement meaningful uses for the City ID Card, to ensure that the Card is used widely and by a wide audience.

B. COSTS

There will be significant costs to first implementing a meaningful City ID Card with the aforementioned capacities. By establishing the partnerships and widespread ID Card use discussed above, however, the City should be able to compensate for much of these costs by charging a small card application fee to those who can afford it. The City should also aggressively pursue grants to cover startup costs from financial institutions, such as banks, that will benefit most from the City ID Cards.[32] But equally important, in analyzing the immediate costs, the City must not lose sight of the less direct, but no less real, substantial economic gains that will result from the City ID Card. As discussed above, City ID Cards will contribute in a variety of ways to economic growth throughout Oakland and foster investment in the City and its communities.

[32] Coyle ("[F]ormal banking institutions would generally benefit if undocumented workers relied upon them to a greater extent for the provision of banking and other financial services (which generate fees for the banks) and to a lesser extent on the 'alternative' financial services providers (which do not).").

VI. SUBSTANTIVE & TECHNICAL SPECIFICATIONS

In recognition of the individual privacy concerns of Oakland residents and the national privacy community as expressed by Consumers Against Supermarket Privacy Invasion and Numbering (CASPIAN), the Privacy Rights Clearinghouse, the Electronic Privacy Information Center, the Electronic Frontier Foundation, the American Civil Liberties Union (ACLU), and 40 other leading privacy and civil liberties advocates and organizations, the Oakland City ID Card should not include or incorporate radio frequency identification (RFID) tags or chip, as no remotely readable technology should be used in the card. Data should be available only through symbols on the face of the card and a magnetic strip.

The ID Card should have space on the face of the card and magnetic strip to identify membership in partner organizations—*e.g.* to indicate that a resident is a City employee or a student at a particular OUSD school. The ID Card should also have a photograph on it so that the card can be used as a primary proof of identity document by the OPD and financial institutions, as well as other organizations and agencies.

Lastly, in determining what proof of identity and residency documents will be required to obtain a City ID Card, the City must strike a balance between making the Card available to as many residents as possible and ensuring that the ID Cards are sufficiently secure and reliable. In doing so, it is critical that the City first consult with law enforcement and financial institutions to determine exactly what security measures are necessary for the Card to be accepted.

VII. CONCLUSION

For all of these reasons, the OCICC strongly encourages the City to promptly implement a City ID Card. But at the same time, the City must ensure that the ID Card constitutes a significant and useful form of identification, so that it is truly beneficial to the communities that will benefit most from the ID Card, as well as all of the residents of Oakland.

VIII. APPENDICES & REFERENCES

APPENDIX A – ENDORSEMENT LETTERS

APPENDIX B – CITY ID CARD & IMMIGRATION LITERATURE

APPENDIX C – LOCAL CURRENCY LITERATURE