



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

ORD-21

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January 21, 2014

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 16.60, relating to the payment of living wage to workers 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 December 17, 2013, this ordinance has been prepared and is submitted for your consideration.

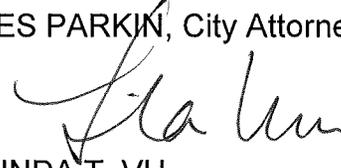
SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

  
LINDA T. VU  
Deputy City Attorney

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CHARLES PARKIN, 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 16.60  
RELATING TO THE PAYMENT OF LIVING WAGE TO  
WORKERS 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 16.60 is hereby added to the Long Beach Municipal  
Code to read as follows:

Chapter 16.60  
PAYMENT OF LIVING WAGE TO WORKERS AT THE AIRPORT AND THE  
LONG BEACH CONVENTION CENTER

16.60.010 Purpose.

The purpose of this Chapter is to protect the public health, safety and  
welfare by requiring that public funds be expended in such a manner as to  
facilitate individual self-reliance by employees of food and beverage  
concessionaires at the Long Beach Airport and the Long Beach Convention  
Center.

16.60.020 Definitions.

- A. "City" means the City of Long Beach.
- B. "Compensation" includes any wages, tips, bonuses, and other  
payments reported as taxable income paid by a Concessionaire to a  
Concession Worker.

1 C. "Concession Contract" means any contract from the City  
2 covering Concession Operations at the Long Beach Airport and the Long  
3 Beach Convention Center.

4 D. "Concession Contract Amendment" means only an  
5 amendment that is required to be separately approved by the City Council  
6 and that:

7 1. extends the term of an existing contract for a period of  
8 more than one (1) year (the aggregate limit or maximum total of time that a  
9 contract may be extended without being deemed a "Concession Contract  
10 Amendment" is not to exceed one (1) year); or

11 2. approves a reduction in any concession payments to  
12 the City for the then existing tenant/operator.

13 E. "Concession Operations" means the general business  
14 operations of food and beverage concessions at the Long Beach Airport  
15 and the Long Beach Convention Center, but do not include the provision by  
16 an airline of food or beverage to passengers while on board an airplane.

17 F. "Concession Workers" means all full-time and part-time  
18 employees in a Concession Operation.

19 G. "Concessionaire" means all food and beverage concessions  
20 contractors together with all tenants, lessees, subtenants, sublessees,  
21 subcontractors, successors and assigns of such contractors that provide  
22 such concession services at the Long Beach Airport or the Long Beach  
23 Convention Center.

24 H. "Service charge" means all separately-designated amounts,  
25 regardless of name or label, that are added to the base charge for food or  
26 beverages, and collected by a Concessionaire from customers, except  
27 taxes and fees levied by federal, state or local government.

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1 16.60.030 Concessionaires subject to the requirements of this Chapter.

2 Concessionaires at the Long Beach Airport and the Long Beach  
3 Convention Center that enter into any new Concession Contract or  
4 Concession Contract Amendment with the City shall comply with the  
5 minimum compensation standards established by this Chapter.

6 16.60.040 Payment of minimum compensation.

7 A. Each Concessionaire subject to this Chapter pursuant to  
8 Section 16.60.030 shall pay Concession Workers a wage of not less than  
9 the hourly rates set forth in this Section. The rate upon enactment shall be  
10 thirteen dollars and twenty-six cents (\$13.26) per hour worked. This rate  
11 shall be adjusted by the amount of increases in the federal minimum wage  
12 over the amount in effect on December 31, 2013, or, if greater, by the  
13 cumulative increase in the cost of living. The cost of living increase shall be  
14 measured by the percentage increase as of December 31 in any year over  
15 the level as of December 31, 2013 of the Consumer Price Index (All Urban  
16 Consumers, Los Angeles-Riverside-Orange County) as published by the  
17 Bureau of Labor Statistics, U.S. Department of Labor or the successor  
18 index or federal agency. If in any calendar year there is no increase in the  
19 federal minimum wage and the increase in the Consumer Price Index is  
20 less than two percent (2%), then the rate shall be adjusted by an increase  
21 of two percent (2%). The Mayor or the City agency designated by the Mayor  
22 shall publish a bulletin by April 1 of each year announcing the adjusted  
23 rates, which shall take effect the following July 1. Such bulletin will be made  
24 available to all Concessionaires and to any other person who has filed with  
25 the Mayor or the designated agency a request to receive such notice but  
26 lack of notice shall not excuse noncompliance with this Section. A  
27 Concessionaire shall provide written notification of the rate adjustments to  
28 each of its Concession Workers and make the necessary payroll

1 adjustments by July 1 following the publication of the bulletin. Tips or  
2 gratuities received by Concession Workers and service charges or  
3 commissions shall not be credited as being any part of or offset against the  
4 wage rates required by this Section.

5 B. Service charges shall not be retained by a Concessionaire but  
6 shall be paid in the entirety by the Concessionaire to the Concession  
7 Worker(s) performing services for the customers from whom the service  
8 charges are collected. No part of these amounts may be paid to  
9 supervisory or managerial employees. The amounts shall be paid to the  
10 Concession Worker(s) equitably and according to the services that are or  
11 appear to be related to the description of the amounts given by the  
12 Concessionaire to the customers. The amounts shall be paid to the  
13 Concession Worker(s) in the next payroll following collection of an amount  
14 from the customer. The foregoing provisions do not apply to any tip,  
15 gratuity, money, or part of any tip, gratuity, or money that has been paid or  
16 given to or left for a Concession Worker by customers over and above the  
17 actual amount due for services rendered or for food or beverage sold or  
18 served to the customer.

19 16.60.050 Required contract provisions.

20 Every contract with a Concessionaire subject to this Chapter  
21 pursuant to Section 16.60.030 shall contain provisions requiring it to comply  
22 with the provisions of this Chapter as they exist on the date when the  
23 Concessionaire entered the contract with the City or when such contract is  
24 amended.

25 16.60.060 Posting requirements.

26 Each Concessionaire shall cause the living wage requirement under  
27 this Chapter to be posted at its place of business in the Airport or Long  
28 Beach Convention Center, so as to be conspicuous to the general public, to

1 patrons entering or using such facilities, and to the Concession Workers  
2 employed at such facilities.

3 16.60.070 Waiver.

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

12 16.60.080 Retaliation.

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

16 16.60.090 Enforcement.

17 A Concession Worker claiming violation of this Chapter may bring an  
18 individual or class action against his or her employer in Superior Court to  
19 enforce the provisions of this Chapter and shall be entitled to all remedies  
20 available under the law or in equity appropriate to remedy any violation of  
21 this Chapter, including but not limited to lost compensation, damages,  
22 reinstatement or injunctive relief. A Concession Worker who prevails in any  
23 action to enforce this Chapter shall be awarded his or her reasonable  
24 attorney's fees and litigation expenses. Nothing herein shall be construed  
25 to preclude the City or others from obtaining the usual remedies for  
26 violations of contract, ordinance or anti-retaliation laws. Notwithstanding the  
27 foregoing, the City shall be under no duty to monitor compliance with this  
28 Chapter; however, the City may consider compliance with this Chapter in

1 making contracting decisions.

2 16.60.100 Severability.

3 If any provision of this Chapter, or the application thereof to any  
4 person or circumstance, is held invalid, that invalidity shall not affect any  
5 other provision or application of this Chapter that can be given effect without  
6 the invalid provision or application; and to this end, the provisions or  
7 applications of this Chapter are severable.

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

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2014, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

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\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor