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ORD-21

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December 10, 2013

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 16.59, relating to Worker Retention at the Long Beach Airport and the Long Beach Convention Center, read the first time and laid over to the next regular meeting of the City Council for final reading.
(Citywide)

DISCUSSION:

Pursuant to your request on November 5, 2013, this ordinance has been prepared and is submitted for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

LINDA T. VU
Deputy City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 16.59
RELATING TO WORKER RETENTION AT THE LONG
BEACH AIRPORT AND THE LONG BEACH CONVENTION
CENTER

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 16.59 is hereby added to the Long Beach Municipal
Code to read as follows:

Chapter 16.59
WORKER RETENTION AT THE AIRPORT AND THE LONG BEACH CONVENTION
CENTER

16.59.010 Findings and purpose.

A. The City Council finds that the prospect of massive
displacement of the large existing workforces at food and beverage
concessions at the Long Beach Airport and Long Beach Convention Center
would likely cause severe injury to the City's economy and impose
significant burdens upon society such as welfare and public health
expenses and security risks at such facilities. The City Council finds this
policy is the only realistic means of preventing such displacement.

B. The City Council finds that the regulation of worker retention
at food and beverage concessions should proceed initially only at the
Airport and Convention Center due to factors unique to the businesses at

1 such facilities, including their superior location and ability to pay thanks to
2 large City investments and City policies limiting access to such facilities for
3 competitors, the competency of their existing workforces (including their
4 security clearances and demonstrated record in preserving Airport security),
5 the greater likelihood of mass displacement at these workplaces compared
6 to most others within the City (especially given the large number of persons
7 capable of taking these jobs), and the negative impact on City revenues
8 should new employers refuse to rehire existing workers and thereby spur
9 boycott activities by displaced workers and their organizations.

10 C. The City Council wishes to fully assess economic and social
11 impacts of regulating these businesses initially before including any other
12 businesses, and thus to proceed in a fully-informed incremental manner.

13 D. The purpose of establishing worker retention requirements at
14 the Airport and Convention Center is to decrease worker turnover and
15 instability in the workplace. The consequential benefits of such measures
16 are the improvement of the quality of service to the City, the traveling
17 public, and other users of the Airport and Convention Center.

18 E. This Chapter is not intended to conflict with federal or State
19 law. It is the intention of the City Council that this Chapter be interpreted to
20 be compatible with federal and State enactments and in furtherance of the
21 public purposes which those enactments encompass.

22
23 16.59.020 Definitions.

24 A. "City" means the City of Long Beach.

25 B. "City Council" means the City Council of the City of Long
26 Beach.

27 C. "Concession Contract" means any contract from the City
28 covering Concession Operations at the Long Beach Airport or the Long

1 Beach Convention Center.

2 D. "Concession Operations" means the general business
3 operations of food and beverage concessions at the Long Beach Airport
4 and the Long Beach Convention Center, but do not include the provision by
5 an airline of food or beverage to passengers while on board an airplane.

6 E. "Concessionaire" means all food and beverage concessions
7 contractors together with all tenants, lessees, subtenants, sublessees,
8 subcontractors, successors and assigns of such contractors that provide
9 such concession services at the Long Beach Airport or the Long Beach
10 Convention Center.

11 F. "Predecessor Employer" means the Concessionaire at the
12 Long Beach Airport or Long Beach Convention Center that employed
13 Retention Workers to provide substantially similar services for a
14 Concession Operation immediately prior to the Successor Employer.

15 G. "Retention Workers" means all full-time and part-time
16 employees in a Concession Operation, except supervisors and managers.

17 H. "Successor Employer" means the new Concessionaire at the
18 Long Beach Airport or Long Beach Convention Center business that
19 succeeds the Predecessor Employer in the provision of substantially similar
20 Concession Operations.

21
22 16.59.030 Worker retention.

23 A. A Successor Employer shall fill its Concession Operations
24 positions at the Long Beach Airport and the Long Beach Convention Center
25 by first hiring from the workforce which has been or is being displaced by
26 the departure or reduction in force of a Predecessor Employer at such
27 location, and shall retain and not discharge a Retention Worker without
28 cause during the initial ninety (90) day period of his or her employment.

1 Just cause for discharge shall not include the reason being a Retention
2 Worker receiving superior wages or benefits in their prior positions.

3 B. In the event that the Successor Employer does not have
4 enough positions available for all Retention Workers, the Successor
5 Employer shall hire the Retention Workers who are eligible for retention by
6 seniority within each employment classification. For any positions that
7 become available during the initial ninety (90) day period of the new
8 Concession Contract, the Successor Employer will hire Retention Workers
9 by seniority within each employment classification.

10 C. A Successor Employer shall offer continued employment to
11 each Retention Worker who receives a satisfactory performance evaluation
12 at the end of the initial ninety (90) day period of employment under terms
13 and conditions established by the Successor Employer for all its
14 employees.

15
16 16.59.040 Posting and recordkeeping requirement.

17 A. Each Concessionaire shall cause the Worker Retention
18 requirements under this Chapter to be posted at its place of business in the
19 Airport or Long Beach Convention Center, so as to be conspicuous to the
20 general public, to patrons entering or using such facilities, and to the
21 Retention Workers employed at such facilities.

22 B. Each Successor Employer shall maintain records for three (3)
23 years showing the reasons for not hiring or for discharging Retention
24 Workers during the initial ninety (90) day period. The City Manager and
25 each Retention Worker and their designees are authorized to review these
26 records upon reasonable request to ascertain compliance with this Chapter.

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1 16.59.050 Waiver.

2 The provisions of this Chapter may not be waived by agreement
3 between an individual Retention Worker and Predecessor or Successor
4 Employer. All of the provisions of this Chapter, or any part hereof, may be
5 waived in a bona fide collective bargaining agreement, but only if the waiver
6 is explicitly set forth in such agreement in clear and unambiguous terms.
7 Unilateral implementation of terms and conditions of employment by either
8 party to a collective bargaining relationship shall not constitute, or be
9 permitted, as a waiver of all or any part of the provisions of this Chapter.

10
11 16.59.060 Retaliation.

12 No person shall discharge, reduce any part of the compensation of,
13 nor discriminate against any Retention Worker due to the enactment of this
14 Chapter or due to his or her assertion of any rights under this Chapter.

15
16 16.59.070 Enforcement.

17 A. The City Manager or his/her designee is invested with the
18 discretionary authority to issue additional rules and regulations interpreting
19 this Chapter and/or establishing complaint procedures related to
20 enforcement of this Chapter. Notwithstanding the foregoing, the City shall
21 be under no duty to monitor compliance with this Chapter; however, the City
22 may consider compliance with this Chapter in making contracting decisions.

23 B. Any violation of this Chapter may be subject to injunctive relief
24 and any other relief or remedy available at law or equity.

25
26 16.59.080 Severability.

27 If any provision of this Chapter, or the application thereof to any
28 person or circumstance, is held invalid, that invalidity shall not affect any

1 other provision or application of this Chapter that can be given effect without
2 the invalid provision or application; and to this end, the provisions or
3 applications of this Chapter are severable.
4

5 Section 2. The City Clerk shall certify to the passage of this ordinance by
6 the City Council and cause it to be posted in three (3) conspicuous places in the City of
7 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
8 Mayor.

9 I hereby certify that the foregoing ordinance was adopted by the City
10 Council of the City of Long Beach at its meeting of _____, 20__,
11 by the following vote:

12
13 Ayes: Councilmembers: _____
14 _____
15 _____
16 _____

17 Noes: Councilmembers: _____
18 _____

19 Absent: Councilmembers: _____
20 _____

21
22
23 _____
City Clerk

24
25
26 Approved: _____
27 (Date)

28 _____
Mayor

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