



OFFICE OF THE CITY ATTORNEY

411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802
(562) 570-2200
Facsimile: (562) 436-1579

R-15

DAWN MCINTOSH
City Attorney

GARY J. ANDERSON
Assistant City Attorney

October 24, 2023

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution requesting the Registrar-Recorder/County Clerk to call, provide, and give notice of a Primary Municipal Election to be consolidated with the Statewide General Election to be held in the City of Long Beach (City) on March 5, 2024, and include the proposed Ordinance to a vote of the qualified electors of the City relating to an increase of the minimum wage of hotel workers in the City of Long Beach, clarifying the payment of "wages" and "service charges" to qualifying hotel workers in the City, authorizing the City future amendments to said Ordinance, authorizing the City Council to make future amendments to the City's hotel worker minimum compensation standards; requesting the County of Los Angeles to consolidate said election with the Statewide Primary Election of even date; and setting rules and deadlines for arguments for and against the Ordinance. (Citywide)

DISCUSSION

Pursuant to your request on September 19, 2023, this Ordinance has been prepared and is submitted for your consideration.

On September 19, 2023, City Council received and filed a report on a proposed Long Beach Minimum Wage for Hotel Workers and requested the City Attorney to prepare a ballot measure for consideration of the voters at the March 2024 municipal election to authorize a market pay adjustment that ensures fair and competitive wages for hotel workers. This Ordinance does the following:

- Increases the minimum wage for hotel workers in a phased approach, as outlined in "Option C" of the staff report presented to the City Council on September 19, 2023, included as Attachment "1"; and
- Clarifies and strengthens the "service charge" provisions of the current ordinance to help close loopholes and ensure that service charge revenues go directly to the hotel workers performing services for customers from whom the service charges are collected; and

- Allows the City Council to enact future changes to the hotel worker ordinance by a two-thirds ($\frac{2}{3}$) vote of the members of the City Council. If this Ordinance is adopted, the City Council may not consider an increase to the minimum wage of hotel workers until on or after July 1, 2029. After that time, the City Council may increase the hourly wages of hotel workers five (5) years from the date of the last amendment by the City Council to increase such wages and after consideration of a labor market analysis.

A redline of changes made to Long Beach Municipal Code Section 5.48.020 is enclosed as Attachment "2", and a copy of the Ordinance is enclosed as Attachment "3" for your reference.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

DAWN MCINTOSH, City Attorney



By

ATOY H. WILSON
Deputy City Attorney

ATTACHMENT 1

Long Beach Minimum Wage for Hotel Workers

Prevailing Wage Option Details

	Initial	Annual	2023	2024	2025	2026	2027	2028
Option A	42.45%	μ 4.66%	\$17.55	\$25.00	\$27.00	\$27.00	\$28.00	\$30.00
Option B	11.32%	11.32%	\$17.55	\$19.54	\$21.75	\$24.21	\$26.95	\$30.00
Option C	31.05%	μ 6.45%	\$17.55	\$23.00	\$25.00	\$26.50	\$28.00	\$29.50

ATTACHMENT 2

REDLINE

5.48.020 Payment of minimum compensation and sick days to hotel workers.

A. ~~(a)~~ Except as otherwise provided in this Section, ~~E~~each hotel employer shall pay hotel workers a minimum hourly wage of not less than the following hourly rates:

1. On July 1, 2024, twenty-three dollars (\$23.00) per hour.
2. On July 1, 2025, twenty-five dollars (\$25.00) per hour.
3. On July 1, 2026, twenty-six dollars and fifty cents (\$26.50) per hour.
4. On July 1, 2027, twenty-eight dollars (\$28.00) per hour.
5. On July 1, 2028, twenty-nine dollars and fifty cents (\$29.50) per hour.

~~A.B.~~ ~~the amount of increases in the federal minimum wage over the amount in effect on December 31, 2011, or, if greater, by the cumulative increase in the cost of living. The cost of living increase shall be measured by the percentage increase as of December 31 in any year over the level as of December 31, 2011 of the Consumer Price Index (All Urban Consumers, Los Angeles Riverside Orange County) as published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. If in any calendar year there is no increase in the federal minimum wage and the increase in the Consumer Price Index is less than two percent (2%), then the rate shall be adjusted by an increase of two percent (2%). The Mayor or the city agency designated by the Mayor~~ City Manager, or their designee, shall publish a bulletin by April 1 of each year announcing the adjusted rates, which shall take effect the following July 1. Such bulletin will be made available to all hotel employers and to any other person who has filed with the ~~Mayor or the designated agency~~ City Manager, or their designee, a request to receive such notice but lack of notice shall not excuse noncompliance with this ~~Sub~~Section. ~~A~~ hotel employer shall provide written notification of the rate adjustments ~~in this Section A.~~ to each of its hotel workers and make the necessary payroll adjustments by July 1 following the publication of the bulletin. ~~More so,~~ Other forms of compensation, such as, service charges, c~~ommissions, bonuses, tips or gratuities,~~ ommissions, bonuses, tips or gratuities, received by hotel workers ~~and service charges or commissions~~ shall not be credited as being any part of or offset against the wage rates required by ~~this this~~ this Section.

~~B.C.~~ ~~(b)~~ — Service charges shall not be retained by a hotel employers but shall be paid in the entirety by the hotel employer to the hotel worker(s) performing services for the customers from whom the service charges are collected. Service charges, or any part thereof, shall not be ~~No part of these amounts may be~~ paid to supervisory or managerial employees. ~~The amounts shall be paid to the hotel worker(s) equitably and according to the services that are or appear to be related to the description of the amounts given by the hotel employer to the customers. The amounts~~ Service charges shall be paid to the hotel worker(s) in the next payroll following collection of ~~an amount a~~ service charge from the customer. Without limitation of the foregoing:

1. ~~(1) Amounts~~ Service charges collected for banquets or catered meetings shall be paid equally to the hotel worker(s) who actually work the banquet or catered meeting; and
2. ~~(2) Amounts~~ Service charges collected for room service shall be paid to the hotel worker(s) who actually deliver food and beverage associated with the charge; and
3. ~~(3) Amounts~~ Service charges collected for portage service shall be paid to the hotel worker(s) who actually carry the baggage associated with the charge.

This Subsection does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for a hotel worker by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer.

~~C.D. (c)~~ — A hotel employer shall pay every hotel worker sick pay out of the employer's general assets as follows:

1. ~~(1)~~ At least five (5) compensated days off per calendar year for sick leave at the hotel worker's request. The hotel worker need not present certification of illness to claim compensated time off, provided that such hotel worker has accrued the requested days of compensated time at the time of the request. A hotel worker shall be paid his or her normal daily compensation for each compensated day off;
2. ~~(2)~~ A hotel worker shall accrue five-twelfths (5/12) of a day of compensated time for each full month in a calendar year that the hotel worker has been employed by the hotel employer. A hotel worker is entitled to use any accrued days of compensated time as soon as those days have accrued;
3. ~~(3)~~ If any hotel worker has not utilized all of his or her accrued compensated time by the end of any calendar year, the hotel employer shall pay that hotel worker a lump sum payment at the end of the calendar year equivalent to the compensation due for any unused compensated time.

~~D.E. (d)~~ — The provisions of this Section may not be waived by agreement between an individual hotel worker and a hotel employer. All of the provisions of this Section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this Section. A hotel employer shall not discharge, reduce the compensation of or otherwise discriminate against any hotel worker for using any civil remedies to enforce this Section or otherwise asserting his or her rights under this Section.

~~E.F. (e)~~ A hotel worker claiming violation of this Section may bring an individual or class action against his or her employer in Superior Court to enforce the provisions of this Section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this Section, including but not limited to lost compensation, damages, reinstatement or injunctive relief. A hotel worker who prevails in any action to enforce this Section shall be awarded his or her reasonable attorney's fees and costs.

~~F.G. (f)~~ If any provision of this Section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining provisions or portions of the provisions of this Section.

~~G.H.~~ This Section may be amended from time to time by ordinance adopted by a two-thirds (2/3) vote of the members of the City Council upon a finding by the City Council that such amendment is consistent with and in furtherance of the purposes of this Section to ensure hotel workers receive fair compensation and benefits, such as, wages, service charges, and sick pay, for the work they perform. However, no action shall be taken by the City Council to increase the wages of hotel workers in this Section until on or after June 1, 2029. Thereafter, the City Council may amend this Section to increase the hourly wages of hotel workers five (5) years from the date of the last amendment by the City Council to increase such wages and after consideration of a labor market analysis.

~~H.I. (g)~~ Definitions. The words set forth in this Subsection shall have the following meaning when used in this Section::

1. "Compensation" includes any wages, tips, bonuses, service charges, and other payments reported as taxable income paid by the hotel employer to the hotel worker.
2. "Hotel" means a residential building that is designated or used for lodging and other related services for the public and containing one hundred (100) or more guest rooms, or suites of rooms. "Hotel" also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building's purpose, or providing services at the building.
3. "Hotel employer" means a person who owns, controls, and/or operates a hotel in the City of Long Beach, or a person who owns, controls, and/or operates any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel's purpose, or a person, other than a hotel worker, who provides services at the hotel.
4. "Hotel worker" means any individual (1) whose primary place of employment is at one or more hotels and (2) who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at the hotel.
5. "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.
6. "Service charge" means all separately-designated amounts, regardless of name or label, charged and collected by an employer from customers, that is for service by employees, or is described in such a way that customers might reasonably believe that the amount is for those services or is otherwise to be paid or payable directly to employees or is used to pay for labor or worker protections, including those charges designated on receipts, invoices, or billing statements under the term "service

charge,” “table charge,” “portage charge,” “automatic gratuity charge,” “healthcare surcharge,” “benefits surcharge,” “hotel worker protection fee,” “housekeeping fee,” or similar language. Service charge does not include a tip or gratuity as defined under state or federal law, or taxes and fees levied by federal, state or local government. that are added to the base charge for food or beverages, banquets, portage or parking services and collected by a hotel employer from customers, except taxes and fees levied by federal, state or local government.

6-7. “Wage” means all amounts for labor performed by hotel workers of hotel employers, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation, as defined by California Labor Code Section 200(a).

ATTACHMENT 3

PROPOSED ORDINANCE

5.48.020 Payment of minimum compensation and sick days to hotel workers.

- A. Except as otherwise provided in this Section, each hotel employer shall pay hotel workers a minimum hourly wage of not less than the following hourly rates:
1. On July 1, 2024, twenty-three dollars (\$23.00) per hour.
 2. On July 1, 2025, twenty-five dollars (\$25.00) per hour.
 3. On July 1, 2026, twenty-six dollars and fifty cents (\$26.50) per hour.
 4. On July 1, 2027, twenty-eight dollars (\$28.00) per hour.
 5. On July 1, 2028, twenty-nine dollars and fifty cents (\$29.50) per hour.
- B. The City Manager, or their designee, shall publish a bulletin by April 1 of each year announcing the adjusted rates, which shall take effect the following July 1. Such bulletin will be made available to all hotel employers and to any other person who has filed with the City Manager, or their designee, a request to receive such notice but lack of notice shall not excuse noncompliance with this Subsection. A hotel employer shall provide written notification of the rate adjustments this Section to each of its hotel workers and make the necessary payroll adjustments by July 1 following the publication of the bulletin. Other forms of compensation, such as, service charges, commissions, bonuses, tips or gratuities, received by hotel workers shall not be credited as being any part of or offset against the wage rates required by this Section.
- C. Service charges shall not be retained by a hotel employer but shall be paid in the entirety by the hotel employer to the hotel worker(s) performing services for the customers from whom the service charges are collected. Service charges, or any part thereof, shall not be paid to supervisory or managerial employees. Service charges shall be paid to the hotel worker(s) in the next payroll following collection of a service charge from the customer. Without limitation of the foregoing:
1. Service charges collected for banquets or catered meetings shall be paid equally to the hotel worker(s) who actually work the banquet or catered meeting; and
 2. Service charges collected for room service shall be paid to the hotel worker(s) who actually deliver food and beverage associated with the charge; and
 3. Service charges collected for portage service shall be paid to the hotel worker(s) who actually carry the baggage associated with the charge.

This Subsection does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for a hotel worker by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer.

- D. A hotel employer shall pay every hotel worker sick pay out of the employer's general assets as follows:

1. At least five (5) compensated days off per calendar year for sick leave at the hotel worker's request. The hotel worker need not present certification of illness to claim compensated time off, provided that such hotel worker has accrued the requested days of compensated time at the time of the request. A hotel worker shall be paid his or her normal daily compensation for each compensated day off;
 2. A hotel worker shall accrue five-twelfths (5/12) of a day of compensated time for each full month in a calendar year that the hotel worker has been employed by the hotel employer. A hotel worker is entitled to use any accrued days of compensated time as soon as those days have accrued;
 3. If any hotel worker has not utilized all of his or her accrued compensated time by the end of any calendar year, the hotel employer shall pay that hotel worker a lump sum payment at the end of the calendar year equivalent to the compensation due for any unused compensated time.
- E. The provisions of this Section may not be waived by agreement between an individual hotel worker and a hotel employer. All of the provisions of this Section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this Section. A hotel employer shall not discharge, reduce the compensation of or otherwise discriminate against any hotel worker for using any civil remedies to enforce this Section or otherwise asserting his or her rights under this Section.
- F. A hotel worker claiming violation of this Section may bring an individual or class action against his or her employer in Superior Court to enforce the provisions of this Section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this Section, including but not limited to lost compensation, damages, reinstatement or injunctive relief. A hotel worker who prevails in any action to enforce this Section shall be awarded his or her reasonable attorney's fees and costs.
- G. If any provision of this Section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining provisions or portions of the provisions of this Section.
- H. This Section may be amended from time to time by ordinance adopted by a two-thirds ($\frac{2}{3}$) vote of the members of the City Council upon a finding by the City Council that such amendment is consistent with and in furtherance of the purposes of this Section to ensure hotel workers receive fair compensation and benefits, such as, wages, service charges, and sick pay, for the work they perform. However, no action shall be taken by the City Council to increase the wages of hotel workers in this Section until on or after June 1, 2029. Thereafter, the City Council may amend this Section to increase the hourly wages of hotel workers five

(5) years from the date of the last amendment by the City Council to increase such wages and after consideration of a labor market analysis.

- I. Definitions. The words set forth in this Subsection shall have the following meaning when used in this Section:
 1. "Compensation" includes any wages, tips, bonuses, service charges, and other payments reported as taxable income paid by the hotel employer to the hotel worker.
 2. "Hotel" means a residential building that is designated or used for lodging and other related services for the public and containing one hundred (100) or more guest rooms, or suites of rooms. "Hotel" also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building's purpose, or providing services at the building.
 3. "Hotel employer" means a person who owns, controls, and/or operates a hotel in the City of Long Beach, or a person who owns, controls, and/or operates any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel's purpose, or a person, other than a hotel worker, who provides services at the hotel.
 4. "Hotel worker" means any individual (1) whose primary place of employment is at one or more hotels and (2) who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at the hotel.
 5. "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.
 6. "Service charge" means all separately-designated amounts, regardless of name or label, charged and collected by an employer from customers, that is for service by employees, or is described in such a way that customers might reasonably believe that the amount is for those services or is otherwise to be paid or payable directly to employees or is used to pay for labor or worker protections, including those charges designated on receipts, invoices, or billing statements under the term "service charge," "table charge," "portage charge," "automatic gratuity charge," "healthcare surcharge," "benefits surcharge," "hotel worker protection fee," "housekeeping fee," or similar language. Service charge does not include a tip or gratuity as defined under state or federal law, or taxes and fees levied by federal, state or local government.
 7. "Wage" means all amounts for labor performed by hotel workers of hotel employers, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation, as defined by California Labor Code Section 200(a).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH, CALIFORNIA SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF LONG BEACH ON THE MARCH 5, 2024 MUNICIPAL PRIMARY ELECTION BALLOT A MEASURE AMENDING THE CITY’S MUNICIPAL CODE TO INCREASE THE MINIMUM WAGE FOR QUALIFYING HOTEL WORKERS IN THE CITY OF LONG BEACH, CLARIFYING THE PAYMENT OF “WAGES” AND “SERVICE CHARGES” TO QUALIFYING HOTEL WORKERS IN THE CITY OF LONG BEACH AND AUTHORIZING THE CITY COUNCIL TO MAKE FUTURE AMENDMENTS TO THE CITY’S HOTEL WORKER MINIMUM COMPENSATION STANDARDS; REQUESTING THE COUNTY OF LOS ANGELES TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE PRIMARY ELECTION OF EVEN DATE; AND SETTING RULES AND DEADLINES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST THE MEASURE

WHEREAS, Section 5.48.020 was added to the Long Beach Municipal Code with the passage of Measure N by Long Beach voters at the November 6, 2012 Election; and

WHEREAS, in 2012, Section 5.48.020 established a minimum wage of \$13.00 per hour for qualifying hotel workers in the City, said amount being subject to annual Federal minimum wage or cost of living increases, but not less than a two percent increase annually; requires payment of hotel service charges to qualifying hotel workers providing the services charged; and requires the payment of at least five days of sick leave per year

1 to qualifying hotel workers; and

2 WHEREAS, due to annual Federal minimum wage or cost of living increases
3 since Measure N’s enactment, as of July 1, 2023, the minimum wage for qualifying hotel
4 workers in the City is \$17.55 per hour; and

5 WHEREAS, because Measure N is a voter-approved measure, pursuant to
6 California Elections Code section 9217, an amendment to Measure N must also be
7 approved by a majority of Long Beach voters; and

8 WHEREAS, the City Council desires to place a measure on the March 5,
9 2024 Municipal Primary Election ballot that would increase the minimum wage for
10 qualifying hotel workers from \$17.55 per hour to \$23.00 per hour on July 1, 2024, gradually
11 increasing annually to \$29.50 per hour on July 1, 2028, clarifying the payment of “wages”
12 and “service charges” to qualifying hotel workers and authorizing the City Council to make
13 future amendments to the City’s hotel worker minimum wage standards, starting June 1,
14 2029 and subject to certain conditions ; and

15 WHEREAS, pursuant to Long Beach City Charter section 2001 and California
16 Elections Code section 9222, the City Council is authorized to submit this measure to the
17 voters at the March 5, 2024 Municipal Primary Election; and

18 WHEREAS, the specific terms of the measure are provided for in the
19 ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” (the
20 “Ordinance” or “Measure”) and by this reference made an operative part hereof, and in
21 accordance with all applicable laws; and

22 WHEREAS, it is desirable that the Municipal Primary Election be
23 consolidated with the Statewide Primary Election to be held on the same date, that within
24 the City the precincts, polling places, voting centers and election officers of the two
25 elections be the same, that the Los Angeles County election department canvass the
26 returns of the Municipal Primary Election, and that the election be held in all respects as if
27 there were only one election; and

28 WHEREAS, it is also desirable to establish deadlines and rules for the

1 submission of written arguments and rebuttals for and against the Measure in accordance
2 with applicable California Elections Code and Long Beach Municipal Code procedures;

3 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
4 follows:

5 Section 1. **Recitals.** The City Council hereby finds and determines that
6 the foregoing recitals are true and correct, and are incorporated herein and by this
7 reference are made an operative part hereof.

8 Section 2. **Submission of Ballot Measure.** The City Council of the City,
9 pursuant to its right and authority as contained in Long Beach City Charter section 2001
10 and California Elections Code section 9222, hereby orders the Measure attached hereto
11 as Exhibit "A" to be submitted to the qualified voters of the City at a Municipal Primary
12 Election to be held on Tuesday, March 5, 2024. The proposed Measure shall be in the
13 form attached hereto as Exhibit "A" to this Resolution and is incorporated by this reference
14 as if fully set forth herein.

15 Section 3. **Ballot Question.** The City Council, pursuant to its right and
16 authority, does hereby order that the ballot question for the Measure shall be presented
17 and printed upon the ballot submitted to the qualified voters in the manner and form set
18 forth in this Section 3. On the ballot to be submitted to the qualified voters at the Municipal
19 Primary Election to be held on Tuesday, March 5, 2024, in addition to any other matters
20 required by law, there shall be printed substantially the following ballot question:

21

<p>22 "LONG BEACH HOTEL WORKER MINIMUM WAGE INCREASE MEASURE. 23 Shall the measure increasing the minimum wage for qualifying 24 hotel workers from \$17.55 per hour to \$23.00 per hour on July 1, 25 2024, gradually increasing annually to \$29.50 per hour on July 1, 26 2028, clarifying the payment of "wages" and "service charges" to 27 qualifying hotel workers and authorizing the City Council to make future amendments to the City's hotel worker minimum compensation standards, starting June 1, 2029, be adopted?"</p>	YES
	NO

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 4. **Election Procedures.**

A. The vote requirement for the Ordinance to pass is a simple majority (50% + 1) of votes cast.

B. The ballots to be used at the election shall be in the form and content as required by law.

C. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a Municipal Primary Election with the Statewide Primary Election on Tuesday, March 5, 2024, for the purpose of submitting to the voters the questions relating to the City's Measure.

D. The election services which the City of Long Beach requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots; the establishment or appointment of precincts, polling places, voting centers and election officers; the preparation, printing, mailing and furnishing of vote-by-mail ballots; making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths, and other necessary supplies or materials for polling places or voting centers; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of Long Beach; and the performance of such other election services as may be requested by the City Clerk.

E. The City Clerk is authorized, instructed and directed to procure and furnish, or cause to be procured and furnished through the County of Los Angeles, any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and

1 lawfully conduct the election.

2 F. The polls, voting centers and/or vote-by-mail drop-off boxes
3 shall be open and the procedures for submitting votes-by-mail or votes at
4 polls and vote centers shall be in accordance with those times and
5 procedures established by the County of Los Angeles, except as otherwise
6 provided in the Elections Code of the State of California.

7 G. In all particulars not recited in this Resolution, the election shall
8 be held and conducted as provided by law for holding municipal elections in
9 the City.

10 H. Notice of the time and place of holding the election is given and
11 the City Clerk is authorized, instructed and directed to give further or
12 additional notice of the election, in time, form, and manner as required by
13 law.

14 I. All ballots shall be tallied at a central counting place and not at
15 the precincts. Said central counting place shall be at a County center as
16 designated by the Registrar of Voters.

17 J. The Los Angeles County Registrar of Voters is hereby
18 authorized to canvass the returns of said election.

19 J. The City Clerk of the City of Long Beach shall receive the canvass
20 from the County as it pertains to the election on the Measures, and shall certify the results
21 to the City Council, as required by law

22 Section 5. **Arguments and Impartial Analysis.**

23 A. The City Council authorizes (i) the City Council or any
24 member(s) of the City Council, (ii) the proponents of the above Measure, (iii)
25 any individual voter eligible to vote on the above Measure, (iv) a bona fide
26 association of such citizens or (v) any combination of voters and
27 associations, to file a written argument in favor of or against the Measure, in
28 accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the

1 State of California, which arguments may be changed until and including
2 **Friday, December 8, 2023**, after which no arguments for or against the
3 Measure may be submitted to the City Clerk. Arguments in favor of or against
4 the Measure shall each not exceed 300 words in length. Each argument shall
5 be filed with the City Clerk, signed, and include the printed name(s) and
6 signature(s) of the author(s) submitting it, or if submitted on behalf of an
7 organization, the name of the organization, and the printed name and
8 signature of at least one of its principal officers who is the author of the
9 argument.

10 B. Pursuant to Long Beach Municipal Code Section 1.24.020, the
11 Mayor, with the approval of the City Council, may designate a person, or
12 association of persons, to write arguments either for or against or both for
13 and against the adoption of any measure or proposition placed on the ballot.

14 C. The City Clerk shall comply with all provisions of law
15 establishing priority of arguments for printing and distribution to the voters,
16 and shall take all necessary actions to cause the selected arguments to be
17 printed and distributed to the voters.

18 D. Pursuant to Section 9280 of the Elections Code, the City
19 Council directs the City Clerk to transmit a copy of the Measure to the City
20 Attorney. The City Attorney shall prepare an impartial analysis of the
21 Measure, not to exceed 500 words in length, showing the effect of the
22 Measure on the existing law and the operation of the Measure. The City
23 Attorney shall transmit such impartial analysis to the City Clerk, who shall
24 cause the analysis to be published in the voter information guide along with
25 the Measure as provided by law. The Impartial Analysis shall be filed by the
26 deadline set for filing of primary arguments as set forth in Subsection 5(A)
27 above. The impartial analysis shall include a statement indicating whether
28 the Measure was placed on the ballot by a petition signed by the requisite

1 number of voters or by the City Council. In the event the entire text of the
2 Measure is not printed on the ballot, nor in the voter information portion of
3 the sample ballot, there shall be printed immediately below the impartial
4 analysis, in no less than 10-font bold type, the following: **“The above**
5 **statement is an impartial analysis of Ordinance or Measure _____. If you**
6 **desire a copy of the Ordinance or Measure, please call the election**
7 **official’s office at (562) 570-6101 and a copy will be mailed at no cost to**
8 **you.”**

9 E. The provisions of this Section 5 shall apply only to the election
10 to be held on March 5, 2024, and shall then be repealed.

11 Section 6. **Rebuttals.**

12 A. Pursuant to Section 9285 of the Elections Code of the State of
13 California, when the Clerk has selected the arguments for and against the
14 various City initiated measures which will be printed and distributed to the
15 voters, the Clerk shall send copies of the argument in favor of the measures
16 to the authors of the argument against, and copies of the argument against
17 to the authors of the argument in favor. The authors or persons designated
18 by them may prepare and submit rebuttal arguments not exceeding 250
19 words. The rebuttal arguments shall be filed with the City Clerk not later than
20 **Tuesday, December 18, 2023.** Rebuttal arguments shall be printed in the
21 same manner as the direct arguments. Each rebuttal argument shall
22 immediately follow the direct argument which it seeks to rebut.

23 B. The provisions of this Section 6 shall apply only to the election
24 to be held on March 5, 2024, and shall then be repealed.

25 Section 7. **Placement on the Ballot.** The full text of the Measure shall not
26 be printed in the voter information guide, and a statement shall be printed in the ballot
27 pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy
28 of the Measure at no cost, upon request made to the City Clerk.

1 Section 8. **Delivery of Resolution to County.** The City Clerk shall certify
2 to the passage and adoption of this Resolution and enter it into the book of original
3 resolutions. The City Council directs the City Clerk to deliver copies of this Resolution,
4 including the Measure attached hereto as Exhibit “A”, to the Clerk of the Board of
5 Supervisors of Los Angeles County and to the Registrar of Voters of Los Angeles County.

6 Section 9. **Public Examination.** Pursuant to California Elections Code
7 section 9295, the Measure will be available for public examination for no fewer than ten
8 (10) calendar days prior to being submitted for printing in the voter information guide. The
9 Clerk shall post notice in the Clerk’s office of the specific dates that the examination period
10 will run.

11 Section 10. **CEQA.** The City Council hereby finds and determines that the
12 ballot measure relates to organizational or administrative activities of governments that will
13 not result in direct or indirect physical changes in the environment, and therefore is not a
14 project within the meaning of the California Environmental Quality Act (“CEQA”) and the
15 State CEQA Guidelines, section 15378(b)(5).

16 Section 11. **Severability.** If any provision of this Resolution or the
17 application thereof to any person or circumstance is held invalid, such invalidity shall not
18 affect other provisions or applications of the Resolution which can be given effect without
19 the invalid provision or application, and to this end the provisions of this Resolution are
20 severable. The City Council hereby declares that it would have adopted this Resolution
21 irrespective of the invalidity of any particular portion thereof.

22 Section 12. **Effective Date of Resolution.** This resolution shall take
23 effect immediately upon its adoption by the City Council, and the City Clerk shall certify
24 the vote adopting this resolution.

25 ///
26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT "A"
ORDINANCE NO. ORD-23-

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LONG BEACH, CALIFORNIA, AMENDING SECTION 5.48.020 OF TITLE 5 (REGULATION OF BUSINESSES, TRADES AND PROFESSIONS) OF THE LONG BEACH MUNICIPAL CODE TO INCREASE THE MINIMUM WAGE FOR QUALIFYING HOTEL WORKERS IN THE CITY OF LONG BEACH FROM \$17.55 PER HOUR TO \$23.00 PER HOUR ON JULY 1, 2024, GRADUALLY INCREASING ANNUALLY TO \$29.50 PER HOUR ON JULY 1, 2028; CLARIFYING THE PAYMENT OF "WAGES" AND "SERVICE CHARGES" TO QUALIFYING HOTEL WORKERS AND AUTHORIZING THE CITY COUNCIL TO MAKE FUTURE AMENDMENTS TO THE CITY'S HOTEL WORKER MINIMUM COMPENSATION STANDARDS, STARTING JUNE 1, 2029 AND SUBJECT TO CERTAIN CONDITIONS

[NOTE: Deletions are identified in strikethrough and additions are identified in bold underline]

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

Section 1. AMENDMENT TO MUNICIPAL CODE. Subject to the approval of a majority of the voters of the City of Long Beach at the Municipal Primary Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 5.48.020 of Title 5 of the Long Beach Municipal Code is hereby

1 amended to read as follows:

2
3 TITLE 5

4 REGULATION OF BUSINESSES, TRADES, AND PROFESSIONS

5
6 CHAPTER 5.48

7 HOTELS AND MOTELS

8 5.48.020 Payment of minimum compensation and sick days to hotel workers.

9 **A. Except as otherwise provided in this Section, Each** hotel employer shall pay
10 hotel workers a **minimum hourly** wage of not less than the **following** hourly rates;
11 set forth in this Section. ~~The rate upon enactment shall be thirteen dollars (\$13.00)~~
12 ~~per hour worked.~~

13 **(1) On July 1, 2024, twenty-three dollars (\$23.00) per hour.**

14 **(2) On July 1, 2025, twenty-five dollars (\$25.00) per hour.**

15 **(3) On July 1, 2026, twenty-six dollars and fifty cents (\$26.50) per hour.**

16 **(4) On July 1, 2027, twenty-eight dollars (\$28.00) per hour.**

17 **(5) On July 1, 2028, twenty-nine dollars and fifty cents (\$29.50) per hour.**

18 ~~This rate shall be adjusted by the amount of increases in the federal minimum wage~~
19 ~~over the amount in effect on December 31, 2011, or, if greater, by the cumulative~~
20 ~~increase in the cost of living. The cost of living increase shall be measured by the~~
21 ~~percentage increase as of December 31 in any year over the level as of December~~
22 ~~31, 2011 of the Consumer Price Index (All Urban Consumers, Los Angeles-~~
23 ~~Riverside-Orange County) as published by the Bureau of Labor Statistics, U.S.~~
24 ~~Department of Labor or the successor index or federal agency. If in any calendar~~
25 ~~year there is no increase in the federal minimum wage and the increase in the~~
26 ~~Consumer Price Index is less than two percent (2%), then the rate shall be adjusted~~
27 ~~by an increase of two percent (2%). **The Mayor or the city agency designated by the**~~
28 ~~**Mayor shall publish a bulletin by April 1 of each year announcing the adjusted rates,**~~
~~which shall take effect the following July 1. Such bulletin will be made available to~~
~~all hotel employers and to any other person who has filed with the Mayor or the~~
~~designated agency a request to receive such notice but lack of notice shall not~~
~~excuse noncompliance with this Section.~~

29 **B. ~~The Mayor or the city agency designated by the Mayor~~ The City Manager, or their**
30 **designee,** shall publish a bulletin by April 1 of each year announcing the adjusted
31 rates, which shall take effect the following July 1. Such bulletin will be made
32 available to all hotel employers and to any other person who has filed with **the City**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

~~Manager, or their designee, with the Mayor or the designated agency a request to receive such notice~~ **a request to receive such notice but lack of notice shall not excuse noncompliance with this Subsection.** An hotel employer shall provide written notification of the rate adjustments **required by this Section** to each of its hotel workers and make the necessary payroll adjustments by July 1 following the publication of the bulletin. **Other forms of compensation, such as service charges, commissions, bonuses,** Tips or gratuities, received by hotel workers and ~~service charges or commissions~~ shall not be credited as being any part of or offset against the wage rates required by this Section.

BC. Service charges shall not be retained by an hotel employer but shall be paid in the entirety by the hotel employer to the hotel worker(s) performing services for the customers from whom the service charges are collected. ~~No part of these amounts may~~ **Service charges, or any part thereof, shall not** be paid to supervisory or managerial employees. ~~The amounts shall be paid to the hotel worker(s) equitably and according to the services that are or appear to be related to the description of the amounts given by the hotel employer to the customers. The amounts~~ **Service charges** shall be paid to the hotel worker(s) in the next payroll following collection of ~~an amount~~ **a service charge** from the customer. Without limitation of the foregoing:

- (1) ~~Service charges Amounts~~ collected for banquets or catered meetings shall be paid equally to the hotel worker(s) who actually work the banquet or catered meeting; and
- (2) ~~Service charges Amounts~~ collected for room service shall be paid to the hotel worker(s) who actually deliver food and beverage associated with the charge; and
- (3) ~~Service charges Amounts~~ collected for portage service shall be paid to the hotel worker(s) who actually carry the baggage associated with the ~~service charge~~ **charge.**

This Subsection does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been paid or given to or left for an hotel worker by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer.

GD. An hotel employer shall pay every hotel worker sick pay out of the employer's general assets as follows:

- (1) At least five (5) compensated days off per calendar year for sick leave at the hotel worker's request. The hotel worker need not present certification of illness to claim compensated time off, provided that such hotel worker has accrued the requested days of compensated time at the time of the request. An hotel worker shall be paid his or her normal daily compensation for each compensated day off;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (2) An hotel worker shall accrue five-twelfths (5/12) of a day of compensated time for each full month in a calendar year that the hotel worker has been employed by the hotel employer. An hotel worker is entitled to use any accrued days of compensated time as soon as those days have accrued;
- (3) If any hotel worker has not utilized all of his or her accrued compensated time by the end of any calendar year, the hotel employer shall pay that hotel worker a lump sum payment at the end of the calendar year equivalent to the compensation due for any unused compensated time.

DE. The provisions of this Section may not be waived by agreement between an individual hotel worker and an hotel employer. All of the provisions of this Section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this Section. An hotel employer shall not discharge, reduce the compensation of or otherwise discriminate against any hotel worker for using any civil remedies to enforce this Section or otherwise asserting his or her rights under this Section.

EF. An hotel worker claiming violation of this Section may bring an individual or class action against his or her employer in Superior Court to enforce the provisions of this Section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this Section, including but not limited to lost compensation, damages, reinstatement or injunctive relief. An hotel worker who prevails in any action to enforce this Section shall be awarded his or her reasonable attorney's fees and costs.

EG. If any provision of this Section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining provisions or portions of the provisions of this Section.

H. This Section may be amended from time to time by ordinance adopted by a two-thirds (2/3) vote of the members of the City Council upon a finding by the City Council that such amendment is consistent with and in furtherance of the purposes of this Section to ensure hotel workers receive fair compensation and benefits, such as, wages, service charges, and sick pay, for the work they perform. However, no action shall be taken by the City Council to increase the wages of hotel workers in this Section until on or after June 1, 2029. Thereafter, the City Council may amend this Section to increase the hourly wages of hotel workers five (5) years from the date of the last amendment by the City Council to increase such wages and after consideration of a labor market analysis.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Gl. **Definitions. The words set forth in this Subsection shall have the following meaning when used in this Section:**

- 1.** "Compensation" includes any wages, tips, bonuses, **service charges**, and other payments reported as taxable income paid by the hotel employer to the hotel worker.
- 2.** "Hotel" means a residential building that is designated or used for lodging and other related services for the public, and containing one hundred (100) or more guest rooms, or suites of rooms. "Hotel" also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building's purpose, or providing services at the building.
- 3.** "Hotel employer" means a person who owns, controls, and/or operates a hotel in the City of Long Beach, or a person who owns, controls, and/or operates any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel's purpose, or a person, other than a hotel worker, who provides services at the hotel.
- 4.** "Hotel worker" means any individual (1) whose primary place of employment is at one or more hotels and (2) who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at the hotel.
- 5.** "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.
- 6.** "Service charge" means all separately-designated amounts, regardless of name or label, **charged and collected by an employer from customers, that is for service by employees, or is described in such a way that customers might reasonably believe that the amount is for those services or is otherwise to be paid or payable directly to employees or is used to pay for labor or worker protections, including those charges designated on receipts, invoices, or billing statements under the term "service charge," "table charge," "portage charge," "automatic gratuity charge," "healthcare surcharge," "benefits surcharge," "hotel worker protection fee," "housekeeping fee," or similar language. "Service charge" does not include a tip or gratuity as defined under state or federal law, or taxes and fees levied by federal, state or local government.** ~~that are added to the base charge for food or beverages, banquets, portage or parking services and collected by a hotel employer from customers, except taxes and fees levied by federal, state or local government.~~
- 7.** **"Wage" means all amounts for labor performed by hotel workers of hotel employers, whether the amount is fixed or ascertained by the**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

standard of time, task, piece, commission basis, or other method of calculation, as defined by California Labor Code Section 200(a).

Section 2. EFFECTIVE DATE. Pursuant to California Elections Code Section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Long Beach voting at the Municipal Primary Election of March 5, 2024. It shall be deemed adopted when the City Council has certified the results of that election by resolution and shall take effect ten (10) days thereafter.

Section 3. ATTESTATION OF ORDINANCE. The City Clerk is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on March 5, 2024, by signing where indicated below.

PASSED, APPROVED AND ADOPTED by the People of the City of Long Beach this 5th day of March, 2024.

REX RICHARDSON
Mayor of the City of Long Beach

ATTEST:

MONIQUE DE LA GARZA
City Clerk

APPROVED AS TO FORM:

DAWN MCINTOSH
City Attorney