

RESOLUTION NO. RES-19-0179

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT FOR THE MARCH 3, 2020 SPECIAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF AN AMENDED ORDINANCE TO INCREASE THE RATE OF THE CITY'S GENERAL PURPOSE TRANSIENT OCCUPANCY (HOTEL) TAX FROM 6% TO 7%, AND MAKING FINDINGS OF FISCAL EMERGENCY PURSUANT TO CALIFORNIA PROPOSITION 218

WHEREAS, the City of Long Beach ("City") is authorized to levy a transient occupancy tax (TOT) for general purposes, pursuant to California Revenue and Taxation Code sections 7280 and 7281, subject to approval by a majority vote of the electorate pursuant to Article XIII C, Section 2 of the California Constitution ("Proposition 218"); and

WHEREAS, pursuant to section 3.64.035 of Chapter 3.64 of Title 3 of the Long Beach Municipal Code, the City currently imposes a general purpose TOT at the rate of six percent (6%) upon guests of hotels and other transient accommodations within the City; the revenues from which are deposited in the City's General Purpose Fund and may be used for general City services; and

WHEREAS, the general purpose TOT was separately adopted and is in addition to the City's special purpose TOT (LBMC section 3.64.030), which is also imposed at the rate of six percent (6%), for the City's "Special Advertising and Promotion (SAP) Fund" which is dedicated to support the advertising and promotion of the City; and

WHEREAS, pursuant to City Charter and California Elections Code §9222, the City Council has authority to place local measures on the ballot to be considered at a

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1 Municipal Election; and

2 WHEREAS, based upon the above, the City Council would like to submit to  
3 the voters a measure increasing the general purpose TOT rate found in LBMC Section  
4 3.64.035 from six percent (6%) to seven percent (7%); and

5 WHEREAS, the City Council intends to adopt an Ordinance amending  
6 section 3.64.035 of the City's Municipal Code, thereby amending the general purpose  
7 TOT as described above, subject to voter approval; and

8 WHEREAS, this proposed Ordinance/measure does not amend LBMC  
9 Section 3.64.030 and is not intended to increase or alter the rate of the special purpose  
10 TOT, which shall remain at six percent (6%); and

11 WHEREAS, this proposed Ordinance/measure is a general tax, the revenue  
12 of which will be placed in the City's general fund and will be used to pay for important  
13 general City services; and

14 WHEREAS, on November 6, 1996, the voters of the State of California  
15 approved Proposition 218, an amendment to the State Constitution which requires that all  
16 general taxes which are imposed, extended or increased must be submitted to the  
17 electorate and approved by a majority vote of the qualified electors voting in the election;  
18 and

19 WHEREAS, pursuant to Proposition 218 (California Constitution Article  
20 XIIIIC, §2(b)), an election for the approval of a new or increased general tax must  
21 generally be consolidated with a regularly scheduled general election for members of the  
22 governing body of the local government; and

23 WHEREAS, Proposition 218 permits the City Council to call a special  
24 election for the voters to consider imposing, increasing or extending a general tax if the  
25 City Council finds, by a unanimous vote, that there exists an emergency requiring a  
26 special election to be conducted earlier than the next regularly scheduled general  
27 election at which City Council members are to be elected; and

28 WHEREAS, the next regularly scheduled general election at which City

1 Council members are to be elected is not until November 3, 2020; and

2 WHEREAS, for the following reasons, the health, safety and general  
3 welfare of the citizens of the City would be endangered if the City were unable to place  
4 this Measure before its voters prior to November 3, 2020; and

5 WHEREAS, because operating costs continue to outpace City revenues,  
6 the City projects operating budget shortfalls starting in Fiscal Year 2020-2021; and

7 WHEREAS, these operating budget shortfalls may require reductions in  
8 public safety personnel, as well as street, facilities and infrastructure improvements; and

9 WHEREAS, as more specifically described by the City Manager to the  
10 Mayor and City Council on November 12, 2019, it is estimated that the City has a backlog  
11 of infrastructure improvements totaling \$2.3 billion, including pavement, alley, sidewalk  
12 and facilities investments, requiring a long-term funding source to fulfill these  
13 requirements; and

14 WHEREAS, the Long Beach Convention and Entertainment Center  
15 (Center) is an integral part of the City's economy and employment; and

16 WHEREAS, the City estimates that the Center requires at least  
17 \$50,000,000 in capital improvements to maintain an acceptable level of service to the  
18 community; and

19 WHEREAS, absent additional revenues, current operating budget shortfalls  
20 will leave insufficient City funds to address capital improvements at the Center; and

21 WHEREAS, arts programs are important to the community, serving both  
22 youth and adults; and

23 WHEREAS, absent an additional revenue source, there are no identified  
24 sources of funding to continue these programs; and

25 WHEREAS, these funding issues can be addressed by proposing a TOT  
26 measure to Long Beach voters increasing the general purpose tax rate paid by persons  
27 renting rooms for fewer than thirty (30) days; and

28 WHEREAS, the City of Long Beach approves its annual budgets in

1 September of each year; and

2 WHEREAS, in order to properly develop and decide on a budget for Fiscal  
3 Year 2020-2021, the City must know in advance whether or not Long Beach voters  
4 support a general purpose TOT rate increase. A March, 2020 special election will  
5 provide sufficient time for the City to incorporate the voters' decision into its budgeting  
6 calculations; and

7 WHEREAS, if the City were to wait until the November, 2020 General  
8 Municipal Election to place this question before Long Beach voters, the City would have  
9 to develop and approve a Fiscal year 2020-2021 budget without knowing the voters'  
10 wishes in this regard, compromising the City's ability to budget with full knowledge of all  
11 of its available revenue sources going forward; and

12 WHEREAS, the circumstances described above create an emergency  
13 situation warranting the placement of the Measure on a special election ballot to permit  
14 the voters to decide on the Measure pursuant to Proposition 218; and

15 WHEREAS, the ordinance to be considered by the qualified voters and the  
16 terms of approval, and collection and use of the general TOT are described and provided  
17 for in the ballot measure attached hereto as Exhibit "A" (the "Measure") and by this  
18 reference made an operative part hereof, in accordance with all applicable laws;

19 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
20 follows:

21 Section 1. Incorporation of Recitals. The foregoing recitals are true and  
22 correct and are hereby incorporated and made an operative part of this Resolution.

23 Section 2. Declaration of Emergency/Calling of Election. Pursuant to  
24 California Constitution, Article XIII C, Section 2(b), the City Council, by a unanimous vote,  
25 hereby declares the existence of an emergency in that there are imminent financial risks  
26 and dangers, as described above, to the public welfare and the City's financial ability to  
27 provide municipal services at current levels and without disruption, so that a special  
28 election is necessary to address such risks and dangers. As such, the City Council, by a

1 unanimous vote, hereby calls and orders to be held in the City of Long Beach on  
2 Tuesday, March 3, 2020, a Special Municipal Election for the purpose of submitting the  
3 Measure attached hereto as Exhibit "A" and incorporated herein by this reference to the  
4 qualified electors of the City.

5 Section 3. The City Council, pursuant to City Charter and California  
6 Elections Code §9222, hereby orders that the following question be submitted to the  
7 qualified electors of the City of Long Beach at the special election to be held on March 3,  
8 2020:

"To provide funding for student arts education programs, community arts, music, cultural programs and organizations, local museums and theaters, and the Long Beach Convention and Entertainment Center, and maintain other general fund programs shall a measure be adopted increasing Long Beach's general transient occupancy (hotel bed) tax rate from 6% to 7%, paid for by hotel/motel guests, generating approximately \$2.8 million dollars annually, until ended by voters, requiring audits and local control of funds?"	YES
	NO

14 Section 4. Conduct of Election. The City Clerk is authorized, instructed,  
15 and directed to procure and furnish any and all official ballots, printed matter and all  
16 supplies, equipment and paraphernalia that may be necessary in order to properly and  
17 lawfully conduct the election. In all particulars not recited in this Resolution, the election  
18 shall be held and conducted as provided by law for holding municipal elections.

19 Section 5. Pursuant to California Elections Code Section 9280, the City  
20 Council hereby directs the City Clerk to transmit a copy of the Measure attached hereto  
21 as Exhibit "A" to the City Attorney. The City Attorney shall prepare an impartial analysis  
22 of the Measure, not to exceed 500 words in length, showing the effect of the Measure on  
23 the existing law and the operation of the Measure, and transmit such impartial analysis to  
24 the City Clerk not later than the deadline for submittal of primary arguments for or against  
25 the Measure.

26 The impartial analysis shall include a statement indicating whether the  
27 Measure was placed on the ballot by a petition signed by the requisite number of voters  
28

1 or by the City Council. In the event the entire text of the Measure is not printed on the  
2 ballot, nor in the voter information portion of the sample ballot, there shall be printed  
3 immediately below the impartial analysis, in no less than 10-font bold type, the following:

4 "The above statement is an impartial analysis of Ordinance or Measure \_\_\_\_\_. If you  
5 desire a copy of the ordinance or measure, please call the Office of the City Clerk at  
6 [insert phone number] and a copy will be mailed at no cost to you."

7 Section 6. Notice of the election is hereby given and the City Clerk is  
8 authorized, instructed and directed to give further or additional notice of the election, in  
9 time, form and manner as required by law.

10 Section 7. Placement on the Ballot. The full text of the Measure shall not  
11 be printed in the voter information guide, and a statement shall be printed in the ballot  
12 pursuant to Elections Code §9223 advising voters that they may obtain a copy of this  
13 Resolution and the Measure, at no cost, upon request made to the City Clerk.

14 Section 8. Filing with County. The City Clerk shall, not later than the  
15 88th day prior to the Special Municipal Election to be held on Tuesday, March 3, 2020,  
16 file with the Board of Supervisors and the County Clerk – Registrar of Voters of the  
17 County of Los Angeles, State of California, a certified copy of this Resolution.

18 Section 9. Public Examination. Pursuant to California Elections Code  
19 §9295, this Measure will be available for public examination for no fewer than ten (10)  
20 calendar days prior to being submitted for printing in the voter information guide. The  
21 City Clerk shall post notice in the Clerk's office of the specific dates that the examination  
22 period will run.

23 Section 10. The City Treasurer is hereby authorized and directed to  
24 appropriate the necessary funds to pay for the City's cost of placing the Measure on the  
25 election ballot.

26 Section 11. The City Council finds that this Resolution is not subject to the  
27 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the  
28 activity will not result in a direct or reasonably foreseeable indirect physical change in the

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1 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378)  
2 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it  
3 has no potential for resulting in physical change to the environment, directly or indirectly.

4 Section 12. Severability. The provisions of this Resolution are severable  
5 and if any provision of this Resolution is held invalid, that provision shall be severed from  
6 the Resolution and the remainder of this Resolution shall continue in full force and effect,  
7 and not be affected by such invalidity.

8 Section 13. This resolution shall take effect immediately upon its adoption  
9 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

10 I hereby certify that the foregoing resolution was adopted by the City  
11 Council of the City of Long Beach at its meeting of November 19, 2019 by the following  
12 vote:

13  
14 Ayes: Councilmembers: Pearce, Price, Supernaw, Mungo,  
15 Andrews, Uranga, Austin, Richardson.

16  
17  
18 Noes: Councilmembers: None.

19  
20 Absent: Councilmembers: None.


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City Clerk

EXHIBIT "A"

(Transient Occupancy Tax Ordinance/Measure)

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ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LONG BEACH, CALIFORNIA, AMENDING SECTION 3.64.035 OF TITLE 3 OF THE LONG BEACH MUNICIPAL CODE INCREASING THE RATE OF THE CITY'S GENERAL PURPOSE TRANSIENT OCCUPANCY (HOTEL) TAX BY ONE PERCENT (1%) FROM SIX PERCENT (6%) TO SEVEN PERCENT (7%).

THE PEOPLE OF THE CITY OF LONG BEACH DO ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to California Revenue and Taxation Code sections 7280 and 7281, subject to the approval of a majority of the voters of the City of Long Beach at the Special Municipal Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 3.64.035 of Title 3 of the Long Beach Municipal Code is hereby amended to read as follows:

"CHAPTER 3.64 - TRANSIENT OCCUPANCY TAX

"3.64.035 General Purpose Tax imposed.

In addition to the tax imposed by Section 3.64.030, every transient shall pay a tax of seven percent (7%) of the rent for his or her occupancy of a guestroom, and the tax shall be collected and accounted for separately from the tax imposed by Section 3.64.030 by the operator from such transient at the time and in the manner provided in this Chapter. All the

1 revenues collected from the tax imposed by this Section shall  
2 be deposited in the City's general purpose fund."

3  
4 SECTION 2. The transient occupancy tax set forth herein shall be collected  
5 and administered in the manner set forth in Chapter 3.64 of the Long Beach Municipal  
6 Code.

7  
8 SECTION 3. Pursuant to Article XIII B of the California Constitution, the  
9 appropriation limit for the City of Long Beach will be increased by the maximum projected  
10 aggregate collection authorized by the levy of this general tax, as indicated in Section 1,  
11 in each of the years covered by this Ordinance plus the amount, if any, by which the  
12 appropriation limit is decreased by law as a result of the levy of the general tax set forth  
13 in this Ordinance.

14  
15 SECTION 4. If any portion of this Ordinance is declared invalid by a court  
16 of law or other legal body with applicable authority, the invalidity shall not affect or  
17 prohibit the force and effect of any other provision or application of the Ordinance that is  
18 not deemed invalid. The voters of the City hereby declare that they would have  
19 circulated for qualification and/or voted for the adoption of this Section, and each portion  
20 thereof, regardless of the fact that any portion of the initiative may be subsequently  
21 deemed invalid.

22  
23 SECTION 5. Pursuant to California Constitution Article XIII C §(2)(b) and  
24 California Elections Code §9217, this Ordinance shall take effect only if approved by a  
25 majority of the eligible voters of the City of Long Beach voting at the Special Municipal  
26 Election to be held on March 3, 2020, and shall become effective as of July 1, 2020.

27  
28 SECTION 6. The Mayor is hereby authorized to attest to the adoption of

1 this Ordinance by the People voting thereon on March 3, 2020, by signing where  
2 indicated below.

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I hereby certify that the Long Beach Transient Occupancy Tax Ordinance was PASSED, APPROVED, AND ADOPTED by the People of the City of Long Beach on the 3rd day of March, 2020.

Dated: \_\_\_\_\_

\_\_\_\_\_  
ROBERT GARCIA, MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MONIQUE DE LA GARZA  
City Clerk

\_\_\_\_\_  
CHARLES PARKIN  
City Attorney

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