

**CITY COUNCIL OF MONTEREY PARK
THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY OF THE FORMER
REDEVELOPMENT AGENCY, THE HOUSING AUTHORITY, THE MONTEREY PARK FINANCING
AUTHORITY AND THE MONTEREY PARK GEOLOGIC HAZARD ABATEMENT DISTRICT
AGENDA**

**SPECIAL CITY COUNCIL MEETING
MONTEREY PARK CITY HALL COUNCIL CHAMBERS
320 W. NEWMARK AVENUE, MONTEREY PARK, CA 91754**

**Monday
August 1, 2022
6:30 p.m.**

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.

GENERAL INFORMATION

Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at <http://www.montereypark.ca.gov/AgendaCenter/City-Council-17>.

The public may watch the meeting live on the city's cable channel MPKTV (AT&T U-verse, channel 99 or Charter Communications, channel 182) or by visiting the city's website at <http://www.montereypark.ca.gov/133/City-Council-Meeting-Videos>.

PUBLIC PARTICIPATION

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Mayor and City Council may change the amount of time allowed for speakers. Written Communication will be accepted up to 24 hours before the meeting via email to mpclerk@montereypark.ca.gov.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER	Mayor
FLAG SALUTE	The Monterey Park Fire Explorers
ROLL CALL	Peter Chan, Hans Liang, Henry Lo, Yvonne Yiu

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS:

While all comments are welcome, the Brown Act does not allow the City Council to take action on any item not on the agenda. The Council may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the City Council's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

STAFF COMMUNICATIONS: None.

[1.] PRESENTATION – NONE.

[2.] OLD BUSINESS

2-A. IMPACT REPORT REGARDING HEALTHCARE WORKER COMPENSATION INITIATIVE PETITION (THE “INITIATIVE PETITION”)

It is recommended that the City Council consider:

- (1) Receiving and filing this report;
- (2) Taking one of the remaining two options available to the City Council as presented during the July 6, 2022 City Council meeting, i.e., placing the Initiative Petition onto the ballot or adopting it as an ordinance; or
- (3) Taking such additional, related, action that may be desirable.

[3.] CONSENT CALENDAR ITEM NOS. 3A-3G

3-A. MINUTES

It is recommended that the City Council consider:

- (1) Approving the minutes from the regular meeting of June 15, 2022, and the special meeting of June 29, 2022;
- (2) Taking such additional, related, action that may be desirable.

3-B. CONSIDERATION AND POSSIBLE ACTION TO ADOPT A RESOLUTION TO RECORD A NOTICE OF NUISANCE ABATEMENT LIEN AGAINST CERTAIN PROPERTY IN THE CITY (APN 5254-002-031)

It is recommended that the City Council consider:

- (1) Adopt a resolution to record a Notice of Nuisance Abatement Lien; and/or
- (2) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

Adoption of this Resolution is exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines § 15061(b)(3) because it can be seen with certainty that there is no possibility that the action proposed by the proposed resolution would have a significant effect on the environment.

3-C. IDENTIFYING A TAX RATE FOR COLLECTING VOTER AUTHORIZED PROPERTY TAXES FOR EMPLOYEE RETIREMENT BENEFITS BASED ON THE ASSESSED VALUATION ESTABLISHED BY THE COUNTY ASSESSOR'S OFFICE

It is recommended that the City Council consider:

- (1) Adopting a Resolution identifying the amount of tax revenue required to fulfill the voters' intent in funding the City's retirement system; and
- (2) Taking such additional, related, action that may be desirable.

3-D. PROFESSIONAL SERVICES AMENDMENT WITH MV CHENG AND ASSOCIATES FOR GOVERNMENTAL ACCOUNTING CONSULTING SERVICES

It is recommended that the City Council consider:

- (1) Authorizing the City Manager to execute an amendment with MV Cheng and Associates in a form approved by the City Attorney; to provide governmental accounting services for an amount not to exceed \$150,000; and
- (2) Taking such additional, related, action that may be desirable.

3-E. SECOND AMENDMENT TO AGREEMENT 2260-A WITH THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS FOR PARTICIPATION IN ITS REGIONAL FOOD RECOVERY PROGRAM

It is recommended that the City Council consider:

- (1) Authorizing the City Manager to execute Amendment No. 2, in a form approved by the City Attorney, to Agreement 2260-A with the San Gabriel Valley Council of Governments, for participation in Tasks 7-9 of the Food Recovery Program; and
- (2) Taking such additional, related, action that may be desirable.

3-F. CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) STEP GRANT FISCAL YEAR 2022/2023

It is recommended that the City Council consider:

- (1) Adopt a Resolution authorizing the City Manager to apply for, accept, and execute any documents, in a form approved by the City Attorney, with the California Office of Traffic Safety in the amount of \$189,000 for the Selective Traffic Enforcement Program (STEP) Grant;
- (2) If adopted, the Resolution would also authorize an amendment to the City's FY 2022-23 Budget to allocate \$189,000 in grant funding; and
- (3) Taking such additional, related, action that may be desirable.

3-G. OFFICE OF TRAFFIC SAFETY (OTS) PEDESTRIAN AND BICYCLE SAFETY PROGRAM GRANT FISCAL YEAR 2022/2023

It is recommended that the City Council consider:

- (1) Adopting a Resolution authorizing the City Manager to apply for, accept, and execute documents, in a form approved by the City Attorney, with the California Office of Traffic Safety in the amount of \$25,000 for the Pedestrian and Bicycle Safety Program Grant;
- (2) If adopted, the Resolution would also amend the FY 2022-23 Budget to allocate \$25,000; and
- (3) Taking such additional, related, action that may be desirable.

[4.] PUBLIC HEARING – NONE.

[5.] NEW BUSINESS – NONE.

[6.] CITY COMMUNICATIONS (CITY COUNCIL)

[7.] FUTURE AGENDA ITEMS

[8.] CLOSED SESSION (IF REQUIRED; CITY ATTORNEY TO ANNOUNCE)

ADJOURN



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Old Business - 2A

TO: The Honorable Mayor and City Council
FROM: Inez Alvarez, Assistant City Manager
SUBJECT: Impact Report regarding Healthcare Worker Compensation Initiative Petition (the "Initiative Petition")

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing this report;
2. Taking one of the remaining two options available to the City Council as presented during the July 6, 2022 City Council meeting, i.e., placing the Initiative Petition onto the ballot (along with all of the associated actions) or adopting it as an ordinance;
or
3. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

On July 6, 2022, the City Council considered Agenda Item No. 5-A. After a staff presentation and public comment, the City Council asked that a report be presented to the City Council outlining the potential impacts to the City were the Initiative Petition to become law. This Report outlines the positions of the proponents and opponents of the Initiative Petition. Additionally, it provides the City Council information regarding the projected cost to the City were the petition to become law.

Contrary to the assertions of the proponents, were the Initiative Petition to become effective, the City will incur costs associated with the Initiative Petition. While somewhat speculative, the ongoing administration and enforcement costs would be approximately \$125,000 per year. This does not include any costs associated with defending against already threatened lawsuits by the opponents to the Initiative Petition. Nor does it include the approximately \$30,000 that must be paid to Los Angeles County to place the matter onto the ballot.

BACKGROUND:

As stated in the July 6, 2022 staff report, the Initiative Petition qualified for the November 2022 ballot. Accordingly, after receiving and filing this Report, the City Council must decide whether to adopt the Initiative Petition – without alteration – or place it onto the ballot.

Outreach to the Proponents and Opponents

To prepare this Report, staff contacted both the opponents and proponents of the Initiative Petition to try obtaining objective data regarding its impacts. The responses from both parties are included as attachments with this Report. As you will see, the opponents largely advocated that the Initiative Petition be placed onto the ballot – without providing any objective information that might help the City Council make a decision.

The proponents of the Initiative Petition – which is primarily supported by SEIU – offered some data with objective sources. As you may read, SEIU provided the following observation regarding how increased wages would affect private hospitals:

“At Garfield Medical Center, an estimated 229 UHW members would be impacted. Assuming all of these workers are full-time employees, the annual cost of bringing them up to a \$25.00/hour minimum would roughly be \$2,326,833. At Monterey Park Hospital, an estimated 73 UHW members would be impacted. Assuming all of these workers are full-time employees, the annual cost of bringing them up to a \$25.00/hour minimum would roughly be \$657,176.”

SEIU did not provide similar data regarding dialysis clinics that would also be affected by the Initiative Petition. Additionally, SEIU concluded – without citation – that the Initiative Petition “will not have a negative fiscal impact on the [C]ity.”

The opponents to the Initiative Petition (that responded to the City’s request) are Monterey Park Hospital and Garfield Medical Center. The responses provided by the opponents primarily encourage the City Council to place the Initiative Petition on the ballot. Monterey Park Hospital also provided this observation:

“new research from the Berkeley Research Group has found that 54% of Monterey Park health care workers who make under \$25/hour would be excluded.... The analysis also found that the proposed measure would increase salary expenses for covered facilities in Monterey Park by 9.3% - approximately \$8.6 million.”

Regrettably, the referenced study was not provided to the City. Moreover, no data were provided regarding how the proposed Initiative Petition would affect the City of Monterey Park.

The Initiative Petition will Cost the City

The Initiative Petition requires the City to enforce the minimum wage regulations. There are two options for the City to accomplish such enforcement: (1) using the City’s own resources, i.e., public officials and employees; or (2) contracting for such services via Los Angeles County’s Consumer and Business Affairs Department (“LA County”).

Because no information yet exists regarding Option No. 1, the City contacted LA County regarding Option No. 2. Based upon the documentation provided by LA County dated July 21, 2022, it is estimated that administering and enforcing the Initiative Petition will cost the City approximately \$125,000 annually. This is based, in part, upon LA County's contract with the City of Santa Monica for administration/enforcement of Santa Monica's minimum wage. It is LA County's position that the costs expended for administration/enforcement may be recovered via administrative fines imposed upon employers that violate the local minimum wage requirements. These assertions are not easily verified but may be at least partially correct. Staff speculates that enforcing the Initiative Petition with the City's own resources would likely be substantially similar or (potentially) even higher than that proposed by LA County. In any event, however, Monterey Park cannot accurately calculate the total amount that would be expended to implement the Initiative Petition. What is certain, however, is that the Initiative Petition will result in costs to the City of Monterey Park that are neither budgeted nor easily recoverable.

Notably, the opponents to the Initiative Petition have already threatened – on at least two separate occasions – litigation regarding this matter. By letter dated July 1, 2022, Mr. Thomas Hiltachk sent a letter to the City Attorney's office threatening litigation if the ballot question language were not amended; separately, Mr. Hiltachk sent an email to the City Attorney on July 20, 2022 implying that if the City Council adopted the Initiative Petition as an ordinance, opponents would sue the City (see attachments).

While the City would be neutral in any such litigation and allow the proponents to defend the action, it would still incur defense costs. Those costs also cannot be recovered either through the City's joint powers insurance authority (as of July 1, 2022, the City is a member of PRISM) or from a different source.

What about that Ballot Question?

The opponents to the Initiative Petition have consistently urged the City Council to change the ballot question by adding the word "certain":

"Shall an initiative requiring **certain** persons employing **certain** part-time and full-time healthcare workers ... be adopted?"

Elections Code § 13119 requires that the ballot question "be a true and impartial synopsis of the purpose of the proposed measure, and ... be in language that is neither argumentative nor likely to create prejudice for or against the measure." The draft Ballot Question presented on July 6, 2022 (and included in the draft resolution) is, verbatim, the title that was circulated by proponents on the Initiative Petition while they collected signatures. If the language were truly "false or misleading," as asserted by the opponents, litigation would certainly have been filed in February 2022 to try changing this language. That did not occur.

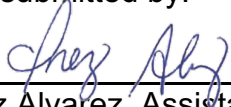
It is the City Attorney's observation that the language proposed by the Initiative Petition opponents does nothing to reduce alleged ambiguities within the Initiative Petition or further inform voters regarding the matter, i.e., the language as presented to the City Council on July 6, 2022 meets the statutory requirements as to being true, impartial, and neutral. The arguments asserted by the opponents are all properly part of their effort to inform voters regarding why they should vote against the Initiative Petition; it has nothing to do with the ballot question.

That said, adding the language requested by the opponents is within the 75-word limitation placed on ballot questions; does not significantly alter the language; and does not violate the Elections Code requirements as to neutrality, etc. Moreover, the proponents were informed about the requested language and have not registered any objections to adding it. Consequently, the City Council may add the language to the ballot question if it wishes.

FISCAL IMPACT:

If the Initiative Petition is adopted by voters or by the City Council as an ordinance, the City will incur administrative and enforcement costs to ensure compliance with the minimum wage requirements. The estimate for those costs is, at a minimum, approximately \$125,000 per year. In addition, if City Council decides to add the initiative to the ballot, it is estimated that the cost of placing this matter onto the November 8, 2022 ballot is approximately \$30,000.

Respectfully submitted by:



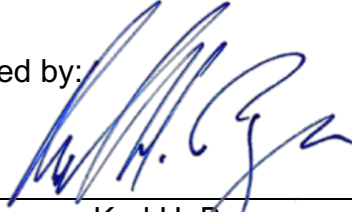
Inez Alvarez, Assistant City
Manager

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. Staff Report and attachments from the July 6, 2022, City Council meeting;
2. Various correspondence from the opponents and proponents of the Initiative Measure.
3. Correspondence from Los Angeles County's Consumer and Business Affairs
4. Litigation Correspondence

ATTACHMENT 1

July 6, 2022 – Staff Report



City Council Staff Report

DATE: July 6, 2022

AGENDA ITEM NO: New Business - 5A

TO: The Honorable Mayor and City Council
FROM: Vincent D. Chang, City Clerk
SUBJECT: Initiative Petition for Healthcare Worker Minimum Wage Ordinance

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting Resolution No. _____ which certifies the Petition as qualifying for the ballot based upon the City Clerk's certification;
2. Decide whether to adopt the Petition (verbatim), order an election or request a report in accordance with Elections Code § 9214;
3. If the City Council seeks to adopt the Petition, adopt Ordinance No. _____, adding a new Chapter 6.40 to the Monterey Park Municipal Code ("MPMC") commencing at Section 6.40.020 and entitled "Healthcare Worker Compensation";
4. If the City Council seeks to order an election, adopt Resolution No. _____ adding an initiative to the ballot for the previously called November 8, 2022 Regular Municipal Election;
5. Adopt Resolution No. _____ establishing regulations for ballot arguments;
6. If desirable, designate a councilmember to draft a ballot argument on the City's behalf;
7. If desirable, adopt Resolution No. _____ directing the City Attorney to prepare an impartial analysis; and
8. Taking such additional, related, action that may be desirable.

BACKGROUND

On February 11, 2022, the City Clerk received a Notice of Intent to Circulate a Petition and a Request for Title and Summary for the proposed initiative filed by proponent Hortencia Armendariz, a Monterey Park resident. Subsequently, the Notice was published in the Monterey Park Progress and the proponent began circulation of the petition.

The signed Petition was filed with the City Clerk on May 11, 2022. Upon receiving the Petition, the City Clerk (as the City's Elections Official¹) forwarded it to the County of Los Angeles Registrar of Voters for verification of the signatures. The Elections Code allows the City Clerk up to thirty days "excluding Saturdays, Sundays, and holidays" to examine the Petition for sufficiency.²

Attached as Attachment 1 to this Staff Report is the Los Angeles County Registrar-Recorder's report on the signature verification. Based on that report, there are sufficient signatures on the petition to qualify for a Special Election. Accordingly, attached as Attachment 2 is the City Clerk's "Certificate of Sufficiency of Initiative petition entitled the "INITIATIVE REQUIRING PERSONS EMPLOYING PART-TIME AND FULL-TIME HEALTHCARE WORKERS INCLUDING, WITHOUT LIMITATION, CLINICIANS, NURSES, CERTIFIED NURSING ASSISTANTS, AIDES, TECHNICIANS, MAINTENANCE WORKERS, JANITORIAL OR HOUSEKEEPING STAFF PERSONS, GROUNDSKEEPERS, GUARDS, FOOD SERVICE WORKERS, LAUNDRY WORKERS, PHARMACISTS, NONMANAGERIAL ADMINISTRATIVE WORKERS, AND BUSINESS CLERICAL WORKERS (BUT NOT MANAGERS OR SUPERVISORS) TO PAY A MINIMUM HOURLY WAGE OF \$25 TO BE INCREASED ON AN ANNUAL BASIS."

Upon being presented with the City Clerk's certification, the City Council may generally take one of three actions:³

1. Adopt the Petition, without alteration, at the regular meeting during which the City Clerk's certification is presented, or within 10 days of that regular meeting;
2. Place the matter on the ballot for a special or regular election at which the Petition, without alteration, would be submitted to a vote; or
3. Order a report to be prepared regarding the impacts of the Petition upon the City to be returned within a reasonable time, but not later than 30 days after the City Clerk's certification.⁴ Such a report can include information regarding the Petition's fiscal impact; limitations on city actions; whether it would result in increased infrastructure costs or savings to current residents and businesses; impact on the City's ability to attract and retain business and employment; and any other matter the City Council requests. When the report is presented to the City Council, the City Council must either adopt the ordinance within 10 days or order an election.⁵

¹ Elections Code § 320 (subsequent citations to an undesignated code are to the Elections Code).

² §§ 9115 and 9266.

³ § 9215.

⁴ § 9212.

⁵ § 9212.

Pursuant to Elections Code § 9215 the Council may place the Petition on a ballot for an election within 88 to 103 days from the date that the Council decides to set the matter for election. Practically, this means that the next available election date is November 8, 2022.

If the City Council wishes to authorize one of its members to draft an argument, it may do so by minute order. The Council does not have to make such a designation. Please note that public resources, including staff time, cannot be used in opposing or supporting any initiative or referendum once a petition qualifies for the ballot. Accordingly, the City Council may not designate a staff member to prepare ballot arguments.

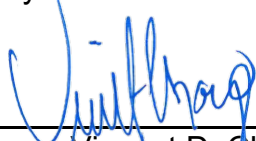
The Council may also, but is not required to, direct the City Attorney to prepare an impartial analysis of the proposed ordinance. The analysis must show both the effect of the measure on existing law and its operation. The analysis cannot exceed 500 words and must precede the arguments for and against the measure on the sample ballot.

Staff prepared the necessary Resolutions relating to the calling of the election, ordering the City Attorney to prepare an impartial analysis, and allowing for rebuttal arguments. Additionally, a Resolution was prepared which allows for the Council to designate Council Members to prepare arguments regarding the Petition.

FISCAL IMPACT

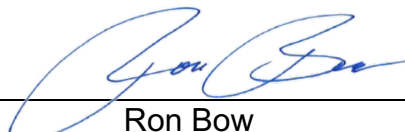
The cost of implementing the Petition – if adopted by the City Council or the voters – is unknown. It is estimated that the cost of placing this matter onto the November 8, 2022 ballot is \$30,000.

Respectfully submitted and prepared by:



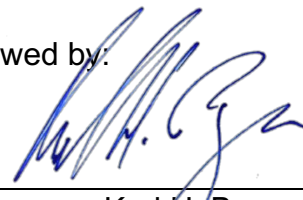
Vincent D. Chang
City Clerk

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENTS

1. Los Angeles County Registrar-Recorder's report on the signature verification
2. City Clerk's "Certificate of Sufficiency of Initiative petition entitled the "Healthcare Worker Minimum Wage Ordinance"
3. Draft Ordinance
4. Draft Resolutions

ATTACHMENT 1

Los Angeles County Registrar-Recorder's report on the signature verification



LOS ANGELES COUNTY REGISTRAR-RECORDER/COUNTY CLERK

DEAN C. LOGAN
Registrar-Recorder/County Clerk

June 10, 2022

Ms. Cindy H. Trang, City Clerk
City of Monterey Park
320 West Newmark Avenue
Monterey Park, California 91754

Dear Ms. Trang:

We have completed the signature verification submitted on May 12, 2022, for An Initiative Requiring Persons Employing Part-Time and Full-Time Healthcare Workers Including, Without Limitation, Clinicians, Nurses, Certified Nursing Assistants, Aides, Technicians, Maintenance Workers, Janitorial, or Housekeeping Staff Persons, Groundskeepers, Guards, Food Service Workers, Laundry Workers, Pharmacists, Nonmanagerial Administrative Workers, and Business Clerical Workers (But Not Managers or Supervisors) to Pay a Minimum Hourly Wage of \$25 to be Increased on an Annual Basis. Initiative Measure.

The results of the signature verification are as follows:

Number of signatures filed	4,216
Number of signatures verified	4,216
Number of signatures found sufficient	3,272
Number of signatures found not sufficient	944
Not sufficient because duplicate	166

Please call Tiffany Olsen, Head, Data Entry and Signature Verification at (562) 462-2376 if you have any questions regarding the signature verification of this petition.

Sincerely,

DEAN C. LOGAN
Registrar-Recorder/County Clerk

ATTACHMENT 2

City Clerk's "Certificate of Sufficiency of Initiative petition entitled the "Healthcare
Worker Minimum Wage Ordinance"

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896

www.montereypark.ca.gov



City Council

Peter Chan
Hans Liang
Henry Lo
Yvonne Yiu

City Clerk

Vincent D. Chang

City Treasurer

Joseph Leon

CERTIFICATE OF SUFFICIENCY OF PETITION

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify the following:

An initiative petition (the "Petition") was filed with me on February 11, 2022. The petition was forwarded to the Los Angeles County Registrar of Voters, where the petition signatures were fully examined and verified pursuant to Elections Code § 9114.

The number of registered voters in the City of Monterey Park, as reported to the Secretary of State on January 4, 2022 is 31,805. Pursuant to Elections Code § 9215, the Petition is considered sufficient if signed by at least 10% of the voters of the City, or 3,181.

The results of the examination by the Registrar of Voters were as follows:

- | | |
|---|-------|
| 1. Number of signatures filed by proponent (raw count): | 4,216 |
| 2. Number of signatures verified: | 4,216 |
| a. Number of signatures found sufficient: | 3,272 |
| b. Number of signatures found <u>not</u> sufficient: | 944 |
| Insufficient because of DUPLICATE | 166 |

The full signature verification performed by the Registrar of Voters shows the percentage of valid petition signatures is 10%. Since the Petition has sufficient signatures to qualify it for the ballot, and because it may otherwise substantially comply with the Elections Code, I certify the Petition to be sufficient.

I hereby set my hand and official seal this 13th day of June, 2022 at Monterey Park, California.

VINCENT D. CHANG
City Clerk

ATTACHMENT 3

Draft Ordinance

ORDINANCE NO.

AN ORDINANCE ADOPTING AN INITIATIVE ENTITLED “AN INITIATIVE REQUIRING PERSONS EMPLOYING PART-TIME AND FULL-TIME HEALTHCARE WORKERS INCLUDING, WITHOUT LIMITATION, CLINICIANS, NURSES, CERTIFIED NURSING ASSISTANTS, AIDES, TECHNICIANS, MAINTENANCE WORKERS, JANITORIAL OR HOUSEKEEPING STAFF PERSONS, GROUNDSKEEPERS, GUARDS, FOOD SERVICE WORKERS, LAUNDRY WORKERS, PHARMACISTS, NONMANAGERIAL ADMINISTRATIVE WORKERS, AND BUSINESS CLERICAL WORKERS (BUT NOT MANAGERS OR SUPERVISORS) TO PAY A MINIMUM HOURLY WAGE OF \$25 TO BE INCREASED ON AN ANNUAL BASIS. ” AND CODIFYING THAT INITIATIVE INTO A NEW CHAPTER 6.40 IN THE MONTEREY PARK MUNICIPAL CODE ENTITLED “HEALTHCARE WORKER COMPENSATION.”

The city council of the city of Monterey Park does ordain as follows:

SECTION 1: Adoption. In accordance with Elections Code § 9215, the City Council adopts the initiative attached as Exhibit “A,” and incorporated by reference, submitted by the people (the “Petition”).

SECTION 2: Codification. The Petition is added to the Monterey Park Municipal Code (“MPMC”) as a new Chapter 6.40 commencing at Section 6.40.020 and entitled “Healthcare Worker Compensation.”

SECTION 3: Amendment. A new Section 6.40.010 is added to the MPMC to read as follows:

“6.40.010. **Voter Approval Required.** Except for this Section, the regulations set forth in this chapter were adopted pursuant to Elections Code § 9214(A). Consequently, this chapter may not be amended except by a vote of the people or as otherwise provided by the Elections Code.”

SECTION 4: Validity. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 5: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: Recordation. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and,

within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 7: Effective Date. This Ordinance will become effective on the 10th day following its adoption. It may not be amended except by a vote of the people.

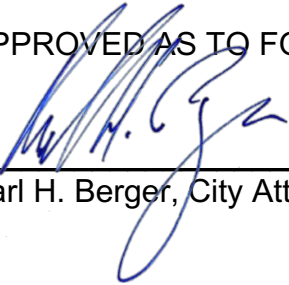
PASSED AND ADOPTED this 6th day of July, 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

Ordinance No. _____

An ordinance proposed by initiative petition to add Chapter 5.92 to Title 5 of the Monterey Park Municipal Code, establishing the “Healthcare Workers Minimum Wage Ordinance.”

THE PEOPLE OF THE CITY OF MONTEREY PARK

DO ORDAIN AS FOLLOWS:

SECTION 1. Name.

This measure shall be known as the “Healthcare Workers Minimum Wage Ordinance.”

SECTION 2. Chapter 5.92, entitled HEALTHCARE WORKERS MINIMUM WAGE, is added to Title 5 of the Monterey Park Municipal Code, to read:

5.92.010 Findings and purposes.

This Ordinance, adopted by the People of the City of Monterey Park, makes the following findings and has the following purposes:

- (a) The purpose of this Ordinance is to establish a minimum wage for covered healthcare workers within the City of Monterey Park.
- (b) The City of Monterey Park needs a sufficient healthcare workforce to ensure that healthcare facilities that provide necessary care to residents and visitors offer consistent timely, high-quality care. Hospitals, health systems, and clinics are facing staffing shortages that could jeopardize the availability of care in our city. Healthcare job vacancies are rising as workers on the frontlines deal with the emotional, mental, and physical fallout of providing healthcare during a pandemic. Workforce shortages across industries also mean that the healthcare industry is competing with other economic sectors to fill critical non-clinical positions such as for cleaning staff, food service workers, and IT administrators. With rising housing costs, healthcare workers are being forced to live further from their places of work, increasing their stress and leading to retention challenges. While healthcare workers are experiencing unprecedentedly difficult working conditions and burnout, the healthcare industry received billions of dollars in stimulus funds during the pandemic and many CEOs were paid compensation packages in the millions. The healthcare industry needs to fairly compensate workers who are sacrificing every day to care for their patients. Raising the minimum wage will help address retention challenges and workforce shortages affecting healthcare facilities in Monterey Park, and will fairly compensate healthcare workers for their contributions and sacrifices.

5.92.020 Definitions.

The following definitions shall apply to this chapter:

“City” means the City of Monterey Park.

“Covered Healthcare Facility” means the following types of facilities, provided that they are privately owned and are located within the boundaries of the City:

- (1) A licensed general acute care hospital as defined in Section 1250(a) of the California Health and Safety Code, including a distinct part of any such hospital.

- (2) A clinic, as defined in Section 1206(d) of the California Health and Safety Code, that is conducted, operated, or maintained as an outpatient department of a general acute care hospital or acute psychiatric hospital.
- (3) A licensed acute psychiatric hospital as defined in Section 1250(b) of the California Health and Safety Code, including a distinct part of any such hospital.
- (4) A licensed chronic dialysis clinic as described in Section 1204(b)(2) of the California Health and Safety Code.
- (5) A licensed psychiatric health facility as defined in Section 1250.2 of the California Health and Safety Code.
- (6) All facilities that are part of an Integrated Healthcare Delivery System.

“Covered Physician Group” means a medical group practice, including a professional medical corporation as defined in Section 2406 of the California Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, or an independent practice association, provided that the group includes a total of 10 or more physicians.

“Employee” has the same meaning as in Section 2775 of the California Labor Code.

“Employer” means any Person, including a corporate officer or executive, who directly or indirectly or through any other Person, including through the services of a temporary service, staffing agency, or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.

“Healthcare Worker” means an Employee who is employed to work at or by a Covered Healthcare Facility to provide patient care, healthcare services, or services supporting the provision of healthcare. “Healthcare Worker” includes a clinician, professional, non-professional, nurse, certified nursing assistant, aide, technician, maintenance worker, janitorial or housekeeping staffperson, groundskeeper, guard, food service worker, laundry worker, pharmacist, nonmanagerial administrative worker and business office clerical worker, but does not include a manager or supervisor. A “Healthcare Worker” works at a Covered Healthcare Facility only if that individual’s primary work assignment is physically located at one or more such facilities; for example, delivery workers employed principally outside a Covered Healthcare Facility are not Healthcare Workers for purposes of this chapter unless employed by such a facility.

“Integrated Healthcare Delivery System” means a system that includes both of the following: (1) one or more hospitals and (2) Covered Physician Groups, health care service plans, medical foundation clinics, or other facilities or entities, where the hospital or hospitals and other facilities or entities are related through:

- (1) Parent/subsidiary relationships, common ownership or control, or common boards of directors and shared senior management; or
- (2) A contractual relationship in which affiliated Covered Physician Groups or medical foundation clinics contract with a health care service plan, hospital or other part of the system, all operating under a common trade name; or

- (3) A contractual relationship in which a nonprofit health care service plan provides medical services to enrollees in a specific geographic region of the state through an affiliated hospital system, and contracts with a single Covered Physician Group in each geographic region of the state to provide medical services to a majority of the plan's enrollees in that region.

“Minimum Wage” means the minimum amount that must be paid to Employees as compensation for their labor, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. “Minimum Wage” does not include bonuses, shift differentials, premium pay, reimbursement or allowances for work-related equipment or other expenses, credits for meals or lodging, tips, gratuities, or the cost of medical, dental, retirement or similar benefits.

“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.

5.92.030 Payment of Minimum Wage to Healthcare Workers.

- (a) An Employer shall ensure that each Healthcare Worker it employs, or over whom it exercises control, is paid a Minimum Wage equivalent to no less than the hourly rate set forth herein or under the authority of this chapter for hours worked within the geographic boundaries of the City.
- (b) The Minimum Wage for Healthcare Workers shall be as follows:
- (1) On the effective date of this chapter, the Minimum Wage shall be no less than \$25 per hour.
 - (2) On January 1, 2024, and annually thereafter, the Minimum Wage shall increase based on the annual increase in the cost of living, as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Long Beach-Anaheim, CA), which is published by the Bureau of Labor Statistics. The City shall publish a bulletin announcing the adjusted rates, which shall take effect on January 1 of each year.
- (c) An Employer may not fund the Minimum Wage increases required by this chapter in any of the following ways:
- (1) Reducing Healthcare Workers' premium pay rates or shift differentials;
 - (2) Reducing vacation, healthcare, or other non-wage benefits of any Healthcare Worker;
 - (3) Reducing Healthcare Workers' hours of work;
 - (4) Laying off Healthcare Workers; or
 - (5) Increasing charges to any Healthcare Worker for parking, work-related materials or equipment.
- (d) An Employer is in violation of subsection (c) of this section if the Minimum Wage requirements of this chapter are a motivating factor in the Employer's decision to take any of the actions described in subsection (c) of this section, unless the Employer proves

that it would have taken the same action at the time that it did irrespective of the operation of this chapter.

5.92.040 Retaliation.

No Employer shall discharge, terminate a contract with, reduce compensation to, or otherwise discriminate against or take adverse action against any Healthcare Worker for opposing any practice proscribed by this chapter, for participating in proceedings related to this chapter, for seeking to enforce rights under this chapter by any lawful means, or for otherwise asserting rights under this chapter. Protections of this section shall apply to any Healthcare Worker who mistakenly, but in good faith, alleges noncompliance with this chapter. Taking any adverse action against a Healthcare Worker within 90 days of the Healthcare Worker's exercise of rights protected under this chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

5.92.050 Posting and payroll records.

- (a) Covered Healthcare Facilities shall post in a conspicuous place a notice of the current Minimum Wage for Healthcare Workers required by this chapter.
- (b) Employers of Healthcare Workers shall retain payroll records pertaining to Healthcare Workers for a minimum of four years, and shall allow the City or its designee access to such records, with appropriate notice and during business hours, to monitor compliance with the requirements of this chapter.

5.92.060 Enforcement and implementation.

- (a) The City shall have responsibility for enforcement of this chapter, including, at a minimum:
 - (1) Establishing a process for reporting complaints of violations of this chapter.
 - (2) Establishing and implementing processes for investigating complaints and other possible violations of this chapter. Employers and Covered Healthcare Facilities shall cooperate fully in any such investigation.
 - (3) Establishing and implementing an administrative citation process that may include the issuance of correction orders, a hearing and appeal process, and the imposition of administrative fines or penalties owed to the City.
 - (4) Taking appropriate enforcement action through the administrative citation process, civil actions, or other approaches on behalf of Healthcare Workers, collecting back wages and any other amounts owed to Healthcare Workers, and disbursing them to Healthcare Workers.
 - (5) Conducting any other education and enforcement activities necessary to ensure compliance with this chapter.
- (b) The City is authorized to promulgate rules and regulations and issue determinations and interpretations relating to this chapter that are consistent with its purposes.
- (c) The City may seek to enter into an agreement with the Department of Consumer and Business Affairs of the County of Los Angeles to allow the County's Wage Enforcement Program to provide wage enforcement and education services necessary

for enforcement of this chapter. If the City and County enter into such an agreement, it may include any services necessary to carry out the enforcement and education responsibilities and activities described in subsection (a) of this section or pursuant to rules and regulations relating to this chapter.

- (d) A Healthcare Worker, a representative of a Healthcare Worker, the City Attorney, or another Person acting on behalf of the public as provided for under applicable state law may bring a civil action in a court of competent jurisdiction against an Employer violating this chapter. If the City, a Healthcare Worker, or a representative of a Healthcare Worker prevails in the action, the Court shall impose all remedies available under the law or in equity, including injunctive or other equitable relief, reinstatement, the payment of any wages unlawfully withheld, the payment of penalties in the amount of up to \$120 to each Healthcare Worker for each day that a violation occurred or continued, and reasonable attorneys' fees and costs. For retaliatory action by the Employer, the Healthcare Worker shall be entitled to reinstatement and a trebling of all wages and penalties owed. Any other Person enforcing this chapter on the public's behalf, upon prevailing, shall be entitled to an award of only equitable, injunctive, and/or restitutionary relief, and reasonable attorneys' fees and costs.

5.92.070 No waiver of rights.

Any waiver by a Healthcare Worker of any or all of the provisions of this chapter or of rights or protections afforded under the authority of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

5.92.080 Coexistence with other available relief.

The provisions of this chapter shall not be construed as limiting any Healthcare Worker's right to obtain relief to which the Healthcare Worker may be entitled at law or in equity.

5.92.090 One-year court-granted waiver.

This Chapter is not intended to cause reduction in employment or work hours for Healthcare Workers. Therefore, a court may grant a one-year waiver from the Minimum Wage requirements of this chapter if an Employer can demonstrate by substantial evidence that compliance with this chapter would raise substantial doubt about the Employer's ability to continue as a going concern under generally accepted accounting standards. The evidence must include documentation of the Employer's financial condition, as well as the condition of any parent or affiliated entity, and evidence of the actual or potential direct financial impact of compliance with this chapter. A one-year waiver granted by a court pursuant to this section does not exempt an Employer from complying with any and all federal, state, or local laws and regulations, including any other applicable federal, state, or local minimum wage requirement.

5.92.100 Conflicts.

Nothing in this chapter shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

5.92.110 Severability.

If any subsection, sentence, clause, phrase, or provision of this chapter is found invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION 3. Effective Date.

If the City Council approves this measure, or if a majority of the voters pass this Ordinance, it shall take effect on the earliest date allowed by law.

ATTACHMENT 4

Draft Resolutions

RESOLUTION NO. _____

A RESOLUTION CERTIFYING THAT AN INITIATIVE ENTITLED “AN INITIATIVE REQUIRING PERSONS EMPLOYING PART-TIME AND FULL-TIME HEALTHCARE WORKERS INCLUDING, WITHOUT LIMITATION, CLINICIANS, NURSES, CERTIFIED NURSING ASSISTANTS, AIDES, TECHNICIANS, MAINTENANCE WORKERS, JANITORIAL OR HOUSEKEEPING STAFF PERSONS, GROUNDSKEEPERS, GUARDS, FOOD SERVICE WORKERS, LAUNDRY WORKERS, PHARMACISTS, NONMANAGERIAL ADMINISTRATIVE WORKERS, AND BUSINESS CLERICAL WORKERS (BUT NOT MANAGERS OR SUPERVISORS) TO PAY A MINIMUM HOURLY WAGE OF \$25 TO BE INCREASED ON AN ANNUAL BASIS.” QUALIFIES FOR THE BALLOT.

The City Council of the city of Monterey Park resolves as follows:

SECTION 1: The City Council finds as follows:

A. On February 11, 2022, proponents of an initiative entitled “AN INITIATIVE REQUIRING PERSONS EMPLOYING PART-TIME AND FULL-TIME HEALTHCARE WORKERS INCLUDING, WITHOUT LIMITATION, CLINICIANS, NURSES, CERTIFIED NURSING ASSISTANTS, AIDES, TECHNICIANS, MAINTENANCE WORKERS, JANITORIAL OR HOUSEKEEPING STAFF PERSONS, GROUNDSKEEPERS, GUARDS, FOOD SERVICE WORKERS, LAUNDRY WORKERS, PHARMACISTS, NONMANAGERIAL ADMINISTRATIVE WORKERS, AND BUSINESS CLERICAL WORKERS (BUT NOT MANAGERS OR SUPERVISORS) TO PAY A MINIMUM HOURLY WAGE OF \$25 TO BE INCREASED ON AN ANNUAL BASIS” (the “Initiative”) submitted petitions to the City Clerk for signature verification;

B. On or about June 13, 2022 the City Clerk certified the Initiative as qualifying for the ballot. A copy of that certification is attached as Exhibit “A,” and incorporated by reference;

C. In accordance with Elections Code § 9214, the Initiative has sufficient signatures for a special election as requested in the petition; and

D. Elections Code § 9214 requires (1) ask for a report on the effects of the Initiative; (2) adopt the Initiative (verbatim); or (3) place the Initiative on the ballot.

SECTION 2: Qualified for Election. Based upon the foregoing, the Initiative qualifies for a special election. If approved by a separately adopted City Council resolution, the City Clerk is directed to place the Initiative on the ballot for a special municipal election at a date yet to be determined.

SECTION 3: Recordation. The City Clerk must certify to the passage and adoption of this Resolution; enter the same in the book of original Resolutions; and make a minute of the passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

SECTION 4: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 5: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 6th day of July, 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



City Council

Peter Chan
Hans Liang
Henry Lo
Yvonne Yiu

City Clerk

Vincent D. Chang

City Treasurer

Joseph Leon

CERTIFICATE OF SUFFICIENCY OF PETITION

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify the following:

An initiative petition (the "Petition") was filed with me on February 11, 2022. The petition was forwarded to the Los Angeles County Registrar of Voters, where the petition signatures were fully examined and verified pursuant to Elections Code § 9114.

The number of registered voters in the City of Monterey Park, as reported to the Secretary of State on January 4, 2022 is 31,805. Pursuant to Elections Code § 9215, the Petition is considered sufficient if signed by at least 10% of the voters of the City, or 3,181.

The results of the examination by the Registrar of Voters were as follows:

- | | |
|---|-------|
| 1. Number of signatures filed by proponent (raw count): | 4,216 |
| 2. Number of signatures verified: | 4,216 |
| a. Number of signatures found sufficient: | 3,272 |
| b. Number of signatures found <u>not</u> sufficient: | 944 |
| Insufficient because of DUPLICATE | 166 |

The full signature verification performed by the Registrar of Voters shows the percentage of valid petition signatures is 10%. Since the Petition has sufficient signatures to qualify it for the ballot, and because it may otherwise substantially comply with the Elections Code, I certify the Petition to be sufficient.

I hereby set my hand and official seal this 13th day of June, 2022 at Monterey Park, California.

A blue ink signature of Vincent D. Chang, written in a cursive style, is positioned above a horizontal line.

VINCENT D. CHANG
City Clerk

RESOLUTION NO.

A RESOLUTION ADDING AN INITIATIVE MEASURE TO THE BALLOT FOR THE PREVIOUSLY CALLED NOVEMBER 8, 2022, REGULAR MUNICIPAL ELECTION PURSUANT TO ELECTIONS CODE § 9215

The City Council of the city of Monterey Park resolves as follows:

SECTION 1: Pursuant to Elections Code § 9215, the City Council places an initiative on the ballot for the municipal election scheduled for Tuesday, November 8, 2022.

SECTION 2: A copy of the initiative to be considered by the voters is attached as Exhibit "A," and incorporated by reference.

SECTION 3: Pursuant to Elections Code § 13119, the exact form of the question to be voted on at the election as it should appear on the ballot is as follows:

Shall an initiative requiring persons employing part-time and full-time healthcare workers including, without limitation, clinicians, nurses, certified nursing assistants, aides, technicians, maintenance workers, janitorial or housekeeping staff persons, groundskeepers, guards, food service workers, laundry workers, pharmacists, nonmanagerial administrative workers, and business clerical workers (but not managers or supervisors) to pay a minimum hourly wage of \$25 to be increased on an annual basis, be adopted?	YES
	NO

SECTION 4: **Electronic Signatures.** This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 5: **Recordation.** The City Clerk must certify to the passage and adoption of this Resolution; enter the same in the book of original Resolutions; and make a minute of the passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

SECTION 6: **Effective Date.** This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

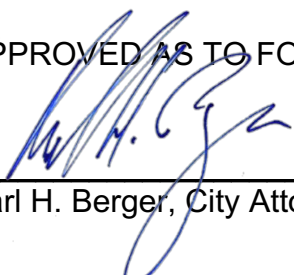
PASSED AND ADOPTED this 6th day of July, 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

Ordinance No. _____

An ordinance proposed by initiative petition to add Chapter 5.92 to Title 5 of the Monterey Park Municipal Code, establishing the “Healthcare Workers Minimum Wage Ordinance.”

THE PEOPLE OF THE CITY OF MONTEREY PARK

DO ORDAIN AS FOLLOWS:

SECTION 1. Name.

This measure shall be known as the “Healthcare Workers Minimum Wage Ordinance.”

SECTION 2. Chapter 5.92, entitled HEALTHCARE WORKERS MINIMUM WAGE, is added to Title 5 of the Monterey Park Municipal Code, to read:

5.92.010 Findings and purposes.

This Ordinance, adopted by the People of the City of Monterey Park, makes the following findings and has the following purposes:

- (a) The purpose of this Ordinance is to establish a minimum wage for covered healthcare workers within the City of Monterey Park.
- (b) The City of Monterey Park needs a sufficient healthcare workforce to ensure that healthcare facilities that provide necessary care to residents and visitors offer consistent timely, high-quality care. Hospitals, health systems, and clinics are facing staffing shortages that could jeopardize the availability of care in our city. Healthcare job vacancies are rising as workers on the frontlines deal with the emotional, mental, and physical fallout of providing healthcare during a pandemic. Workforce shortages across industries also mean that the healthcare industry is competing with other economic sectors to fill critical non-clinical positions such as for cleaning staff, food service workers, and IT administrators. With rising housing costs, healthcare workers are being forced to live further from their places of work, increasing their stress and leading to retention challenges. While healthcare workers are experiencing unprecedentedly difficult working conditions and burnout, the healthcare industry received billions of dollars in stimulus funds during the pandemic and many CEOs were paid compensation packages in the millions. The healthcare industry needs to fairly compensate workers who are sacrificing every day to care for their patients. Raising the minimum wage will help address retention challenges and workforce shortages affecting healthcare facilities in Monterey Park, and will fairly compensate healthcare workers for their contributions and sacrifices.

5.92.020 Definitions.

The following definitions shall apply to this chapter:

“City” means the City of Monterey Park.

“Covered Healthcare Facility” means the following types of facilities, provided that they are privately owned and are located within the boundaries of the City:

- (1) A licensed general acute care hospital as defined in Section 1250(a) of the California Health and Safety Code, including a distinct part of any such hospital.

- (2) A clinic, as defined in Section 1206(d) of the California Health and Safety Code, that is conducted, operated, or maintained as an outpatient department of a general acute care hospital or acute psychiatric hospital.
- (3) A licensed acute psychiatric hospital as defined in Section 1250(b) of the California Health and Safety Code, including a distinct part of any such hospital.
- (4) A licensed chronic dialysis clinic as described in Section 1204(b)(2) of the California Health and Safety Code.
- (5) A licensed psychiatric health facility as defined in Section 1250.2 of the California Health and Safety Code.
- (6) All facilities that are part of an Integrated Healthcare Delivery System.

“Covered Physician Group” means a medical group practice, including a professional medical corporation as defined in Section 2406 of the California Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, or an independent practice association, provided that the group includes a total of 10 or more physicians.

“Employee” has the same meaning as in Section 2775 of the California Labor Code.

“Employer” means any Person, including a corporate officer or executive, who directly or indirectly or through any other Person, including through the services of a temporary service, staffing agency, or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.

“Healthcare Worker” means an Employee who is employed to work at or by a Covered Healthcare Facility to provide patient care, healthcare services, or services supporting the provision of healthcare. “Healthcare Worker” includes a clinician, professional, non-professional, nurse, certified nursing assistant, aide, technician, maintenance worker, janitorial or housekeeping staffperson, groundskeeper, guard, food service worker, laundry worker, pharmacist, nonmanagerial administrative worker and business office clerical worker, but does not include a manager or supervisor. A “Healthcare Worker” works at a Covered Healthcare Facility only if that individual’s primary work assignment is physically located at one or more such facilities; for example, delivery workers employed principally outside a Covered Healthcare Facility are not Healthcare Workers for purposes of this chapter unless employed by such a facility.

“Integrated Healthcare Delivery System” means a system that includes both of the following: (1) one or more hospitals and (2) Covered Physician Groups, health care service plans, medical foundation clinics, or other facilities or entities, where the hospital or hospitals and other facilities or entities are related through:

- (1) Parent/subsidiary relationships, common ownership or control, or common boards of directors and shared senior management; or
- (2) A contractual relationship in which affiliated Covered Physician Groups or medical foundation clinics contract with a health care service plan, hospital or other part of the system, all operating under a common trade name; or

- (3) A contractual relationship in which a nonprofit health care service plan provides medical services to enrollees in a specific geographic region of the state through an affiliated hospital system, and contracts with a single Covered Physician Group in each geographic region of the state to provide medical services to a majority of the plan's enrollees in that region.

“Minimum Wage” means the minimum amount that must be paid to Employees as compensation for their labor, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. “Minimum Wage” does not include bonuses, shift differentials, premium pay, reimbursement or allowances for work-related equipment or other expenses, credits for meals or lodging, tips, gratuities, or the cost of medical, dental, retirement or similar benefits.

“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.

5.92.030 Payment of Minimum Wage to Healthcare Workers.

- (a) An Employer shall ensure that each Healthcare Worker it employs, or over whom it exercises control, is paid a Minimum Wage equivalent to no less than the hourly rate set forth herein or under the authority of this chapter for hours worked within the geographic boundaries of the City.
- (b) The Minimum Wage for Healthcare Workers shall be as follows:
- (1) On the effective date of this chapter, the Minimum Wage shall be no less than \$25 per hour.
 - (2) On January 1, 2024, and annually thereafter, the Minimum Wage shall increase based on the annual increase in the cost of living, as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Long Beach-Anaheim, CA), which is published by the Bureau of Labor Statistics. The City shall publish a bulletin announcing the adjusted rates, which shall take effect on January 1 of each year.
- (c) An Employer may not fund the Minimum Wage increases required by this chapter in any of the following ways:
- (1) Reducing Healthcare Workers' premium pay rates or shift differentials;
 - (2) Reducing vacation, healthcare, or other non-wage benefits of any Healthcare Worker;
 - (3) Reducing Healthcare Workers' hours of work;
 - (4) Laying off Healthcare Workers; or
 - (5) Increasing charges to any Healthcare Worker for parking, work-related materials or equipment.
- (d) An Employer is in violation of subsection (c) of this section if the Minimum Wage requirements of this chapter are a motivating factor in the Employer's decision to take any of the actions described in subsection (c) of this section, unless the Employer proves

that it would have taken the same action at the time that it did irrespective of the operation of this chapter.

5.92.040 Retaliation.

No Employer shall discharge, terminate a contract with, reduce compensation to, or otherwise discriminate against or take adverse action against any Healthcare Worker for opposing any practice proscribed by this chapter, for participating in proceedings related to this chapter, for seeking to enforce rights under this chapter by any lawful means, or for otherwise asserting rights under this chapter. Protections of this section shall apply to any Healthcare Worker who mistakenly, but in good faith, alleges noncompliance with this chapter. Taking any adverse action against a Healthcare Worker within 90 days of the Healthcare Worker's exercise of rights protected under this chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

5.92.050 Posting and payroll records.

- (a) Covered Healthcare Facilities shall post in a conspicuous place a notice of the current Minimum Wage for Healthcare Workers required by this chapter.
- (b) Employers of Healthcare Workers shall retain payroll records pertaining to Healthcare Workers for a minimum of four years, and shall allow the City or its designee access to such records, with appropriate notice and during business hours, to monitor compliance with the requirements of this chapter.

5.92.060 Enforcement and implementation.

- (a) The City shall have responsibility for enforcement of this chapter, including, at a minimum:
 - (1) Establishing a process for reporting complaints of violations of this chapter.
 - (2) Establishing and implementing processes for investigating complaints and other possible violations of this chapter. Employers and Covered Healthcare Facilities shall cooperate fully in any such investigation.
 - (3) Establishing and implementing an administrative citation process that may include the issuance of correction orders, a hearing and appeal process, and the imposition of administrative fines or penalties owed to the City.
 - (4) Taking appropriate enforcement action through the administrative citation process, civil actions, or other approaches on behalf of Healthcare Workers, collecting back wages and any other amounts owed to Healthcare Workers, and disbursing them to Healthcare Workers.
 - (5) Conducting any other education and enforcement activities necessary to ensure compliance with this chapter.
- (b) The City is authorized to promulgate rules and regulations and issue determinations and interpretations relating to this chapter that are consistent with its purposes.
- (c) The City may seek to enter into an agreement with the Department of Consumer and Business Affairs of the County of Los Angeles to allow the County's Wage Enforcement Program to provide wage enforcement and education services necessary

for enforcement of this chapter. If the City and County enter into such an agreement, it may include any services necessary to carry out the enforcement and education responsibilities and activities described in subsection (a) of this section or pursuant to rules and regulations relating to this chapter.

- (d) A Healthcare Worker, a representative of a Healthcare Worker, the City Attorney, or another Person acting on behalf of the public as provided for under applicable state law may bring a civil action in a court of competent jurisdiction against an Employer violating this chapter. If the City, a Healthcare Worker, or a representative of a Healthcare Worker prevails in the action, the Court shall impose all remedies available under the law or in equity, including injunctive or other equitable relief, reinstatement, the payment of any wages unlawfully withheld, the payment of penalties in the amount of up to \$120 to each Healthcare Worker for each day that a violation occurred or continued, and reasonable attorneys' fees and costs. For retaliatory action by the Employer, the Healthcare Worker shall be entitled to reinstatement and a trebling of all wages and penalties owed. Any other Person enforcing this chapter on the public's behalf, upon prevailing, shall be entitled to an award of only equitable, injunctive, and/or restitutionary relief, and reasonable attorneys' fees and costs.

5.92.070 No waiver of rights.

Any waiver by a Healthcare Worker of any or all of the provisions of this chapter or of rights or protections afforded under the authority of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

5.92.080 Coexistence with other available relief.

The provisions of this chapter shall not be construed as limiting any Healthcare Worker's right to obtain relief to which the Healthcare Worker may be entitled at law or in equity.

5.92.090 One-year court-granted waiver.

This Chapter is not intended to cause reduction in employment or work hours for Healthcare Workers. Therefore, a court may grant a one-year waiver from the Minimum Wage requirements of this chapter if an Employer can demonstrate by substantial evidence that compliance with this chapter would raise substantial doubt about the Employer's ability to continue as a going concern under generally accepted accounting standards. The evidence must include documentation of the Employer's financial condition, as well as the condition of any parent or affiliated entity, and evidence of the actual or potential direct financial impact of compliance with this chapter. A one-year waiver granted by a court pursuant to this section does not exempt an Employer from complying with any and all federal, state, or local laws and regulations, including any other applicable federal, state, or local minimum wage requirement.

5.92.100 Conflicts.

Nothing in this chapter shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

5.92.110 Severability.

If any subsection, sentence, clause, phrase, or provision of this chapter is found invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION 3. Effective Date.

If the City Council approves this measure, or if a majority of the voters pass this Ordinance, it shall take effect on the earliest date allowed by law.

RESOLUTION NO.

A RESOLUTION ESTABLISHING REQUIREMENTS FOR BALLOT ARGUMENTS FILED WITH THE CITY CLERK TO BE INCLUDED WITH VOTER INFORMATION FOR THE GENERAL ELECTION ON NOVEMBER 8, 2022.

The City Council of the city of Monterey Park resolves as follows:

SECTION 1: Pursuant to Elections Code § 9281, qualified voters may submit arguments for and against the ballot measures, in addition to rebuttal arguments, for the November 8, 2022 General Municipal Election on forms provided by the City Clerk.

SECTION 2: Arguments filed in accordance with this Resolution must comply with the following requirements in accordance with Elections Code §§ 9282, 9283, 9285, and 9286:

- A. Arguments must be in writing and not exceed three hundred (300) words except for rebuttal argument which may not exceed two hundred and fifty (250) words;
- B. Arguments may be submitted by the City Council; any councilmember authorized to submit an argument by the City Council; any individual voter eligible to vote on the measures; any bona fide association of citizens; or any combination of voters and associations;
- C. Arguments must be typewritten in at least a 12 point font;
- D. Arguments may not include underlining, italics, asterisks, or other, similar, type of formatting;
- E. Arguments must be accompanied by the printed name and signature or printed names and signatures of the person or persons submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers.
- F. If more than five signatures accompany an argument, only the first five will be printed.
- G. Arguments for or against the ballot measures must be received in the City Clerk's office not later than 14 days after the City Council calls for an election. Rebuttal arguments must be received not later than 10 days after the Arguments submittal deadline.

SECTION 3: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 4. Recordation. The City Clerk will certify to the passage and adoption of this

Resolution No.
Page 2 of 2

Resolution; enter the same in the book of original Resolutions; and make a minute of the passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

SECTION 5: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

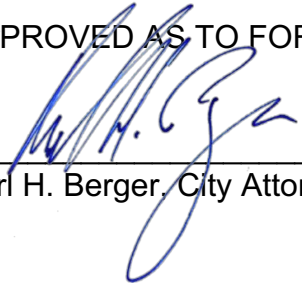
PASSED AND ADOPTED this 6th day of July, 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

RESOLUTION NO.

A RESOLUTION DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE INITIATIVE ENTITLED “AN INITIATIVE REQUIRING PERSONS EMPLOYING PART-TIME AND FULL-TIME HEALTHCARE WORKERS INCLUDING, WITHOUT LIMITATION, CLINICIANS, NURSES, CERTIFIED NURSING ASSISTANTS, AIDES, TECHNICIANS, MAINTENANCE WORKERS, JANITORIAL OR HOUSEKEEPING STAFF PERSONS, GROUNDSKEEPERS, GUARDS, FOOD SERVICE WORKERS, LAUNDRY WORKERS, PHARMACISTS, NONMANAGERIAL ADMINISTRATIVE WORKERS, AND BUSINESS CLERICAL WORKERS (BUT NOT MANAGERS OR SUPERVISORS) TO PAY A MINIMUM HOURLY WAGE OF \$25 TO BE INCREASED ON AN ANNUAL BASIS.”

The City Council of the city of Monterey Park resolves as follows:

SECTION 1. Pursuant to Elections Code § 9280, the City Clerk is directed to transmit a copy of the ballot measure entitled “AN INITIATIVE REQUIRING PERSONS EMPLOYING PART-TIME AND FULL-TIME HEALTHCARE WORKERS INCLUDING, WITHOUT LIMITATION, CLINICIANS, NURSES, CERTIFIED NURSING ASSISTANTS, AIDES, TECHNICIANS, MAINTENANCE WORKERS, JANITORIAL OR HOUSEKEEPING STAFF PERSONS, GROUNDSKEEPERS, GUARDS, FOOD SERVICE WORKERS, LAUNDRY WORKERS, PHARMACISTS, NONMANAGERIAL ADMINISTRATIVE WORKERS, AND BUSINESS CLERICAL WORKERS (BUT NOT MANAGERS OR SUPERVISORS) TO PAY A MINIMUM HOURLY WAGE OF \$25 TO BE INCREASED ON AN ANNUAL BASIS” to the City Attorney for an impartial analysis.

SECTION 2. Upon receiving the ballot measure, the City Attorney is directed to prepare an impartial analysis of the proposed ballot measure showing its effect, if any, on existing law and the operation of the measure. Such analysis must not be more than 500 words.

SECTION 3. The impartial analysis must include a statement indicating whether the proposed measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the City.

SECTION 4. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there must be printed immediately below the impartial analysis, in not less than 10 point bold type, the City Clerk should have the following language printed: “The above statement is an impartial analysis of the proposed ballot measure (Resolution No. XXX). If you desire a copy of the legislation affected by this measure, please call the City Clerk’s office at (626) 307-1359, and a copy will be mailed at no cost to you.”

SECTION 5. The impartial analysis of the proposed ballot measure must be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 6. Pursuant to 52 U.S.C.A. § 10503, the City Clerk will:

- A. Translate the City Attorney's analysis in accordance with regulations set forth by the Los Angeles County Registrar Recorder's office; and
- B. Make copies of the translations of the City Attorney's analysis publicly available.

SECTION 7: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 8. Recordation. The City Clerk will certify to the passage and adoption of this Resolution; enter the same in the book of original Resolutions; and make a minute of the passage and adoption thereof in the records of the proceedings of the City Council in the minutes of the meeting at which the same is passed and adopted.

SECTION 9: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 6th day of July 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

ATTACHMENT 2

Various Correspondence from the Opponents and
Proponents of the Initiative Measure



Garfield Medical Center

AHMC Healthcare

July 18, 2022

Dear Honorable Mayor Lo,

We are writing to voice our strong concerns with the proposed \$25/hour health care worker minimum wage measure.

The measure would set new, arbitrary pay requirements for *some* health care workers in *some* health care facilities, while **excluding thousands of health care workers doing the same jobs in Monterey Park**. In fact, the vast majority of health care workers in the City of Monterey Park are excluded by the measure, creating a confusing, arbitrary and inequitable system.

We are grateful the City Council recently took a thoughtful approach towards this measure and requested city staff explore an economic analysis. We have concerns there are unintended consequences, such as workforce shortages, potential cost increases, etc. that will result from this policy and feel it's critical for Council to understand those prior to making any decisions.

Because this policy is far more complex than it appears, it will impact Monterey Park health care workers substantially and may limit access to care for patients, we strongly urge the Council to refer this measure to the ballot instead of passing an ordinance. Monterey Park voters should be given the chance to weigh in on this matter as it will affect their health care services. Further, it should be made very clear to voters that the initiative excludes workers at public (UC and County) hospitals and clinics, Federally Qualified Health Clinics (FQHCs), Planned Parenthood, community-based clinics, and other providers.

For over 100 years, Garfield Medical Center has served the City of Monterey Park and its residents by providing timely and culturally sensitive care through its various programs such as its Emergency, Maternal Child Health, Open Heart Program, and through its Primary Stroke Program that has received multiple awards through the years. Garfield Medical Center is committed to serve the Monterey Park population by offering multiple health fairs and community outreach programs to reduce health disparities.

We appreciate the opportunity to voice our concerns and Council's careful consideration of these matters. We stand ready to work with the city on any issues impacting our employees or the care they provide to the people of Monterey Park.

Respectfully,

Herbert Villafuerte
Chief Executive Officer
Garfield Medical Center



7/18/2022

Dear Honorable Mayor Lo,

As a follow up to our letter on July 5, we are writing to thank the Council for requesting city staff pull together an economic analysis on the proposed unequal pay measure for *certain* health care workers working at *certain* facilities.

We feel strongly the proposed measure has many unintended consequences that are critical to examine thoroughly prior to making any decisions. In fact, according to research from the Hospital Association of Southern California, the proposed measure would exclude workers at 75% of health care facilities in Monterey Park.

Additionally, new research from the Berkeley Research Group has found that 54% of Monterey Park health care workers who make under \$25/hour would be excluded. This is over the majority and isn't fair. The analysis also found that the proposed measure would increase salary expenses for covered facilities in Monterey Park by 9.3% - approximately \$8.6 million. This is a challenge following the pandemic due to the unexpected costs hospitals statewide had to endure.

Monterey Park Hospital is not exempt from the long-term impacts of COVID-19. We have been experiencing significant staffing shortages, along with increasing cost of medical supplies,

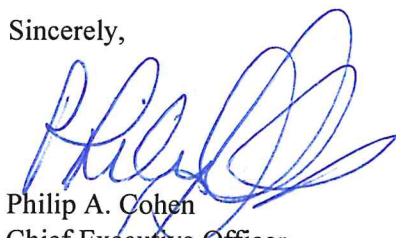
Due to the fact this measure impacts only some health care workers, we think it's important for the City Council to refer this measure to the ballot so voters can be given the chance to evaluate and weigh in.

To that end, we urge the Council adopt a Resolution to update the ballot wording. The initiative only applies to *certain* workers at "covered healthcare facilities" that are privately owned but the initiative *excludes* workers at all other healthcare facilities in Monterey Park, including public hospitals and clinics, community clinics, Federally Qualified Health Clinics (FQHCs), urgent care centers, nursing homes, physician's offices and outpatient care facilities not affiliated with private hospitals.

As currently drafted, the ballot question gives the false illusion all health care workers are impacted. We strongly encourage Council to amend the ballot question to make this clearer for voters.

We appreciate the Council's thoughtful approach on this important matter and stand ready to continue serving the Monterey Park community.

Sincerely,



Philip A. Cohen
Chief Executive Officer
Monterey Park Hospital

Impact of Monterey Park Healthcare Workers Minimum Wage Ordinance

Higher wages for healthcare workers will benefit the Monterey Park workforce at hospitals and dialysis clinics, will attract workers and alleviate healthcare worker shortages, and will have no cost to the city.

Higher minimum wages lead to a substantial decline in household and child poverty, support job growth and boost the economy, and do not cause job losses. There is also no evidence that higher minimum wages lead to reduced labor demand.¹

Covered facilities are owned by profitable corporations with the ability to cover increased costs. We do not expect the ordinance will have a negative impact on the city's ability to attract and retain business. In fact, workers who receive a wage increase will have more money to spend at Monterey Park establishments.

Covered Facility Financials 2020

Facility Name²	Parent Company	Net Income	Operating Margin
Garfield Medical Center	AHMC	\$10,112,426	2.9%
Monterey Park Hospital	AHMC	\$13,179,743	11%
Facility Name³		Net Operating Income	
Garfield Hemodialysis Center	DaVita	\$1,109,699	21%
Monterey Park Dialysis Center	DaVita	\$838,902	14%

Parent Company Financials

Parent Company	Revenues	Net Income
DaVita (2021) ⁴	\$11.6 billion	\$978,000,000
AHMC Healthcare Inc. (2020) ⁵	\$977 million	\$58.4 million

Hospital Impacts

At Garfield Medical Center, an estimated 229 UHW members would be impacted. Assuming all of these workers are full-time employees, the annual cost of bringing them up to a \$25.00/hour minimum would roughly be \$2,326,833. At Monterey Park Hospital, an estimated 73 UHW members would be impacted. Assuming all of these workers are full-time employees, the annual cost of bringing them up to a \$25.00/hour minimum would roughly be \$657,176.

Dialysis Clinic Impacts

We assume dialysis clinics will be able to absorb the costs of a \$25 minimum wage in the city. Both clinics are owned by DaVita, a for-profit multinational corporation. DaVita's CEO received total compensation of \$73.4 million in 2020.⁶

Cost of Living

¹ Anna Godoy and Michael Reich. (2019). "Minimum Wage Effects in Low-Wage Areas". IRLE Working Paper No. 106-19. <http://irle.berkeley.edu/files/2020/09/Minimum-Wage-Effects-in-Low-Wage-Areas.pdf>

² HCAI 2020 Hospital Financial Data

³ HCAI 2020 Specialty Clinic Utilization Data

⁴ DaVita SEC 10-K Filing, 2021

⁵ HCAI 2020 Hospital Financial Data, includes six AHMC hospitals in California

⁶ As reported in DaVita's Notice of 2021 Annual Meeting and Proxy Statement. (https://filecache.investorroom.com/mrSir_davita/251/DEF%2014A.pdf, page 78)

The cost of living for workers in Monterey Park is high whether or not they reside in the city. Raising wages will help workers afford childcare, gas, rent, and groceries. According to the MIT Living Wage Calculator, the living wage in a Los Angeles County household with two working adults and two children is \$30.73 an hour. Housing costs are often out of reach for minimum wage workers:

- Average Cost of 1-Bedroom Apartment: \$1,897
In the past year, the rent has increased by 34.4%.⁷
- Average Cost of House: \$875,130
In the past year, home prices have increased by 14.7%.⁸

For workers who currently earn \$15.00/hr, their salary before taxes equates to roughly \$32,000 a year, assuming full time employment. The annual cost of a one-bedroom apartment in Monterey Park equates to \$22,764, or 71% of their annual salary before taxes.

Workforce Shortages

In 2022 alone, nearly 1.7 million people have quit their healthcare jobs—equivalent to almost 3% of the healthcare workforce each month, according to the U.S. Bureau of Labor Statistics.⁹ Terri Hollingsworth, a vice president for the Hospital Association of Southern California has stated that "COVID has really stressed the system."¹⁰ Hospital leaders said the shortage varies at different sites and is caused in part by burnout, early retirement and lucrative pay offered at staffing agencies that provide temporary nurses to health care sites and other factors.¹¹

Rising Wages and Hospital Costs

Health systems throughout the country have had to increase their wages in recent months. While some health systems have stated that this will lead to price increases, there is proof that this can save them money if fewer employees leave the company.¹² Stabilizing the workforce through wage increases is a cost saving measure as the cost of managing churn and turnover is higher than the cost of investing in their workers.¹³ For example, the average cost of turnover for a bedside nurse ranges from \$37,700 to \$58,400, resulting in the average hospital losing \$5.2 million to \$8.1 million, a year.¹⁴

In conclusion, we believe the Healthcare Workers Minimum Wage Ordinance will not negatively impact healthcare facilities in the city, will benefit healthcare workers, and will not have a negative fiscal impact on the city.

⁷ <https://www.apartments.com/monterey-park-ca/1-bedrooms/#guide>

⁸ <https://www.zillow.com/monterey-park-ca/home-values/>

⁹ Deb Gordon. (May 17, 2022). "Amid Healthcare's Great Resignation, burned out Workers Are Pursuing Flexibility And Passion". Forbes.

¹⁰ Tom Kiskan. (June 28, 2022). "Short-staffed hospitals across Ventura County will look for help in virtual job fair." VC Star.

¹¹ Ibid.

¹² Alex Kacik. (January 26, 2019). "Health Systems look to boost employee retention through minimum wage hikes". Modern Healthcare.

<https://www.modernhealthcare.com/article/20190126/NEWS/190129958/health-systems-look-to-boost-employee-retention-through-minimum-wage-hikes>

¹³ Alex Kacik. (September 22, 2018). "Providers tackle turnover amid vexing labor shortage".

https://www.modernhealthcare.com/article/20180922/NEWS/180929976/providers-tackle-turnover-amid-vexing-labor-shortage?adobe_mc=MC MID%3D44891779899715409090393830288791583834%7CMCORGID%3D138FFF2554E6E7220A4C98C6%2540AdobeOrg%7CTS%3D1649433940&CSAuthResp=1%3A%3A704677%3A7533%3A24%3Asuccess%3A44C41A5819E77481977A2F1241D90A20

¹⁴ NSI Nursing Solutions. (2016). "2016 National Healthcare Retention and RN Staffing Report".

<https://www.modernhealthcare.com/assets/pdf/CH117037920.PDF>

ATTACHMENT 3
Correspondence from Los Angeles County's
Consumer and Business Affairs



LOS ANGELES COUNTY

CONSUMER & BUSINESS AFFAIRS

Consumer & Worker Protections

Board of Supervisors

Hilda L. Solis
First District

Holly J. Mitchell
Second District

Sheila Kuehl
Third District

Janice Hahn
Fourth District

Kathryn Barger
Fifth District

Director

Rafael Carbajal

Chief of Staff

Joel Ayala

Deputy Director

Maggie Becerra

July 21, 2022

Investigations for the City of Santa Monica:

- Number of cases investigated = **27**
- Number of cases with violations and settled = **10** for [Minimum Wage violations, Hotel Minimum Wage violations, and Paid Sick Leave violations]
- Criminal Prosecution = **1** for [Retaliation, Hotel Minimum Wage violations and Paid Sick Leave violations]

Collections:

- Number of affected employees that received back wages = **299 employees**
- Back Wages Collected for Employees = **\$350,450.98**
- Fines for the City of Santa Monica collected = **\$182,985.00**

Hours spent on investigations (Average):

- Small Employer 25 or less Employees: 40 to 70 hours including settlement and 6-month compliance review of payroll records post settlement
- Large Employer 26 or more Employees: 80 to 200 hours including settlement and 6-month compliance review post settlement

The average hourly rate:

- \$162.53.

Sincerely,

Rudy Saenz
Supervisor
Wage Enforcement Program



dcba.lacounty.gov
info@dcba.lacounty.gov

320 W. Temple St., Suite G-10, Los Angeles CA, 90012-2706

(800) 523-8222 • Fax: (213) 687-1137

Page 50 of 154

ATTACHMENT 4

Litigation Correspondence

BELL, McANDREWS & HILTACHK, LLP

455 CAPITOL MALL, SUITE 600
SACRAMENTO, CA 95814

July 1, 2022

Karl H. Berger,
City Attorney
Monterey Park City Attorney's Office
320 West Newmark Ave
Monterey Park, CA 91754

RE: Objection to Proposed Ballot Question (July 6, 2022 City Council Agenda)

Dear Mr. Berger:

This firm represents the California Hospital Association, the Hospital Association of Southern California and others opposed to the initiative measure that has qualified for the Monterey Park City ballot imposing a new minimum wage requirement for some, but not all, healthcare workers in the City. In the July 6, 2022 City Council Meeting Agenda your office proposes a ballot question for the initiative that is false and misleading under the Elections Code. By this letter, we ask that you accept modest edits to the proposed language to correct this error and urge the City Council to adopt a Resolution with the corrected language.

The Proposed Ballot Question

Shall an initiative requiring persons employing part-time and full-time healthcare workers including, without limitation, clinicians, nurses, certified nursing assistants, aides, technicians, maintenance workers, janitorial or housekeeping staff persons, groundskeepers, guards, food service workers, laundry workers, pharmacists, nonmanagerial administrative workers, and business clerical workers (but not managers or supervisors) to pay a minimum hourly wage of \$25 to be increased on an annual basis, be adopted?

This proposed ballot question uses 65 of the possible 75 words allowed by law.

False and Misleading Error in the Proposed Question

The initiative only applies to *certain* workers at “covered healthcare facilities.” A “covered healthcare facility” would include privately owned facilities such as a hospital, a psychiatric hospital, a clinic of hospital or psychiatric hospital, dialysis clinics, physicians’ group, a health care service plan, Medicare foundation clinic, or other facility or clinic, if it is affiliated or has a contractual relationship with a hospital. But the initiative *excludes* workers at all other healthcare facilities in the City, including public hospitals and clinics, community clinics, Federally Qualified Health Clinics (FQHCs), urgent care centers, nursing homes, physician’s offices and outpatient care facilities not affiliated with private hospitals.

The error in the ballot question is that it simply states that the initiative applies to “persons employing part-time and full-time healthcare workers,” giving the false impression that the measure includes *all* persons (or healthcare facilities) and *all* workers. As indicated more fully below, that error is significant and will mislead voters as to the scope and effect of the proposed initiative. In fact, according to an analysis using publicly-available data by the Hospital Association of Southern California, the initiative only applies to workers at 25% of healthcare facilities in the City of Monterey Park, and excludes workers at the remaining 75% of health care facilities in the City.

The term “persons” as used in the ballot question is extremely broad and over-inclusive as used here. The initiative is significantly more limited in scope. Monterey Park is home to multiple “persons” (or facilities) employing part-time and full-time healthcare workers.

Again, using data from State resources, we estimate that around 75% of hospitals and healthcare facilities operating in the City are not covered by the initiative, meaning that the healthcare workers working in such facilities will not obtain the higher wage promised by the proposed initiative.

Most voters only engage with an initiative once—when they read the ballot question during voting. Therefore, a clear and precise ballot question is critical to a voter’s understanding of an ordinance that they will be voting on. The proposed ballot question provides clarity regarding the type of “healthcare workers” covered by the initiative but offers no clarity regarding the type of “persons” (or healthcare facilities) covered. This absence, when juxtaposed with the clarity voters are provided about the workers will necessarily lead a voter to assume the initiative applies to *all* workers and *all* healthcare facilities.

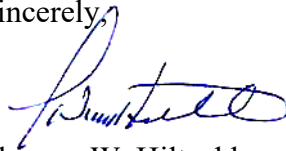
We understand that the ballot question is limited to just 75 words. However, with the addition of just two words to the proposed ballot question, you can eliminate the false and misleading aspect of the proposed ballot question and still comply with the word limit. Thus, we ask that you amend the proposed ballot question as follows:

Shall an initiative requiring **certain** persons employing **certain** part-time and full-time healthcare workers including, without limitation, clinicians, nurses, certified nursing assistants, aides, technicians, maintenance workers, janitorial or housekeeping staff persons, groundskeepers, guards, food service workers, laundry workers, pharmacists, nonmanagerial administrative workers, and business clerical workers (but not managers or supervisors) to pay a minimum hourly wage of \$25 to be increased on an annual basis, be adopted?

Letter to Karl Berger, City Attorney
Re: Objection to Proposed Ballot Label
July 1, 2022
Page 3

Thank you for your consideration of this modest request. We believe that it necessary to comply with the requirements of the Elections Code and is a benefit to the voters. Please contact me at the above number if you would like to discuss this matter further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas W. Hiltachk", with a stylized, cursive script.

Thomas W. Hiltachk

Subject: Minimum Wage Initiative for Certain Health Care Workers
Date: Wednesday, July 20, 2022 at 9:36:34 AM Pacific Daylight Time
From: Thomas Hiltachk
To: Karl Berger
Attachments: 2022.07.14 [1] Complaint for Injunctive and Declaratory Relief.pdf

Ms. Berger: I know the city is considering its options before acting on the initiative that has qualified in the City. You might also want to follow this case on the Central District's website. Hearing on PI Motion is set for 8/5. Obviously of interest to your client

Thomas W. Hiltachk Partner BELL, McANDREWS & HILTACHK, LLP	455 Capitol Mall, Suite 600 Sacramento, CA 95814 P (916) 442-7757 F (916) 442-7759 E tomh@bmhlaw.com Follow us on Twitter
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Circular 230 Disclosure: In compliance with requirements imposed by the IRS pursuant to IRS Circular 230, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

The information contained in this communication is confidential and may be attorney-client privileged. If you have received this communication in error, please notify us immediately by return e-mail and destroy this communication and all copies thereof, including all attachments.

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Facsimile: 916.442.7759

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

BARLOW RESPIRATORY
HOSPITAL; PIH HEALTH GOOD
SAMARITAN HOSPITAL;
PROVIDENCE HOLY CROSS
MEDICAL CENTER; HOSPITAL
ASSOCIATION OF SOUTHERN
CALIFORNIA, an Incorporated
California Nonprofit Membership
Association; CALIFORNIA
HOSPITAL ASSOCIATION, an
Incorporated California Nonprofit
Membership Association,

Plaintiffs,

v.

CITY OF LOS ANGELES; OFFICE
OF WAGE STANDARDS FOR THE
CITY OF LOS ANGELES; ERIC
GARCETTI, in his official capacity as
Mayor of Los Angeles; and DOES 1-20,

Defendants.

CASE NO.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

1 1. The City of Los Angeles Ordinance No. 187566 is the City’s first attempt
2 to impose a targeted wage requirement on one of the most complex industries in the
3 United States—the delivery of healthcare. Unfortunately, perhaps because it rushed to
4 convert an initiative into an ordinance without any legislative analysis or research, the
5 City has done so in violation of the United States and California Constitutions by
6 drawing distinctions between similarly situated groups of workers and employers that
7 serve no purpose—or are outright inimical—to the stated goal of combatting labor
8 shortages and increasing workforce retention.

9 2. In contrast with other minimum wage laws that address a particular
10 industry, the Ordinance hits only certain healthcare facilities with a sudden, sharp
11 increase in labor costs, even though these facilities rely on fixed government and
12 insurer reimbursement systems. In this way, the Ordinance functions like a bull in a
13 china shop. It tramples its own stated goals, harms the covered healthcare facilities,
14 worsens workforce retention, and creates labor market instability.

15 3. That is because under the Ordinance, nearly all workers—from nurses to
16 janitors to kitchen staff—at private hospitals, clinics associated with such hospitals,
17 and dialysis clinics will be entitled to a minimum wage of \$25 an hour—a 55%
18 increase in the minimum wage. But workers with the exact same job, possibly just
19 down the street or a few blocks away, at facilities ranging from for-profit healthcare
20 clinics other than a dialysis clinic, community health clinics, federally qualified
21 healthcare clinics, public hospitals, ambulatory surgery centers, or family planning
22 clinics will not be entitled to a minimum wage of \$25. There is no rhyme or reason for
23 why this Ordinance singles out **some, but not all**, healthcare facilities across the City
24 and provides **some, but not all**, healthcare workers in the City a 55% raise in the
25 minimum wage.

26 4. The Ordinance’s scattershot definition of which facilities are “covered”
27 by the increased minimum wage requirement defeats, and thus bears no rational
28 relationship to, the Ordinance’s stated purposes of reducing healthcare staffing

1 shortages and workforce retention. The Ordinance exacerbates the very problems it
2 seeks to solve: The facilities that are not covered by the Ordinance employ more than
3 half of the City’s healthcare workers and already suffer from higher rates of staffing
4 shortages and workforce turnover. By arbitrarily raising the minimum wage by 55%
5 for only some workers in the same occupation, the Ordinance undercuts the ability of
6 non-covered facilities—many of which serve the most vulnerable communities of
7 Angelenos—to retain their workers. Why work for \$16 an hour at a family planning
8 clinic, when you can get \$25 an hour down the street at a dialysis clinic? Because
9 there is no “reasonably conceivable state of facts that could provide a rational basis for
10 the classification” between covered and non-covered facilities, the Ordinance must
11 fail. *FCC v. Beach Comm’n’s, Inc.*, 508 U.S. 307, 313 (1993).

12 5. Furthermore, the Ordinance imposes this increase in labor cost at a time
13 when hospitals and clinics in the Los Angeles area are reeling from the effect of the
14 COVID-19 pandemic. During the COVID-19 pandemic—the effects of which are
15 expected to continue through at least the next year—hospitals, clinics, and other
16 healthcare facilities have been placed under severe financial distress due to increased
17 costs and staffing shortages. This is true of both covered and non-covered healthcare
18 facilities. A number of healthcare facilities that are covered by the Ordinance are
19 already on the brink of bankruptcy.

20 6. The Ordinance also throws another potentially fatal wrench into the
21 unique and extremely complex healthcare industry. Unlike hotels, restaurants, or other
22 service industries, healthcare industry revenue is almost entirely composed of
23 government program monies and private insurance payors. Hospitals and other
24 healthcare providers do not have the flexibility to absorb increased wage costs because
25 reimbursement rates (the primary driver of facilities’ revenue) are set in contracts that
26 take years to re-negotiate or change. And labor costs are a substantial portion of
27 healthcare facilities’ expenses. Therefore, healthcare facilities cannot easily increase
28 revenue to account for the increased costs caused by the Ordinance, likely forcing

1 certain covered facilities to undergo reorganization (including laying off employees) or
2 close operations entirely. This, too, worsens the staffing shortage and retention issue
3 in the worst way possible—by putting covered facilities out of business.

4 7. The Ordinance not only unsettles the City’s healthcare landscape during
5 precarious times, but also requires covered facilities to meet an unconstitutional 31-day
6 timetable to come into compliance with the 55% increase in the minimum wage.
7 Thirty-one days is simply not enough time for even the nimblest healthcare provider to
8 implement a 55% rise in the minimum wage, when (1) nearly all of its revenue is either
9 set by the government in the form of Medicare, Medi-Cal, and grants, or based on
10 contracts with private insurers that cannot be adjusted in days, and (2) the Ordinance is
11 sufficiently vague regarding the employees covered that regulatory guidance from the
12 City of Los Angeles will be required. The Ordinance’s unreasonable effective date to
13 implement a vague program violates the adequate notice requirements embedded in the
14 Due Process Clauses of the United States and California Constitutions.

15 8. Nor does the Ordinance’s illusory “one-year court-granted waiver”
16 provision alleviate those harms in any way. While the Ordinance itself recognizes that
17 the enormous and immediate 55% increase in the minimum wage could cause
18 healthcare providers to shut their doors and turn away their patients, the waiver
19 procedure is nothing more than a false promise of temporary relief because it does not
20 establish an expedited process to actually obtain the waiver. Instead, the Ordinance
21 offers only undefined court proceedings to prove that the new minimum wage
22 interferes with the facility’s ability to continue as a “going concern”—a notoriously
23 complex accounting concept that requires data that could not possibly be gathered,
24 analyzed, presented, and then litigated in court in time for a court ruling within 31
25 days. The Ordinance’s illusory waiver procedure only compounds (rather than
26 salvages) the Ordinance’s Due Process violations.

27 9. In short, the Ordinance puts healthcare facilities’ constitutional rights at
28 risk. It also jeopardizes the quality and availability of healthcare for City residents.

1 Plaintiffs therefore bring this action to prevent these devastating consequences before
 2 it is too late. Only a temporary injunction, and ultimately a permanent injunction, can
 3 protect the citizens of Los Angeles who depend on the healthcare facilities located in
 4 the City and prevent the potential financial collapse of covered and non-covered
 5 facilities on the brink of closure that will be generated by this Ordinance.

6 **PARTIES**

7 10. Plaintiff Barlow Respiratory Hospital (“Barlow”) is a 105-bed, long-term
 8 acute care hospital that serves Los Angeles County and the surrounding regions. It is a
 9 national leader in weaning chronically critically ill patients from mechanical
 10 ventilation. Barlow is the only not-for-profit long-term care hospital in California. It
 11 is the destination of choice for medically complex and chronically critically ill patients
 12 referred to Barlow from intensive or critical care units at the finest hospitals in
 13 California. Its interdisciplinary teams include board-certified physicians, registered
 14 nurses, and licensed therapists. With over 120 years of service, Barlow works to
 15 provide individualized care and treatment for each of its patients. Barlow’s goal is to
 16 achieve the best possible outcomes and to return its patients to their homes or to
 17 discharge them to lower levels of care. Barlow’s main campus is located in downtown
 18 Los Angeles (49 beds), with two satellite campuses in Whittier (26 beds and outside
 19 the City of Los Angeles) and Van Nuys (30 beds and inside the City of Los Angeles).
 20 Over 70 hospitals refer patients to Barlow. Approximately 80% of its patients rely on
 21 government payors for their care. On information and belief, Barlow believes its
 22 facilities within the City of Los Angeles are “Covered Healthcare Facilities” under
 23 Ordinance § 187.51(B), while its similarly situated facility in Whittier would not be.
 24 Since the beginning of the pandemic, Barlow has been facing severe financial
 25 hardship. Being forced to comply with the Ordinance will not only place an economic
 26 hardship on Barlow, but Barlow may very well cease to exist. Barlow’s small
 27 operations also means that it does not have the staffing to quickly implement the
 28

1 change to comply with the Ordinance or to quickly apply for, and obtain, a one-year
2 exemption from the Ordinance.

3 11. Plaintiff PIH Health Good Samaritan Hospital (“Good Samaritan”) is a
4 nonprofit, 408-bed acute care hospital. Founded in 1885, it is the oldest hospital in
5 Los Angeles. Good Samaritan joined the PIH Health network in 2019 in order to save
6 Good Samaritan from closing. Good Samaritan is dedicated to putting patients first—
7 which is a cornerstone of its mission, vision and values. In its last fiscal year, Good
8 Samaritan contributed nearly 16% of its annual expenses to charity care and other
9 community benefit efforts, to a total of \$71,373,964, serving 52,307 individuals. Due
10 to its location in downtown Los Angeles, Good Samaritan will continue to dedicate its
11 resources to those Angelenos with the greatest need, including caring for a high
12 number of patients on Medi-Cal. On information and belief, Good Samaritan believes
13 its facilities within the City of Los Angeles are “Covered Healthcare Facilities” under
14 Ordinance § 187.51(B).

15 12. Plaintiff Providence Holy Cross Medical Center (“Providence Holy
16 Cross”) is a 377-bed, not-for-profit facility founded in 1961 that offers a wide range of
17 inpatient and outpatient health services, including a Level II Trauma Center, home
18 health care, health education, and community outreach programs. Providence Holy
19 Cross is committed to providing compassionate, highly reliable, safe care. Providence
20 Holy Cross has received regional and national awards and designations relating to its
21 quality of care, the quality of nursing staff, and its specialty services. Approximately
22 50% of Providence Holy Cross’s expenses are due to labor costs. On information and
23 belief, Providence Holy Cross believes that it will be a “Covered Healthcare Facility”
24 under Ordinance § 187.51(B).

25 13. Plaintiff Hospital Association of Southern California (“HASC”) is a not-
26 for-profit regional trade association that is dedicated to effectively advancing the
27 interests of hospitals in Los Angeles County and elsewhere. HASC and its member
28 hospitals and health systems all operate with a common goal: to improve the operating

1 environment for hospitals and the health status of the communities that they serve.
2 The interests that this suit seeks to protect are germane to HASC's purpose—namely,
3 to ensure that its members can continue to operate and to ensure that HASC's Los
4 Angeles-based members can continue to serve their communities. Many of HASC's
5 member hospitals would be subject to the wage requirements of the Ordinance and
6 therefore would have standing to sue in their own right, and the relief requested does
7 not require each individual member's participation. Although HASC members include
8 facilities that are not subject to the Ordinance, they are also negatively impacted by its
9 requirements due to the increased risk of staffing shortages that are likely to follow if
10 the Ordinance is not enjoined.

11 14. Plaintiff California Hospital Association ("CHA") is an incorporated
12 nonprofit association that represents the interest of public and private hospitals,
13 including for-profit and nonprofit hospitals, in California. CHA advocates for better,
14 more accessible healthcare for all Californians by ensuring that hospitals can continue
15 to provide exceptional care to patients and comprehensive health services to
16 communities. The interests that this suit seeks to protect are germane to CHA's
17 purpose—namely, to ensure that its members can continue to provide accessible health
18 care and comprehensive health services to the residents of Los Angeles. Many of its
19 member hospitals, and their hospital-affiliated clinics, would be subject to the wage
20 requirements of the Ordinance and therefore would have standing to sue in their own
21 right, and the relief requested does not require each individual member's participation.
22 Although CHA members include facilities that are not subject to the minimum wage
23 requirements in the Ordinance, they are negatively impacted by such a requirement due
24 to the increased risk of staffing shortages that are likely to follow if the Ordinance is
25 not enjoined. More than a dozen hospitals and many more hospital-affiliated clinics
26 would be affected by the Ordinance.

27 15. Defendant City of Los Angeles ("City") is a municipal corporation duly
28 organized and existing under the Constitution and laws of the State of California.

24. A permanent injunction enjoining Defendants from enforcing the Ordinance against Plaintiffs and their members would protect Plaintiffs' and their members' constitutional rights.

FACTUAL ALLEGATIONS

A. The Enactment of the Ordinance

25. The Ordinance originated as a local initiative sponsored by organized labor that qualified for the November 2022 ballot.

26. After an initiative qualifies for the ballot, as here, the City Council has three options: (1) adopt the Ordinance without alteration; (2) submit the proposed Ordinance to the voters in a special election; or (3) submit the proposed Ordinance to the voters in the next general election (November 8, 2022). Despite the serious impact of a 55% increase in the minimum wage on the healthcare facilities covered by the Ordinance, the City Council did not seek a report on the impact of the Ordinance on the healthcare community.

27. Instead, on June 10, 2022, the City Clerk recommended that the City Council submit the proposed Ordinance to the next General Election, scheduled for November 8, 2022. See Holly L. Wolcott, *Certification of Sufficiency of an Ordinance Initiative Petition: Minimum Wage for Healthcare Employees Working at Healthcare Facilities*, City of Los Angeles (June 10, 2022), <https://lacity.primegov.com/meeting/attachment/409834.pdf?name=Report%20from%20City%20Clerk%20dated%206-10-22>.

28. Significantly, between June 10 and the first date that the Ordinance was on the City Council's agenda, substantial feedback was submitted to the City. The overwhelming majority of correspondence on the record argued that the Ordinance should be left to the voters and not adopted by the City Council. See Exs. 2–5.

- Many of the letters remarked that the Ordinance sets “new, arbitrary pay requirements for *some* health care workers at private hospitals and health care facilities, while completely **excluding thousands of health**

care workers doing the same jobs at public hospitals and clinics, community clinics, Planned Parenthood clinics, nursing homes, surgery centers, retail pharmacies, and other medical offices in the City of Los Angeles.” See Ex. 2. This is particularly concerning given that a recent study found that “for the first time in recent history more than half of California’s hospitals are operating in the red.” *Id.* (quoting *Analysis: California Hospitals Endured Significant Financial Strain in 2021*, Kaufman, Hall & Associates, LLC (Apr. 19, 2022), https://www.kaufmanhall.com/sites/default/files/2022-04/KH_CHA-2021-Financial-Analysis-Ebook.pdf).

- Another letter remarked that “[t]here are over two thousand health care facilities, clinics and other providers that are excluded,” and that the Ordinance would be “harmful to the workers and patients in our most vulnerable communities.” Ex. 3.
- Another medical center remarked that such unequal pay measures “discriminate and unfairly exclude healthcare workers,” which can “create a domino effect whereby medical centers . . . who are already struggling financially will be put under a significant financial pressure to retain sufficient qualified workforce[,] increasing operation costs.” Ex. 4.
- Yet another medical center, which had just been through bankruptcy multiple times and which claims to be the largest provider of inpatient psychiatric treatment in Los Angeles, asked what the City Council will do “for this [low-income] community when [it] ha[s] to scale back [its] services?” Ex. 5.

29. At the City Council’s June 21, 2022 public hearing on the Ordinance, several individuals reaffirmed that the Ordinance should not be unilaterally adopted by the City Council, but should instead be placed on the November 8, 2022 ballot. As one

individual put it, “[i]f the City Council passes this Ordinance, then [the City Council] will be picking winners and losers in the healthcare workforce,” as the “[m]ajority of healthcare workers in the City are excluded from this benefit,” which targets workers in roles such as “security and food service and maintenance.”¹ If the Ordinance were to pass, it would place “workforce strain [on] community and public healthcare providers that cannot compete with the private facilities.”² Others explained that the “very fragile community clinics and public health facilities” not covered under the Ordinance “will be faced with the daunting choice between increasing minimum salaries in order to compete for the very limited workforce or settl[ing] for less staffing and widening the wage gap.”³

30. Notwithstanding this opposition and without having ordered a report or studied the consequences of the Ordinance, the City Council decided to adopt the Ordinance on June 21, 2022, and gave it final approval on June 29, 2022. The Mayor signed it on July 8, 2022, and the Ordinance was published on July 13, 2022. It goes into effect on August 13, 2022. See Los Angeles Charter art. I, § 252 (“An ordinance shall go into effect 31 days from its publication.”).

B. The Terms of the Ordinance

31. The current local minimum wage in Los Angeles is \$16.04.⁴

32. The Ordinance imposes a minimum wage of \$25 per hour—a 55% increase—for any “Healthcare Worker” employed at a “Covered Healthcare Facility.” Los Angeles Municipal Code § 187.52(B)(1).⁵

¹ See *Regular City Council – 6/21/22*, YouTube.Com at 54:58–55:20 (June 21, 2022), https://www.youtube.com/watch?v=NyKEaI_vPS8.

² See *id.* at 54:40–55:48.

³ See, e.g., *id.* at 1:27:13–1:28:45.

⁴ See *July 1, 2022 Minimum Wage Ordinance Wage Rate Increase*, Mayor Eric Garcetti (Feb 1, 2022), <https://wagesla.lacity.org/sites/g/files/wph1941/files/2022-02/2022%20MWR%20Increase%20Notice.pdf>.

⁵ The Ordinance is attached as Exhibit 1.

1 33. Moreover, beginning on January 1, 2024, the Ordinance’s minimum wage
 2 for “Healthcare Workers” at “Covered Health Facilities” is subject to annual increases
 3 based on cost-of-living measurements by the Consumer Price Index for Urban Wage
 4 Earners and Clerical Workers for the Los Angeles metropolitan area. The Office of
 5 Wage Standards publishes the adjusted rates each year. *Id.* § 187.52(B)(2).

6 34. The increased minimum wage applies only to “Covered Healthcare
 7 Facilities” as defined by the Ordinance. “Covered Healthcare Facility” is defined as
 8 certain “privately owned” facilities “located within the boundaries of the City,”
 9 including licensed general acute care hospitals, outpatient clinics part of a general
 10 acute care hospital, skilled nursing facilities, chronic dialysis clinics, acute psychiatric
 11 hospitals and outpatient clinics and residential care facilities for the elderly associated
 12 with acute psychiatric hospitals, and integrated health care delivery systems. *See id.*
 13 § 187.51(B). In other words, Covered Healthcare Facilities are a subset of private
 14 hospitals, including clinics associated with such hospitals, acute psychiatric hospitals,
 15 and dialysis clinics. On its own terms, the Ordinance does not apply to other similarly
 16 situated healthcare facilities—such as employees working for or at any community
 17 health clinic, a federally qualified healthcare clinic, an ambulatory surgery center, or a
 18 family planning clinic.

19 35. Moreover, the Ordinance does not even apply to all employees at all
 20 Covered Healthcare Facilities. Rather, the Ordinance defines Healthcare Worker (an
 21 employee entitled to at least \$25 per hour) as “an Employee who is employed to work
 22 at or by a Covered Healthcare Facility to provide patient care, healthcare services, or
 23 services supporting the provision of healthcare.” This term includes “a clinician,
 24 professional, non-professional, nurse, certified nursing assistant, aide, technician,
 25 maintenance worker, janitorial or housekeeping staff person, groundskeeper, guard,
 26 food service worker, laundry worker, pharmacist, nonmanagerial administrative
 27 worker and business office clerical worker, but does not include a manager or
 28 supervisor.” *Id.* § 187.51(G). It is unclear who is covered as a “non-professional” or

1 “aide.” For instance, it is unclear whether a receptionist, a telephone operator, or
 2 information technology staff member is covered.

3 36. The Ordinance does allow covered facilities to seek a court-approved one-
 4 year waiver from the wage increase, but only if the covered facility can demonstrate
 5 “by substantial evidence” that compliance with the Ordinance would “raise substantial
 6 doubt” about a covered facility’s “ability to continue as a going concern.” *Id.*
 7 § 187.57. In order to do so, a covered facility must submit documentation regarding its
 8 financial condition, as well as evidence of “the actual or potential direct financial
 9 impact of compliance with” the Ordinance. *Id.*

10 37. The Ordinance authorizes substantial penalties in public and private
 11 enforcement actions against Plaintiffs. *See id.* § 187.54 (citing Los Angeles Municipal
 12 Code §§ 188.05–.11). And the penalties can multiply quickly, with penalties ranging
 13 from upwards of \$50 to \$120 *per employee per day* of a violation. *See* Los Angeles
 14 Municipal Code §§ 188.07(B), 188.08(A).

15 **C. The Alleged Basis for the Ordinance**

16 38. Despite applying to only *some* healthcare facilities within the City of Los
 17 Angeles—and again, only *some* employees within the group of covered employers—
 18 the Ordinance’s stated “purposes” are to prevent workforce shortages and retention
 19 issues related to COVID-19 across the *entire* healthcare industry in Los Angeles based
 20 on two national surveys not specific to Los Angeles. The findings and purposes of the
 21 Ordinance broadly allege:

- 22 a. “Hospitals, health systems, and clinics are facing staffing shortages
 23 that could jeopardize the availability of care in Los Angeles,
 24 especially in our most vulnerable communities.”
- 25 b. “Healthcare workers are on the front lines, dealing with the
 26 emotional, mental, and physical fallout of providing healthcare
 27 during a pandemic.”

- c. “[T]he healthcare industry is competing with other economic sectors to fill critical non-clinical positions.”
- d. “With rising housing costs, healthcare workers are being forced to live further from their places of work, increasing their stress in already stressful times.”
- e. “Raising the minimum wage can help stabilize the incomes of healthcare workers who are low-wage earners” and “will help address the burnout, retention challenges, and worker shortages affecting healthcare workers in Los Angeles.”

Id. § 187.50.

D. The Ordinance Will Damage Plaintiffs, the Healthcare Industry, and the Residents of Los Angeles

39. The Ordinance’s chosen means are a complete mismatch with its stated purposes and announced goals. The Ordinance makes arbitrary distinctions about what facilities are subject to the increased \$25 minimum wage, thereby exacerbating the very issues that it seeks to remedy: It will not only undermine non-covered facilities already grappling with staffing shortages and retention problems but will exacerbate the financial pressures already faced by many covered facilities. Moreover, the Ordinance does not provide Plaintiffs and other healthcare facilities with sufficient notice (31 days) in order to comply with the Ordinance or obtain a judicial waiver of the increased minimum wage obligation. As a result, enforcement of the Ordinance infringes upon Plaintiffs’ constitutional rights, threatens the entire healthcare industry, and harms the residents of Los Angeles.

i. The Ordinance Draws Arbitrary Lines over Its Coverage.

40. The Ordinance draws irrational lines between who is covered and not covered. The Ordinance draws a distinction between hospitals and draws further distinctions among clinics. For example, clinics affiliated with private hospitals are covered but those clinics not affiliated with any hospital are not covered, except for

1 dialysis clinics, which are covered. No legitimate purpose justifies this crazy-quilt
2 classification test.

3 41. The Ordinance's purposes do not justify why a receptionist at a
4 standalone clinic is not covered by the Ordinance, but a receptionist at Providence
5 Holy Cross's trauma center is covered. Both types of facilities provide necessary
6 healthcare services, both have been combatting the effects of the COVID pandemic,
7 both are located within the City of Los Angeles, and both serve some of the neediest
8 communities within the City. Nor do the Ordinance's purposes justify why it would
9 not cover Planned Parenthood facilities, but it would cover Plaintiff Barlow—a long-
10 term acute care hospital that is a national leader in weaning chronically critically ill
11 patients from mechanical ventilation. And the Ordinance's purposes do not justify
12 why a for-profit cosmetic surgery center performing nose jobs or a dermatology clinic
13 that could be found on an episode of *Extreme Makeover* would not be covered by the
14 Ordinance but a clinic associated with Cedars-Sinai treating severe birth defects is
15 covered by the Ordinance.

16 42. As another example, the Ordinance's purposes do nothing to explain why
17 an employee in a dialysis clinic must be paid at least \$25 per hour, while an employee
18 in a Planned Parenthood facility does not. But the Ordinance still singles out dialysis
19 clinics for different treatment as compared to other clinics not affiliated with private
20 hospitals for reasons that appear to be completely unrelated to the "purposes" of the
21 Ordinance.⁶

22 43. This renders the classification nonsensical even for rational basis review.
23 These baseless distinctions exist across covered and non-covered facilities. The City
24

25 ⁶ Victoria Colliver, *Inside a California Health Care Union's Obsession with Kidney*
26 *Dialysis Initiatives*, Politico (Nov. 19, 2021),
27 <https://www.politico.com/states/california/story/2021/11/19/inside-a-california-health-care-unions-obsession-with-kidney-dialysis-initiatives-1394715>; Lauren
28 Rosenhall, *Good Policy or Ballot Blackmail? Union Keeps Taking Its Fights with Health Industry to Voters*, Cal Matters (Oct. 20, 2020),
<https://calmatters.org/politics/california-election-2020/2020/10/california-healthcare-union-proposition-23/>.

1 has presented no rational basis for treating differently two employees who do the exact
2 same job, one at a covered facility and another at a non-covered facility.

3 44. Plaintiffs acknowledge that some locally imposed, targeted minimum
4 wage ordinances have been upheld on the basis that the regulated employers (such as
5 hotels near airports) received public benefits (such as increased investments or use of
6 government property) in exchange for the increase in minimum wage. In short, the
7 government in such a case chose to condition access to government benefits on
8 increased wages. But nothing of the sort occurs here. Covered Healthcare Facilities
9 do not use City property or receive special City benefits in exchange for this disparate
10 treatment relative to non-covered facilities.

11 **ii. The Ordinance Undermines Its Own Goals.**

12 45. The arbitrary nature of the classifications in the Ordinance is further
13 demonstrated by the fact that the Ordinance undermines its stated goals with respect to
14 both covered and non-covered facilities.

15 46. The Ordinance will strike a fatal blow to its goal of workplace stability as
16 applied to covered facilities—many operating deep in the red—that will not be able to
17 keep their doors open. Indeed, approximately one-third of all healthcare facilities in
18 Los Angeles are already operating in the red. Nothing could be more
19 counterproductive to increasing workforce stability than battering already struggling
20 facilities with new, unexpected costs that they cannot adjust their revenue stream to
21 cover. Given that labor costs often constitute at or above 50% of a healthcare facility's
22 expenses, a forced increase in minimum wages can have a devastating impact on
23 overall expenses and a facility's bottom line.

24 47. Nor will the Ordinance remedy any staffing shortages in the healthcare
25 industry. Many non-covered facilities cannot compete with the increased pay
26 mandated for covered facilities. Non-covered facilities—which already have a
27 substantially greater proportion of workers earning less than \$25 per hour *and* are
28 already suffering from greater workforce turnover—will be at risk of losing *more* of

1 their staff, as more workers try to work for the covered facilities. Therefore, non-
2 covered facilities will either be forced to increase their wages, undermining the number
3 of staff members that they can hire, or have greater staffing shortages as workers begin
4 to leave. Both choices will result in reduced care for Angelenos at non-covered
5 facilities. And for non-covered facilities that are already on the verge of having to
6 close down, matching wages is not an option.

7 48. Furthermore, the Ordinance's wage increase impacts covered facilities
8 beyond the increased wages for covered employees currently making less than \$25 per
9 hour. Increasing the wages of those workers will have a ripple effect throughout the
10 workforce, putting covered facilities under substantial labor market pressure to
11 increase wages throughout their organizations. For example, if covered facilities must
12 increase the hourly wage of a janitor to \$25 per hour, an employee with higher
13 qualifications who is currently making \$35 per hour will expect a corresponding
14 increase in pay. This demand for wage increases the pressure on workforce retention,
15 potentially creating further dislocation for covered employers who do not increase
16 wages and exacerbating the financial pressure on facilities that are already in financial
17 distress but are nonetheless forced to increase wages across the board. The resulting
18 staffing shortage and increased costs will reduce the quality of patient care in Los
19 Angeles, as facilities will be forced to choose between increasing wages for the
20 employees above the minimum wage workers (putting facilities further in the red and
21 forcing them to choose what services to cut) or losing those workers (resulting in either
22 less experienced healthcare professionals or a reduction in services due to reduced
23 staffing). Therefore, this is ultimately inimical to workforce retention, workplace
24 continuity, and patient care.

25 49. Barlow serves as the case in point. If Barlow goes out of business,
26 patients who rely on Barlow will likely struggle to obtain care elsewhere because of
27 Barlow's specialized care. Further, this would have a ripple effect on other facilities:
28 other hospitals that currently transfer their ICU patients to Barlow for long-term care

1 will no long have that option and may have to retain these patients, limiting their bed
2 availability for incoming patients requiring ICU care. And even if Barlow could
3 withstand the increased labor costs resulting from the Ordinance, Barlow would need
4 to either reduce its services or cut costs through other methods. For covered facilities,
5 the increased minimum wage will not resolve the problem of staffing turnover because
6 safety concerns and pressures associated with the COVID-19 pandemic have already
7 caused high turnover among workers regardless of compensation level. In the end,
8 patients will suffer.

9 50. Even without staffing shortages, increased wages will harm Angelenos.
10 Covered facilities that must increase wages will be forced to try and cut costs through
11 other means if they are operating on thin margins or at risk of closure. This could
12 include curtailing or eliminating community health programs, such as mobile screening
13 centers and health education.

14 51. The Ordinance also counterproductively increases turnover at non-
15 covered facilities. Non-covered facilities account for the majority of healthcare
16 facilities in Los Angeles, and the Ordinance therefore benefits fewer than half of
17 healthcare workers within City limits. As a result, the challenges of retaining the
18 majority of healthcare workers will worsen, not improve. Because many of the non-
19 covered facilities are the very facilities that serve “vulnerable communities,” an
20 increase in wages in covered facilities will result in worse care for the very
21 communities that the Ordinance purports to protect. Many non-covered facilities
22 forecast that the Ordinance will increase turnover among their employees, as they
23 leave to pursue jobs at covered facilities.

24 **iii. The Ordinance’s Notice Is Inadequate and Unconstitutional.**

25 52. The Ordinance fails to provide adequate notice to covered facilities in two
26 ways.

27 53. First, the publication of the Ordinance set off a 31-day countdown for
28 covered facilities to comply with the Ordinance. Unlike non-covered facilities, which

1 have the ability to choose when and to what extent, if at all, they would like to increase
 2 their wages,⁷ no such choice exists for covered facilities. By August 13, 2022, all
 3 potentially covered facilities must: (1) determine which of its facilities are located
 4 within City limits; (2) determine whether they fall within the definition of a “Covered
 5 Healthcare Facility”; (3) determine which employees fall within the definition of a
 6 “Healthcare Worker”; (4) determine which Healthcare Workers are paid less than \$25
 7 per hour; and (5) actually implement these raises, costing potentially millions of
 8 dollars. Making these complicated determinations and implementations within a
 9 matter of weeks is impractical, if not outright impossible. Plaintiffs and their members
 10 have concerns about their ability (and the ability of all covered facilities) to determine
 11 which employees are covered and comply by August 13, 2022. Plaintiff CHA, in fact,
 12 asked for guidance from the City and has received no response as of July 14. *See Ex.*
 13 *6.*

14 54. For example, implementing the Ordinance will be extraordinarily difficult
 15 for smaller clinics and hospitals like Plaintiff Barlow. Barlow does not have a separate
 16 payroll department or payroll specialist to ensure the timely implementation of this
 17 increase. Barlow also does not have staff qualified to assist it with determining which
 18 facilities are covered by the Ordinance, which employees fall within the definition of a
 19 Healthcare Worker, and whether (as discussed more fully below) it would be able to
 20 continue as a “going concern” (and how to present such a determination) if it had to
 21 comply with the Ordinance. Layered on top are complex state and federal laws and
 22 regulatory regimes that govern employee wages and the healthcare industry.

23 55. Second, many covered facilities (including Plaintiff Barlow) that currently
 24 are barely able to keep their doors open with their current wage structure are at risk of
 25

26
 27 ⁷ *See AltaMed Health Services Corporation Leads Healthcare Industry with a Living*
 28 *Wage Increase to a Minimum of \$25 an Hour for Employees*, AltaMed (June 27,
 2022), <https://www.altamed.org/news/altamed-health-services-corporation-leads-healthcare-industry-living-wage-increase-minimum-25> (“AltaMed . . . has
 announced a living wage increase to \$25 an hour **by 2025.**”) (emphasis added).

1 closure once this wage increase goes into effect. Many covered facilities (and non-
 2 covered ones as well) are operating at razor-thin margin lines or outright losing money.
 3 Approximately one-third of healthcare facilities in Los Angeles currently operate in the
 4 red. A minimum wage increase of 55% will devastate these facilities, and potentially
 5 deprive Angelenos of the necessary and specialized care that these facilities provide.

6 56. Yet covered facilities are somehow expected to come up with additional
 7 revenue on this unrealistic truncated timeline. But what a covered facility can charge
 8 for services is largely fixed and is dictated and regulated by federal, state, and local
 9 laws and government agencies. For example, CMS controls the amount of
 10 reimbursement a covered facility receives under Medicare based on predetermined,
 11 fixed amounts. *See Prospective Payments Systems—General Information*, Ctrs. for
 12 Medicare & Medicaid Servs., [https://www.cms.gov/Medicare/Medicare-Fee-for-](https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ProspMedicareFeeSvcPmtGen)
 13 *Service-Payment/ProspMedicareFeeSvcPmtGen* (last visited July 14, 2022). These
 14 fixed amounts do not even come close to covering the actual costs of providing care to
 15 patients, as the statewide average shortfall of Medi-Cal compared to facilities' actual
 16 costs of providing care is at least 20%. And studies found that hospitals do not make
 17 up for Medicare cuts by cost-shifting (that is, increasing prices to private insurers and
 18 other non-governmental payors). Chapin White and Vivian Yaling Wu, *How Do*
 19 *Hospitals Cope with Sustained Slow Growth in Medicare Prices?*, *Health Servs. Res.*
 20 49:1 at 13–14 (Feb. 2014), [https://onlinelibrary.wiley.com/doi/pdf/10.1111/1475-](https://onlinelibrary.wiley.com/doi/pdf/10.1111/1475-6773.12101)
 21 6773.12101.

22 57. Plaintiff Barlow is a case in point. Barlow's year-to-date margin is
 23 currently -10%, meaning it has been operating well in the red this year. This amounts
 24 to an approximate loss of \$500,000 per month. If the Ordinance is enforced as to
 25 Barlow, its margins will worsen. With approximately 80% of its residents on
 26 government payor programs—all of which result in negative margins (including Medi-
 27 Cal revenue accounting for only 57% of the cost to treat Medi-Cal patients)—Barlow
 28 serves some of the City's most vulnerable communities. It will not be able to increase

1 its revenue to offset the increase in labor costs, which currently account for
 2 approximately two-thirds of its expenses. Therefore, if Barlow is forced to comply
 3 with the Ordinance, it will risk closure and the City of Los Angeles and Angelenos will
 4 be deprived of Barlow's specialized care.

5 58. Nor can covered facilities like Barlow simply raise Medicare or Medicaid
 6 reimbursements to generate the revenue they need to comply with the Ordinance.
 7 Under the inpatient prospective payment system ("IPPS"), CMS calculates a national
 8 standard price for each service. *Id.* at 13. Raising Medicare and Medicaid standard
 9 prices does not occur overnight. Covered facilities will have to wait years for CMS to
 10 propose a rule increasing payments for services. With a growing Medicare and
 11 Medicaid population in California, and covered facilities' reliance on these payments,
 12 it is virtually impossible for covered facilities to implement a minimum wage increase
 13 of over 50% within 31 days without putting the covered facilities at risk of closure.
 14 See ATI Advisory, *Profile of the California Medicare Population*, Cal. Dep't of Health
 15 Care Servs. (Feb. 18, 2022), [https://www.dhcs.ca.gov/services/Documents/OMII-](https://www.dhcs.ca.gov/services/Documents/OMII-Medicare-Databook-February-18-2022.pdf)
 16 [Medicare-Databook-February-18-2022.pdf](https://www.dhcs.ca.gov/services/Documents/OMII-Medicare-Databook-February-18-2022.pdf) ("California's Medicare population grew
 17 11.3% from 5.8 million in 2016 to 6.5 million in 2021."); see also Finnochio, Paci &
 18 Newman, *California Health Care Almanac 2021 Edition—Medi-Cal Facts and*
 19 *Figures Essential Source of Coverage for Millions*, Cal. Health Care Found. (Nov. 12,
 20 2021), <https://www.chcf.org/publication/2021-edition-medi-cal-facts-figures/> ("In
 21 total, over 13 million Californians – one in three – rely on [Medi-Cal] for health
 22 coverage.").

23 59. Facilities that are most dependent on Medicare and Medi-Cal are often the
 24 ones most at risk of closure. These facilities currently have the greatest financial
 25 difficulties and therefore will be hit the hardest by a labor cost increase with no
 26 practical way to increase revenue to cover it and no meaningful opportunity of
 27 obtaining a waiver to delay its implementation. And because Medicare and Medi-Cal
 28 patients are often low income and from the most vulnerable communities in Los

1 Angeles, they will also suffer the effects of this wage increase through potential
2 facility closure or reduction in services.

3 60. This inadequate notice for implementing a 55% increase in the minimum
4 wage is not mitigated by the Ordinance's authorization to seek a mere one-year court-
5 approved waiver for facilities that are concerned about being able to remain a "going
6 concern." See Ordinance § 187.57. Preparing the application and actually receiving a
7 judicial waiver within that time frame is impossible. Nor is a one-year waiver
8 sufficient to allow such a facility to continue as a going concern. To obtain such a
9 waiver, a facility would need to collect and prove through "substantial evidence" that
10 there is "substantial doubt" about its ability to continue as a going concern under
11 "generally accepted accounting standards," which has no standardized meaning; it
12 needs to submit the necessary financial documentation before the Ordinance goes into
13 effect; and a court would need to rule on this submission and grant a waiver before the
14 Ordinance became effective. All of this cannot possibly happen by the time that the
15 Ordinance goes into effect and the covered facilities are legally obligated to pay the
16 minimum wage increase. Exacerbating this difficulty is that a court would need to
17 decide what the proper procedure is for seeking such a waiver, what constitutes
18 "substantial doubt," and what evidence is "substantial." Therefore, it is impossible for
19 a potentially covered facility to obtain a waiver before the Ordinance goes into effect,
20 which amounts to insufficient notice to take advantage of the purported remedy of a
21 waiver.

22 **COUNT I**

23 **Violation of the U.S. Constitution's Equal Protection Clause**

24 61. Plaintiffs incorporate by reference all other paragraphs of this Complaint.

25 62. The Ordinance's definition of Covered Healthcare Facility violates the
26 Equal Protection Clause of the Fourteenth Amendment of the United States
27 Constitution because it is not rationally related to a legitimate governmental interest
28 and likely defeats its purported governmental interest.

63. First, covered healthcare facilities, such as private hospitals or clinics affiliated with private hospitals, are similarly situated in all relevant respects to non-covered healthcare facilities, such as community health clinics, family planning clinics, or private clinics. Yet the City has adopted a classification that affects similarly situated groups in an unequal manner.

64. Second, the reasons given for the Ordinance stand at complete odds with the arbitrary lines drawn by the definition of Covered Healthcare Facility. The limited definition of Covered Healthcare Facility has no rational relationship with the Ordinance's stated purpose of solving "the burnout, retention challenges, and worker shortages affecting healthcare workers in Los Angeles." Ordinance § 187.50. That definition does not rationally separate facilities on the basis of staffing shortages or workforce turnover. In fact, many non-covered facilities suffer from higher rates of shortages and turnover than covered facilities.

65. Third, and significantly, the Ordinance's classification *undermines* its stated ends. By arbitrarily imposing an increased minimum wage on only a subset of healthcare facilities in Los Angeles, the Ordinance threatens to increase staffing shortages and workforce turnover in non-covered facilities, which suffer from higher rates of shortages and turnover. This is not a case where a law operates incrementally where progress is most needed. No rational actor would pursue a course of action that exacerbates the problem it seeks to address. Put another way, taking the Ordinance's "own rationale" for its coverage definition shows that "there is not a legitimate interest implicated by the classification." *Merrifield v. Lockyer*, 547 F.3d 978, 991 (9th Cir. 2008).

66. Nor is there any other rational basis to explain why certain facilities are covered and other are not covered under the Ordinance. Covered healthcare facilities do not accept any benefit from the City in exchange for the increased minimum wage.

67. Moreover, laws may not draw lines for the purpose of arbitrarily excluding or including persons as a concession to one political constituent or group;

1 there must be a rational basis for such line drawing. Yet the definition of Covered
2 Healthcare Facility includes dialysis clinics for no reason “other than to respond to the
3 demands of a political constituent.” *Fowler Packing Co. v. Lanier*, 844 F.3d 809, 815
4 (9th Cir. 2016). Here, there is no rational reason for the inclusion of dialysis clinics as
5 covered facilities.

6 68. In sum, the Ordinance’s different treatment of similarly situated
7 healthcare facilities does not bear a rational relationship for the distinction. To the
8 contrary, the irrational classifications and means adopted by the Ordinance to *decrease*
9 staffing shortages and workforce turnover threaten to *increase* the rates of shortages
10 and turnover where they are most prevalent—in non-covered facilities. And some
11 facilities are covered solely because of a political group’s demands. For any and all of
12 these reasons, the Ordinance is not rationally related to any legitimate end.

13 69. Plaintiffs have no adequate remedy at law. Plaintiffs and their member
14 organizations will also suffer immediate and irreparable injury unless this Court
15 enjoins—preliminarily and permanently—enforcement of the Ordinance. Enforcement
16 of and compliance with the Ordinance will severely impact the financial health of
17 individual Plaintiffs and of CHA’s and HASC’s members, and their ability to service
18 the community, while non-compliance will subject the Plaintiffs, their members, and
19 other covered facilities to excessive fines and other private legal action.

20 70. Plaintiffs are also entitled to a judicial declaration because it is necessary
21 and appropriate at this time. Plaintiffs and Defendants are in a fundamental
22 disagreement over the application and constitutionality of the Ordinance. Plaintiffs,
23 their members, and other covered facilities also will be at risk of excessive fines and
24 other private legal action if they somehow violate this unconstitutional Ordinance.
25 Plaintiffs therefore request a judicial declaration that the Ordinance is unconstitutional,
26 in whole or in part.

COUNT II

Violation of the California Constitution's Equal Protection Clause

71. Plaintiffs hereby incorporate by reference all of the foregoing paragraphs in this Complaint.

72. For substantially the same reasons as described in Count I, the Ordinance violates Article 1, Section 3(b)(4) of the California Constitution.

73. The enforcement of the Ordinance against Plaintiffs and their members will deprive them of equal protection under the law in violation of Article I, Section 7 of the California Constitution. The City has adopted an Ordinance that affects two similarly situated groups in an unequal manner, and the distinctions drawn by the Ordinance do not bear a rational relationship to a legitimate governmental purpose.

74. Plaintiffs have no adequate remedy at law. Plaintiffs and CHA's and HASC's members will also suffer immediate and irreparable injury unless this Court enjoins—preliminarily and permanently—enforcement of the Ordinance. Compliance with the Ordinance will severely impact the financial health of the individual Plaintiffs and of CHA's and HASC's members, and their ability to service their community, while non-compliance will subject the Plaintiffs, their members, and other covered facilities to excessive fines and other private legal action.

75. Plaintiffs are also entitled to a judicial declaration because it is necessary and appropriate at this time as Plaintiffs and Defendants are in a fundamental disagreement over the application and constitutionality of the Ordinance. Plaintiffs, their members, and other covered facilities also will be at risk of excessive fines and other private legal action if Plaintiffs or their members somehow violate this unconstitutional Ordinance. Plaintiffs therefore request a judicial declaration that the Ordinance is unconstitutional, in whole or in part.

COUNT III

Violation of the U.S. Constitution's Due Process Clause

76. Plaintiffs hereby incorporate by reference all of the foregoing paragraphs in this Complaint.

77. The Ordinance violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution. The Due Process Clause of the Fourteenth Amendment provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const., amend. XIV, § 1. Principles of procedural due process under the United States Constitution require that the government give citizens fair notice of a statute and how it will be applied against such citizens.

78. If the Due Process Clause applies, “the question remains what process is due.” *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985). Such a question “is flexible and calls for such procedural protections as the particular situation demands.” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).

79. The enforcement of the Ordinance against Plaintiffs and their members will deprive them of their procedural due process rights in violation of the United States Constitution. The Ordinance violates procedural due process in at least two respects: (1) the Ordinance does not provide covered facilities with sufficient notice to timely comply with the new minimum wage; and (2) the covered facilities have not been provided sufficient notice to seek and timely obtain a one-year waiver from the Ordinance’s applicability.

80. First, the Ordinance violates due process by not providing covered facilities with sufficient notice or a sufficient specification of the covered workers to timely comply with the law.

- a. Plaintiffs have a property interest in the revenue received from patients, insurers, Medicare, and Medi-Cal. Plaintiffs also have an interest in any revenue that may be forfeited as a result of penalties for

1 failure to comply with the Ordinance. However, the Ordinance's 31-
2 day notice deprives covered facilities of sufficient notice to timely
3 come into compliance, forcing them to modify complicated payroll
4 systems that implicate complex state and federal regulatory regimes
5 within a matter of weeks.

- 6 b. Specifically, the Ordinance becomes effective 31 days after
7 publication, which was on July 13, 2022. *See* Los Angeles Charter,
8 vol. I, art. II, § 252. Therefore, the Ordinance goes into effect on
9 August 13, 2022. This means that the Covered Facilities have 30 days
10 to update payroll and ensure that all covered employees are paid the
11 necessary rate. This is not adequate notice and no rationale reason
12 supports such inadequate notice.
- 13 c. Pay and costs within the medical field also are highly complicated, as
14 courts recognize.
- 15 d. Exacerbating the procedural due process deprivation caused by the
16 inadequate notice to timely comply with the Ordinance are the
17 ambiguous definitions as to who is specifically a "Healthcare Worker."
18 The City will almost assuredly need to provide substantial interpretive
19 guidance as to who is a "Healthcare Worker." For instance, the list of
20 "Healthcare Workers" includes a "professional," "non-professional,"
21 and "aide," without further description. *See* Los Angeles Municipal
22 Code § 187.51(G). Yet, these are not used as a "catch-all" phrase, but
23 are part of a list of specific positions, such as "maintenance worker" or
24 "housekeeping staff person." It is unclear whom these categories refer
25 to. Moreover, the general definition of "healthcare worker" is limited
26 to those who provide "patient care, healthcare services," or "services
27 supporting the provision of healthcare." It is unclear how broadly the
28 phrase of a worker "supporting the provision of healthcare" is to be

1 interpreted. In fact, the Ordinance contemplates the need for rules and
 2 regulations, *see id.* § 187.54(B), but there practically will be no such
 3 guidance by the time that the Ordinance goes into effect (and certainly
 4 not by the time that facilities must begin their attempts to comply with
 5 the Ordinance). Accordingly, not only must covered facilities
 6 determine whether they are, in fact, a covered facility, and who is a
 7 covered “Healthcare Worker,” but they must then determine how to
 8 restructure their pay structure. Plaintiff CHA, in fact, requested
 9 guidance from the City, but has received no response. *See* Ex. 6.

- 10 e. The City has provided no legitimate basis for requiring such a short
 11 31-day implementation period.

12 81. Second, the Ordinance also violates Plaintiffs’ due process right by not
 13 providing facilities with adequate notice to seek and obtain the statutorily provided
 14 “one-year court-granted waiver” from the Ordinance’s applicability. *See* Los Angeles
 15 Municipal Code § 187.57. The 31-day notice by which the Ordinance takes effect fails
 16 to grant Plaintiffs and their members adequate time to determine whether they qualify
 17 for the waiver, to prepare the documentation necessary to establish the right to the
 18 waiver, to seek the waiver, and to obtain the waiver. This places those facilities’ very
 19 existence at risk.

- 20 a. Specifically, the Ordinance offers a one-year court-granted waiver
 21 upon a showing that compliance with the Ordinance would result in
 22 “substantial doubt about the [facility’s] ability to continue as a going
 23 concern under generally accepted accounting standards.” *See id.*
 24 b. As a practical matter, it is impossible that a court would rule on any
 25 requested waiver by the time the Ordinance goes into effect (August
 26 13, 2022). This is particularly true where the procedures for seeking a
 27 waiver have not been fleshed out because, again, regulatory insight
 28 may be necessary. For example, “generally accepted accounting

standards”—the phrase used in the Ordinance—as opposed to generally accepted accounting practices, is not an industry-defined term. Therefore, what constitutes “generally accepted accounting standards” for purposes of obtaining a waiver will require regulatory guidance.

- c. The nature of the necessary evidence to obtain such a waiver demonstrates that it would be impossible to obtain and prepare the necessary documentation within 30 days. Under the Ordinance, “The evidence must include documentation of the Employer’s financial condition, as well as the condition of any parent or affiliated entity, and evidence of the actual or potential direct financial impact of compliance with this article.” *Id.*
- d. Further, even assuming the documentation could be processed and prepared within 31 days, it is unreasonable to expect that a court could rule on a waiver based on complex financial data and accounting before the expiration of the 31-day period. Absent such a ruling, facilities at risk of closure will be forced to comply with the Ordinance because of the impossibility of obtaining a waiver before the Ordinance’s enactment.
- e. By contrast, the Ordinance could have provided for a Controller-approved or other department-approved waiver requirement, which is the waiver that was put into place for other “living wage” ordinances.

82. For the reasons set forth above, the Ordinance also deprives Plaintiffs and their members of their substantive due process. The Ordinance threatens Plaintiffs and their members’ liberty and property without a sufficient purpose. The Ordinance’s justification bears no relation to its implementation, thereby violating Plaintiffs’ substantive due process rights.

83. Plaintiffs have no adequate remedy at law. Plaintiffs will also suffer immediate and irreparable injury unless this Court enjoins—preliminarily and permanently—enforcement of the Ordinance. Specifically, failure to comply with the Ordinance within the inadequate time allowed, or to receive the one-year judicial waiver within 31 days will subject the Plaintiffs and their members to excessive fines and other private legal actions that will impair their financial condition and ability to serve their surrounding community. This, in turn, will severely impact the financial health of the individual Plaintiffs and of CHA’s and HASC’s members, and their ability to service their community.

84. Plaintiffs are also entitled to a judicial declaration because it is necessary and appropriate at this time as Plaintiffs and Defendants are in a fundamental disagreement over the application and constitutionality of the Ordinance. Plaintiffs, their members, and other covered facilities also will be at risk of excessive fines and other private legal action if Plaintiffs or their members somehow violate the vague and unconstitutional Ordinance. Plaintiffs therefore request a judicial declaration setting forth the parties’ rights and obligations with respect to the Ordinance, including, but not limited to, a determination that the Ordinance may not take effect until the Defendant City (i) issues guidance as to the interpretation of the Ordinance, and (ii) either provides adequate time thereafter, as determined by the court, for the Plaintiffs, their members, and covered facilities to either seek and obtain a one-year judicial waiver or make the arrangements to comply with the Ordinance once the City’s guidance has been issued.

COUNT IV

Violation of the California Constitution’s Due Process Clause

85. Plaintiffs incorporate by reference the foregoing paragraphs in this Complaint.

86. For substantially the same reasons set for in Count III, the Ordinance violates the Due Process Clause of Article I, Section 7 of the California Constitution.

1 87. Plaintiffs have no adequate remedy at law. Plaintiffs will also suffer
 2 immediate and irreparable injury unless this Court enjoins—preliminarily and
 3 permanently—enforcement of the Ordinance. Specifically, failure to comply with the
 4 Ordinance within the inadequate time allowed, or to receive the one-year judicial
 5 waiver within 31 days will subject the Plaintiffs and their members to excessive fines
 6 and other private legal actions that will impair their financial condition and ability to
 7 serve their surrounding community. This, in turn, will severely impact the financial
 8 health of the individual Plaintiffs and of CHA’s and HASC’s members, and their
 9 ability to service their community.

10 88. Plaintiffs are entitled to a judicial declaration because it is necessary and
 11 appropriate at this time as Plaintiffs and Defendants are in a fundamental disagreement
 12 over the application and constitutionality of the Ordinance. Plaintiffs, their members,
 13 and other covered facilities also will be at risk of excessive fines and other private
 14 legal action if Plaintiffs or their members somehow violate the unconstitutional
 15 Ordinance. Plaintiffs therefore request a judicial declaration setting forth the parties’
 16 rights and obligations with respect to the Ordinance, including, but not limited to, a
 17 determination that the Ordinance may not take effect until the Defendant City (i) issues
 18 guidance as to the interpretation of the Ordinance, and (ii) either provides adequate
 19 time thereafter, as determined by the court, for Plaintiffs to either seek and obtain a
 20 one-year judicial waiver or make the arrangements to comply with the Ordinance once
 21 the guidance has been issued.

22 **All Counts: The Ordinance Will Cause Irreparable Injury to Plaintiffs**

23 89. Plaintiffs and their members will be severely and irreparably injured by
 24 the Ordinance once it takes effect. If the Ordinance is allowed to go into effect,
 25 Plaintiffs and their members who are “Covered Healthcare Facilities” will be forced to
 26 increase wages of numerous employees under threat of penalties, and this, in turn, will
 27 affect the future operations of Plaintiffs and their members. Once those wages are
 28 increased, Plaintiffs and their members cannot later reduce those wages if the

Ordinance is later deemed unconstitutional. There is no practical way to unring that bell. Thus, the harm from this unconstitutional Ordinance cannot be remedied.

90. Moreover, for some Plaintiffs and some of their members, if the Ordinance is put into effect, they will be placed in the unenviable position of deciding whether to keep their doors open despite substantial concerns about their ability to continue as a “going concern” or shut down and cease providing services to the communities that rely on their medical services. These injuries can be redressed only if this Court declares the Ordinance unconstitutional and enjoins Defendants from enforcing it.

PRAYER FOR RELIEF

Plaintiffs ask this Court to order appropriate relief, including, but not limited to, the following:

1. A judicial declaration that the Ordinance is unconstitutional as it violates Plaintiffs and their members’ rights under the Equal Protection Clauses and the Due Process Clauses of the United States and California Constitutions;
2. A preliminary and permanent injunction enjoining Defendants from enforcing or taking any action under the Ordinance;
3. An award of Plaintiffs’ attorneys’ fees and costs incurred in connection with this matter; and
4. Such other and further relief as the Court may deem just and necessary.

1 Dated: July 14, 2022

2
3 GIBSON, DUNN & CRUTCHER LLP

4
5 By: /s/ Maurice Suh
Maurice Suh

6 Attorneys for Plaintiff California Health
7 Association

8
9 BELL, MCANDREWS & HILTACHK, LLP

10
11 By: /s/ Thomas W. Hiltachk
Thomas W. Hiltachk

12 Attorneys for Plaintiffs Barlow Respiratory
13 Hospital; PIH Health Good Samaritan Hospital;
14 Providence Holy Cross Medical Center; Hospital
Association of Southern California



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3A

TO: The Honorable Mayor and City Council
FROM: Vincent D. Chang, City Clerk
SUBJECT: Minutes

RECOMMENDATION:

It is recommended that the City Council consider:

1. Approving the minutes from the regular meeting of June 15, 2022, and the special meeting of June 29, 2022; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

None.

BACKGROUND:

None.

FISCAL IMPACT:

None.

Respectfully submitted,

Prepared by:

Handwritten signature of Vincent D. Chang in blue ink.

Vincent D. Chang
City Clerk

Handwritten signature of Viridiana Martinez in blue ink.

Viridiana Martinez
Senior Clerk Typist

Approved By:

Handwritten signature of Ron Bow in blue ink.

Ron Bow
City Manager

ATTACHMENT(S):

1. Draft Minutes

ATTACHMENT 1

Draft Minutes

**MINUTES
MONTEREY PARK CITY COUNCIL
FINANCING AUTHORITY (MPFA)
HOUSING AUTHORITY (MPHA)
GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)
SUCCESSOR AGENCY (SA)
REGULAR MEETING
JUNE 15, 2022**

The City Council, the Financing Authority (MPFA), the Housing Authority (MPHA), the Geologic Hazard Abatement District (GHAD), and the Successor Agency (SA) of the City of Monterey Park held a Regular Meeting of the Council in the Council Chamber, located at 320 West Newmark Avenue in the City of Monterey Park, Wednesday, June 15, 2022 at 6:30 p.m.

CALL TO ORDER:

Mayor Lo called the meeting to order at 6:30 p.m.

FLAG SALUTE:

The Monterey Park Police Explorers led the Flag Salute

ROLL CALL:

City Clerk Vincent Chang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Yvonne Yiu
Council Members Absent: None.

ALSO PRESENT: City Treasurer Joseph Leon, City Manager Ron Bow, City Attorney Karl Berger, Assistant City Manager Inez Alvarez, Director of Recreation and Community Services Robert Aguirre, Director of Human Resources and Risk Management Christine Tomikawa, Director of Management Services Martha Garcia, Interim Director of Public Works Anthony Antich, Fire Captain Chris Thompson, Recreation Supervisor Orlando Muro, Assistant Deputy City Clerk Helena Cho, Community Communications Coordinator Randy Ishino

VIRTUALLY PRESENT: Fire Chief Matt Hallock, Police Chief Kelly Gordon, City Librarian Diana Garcia, Economic Development Manager Joseph Torres

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

City Manager Bow announced the addition of the Police Department under Staff Communications. He also requested that Item No. 3E be pulled for a separate discussion.

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community

PUBLIC COMMUNICATIONS

- Sarkis Antonin voiced his traffic concerns regarding the Monterey Park Market Place.
- Clara Nunez urged Council to support raising the minimum wage for healthcare workers to \$25.
- Vinh Ngo, Garvey School District Board President, inquired about traffic and pedestrian safety in the City.
- Flo Yuasia inquired about police officer's protective equipment. She also voiced her concerns regarding crime and public safety.

STAFF COMMUNICATIONS

- Recreation & Community Services Supervisor Muro gave a PowerPoint presentation on upcoming City events.
- Battalion Chief Thompson urged the community to buy safe & sane fireworks for Fourth of July. He informed the community that safe & sane fireworks will only be allowed on Fourth of July from 10:00 a.m. to 10:00 p.m.
- Police Chief Gordon updated the community on traffic safety in the City. She informed the community that Police officers are well equipped, and the department is consistently looking to upgrade protective equipment for officers.

1. PRESENTATION – None.

Matters listed under presentation are for informational content and discussion only.

2. OLD BUSINESS - None.

3. CONSENT CALENDAR ITEMS NOS. 3A-3K

Matters listed under consent calendar are considered to be routine, ongoing business and are enacted by one motion unless specified.

Action Taken: Councilmember Yiu declared a property-related conflict of interest for Item No. 3I as she owns real property within 500 feet of the project site, but did not have to recuse herself. The City Council approved and adopted Item Nos. 3B, 3C, 3D, 3F, 3G, 3I, 3J, and 3K on Consent Calendar, excluding Item Nos. 3A, 3E, and 3H which were pulled for discussion and separate motion, reading resolutions and ordinances by the title only and waiving further reading thereof.

Motion: Moved by Council Member Chan and seconded by Council Member Liang, motion carried by the following vote:

Council Member Yiu did not participate in Item No. 3I.

Ayes: Council Members: Yiu, Chan, Liang, Lo
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3A. MONTHLY INVESTMENT REPORT – MAY 2022

As of May 31, 2022 invested funds for the City of Monterey Park is \$85,049,444.38.

Public Speakers

- Nancy Acruri thanked Council for sharing the monthly investment report. She inquired about the City's process to transfer funds and suggested Council review the City's investment policy after the November elections.
- City Treasurer Leon notified Council that the requested funds have been transferred from the Los Angeles Agency Investment Fund (LAIF) to the LA County pooled investment fund. He also announced a correction on the May 2022 monthly investment report, stating that \$42 million is in the LA County pooled investment fund and \$35 million is in the Los Angeles Agency Investment Fund (LAIF).

Action Taken: The City Council received and filed the monthly investment report.

Motion: Moved by Council Member Liang and seconded by Council Member Chan, motion carried by the following vote:

Ayes: Council Members: Yiu, Chan, Liang, Lo
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

3B. RECOMMENDATIONS FOR ADOPTION OF FISCAL YEAR 2022-23 ANNUAL BUDGET

The City Council conducted a public budget workshop on May 25, 2022, regarding the City's current finances, projected revenues, and financial obligations. The budget for FY 2022-2023 presents a spending plan that anticipates \$128.2 million in estimated operating revenues and transfers-in from all funds combined and \$151.6 million in operating, and capital improvements expenditures and transfers-

out. Financial matters, including staffing realignment and changes, mitigation strategies for retiree medical unfunded liabilities, economic development projects, and goals and objectives associated with the City budget, were presented and discussed at the workshop.

Action Taken: The City Council adopted Resolution No. 2022-R46, the City's and Successor Agency's Fiscal Year 2022-2023 Annual Budget as presented on May 25, 2022, City Manager's recommended budget incorporated with the Council's directions; and adopted Resolution No. 2022-R47 amending the City's Administrative Code on Consent Calendar.

Resolution No. 2022-R46: A RESOLUTION ADOPTING THE FISCAL YEAR 2022-2023 FINAL OPERATING, DEBT AND CAPITAL BUDGET FOR THE CITY OF MONTEREY PARK AND THE SUCCESSOR AGENCY TO THE MONTEREY PARK REDEVELOPMENT AGENCY

Resolution No. 2022-R47: A RESOLUTION AMENDING THE PREVIOUSLY ADOPTED MONTEREY PARK ADMINISTRATIVE CODE ESTABLISHING CITY DEPARTMENTS, IDENTIFYING DEPARTMENT DIRECTORS, AND IMPLEMENTING DEPARTMENT RESPONSIBILITIES

3C. PROFESSIONAL SERVICES AGREEMENT WITH ADMINSURE, INC. TO PROVIDE THIRD PARTY ADMINISTRATION SERVICES FOR THE CITY'S WORKERS' COMPENSATION CLAIMS PROGRAM

The City's contract for third party administration ("TPA") services with Adminsure, Inc., for the Workers' Compensation ("WC") program, were bundled in the ICRMA administration fees which will expire June 30, 2022. Effective July 1, 2022, the City is recommending a professional services agreement with Adminsure, Inc. to continue the TPA services.

Action Taken: The City Council authorized the City Manager to execute a standard professional services agreement with Adminsure, Inc. in a form approved by the City Attorney, to provide Third Party Administration services for the City's Workers' Compensation program on Consent Calendar.

3D. PROFESSIONAL SERVICES AGREEMENT WITH RALPH ANDERSEN & ASSOCIATES TO CONDUCT A CITY-WIDE CLASSIFICATION AND COMPENSATION STUDY

The City continues to evaluate best practices and processes in order to attract and retain well qualified candidates and employees. A classification and compensation study is a tool to help the City evaluate our current job descriptions, salaries, and benefits in comparison to other local public agencies.

Ralph Andersen & Associates provide services related to executive recruitments, labor relations, and human resources consulting. Ralph Andersen & Associates was one of two firms that submitted a response to the request for classification and compensation services. Staff is recommending a professional services agreement with Ralph Andersen & Associates to conduct a City-wide classification and compensation study.

Action Taken: The City Council authorized the City Manager to execute standard professional services agreement with Ralph Andersen & Associates in a form approved by the City Attorney, to conduct a City-wide Classification and Compensation Study on Consent Calendar.

3E. RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE MONTEREY PARK PROFESSIONAL CHIEF OFFICERS' ASSOCIATION FOR THE TERM OF JULY 1, 2022 TO JUNE 30, 2023

Representatives of the City of Monterey Park ("City") and MPPCOA met and conferred to negotiate the terms and conditions of a new Memorandum of Understanding ("MOU") regarding employment. The parties reached an agreement on an MOU effective July 1, 2022 to June 30, 2023.

Action Taken: The City Council adopted Resolution No. 2022-R48 approving a Memorandum of Understanding ("MOU") between the City of Monterey Park and the Monterey Park Professional Chief Officers' Association ("MPPCOA"), as amended to remove the Fire Marshal position in the MOU. The MPPCOA represents the battalion chiefs in the Monterey Park Fire Department; and authorized budget appropriation of approximately \$24,626 from the General Fund and \$13,500 from the American Rescue Plan Act (ARPA) Funds for the 2022-2023 fiscal year.

Motion: Moved by Council Member Chan and seconded by Council Member Yiu, motion carried by the following vote:

Ayes: Council Members: Yiu, Chan, Liang, Lo
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Resolution No. 2022-R48: A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING FOR CONTRACT YEAR 2022-2023 BETWEEN THE CITY OF MONTEREY PARK AND THE MONTEREY PARK PROFESSIONAL CHIEF OFFICERS' ASSOCIATION

3F. RESOLUTION DECLARING AN EMPLOYMENT EMERGENCY FOR THE CITY OF MONTEREY PARK

Organizations in every industry across the country are currently facing unprecedented challenges trying to fill open jobs. Per the United States Chamber of Commerce, there are currently 11.4 million job openings in the U.S.—but only 6 million unemployed workers.

According to data released by the California Employment Development Department, California's unemployment rate decreased to 4.9% in March 2022. The March 2022 unemployment rate reached near pre-pandemic levels. The current issue in today's labor market is the decrease in the U.S. labor force, which has occurred over the last eighteen months. The current contraction is driven primarily by retiring baby boomers. Record job openings indicate that there are ample opportunities for workers, and that labor shortages are the fundamental constraint on employment expansion.

The City of Monterey Park currently has 325 full time staff positions of which nearly 70 are currently vacant. The City is struggling to find qualified applicants. In addition to antiquated personnel rules governing civil service within Monterey Park, the City is competing with other public agencies and private employers for the same types of candidates within an ever-shrinking pool of qualified persons

Action Taken: The City Council adopted Resolution No. 2022-R49 declaring an employment emergency for the City of Monterey Park and authorizing the City Manager to take all practical actions needed to implement the efficient recruitment and retention of persons for employment on Consent Calendar.

Resolution No. 2022-R49: A RESOLUTION ADOPTED BY THE CITY COUNCIL FOR THE CITY OF MONTEREY PARK DECLARING THE EXISTENCE OF A LOCAL EMERGENCY DUE TO LACK OF EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO TAKE ALL REASONABLE ACTIONS TO ACCELERATE RECRUITMENT AND RETENTION OF PUBLIC EMPLOYEES

3G. 2021-22 STREET REHABILITATION AT VARIOUS LOCATIONS PROJECT – AWARD OF CONTRACT

On May 4, 2022, the City Council adopted Resolution 2022-R32 authorizing the City Engineer to approve plans and specifications for capital improvement projects and authorizing the Public Works Director to solicit bids for Capital Improvement Projects. The public bid opening for the 2021-22 Street Rehabilitation at Various Locations Project was held on June 1, 2022. Staff has completed its review of bids and recommends that the contract be awarded to All American Asphalt, the lowest responsible bidder, in the amount of \$7,294,219.

CEQA (California Environmental Quality Act):

Since the proposed work is a minor alteration to an existing public facility, this project is Class 1 Categorically Exempt pursuant to the California Environmental Quality Act (CEQA).

Action Taken: The City Council authorized the City Manager to execute a public works contract, in a form approved by the City Attorney, with All American Asphalt of Corona, CA in the contract amount of \$7,294,219 for the 2021-22 Street Rehabilitation at Various Locations Project; and authorized the Director of Public Works to approve change orders and contingency up to \$729,422, or 10% of the contract amount for a total project cost of \$8,023,641 on Consent Calendar.

3H. 2022 CATCH BASIN RETROFIT DEVICE INSTALLATION – AWARD OF CONTRACT

On May 4, 2022, the City Council adopted a resolution authorizing the City Engineer to approve plans and specifications for capital improvement projects, and authorizing the Public Works Director to solicit bids for Capital Improvement Projects identified in the CIP. The public bid opening for the 2022 Catch Basin Retrofit Device Installation was held on May 24, 2022. Staff has completed its review of bids and recommends that the contract be awarded to United Storm Water Inc., the lowest responsible bidder, in the amount of \$99,450.

CEQA (California Environmental Quality Act):

Since the proposed work is a minor alteration to an existing public facility, this project is Class 1 Categorically Exempt pursuant to the California Environmental Quality Act (CEQA).

Action Taken: Mayor Lo and Councilmember Liang declared a property-related conflict of interest, as they both own property within 500 feet of the project site. To establish a quorum, the rule of necessity coin toss was utilized, resulting in Mayor Lo recusing himself from the dais and did not participate in discussion. The City Council authorized the City Manager to execute a public works contract, in a form approved by the City Attorney, with United Storm Water Inc. of Industry, CA in the contract amount of \$99,450 for the 2022 Catch Basin Retrofit Device Installation; and authorized the Director of Public Works to approve change orders and contingency up to \$9,945, or 10% of the contract amount.

Motion: Moved by Council Member Liang and seconded by Council Member Chan, motion carried by the following vote:

Ayes:	Council Members:	Yiu, Chan, Liang
Noes:	Council Members:	None
Absent:	Council Members:	Lo
Abstain:	Council Members:	None

3I. 2022 SLURRY SEAL AT VARIOUS LOCATIONS – AWARD OF CONTRACT

On May 4, 2022, the City Council adopted a resolution authorizing the City Engineer to approve plans and specifications for capital improvement projects and authorizing the Public Works Director to solicit bids for Capital Improvement Projects identified in the CIP. The public bid opening for the 2022 Slurry Seal At Various Locations was held on May 26, 2022. Staff has completed its review of bids and recommends that the contract be awarded to Onyx Paving Company, Inc., the lowest responsible bidder, in the amount of \$848,000.

CEQA (California Environmental Quality Act):

The proposed action is exempt from the requirements of the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*: “CEQA”) and CEQA Guidelines (Cal. Code Regs. Title 14, §§ 15000, *et seq.*) in accordance with CEQA Guidelines § 15305 (Class 5 – Minor Alterations in Land Use Limitations). The project involves a negligible expansion of use; there is only a minor change in the operation of an existing use. The project would not result in significant effects related to traffic, noise, air quality, or water quality and it can be adequately served by all required utilities and public services.

Action Taken: Councilmember Yiu declared a property-related conflict of interest as she owns property within 500 of the project site and recused herself from participating in discussion. The City Council authorized the City Manager to execute a public works contract, in a form approved by the City Attorney, with Onyx Paving Company Inc. of Anaheim, CA in the contract amount of \$848,000 for the 2022 Slurry Seal At Various Locations; and authorized the Director of Public Works to approve change orders and contingency up to \$127,200, or 15% of the contract amount on Consent Calendar.

3J. PREFERENTIAL PARKING DISTRICT: VANCOUVER AVENUE

The City’s Traffic Commission recommended that the City Council add a new preferential parking district located at Vancouver Avenue, from Avenida Cesar Chavez to Dorner Drive to the City’s existing permit parking areas.

CEQA (California Environmental Quality Act):

The proposed action is exempt from the requirements of the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*: “CEQA”) and CEQA Guidelines (Cal. Code Regs. Title 14, §§ 15000, *et seq.*) in accordance with CEQA Guidelines § 15305 (Class 5 – Minor Alterations in Land Use Limitations). The project involves a negligible expansion of use; there is only a minor change in the operation of an existing use. The project would not result in significant effects related to traffic, noise, air quality, or water quality and it can be adequately served by all required utilities and public services.

Action Taken: The City Council adopted Resolution No. 2022-R50 amending Resolution Nos. 10931, 11634 and 11744 to include Vancouver Avenue from Avenida Cesar Chavez to Dorner Drive among the preferential parking districts on Consent Calendar.

Resolution No. 2022-R50: A RESOLUTION AMENDING RESOLUTION NOS. 10931, 11634 AND 11744 REGARDING PREFERENTIAL PARKING AREAS WITHIN THE CITY WHERE PARKING PERMITS MAY BE USED IN ACCORDANCE WITH VEHICLE CODE §22507

3K. LOCAL ROADWAY SAFETY PLAN (LRSP)

The City of Monterey Park was awarded \$51,000, with a 10% local match requirement, from the California Department of Transportation to develop a Local Roadway Safety Plan (LRSP) for the City. Staff requests the City accept the reimbursable grant funds and authorize the City's Management Services Department to appropriate \$56,667 to the City's FY22-23 budget for this project.

Action Taken: The City Council accepted grant funding in the amount of \$51,000 from the California Department of Transportation for the Monterey Park Local Roadway Safety Plan (LRSP) Project; and authorized the City's Management Services Department to appropriate \$51,000 in grant funding and \$5,667 in matching funds from the General Fund to the FY22-23 budget for this project on Consent Calendar.

4. PUBLIC HEARING - None

5. NEW BUSINESS - None

6. CITY COMMUNICATIONS (CITY COUNCIL)

Council Member Yiu appointed Jasmine Pesantes to the Planning Commission.

Council Member Chan reported that he attended his last meeting as Chair of the San Gabriel Valley Council of Governments (SGVCOG).

Council Member Liang thanked Council Member Chan for service on the San Gabriel Valley Council of Governments. He reported that he was sworn in as President of the Chinese America Elected Officials during their Installation Banquet.

Council Member Lo thanked the Police Department and the Recreation Department for a job well done at the 2nd Annual San Gabriel Valley Pride Parade & Festival. He also requested that the meeting be adjourned in honor of El Monte Corporal Michael Parades and Officer Joseph Santana, who were killed in the line of duty.

7. FUTURE AGENDA ITEMS

Mayor Lo requested a discussion on curbing the theft of catalytic converters.

8. CLOSED SESSION (IF REQUIRED; CITY ATTORNEY TO ANNOUNCE)

None.

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 7:27 p.m. in memory of El Monte Corporal Michael Paredes and Officer Joseph Santana, who were killed in the line of duty.

Vincent D. Chang
City Clerk

**MINUTES
MONTEREY PARK CITY COUNCIL
FINANCING AUTHORITY (MPFA)
HOUSING AUTHORITY (MPHA)
GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)
SUCCESSOR AGENCY (SA)
SPECIAL MEETING
JUNE 29, 2022**

The City Council, the Financing Authority (MPFA), the Housing Authority (MPHA), the Geologic Hazard Abatement District (GHAD), and the Successor Agency (SA) of the City of Monterey Park held a Special Meeting of the Council in Room 266, Second Floor of City Hall located at 320 West Newmark Avenue in the City of Monterey Park on Wednesday, June 29, 2022 at 5:30 p.m.

CALL TO ORDER:

Mayor Lo called the meeting to order at 5:32 p.m.

ROLL CALL:

City Manager Ron Bow called the roll:

Council Members Present: Peter Chan, Henry Lo, Yvonne Yiu

Council Members Absent: Hans Liang

ALSO PRESENT: City Manager Ron Bow, City Attorney Karl Berger, Assistant City Manager Inez Alvarez, Director of Human Resources and Risk Management Christine Tomikawa, Director of Management Services Martha Garcia

ORAL AND WRITTEN COMMUNICATIONS – None.

1. CLOSED SESSION

The City Council adjourned to Closed Session at 5:32 p.m.

1-A. CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO CALIFORNIA GOVERNMENT CODE § 54957.6

City Negotiators: Steve Berliner, Esq. from Liebert Cassidy & Whitmore (the City's special counsel for labor matters) and Christine Tomikawa, Director of Human Resources and Risk Management

Employee Organizations: Confidential Employees' Association, Firefighters' Association, Mid-Management Association, Police Captains' Association, Police Officers' Association, Police Officers' Mid-Management Association, Professional Chief Officers' Association, and Service Employees International Union, Local 721

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community

RECONVENE & ADJOURNMENT

The City Council reconvened from Closed Session with a majority of Council Members present. The meeting was adjourned at 6:37 p.m.

Action Taken: No reportable action taken.

Vincent D. Chang
City Clerk



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3B

TO: Honorable Mayor and City Council

FROM: Karl H. Berger, City Attorney

SUBJECT: Consideration and possible action to adopt a resolution to record a Notice of Nuisance Abatement Lien against certain property in the City (APN 5254-002-031).

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt a resolution to record a Notice of Nuisance Abatement Lien; and/or
2. Take such additional, related action that may be desirable.

CEQA (California Environmental Quality Act):

Adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines § 15061(b)(3) because it can be seen with certainty that there is no possibility that the action proposed by the proposed resolution would have a significant effect on the environment.

EXECUTIVE SUMMARY:

Adopting the attached resolution will allow the City to recover costs, including attorney's fees, incurred the City's abatement of the public nuisance present on certain real property located in the City (APN 5254-002-031) (the "Property") owned by Center Int'l Investments Inc. ("CII"). The Resolution authorizes recording the associated Notice of Nuisance Abatement Lien in the amount of \$4,436,217.07. This will be the second lien on the Property for the time period of April 1, 2022 and June 30, 2022. After recording this lien, the liens against the Property will total \$5,689,830.53.

BACKGROUND AND DISCUSSION:

The City Council is well aware of this matter. In sum, the City is abating the public nuisance on the Property in accordance with the Settlement Agreement voluntarily entered into by CII in the civil case captioned *The People of the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey Park v. Center Int'l Investments, Inc., et al.* (filed December 31, 2015) LASC Case No. BC605788.

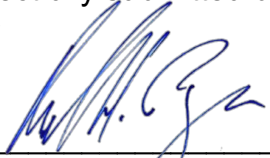
The City Council previously (on May 4, 2022) authorized the Property to be liened for an initial amount of cost reimbursement. On July 1, 2022, Management Services Director Martha Garcia sent the attached correspondence demanding CII's payment of \$4,436,217.07 to the City in abatement costs. This is in addition to the \$1,253,613.46 already liened against the Property. The City has not received any payments from CII.

Pursuant to MPMC § 4.30.150 and Government Code § 38773.1, the City may recover its nuisance abatement costs by recording a lien against a subject property. The attached Resolution authorizes the City to record a Notice of Nuisance Abatement Lien against the Property. Under California law, the notice, upon recordation, would constitute a lien against the Property with the force, effect, and priority of a judgment lien. The City can foreclose against the lien through an action for money judgment. CII previously agreed to waive its notice and hearing rights in § 7 of the First Amendment to the Settlement Agreement.

FISCAL IMPACT:

The resolution will allow the City to impose a lien on the Property in the amount of \$4,436,217.07. This is the second of several notices that will be brought to the City Council for consideration.

Respectfully submitted by:



Karl H. Berger,
City Attorney

Reviewed by:



Ron Bow,
City Manager

Attachment:

1. Resolution with exhibits

ATTACHMENT 1

Resolution with Exhibits

RESOLUTION NO.

A RESOLUTION EXTENDING THE LOCAL EMERGENCY FOR THE GOODVIEWS ABATEMENT PROJECT (“GAP”) PURSUANT TO GOVERNMENT CODE § 8630 AND AUTHORIZING THE RECORDATION OF A NUISANCE ABATEMENT LIEN AGAINST CERTAIN REAL PROPERTY LOCATED IN THE CITY (APN 5254-002-031).

The City Council does resolve as follows:

SECTION 1:The City Council finds and declares as follows:

- A. The City Council incorporates by reference the findings set forth in Section 1 of Resolution No. 2022-R27, adopted May 4, 2022, as if fully set forth.
- B. Center Int’l Investments, Inc. (“CII”) is the record owner of the real property described as Los Angeles County assessor’s parcel number 5254-002-031 (the “Property”), which is located in the City of Monterey Park (the “City”).
- C. Pursuant to Resolution Nos. (collectively, the “Emergency Resolutions”) 12255 (adopted June 16, 2021), Resolution No. 2022-R22 (adopted April 20, 2022), and 2022-R34 (adopted May 18, 2022), the City is exercising emergency powers to abate a public nuisance on the Property in accordance with the Settlement Agreement in the civil case captioned *The People of the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey Park v. Center Int’l Investments, Inc., et al.* (filed December 31, 2015) LASC Case No. BC605788. This is identified as the Goodviews Abatement Project (“GAP”).
- D. Due to CII’s ongoing failure to reimburse the City for costs incurred as a result of the GAP, as required under the Settlement Agreement, Management Services Director Martha Garcia sent a July 1, 2022 correspondence demanding CII’s payment of \$4,436,217.07 for the time period of April 1, 2022 and June 30, 2022. CII has not responded. A true and correct copy of that correspondence is attached as Exhibit “A,” and incorporated by reference.
- E. Pursuant to Monterey Park Municipal Code (“MPMC”) § 4.30.150 and Government Code § 38773.1, the City may recover its nuisance abatement costs by recording a lien against a subject property.
- F. The City Council approves the recordation of a lien against the Property by through the Notice of Nuisance Abatement (“Notice”) attached as Exhibit “B” and incorporated by reference. After recording this lien, the liens against the Property will total \$5,689,830.53

- G. CII agreed to waive its notice and hearing rights in § 7 of the First Amendment to the Settlement Agreement

SECTION 2: Approval; Direction.

- A. The City Council approves the Notice and finds that it is true and correct.
- B. The City Council directs the City Clerk to submit the Notice with the Los Angeles County Recorder for recordation, pursuant to Government Code § 38773.1(c) and MPPC § 4.30.150(c).

SECTION 3: Extension of Emergency. The City Council reaffirms the authority delegated to the City Manager and City Attorney in the Emergency Resolutions. Additionally, the City Council reaffirms that the local emergency associated with implementation of the GAP is extended until at least December 31, 2022 unless terminated earlier by City Council resolution or otherwise extended by resolution or minute order.

SECTION 4: Severability. If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications, and to this end, the provisions of this Resolution are severable.

SECTION 5: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code § 16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: Recordation. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 7: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 1st day of August, 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

Attachments:

Exhibit A: July 1, 2022 Demand letter for City nuisance abatement costs
Exhibit B: Notice of Nuisance Abatement Lien

EXHIBIT “A”

**JULY 1, 2022 DEMAND LETTER FOR
CITY NUISANCE ABATEMENT COSTS**

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



City Council

Henry Lo
Hans Liang
Peter Chan
Yvonne Yiu

City Clerk

Vincent D. Chang

City Treasurer

Joseph Leon

July 1, 2022

Center Int'l Investments
501 W. Garvey Ave. #207
Monterey Park, CA 91754
Attn: Karrie On

Re: NOTICE OF ABATEMENT COSTS
Property: 1688 West Garvey

To Whom It May Concern:

This letter is a follow-up to the City of Monterey Park's letters dated February 16, 2022 and April 1, 2022 regarding the nuisance abatement action affecting 1688 West Garvey Avenue, Monterey Park, CA (the "Property"). The underlying public nuisance is identified in the civil case captioned *The People of the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey Park v. Center Int'l Investments, Inc., et al.* (filed December 31, 2015) LASC Case No. BC605788.

The nuisance abatement activity, identified as the "Goodviews Abatement Project" or "GAP," is being undertaken in accordance with the Settlement Agreement, as amended, executed by Center Int'l Investments, Inc. ("CII").

Per the February 16, 2022 letter, abatement costs associated with the GAP will be recovered on a quarterly basis from CII. This is the second Notice for the time period between April 1, 2022 and June 30, 2022.

Attached to this Notice are the City's abatement costs that were incurred by the City relating to the enforcement action against the Property. These abatement costs are imposed pursuant to Monterey Park Municipal Code ("MPMC") Chapter 4.30. Please remit payment to the City within **30 days** from the date of this letter.

This is a demand for payment in the amount of \$4,436,217.07. This is in addition to the previously demanded \$1,253,613.46 which remains unpaid and is accruing interest at 10% per annum. Payment must be made not later than July 31, 2022. Failure to pay by that date will cause the City to charge interest at the statutory rate on this outstanding amount (along with the unpaid amounts). Additionally, the City will take action to collect its abatement costs

in any manner allowed by law, including collection by special assessment or nuisance abatement lien (see MPMC § 4.30.150)

Be advised that CII waived all due process rights in this matter including, without limitation, appeals rights set forth in Monterey Park Municipal Code ("MPMC") § 4.30.140. CII, therefore, waived any right to contest the notice of abatement costs. Consequently, this interim notice of abatement costs is final and binding for the time period stated above. This is not the total cost of the GAP; the City continues to incur costs on a daily basis.

Thank you for your prompt attention to this matter.

Sincerely,



Martha Garcia
Management Services Director

C: Ron Bow, City Manager
Karl H. Berger, City Attorney
Alfred Fraijo Jr., Esq. @
Sheppard Mullin Richter & Hampton, LLP
333 South Hope Street, CA Los Angeles 90071

Agent for Service of Process:
Willis Do
1648 Puente Avenue
Baldwin Park, CA 91706

**Process/
Invoice
Date**

Reference

Project# Invoice# CR & CK#

Amount

Balance

03/31/22	C.A. Rasmussen Inc.	64004	3302	CK107467	(439,365.50)	(439,365.50)
04/30/22	C.A. Rasmussen Inc.	64004	3328	CK107948	(2,009,335.56)	(2,448,701.06)
05/06/02	Beacon Intergrated Professionals	64004	201698	CK107760	(210.00)	(2,448,911.06)
04/30/22	KCM Group	64004	11914	CK107791	(103,710.39)	(2,552,621.45)
04/14/22	Geosyntec Consultants, Inc.	64004	21468745	CK107641	(130,248.05)	(2,682,869.50)
04/14/22	Geosyntec Consultants, Inc.	64004	21468746	CK107641	(39,273.82)	(2,722,143.32)
03/31/22	KCM Group	64004	11881	CK107658	(48,758.77)	(2,770,902.09)
04/18/22	Beacon Intergrated Professionals	64004	201630	CK107346	(377.00)	(2,771,279.09)
04/04/22	Development Review / Phoenix Civil Engineer	73008	22026	CK107415	(19,100.00)	(2,790,379.09)
04/28/22	Development Review / Phoenix Civil Engineer	73008	22060	CK108102	(9,493.75)	(2,799,872.84)
04/30/22	City Expenses - Legal Fees	64004	11010	CK107648	(13,429.50)	(2,813,302.34)
05/16/22	Geosyntec Consultants, Inc.	64004	21472196	CK108281	(6,683.93)	(2,819,986.27)
05/16/22	Geosyntec Consultants, Inc.	64004	21472195	CK108281	(72,562.41)	(2,892,548.68)
05/31/22	City Expenses - Legal Fees	64004	11017	CK108058	(3,666.10)	(2,896,214.78)
05/31/22	City Expenses - Legal Fees	64004	11017	CK108058	(877.50)	(2,897,092.28)
06/10/22	Development Review / Phoenix Civil Engineer	73008	22130	CK108427	(4,777.50)	(2,901,869.78)
06/30/22	City Expenses - Management Services	64004			(1,842.65)	(2,903,712.43)
05/31/22	KCM Group	64004	11941	CK108293	(59,387.16)	(2,963,099.59)
05/31/22	C.A. Rasmussen Inc.	64004	3371	CK108242	(1,370,016.32)	(4,333,115.91)
06/22/22	Geosyntec Consultants, Inc.	64004	21476281	PENDING	(3,635.39)	(4,336,751.30)
06/22/22	Geosyntec Consultants, Inc.	64004	21476280	PENDING	(80,210.17)	(4,416,961.47)
06/30/22	City Expenses - Legal Fees	64004			(19,255.60)	(4,436,217.07)
						(4,436,217.07)
						(4,436,217.07)

Balance Due

(4,436,217.07)

EXHIBIT “B”
NOTICE OF NUISANCE ABATEMENT LIEN

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Monterey Park
Attn: City Clerk
320 W. Newmark Ave.
Monterey Park, CA 91754

No fee per Government Code § 27383

NOTICE OF NUISANCE ABATEMENT LIEN

TAKE NOTICE pursuant to Government Code § 38773.1 and Monterey Park Municipal Code § 4.30.150, that the City of Monterey Park ("City") imposes a nuisance abatement lien against the real property ("Property") described below for the City's unreimbursed costs incurred in abating a public nuisance. The Monterey Park City Council ordered the imposition of a nuisance abatement lien through its adoption of Resolution No. XXX on August 1, 2022 (attached as Exhibit "A"). Pursuant to a settlement agreement by and among the City the People of California, and the owner of the Property in the civil litigation captioned, *The People of the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey Park v. Center Int'l Investments, Inc., et al.* (LASC Case No. BC605788), the Property owner agreed to waive its notice and hearing rights in § 7 of the first amendment to such settlement agreement, which is on file with the City Clerk.

Recording this notice of nuisance abatement lien against the Property is made pursuant to Government Code § 38773.1(c) and Monterey Park Municipal Code § 4.30.150(c). Once recorded, this notice will constitute a lien against the Property with the force, effect, and priority of a judgment lien (Gov. Code, § 38773.1(c)). The City may foreclose on this nuisance abatement lien by a City action for a money judgment. (*Ibid.*)

In accordance with § 38773.1(c)(1), the following apply to the Property and this notice of nuisance abatement lien:

Lien amount	\$4,436,217.07
Agency on whose behalf the lien is imposed	City of Monterey Park
Property assessor's parcel number	5254-002-031
Property legal description	LOT 1 OF TRACT NO. 34875, IN THE CITY OF MONTEREY PARK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 932, PAGES 16-18 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY
Address associated with Property	No known address associated with the Property pursuant to Los Angeles County property and title records
Property record owner	Center Int'l Investments Inc., a California Corporation
Property owner address	846 East Garvey Avenue, #D, Monterey Park, CA 91755

Signed the __day of August 2022.

CITY OF MONTEREY PARK

Ron Bow, City Manager

(NOTARIZED SIGNATURE REQUIRED)

**EXHIBIT “A”
TO NUISANCE ABATEMENT LIEN**

CERTIFIED MONTEREY CITY PARK
RESOLUTION NO. **XX**



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3C

TO: The Honorable Mayor and City Council
FROM: Martha Garcia, Director of Management Services
SUBJECT: Identifying a tax rate for collecting voter authorized property taxes for employee retirement benefits based on the assessed valuation established by the County Assessor's Office

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a Resolution identifying the amount of tax revenue required to fulfill the voters' intent in funding the City's retirement system; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The City of Monterey Park's retirement costs are, in part, funded by a special voter-approved property tax. Each year the City is required to establish a tax rate to generate the retirement property tax based on the assessed valuation established by the County Assessor's Office.

BACKGROUND:

The City's retirement tax was authorized by the Monterey Park voters in elections held in 1946 and 1952. The tax rate is limited by AB13 not to exceed the rate imposed in the 1983-84 Fiscal Year. The proposed tax rate for the 2020-21 Fiscal Year is \$0.091175 per \$100 of assessed valuation. This is the same rate since 1983-84 and it is also the maximum rate allowed by AB13.

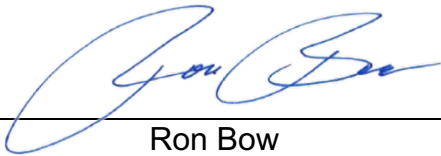
For 2022-2023, the projected budget for retirement expenditures is \$11.8 million. The projected retirement tax revenue, including secured and unsecured retirement property taxes, residual distributions, and General Fund transfer. The voter authorized property tax pays for \$9.4 million of this overall retirement cost amount. The remaining expenditures are covered by the City's General Fund and Retirement Fund reserve. The retirement tax is collected by the County Auditor Controller's Office through its annual property tax billing. The City is required to submit the attached resolution establishing the 2022-2023 retirement tax rate to the County.

Respectfully submitted by:



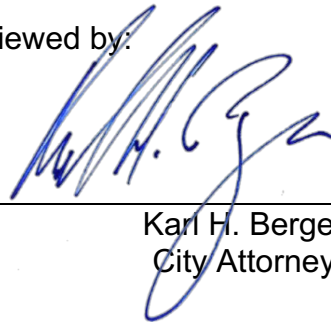
Martha Garcia
Director of Management Services

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT(S):

1. Resolution

ATTACHMENT 1

Resolution

RESOLUTION NO. ____

**A RESOLUTION IDENTIFYING THE AMOUNT OF TAX REVENUE
REQUIRED TO FULFILL THE VOTERS' INTENT IN FUNDING THE
CITY'S RETIREMENT SYSTEM DURING FISCAL YEAR 2022-2023 AND
AUTHORIZING THE LEVY OF APPROPRIATE TAXES.**

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds and declares as follows:

- A. On August 20, 1946, the City's voters approved a ballot measure which authorized the City to participate in the "State Employee Retirement System" (now the California Public Employee Retirement System) and also authorized the City Council "to levy and collect, annually ... a special tax sufficient to raise the amount estimated by [the City] Council to be required to provide sufficient revenue to meet the obligations of said City" to the retirement system;
- B. On April 8, 1952, the City's voters approved a ballot measure which extended the City's authorization to participate in the retirement system to include fire and police personnel. That ballot measure affirmed the City Council's authority "to levy and collect taxes sufficient to pay all costs and expenses ... to be paid by the City" to the retirement system;
- C. In 1978, California voters amended the California Constitution through Proposition 13. That Proposition generally limits the property tax rate to 1% except for indebtedness approved by the voters before July 1, 1978 or bonded indebtedness approved by the voters after July 1, 1978;
- D. In 1982, the California Supreme Court determined that a pre-1978 voter-approved pension program was an indebtedness that local officials could finance with a property tax rate outside the usual 1% limit (*Carman v. Alvord* (1982) 31 Cal.3d 318); and
- E. In 1985, the Legislature capped existing tax rates at the 1982-83 or 1983-84 level, except for rates supporting general obligation bonds, water contracts, and lease purchases (AB 13, Roos, 1985).

SECTION 2: The amount of tax revenue required from taxable property within the City to pay for the retirement system during fiscal year 2022-2023, beginning July 1, 2022 is \$9.4 million.

SECTION 3: The City Manager, or designee, is authorized to levy taxes as follows:

- A. For the fiscal year beginning July 1, 2022, the rate for the City is fixed and is levied on all taxable property within the City using the assessed value of such property. Tax Districts are identified below and the corresponding tax collected from each District is listed in the table set forth in subsection C.
- B. TAXATION DISTRICT NO. 1 consisting of all that portion of the City of Monterey Park included within the boundaries thereof as fixed by special election held August 19, 1920, (Resolution No. 245); all that territory annexed to the City of Monterey Park at annexation election held January 23, 1923, and known as Garvey Avenue Tracts (Ordinance No. 120); all that territory annexed to the City of Monterey Park at annexation election held on July 8, 1925, and known as New Avenue Tract (Ordinance No. 174); all that territory annexed to the City of Monterey Park at annexation election held July 10, 1928, and known as Keith Tract (Ordinance No. 207); all that territory annexed to the City of Monterey Park by annexation election held on April 22, 1930, and known as Midwick View Estates Tract (Ordinance No. 230); all that territory annexed to the City of Monterey Park known as Jebbia Annexation (Ordinance No. 467); all that territory annexed to the City of Monterey Park known as Midwick Country Club Annexation (Ordinance No. 468); all that territory annexed to the City of Monterey Park known as the Fitzgerald Annexation (Ordinance No. 484); all that territory annexed to the City of Monterey Park known as the Hellman Estate Annexation No. 2 (Ordinance No. 724); all that territory annexed to the City of Monterey Park known as Poteete Annexation (Ordinance No. 850); all that territory annexed to the City of Monterey Park by Ordinance No. 489 and known as the Hamilton Homes Annexation; all that territory annexed to the City of Monterey Park by Ordinance No. 510, and known as Hamilton Homes Annexation No. 2, all that territory annexed to the City of Monterey Park by Ordinance No. 520, effective October 7, 1948, known as the Jebbia Annexation; Wheeler Annexation, effective February 21, 1949, (Ordinance No. 532); Garvey Annexation, effective May 11, 1949, (Ordinance No. 537); Garvey Avenue Annexation No. 2, effective October 13, 1949, (Ordinance No. 547); Monterey Pass Annexation, effective October 13, 1949, (Ordinance No. 548); Reservoir Annexation, effective January 16, 1950, (Ordinance No. 553); Hellman Estate Annexation effective April 26, 1951, (Ordinance No. 590); Industrial Center Annexation effective

October 1, 1951, (Ordinance No. 601); Wheeler Annexation No. 2, effective March 25, 1953, (Ordinance No. 638); and O'Brien Annexation, effective November 16, 1953, (Ordinance No. 649); Wheeler Annexation No. 3, effective February 27, 1959, (Ordinance No. 844).

- C. TAXATION DISTRICT NO. 2 consisting of all that territory annexed to the City of Monterey Park by Ordinance No. 940, known as Southwesterly Atlantic Annexation No. 1; and Ordinance No. 1000, known as Southwesterly Annexation No. 3; and Ordinance No. 1093, known as Southeasterly Annexation No. 1; and Ordinance No. 1421, known as Southwesterly Annexation No. 4A.

- D. Tax Table:

Assessed Value:	
Taxation District No. 1	\$ 8,365,584,683
Taxation District No. 2	<u>406,037,591</u>
Total	<u>\$ 8,771,622,274</u>

	<u>DISTRICT NO.1</u>	<u>DISTRICT NO.2</u>
Retirement Fund Tax Rate	<u>\$.091175</u>	<u>\$.091175</u>

SECTION 4: Limitations. The City Council's analysis and evaluation of this Resolution is based on the best information currently available. It is inevitable that in evaluating a matter that absolute and perfect knowledge of all possible aspects of the issue will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 5: Summaries of Information. All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 6: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 7: Recordation. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 8: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 1st day of August, 2022.

Henry Lo, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3D

TO: The Honorable Mayor and City Council
FROM: Martha Garcia, Director of Management Services
SUBJECT: Professional Services Amendment with MV Cheng and Associates for Governmental Accounting Consulting Services

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the City Manager to execute an amendment with MV Cheng and Associates in a form approved by the City Attorney; to provide governmental accounting services for an amount not to exceed \$150,000; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The Management Services Department currently has six full time staff positions vacant. The City is struggling to find qualified applicants and has contracted with MV Cheng and Associates to provide governmental accounting services for the Management Services Department while qualified candidates are identified and hired with the City.

The City is requesting to Amend the contract with MV Cheng and Associates to increase the not to exceed amount from \$60,000 to \$150,000.

BACKGROUND:

Employees hired by MV Cheng and Associates have worked in several cities on short and long term assignments ranging from Payroll Technician, Accountant, Senior Accountant, Accounting Manager and Finance Director as well as serving on a long term basis as contract staff. They are former employees of municipal government agencies. They bring a wealth of knowledge and expertise to our city, with a level of professionalism and understanding of the culture of the political and city office environments.

The City is currently contracted with MV Cheng and Associates for an amount not to exceed \$60,000 and a term ending June 30, 2023. The City is requested to increase the not to exceed amount to \$150,000 to allow for continuity of financial reporting and maintenance of the general ledger to stay on course while qualified candidates are identified and hired with the City

FISCAL IMPACT:

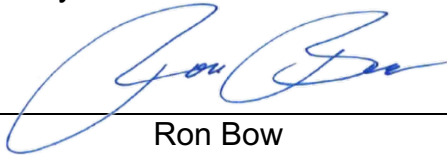
The agreement will be funded by salary savings. A budget adjustment from permanent salary accounts to professional services account is required to pay for the consultant services.

Respectfully submitted by:



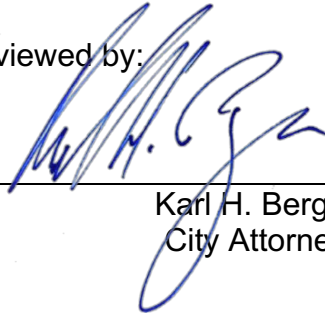
Martha Garcia
Director of Management Services

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3E

TO: The Honorable Mayor and City Council
FROM: Inez Alvarez, Assistant City Manager
SUBJECT: Second Amendment to Agreement 2260-A with the San Gabriel Valley Council of Governments for Participation in its Regional Food Recovery Program

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the City Manager to execute Amendment No. 2, in a form approved by the City Attorney, to Agreement 2260-A with the San Gabriel Valley Council of Governments, for participation in Tasks 7-9 of the Food Recovery Program; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

Senate Bill 1383 (SB 1383) requires cities to implement mandatory organics recycling programs that provide organic waste collection services to all residents and businesses and to establish a food recovery program. The City joined the San Gabriel Valley Council of Governments (SGVCOG) Regional Food Recovery Program to comply with SB1383's food recovery components and assist businesses to comply with the law. Staff recommends the City amend the agreement with SGVCOG to participate in the expansion of the Food Recovery Program (Tasks 7-9) to increase food recovery capacity in the region.

BACKGROUND:

Senate Bill 1383 (SB 1383) is a California state law that aims to reduce statewide emissions of short-lived climate pollutants by reducing 75% of organic waste disposal by 2025 and recovering at least 20% of edible food that is currently disposed of by 2025. Cities across the state must implement a mandatory organics recycling program to comply with the law. This includes establishing an edible food recovery program that recovers edible food from the waste stream.

The San Gabriel Valley Council of Governments (SGVCOG) developed a Regional Food Recovery Program to assist member cities to meet compliance with the State's organic waste reduction law. The City executed an agreement with SGVCOG to participate in Tasks 1-4 of the program to comply with SB1383 food recovery requirements and also assist businesses to comply with the law. Tasks 1-4 included identification and capacity assessments of food recovery agencies and edible food waste generators located in each

city's jurisdiction, education, and outreach to impacted businesses and property owners. In December 2021, the City executed the First Amendment to the agreement to participate in Tasks 5-6 of the program. Task 5-6 included the development and implementation of an inspection program to monitor food generators and food recovery agencies.

The capacity assessments completed by the SGVCOG identified a gap between the capacity of existing food recovery agencies and the needs of edible food generators. As a result, the SGVCOG has proposed an expansion of its Food Recovery Program to include Tasks 7-9, whose purpose is to create subregional food recovery hubs to increase food recovery capacity for participating agencies. The SGVCOG would lead efforts to identify food recovery organizations that are able to serve as subregional hubs and provide expansion support to these organizations. This may include providing organizations resources to increase collection, storage, and distribution capacities through the purchase of necessary equipment. Additionally, the program would provide additional education and outreach to edible food waste generators, subject to SB1383 regulations, and stakeholder groups that the program would serve.

SB1383 not only requires the City to assess current edible food recovery capacity but to also actively expand or create new infrastructure to increase food recovery networks if gaps exist. Participation in the SGVCOG Food Recovery Program expansion will assist the City to comply with SB1383 requirements and provide Monterey Park businesses with additional support and access to a local food recovery network. Therefore, it is recommended that the City execute a Second Amendment to participate in Tasks 7-9 of the program. The Second Amendment will also include a revised invoicing schedule and scope of work for Task 5-6 to reflect the updated number of inspections of edible food generators and recovery organizations to be completed between 2022-2024.

FISCAL IMPACT:

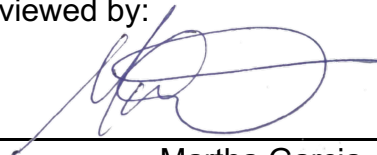
The City's participation in Tasks 7-9 for the expansion of the SGVCOG's Food Recovery Program will be funded by the City's awarded grant funds from the CalRecycle SB1383 Local Assistance Grant Program. The revised not to exceed amount for Agreement 2260-A will be \$131,319. There are sufficient funds in the FY22-23 budget for this agreement.

Respectfully submitted by:



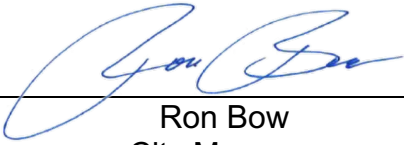
Inez Alvarez
Assistant City Manager

Reviewed by:



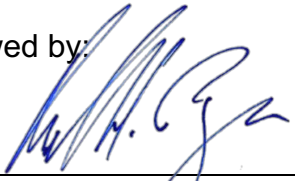
Martha Garcia
Director of Management Services

Staff Report
Page 3 of 3
August 1, 2022
Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. SGVCOG Food Recovery Program Amendment No. 2

ATTACHMENT 1
SGVCOG Food Recovery Program
Amendment No. 2

**AMENDMENT NO. 2
TO
MEMORANDUM OF AGREEMENT BETWEEN THE SAN GABRIEL VALLEY
COUNCIL OF GOVERNMENTS AND THE CITY OF MONTEREY PARK FOR
PARTICIPATION IN THE SAN GABRIEL VALLEY REGIONAL FOOD RECOVERY
PROGRAM**

This Amendment No. 2 (“Amendment”) to the Memorandum of Agreement (“MOA”) Between the San Gabriel Valley Council of Governments (the “SGVCOG”) and the City of Monterey Park (the “City”) for Participation in the San Gabriel Valley Regional Food Recovery Program, dated October 7, 2021, and amended on December 8, 2021, shall be effective upon the date executed by both Parties hereto (“Effective Date”).

RECITALS

- A. SGVCOG and City entered into the MOA under which SGVCOG retained a consultant to perform specified tasks (Tasks 1-4 of the MOA’s Scope of Work) toward the development of a regional approach toward compliance with SB 1383’s food recovery components.
- C. SGVCOG and City agreed to amend the MOA under Amendment No. 1 to develop and implement an Inspection Program (Tasks 5-6 of the MOA’s Scope of Work), revise the invoice submittal process, and extend the term of the MOA to August 1, 2024.
- D. SGVCOG and City desire to amend the MOA under this Amendment to revise the invoicing schedule and scope of work to reflect the updated number of inspections of Tier I and Tier II edible food generators and food recovery organizations and to incorporate Tasks 7-9 to participate in the expansion of the San Gabriel Valley Regional Food Recovery Program. City acknowledges that participation in Tasks 7-9 will be funded by the City’s awarded funds from the California Department of Resources Recycling and Recovery’s (CalRecycle) SB 1383 Local Assistance Grant Program.
- E. City agrees to support the Program by purchasing equipment or funding the collective purchase of equipment by entering into separate agreements with cities participating in the Program. Such equipment will be used to increase the capacity of local food organizations to recover edible food waste.

NOW THEREFORE, the Parties agree to amend the MOA as follows:

- I. Article III. Responsibilities of the Parties, Section A. Subsection 7 shall be deleted in its entirety and replaced with the following:
 - 7. Submit invoices to the City, in a total amount that does not exceed \$131,319 (includes consultant, SGVCOG administrative fees and all payments due from City), as follows:
 - After the execution of the MOA, invoice the City for Tasks 1-4 of the Scope of Work in an amount not to exceed \$16,959.00. Payment of invoice will be due within thirty (30) days of the City’s receipt thereof.

- On or about November 15, 2021, invoice the City for the work to be performed under Tasks 5-6 of the Scope of Work from the Effective Date to December 31, 2022, in an amount that does not exceed \$30,605. Payment of the invoice will be due within thirty (30) days of the City's receipt thereof.
- On or about August 1, 2022, invoice the City for the work to be performed under Tasks 7-9 of the Scope of Work from August 1, 2022, to March 30, 2024, in an amount that does not exceed \$26,322. Payment of the invoice will be due within thirty (30) days of the City's receipt thereof.
- On or about November 1, 2022, invoice the City for the work to be performed under Tasks 5-6 of the Scope of Work from January 1, 2023 to December 31, 2023, in an amount that does not exceed \$26,885. Payment of invoice will be due within thirty (30) days of the City's receipt thereof.
- On or about November 1, 2023, invoice the City for the work to be performed under Task 6 of the Scope of Work from January 1, 2024 to August 1, 2024 in an amount that does not exceed \$30,548. Payment of invoice will be due within thirty (30) days of the City's receipt thereof.
- Any amounts paid by the City under this Amendment that are not expended in performance of Tasks 1-9 by August 1, 2024, will be refunded to the City by September 15, 2024, unless City and SGVCOG agree to extend the term of the MOA beyond August 1, 2024. SGVCOG shall provide to the City an accounting of funds at the same time of the refund, if any.

II. Article III. Responsibilities of the Parties, Section B shall be amended to add the following:
7. For participation in Tasks 7-9, City shall

- a. Agree that CalRecycle, the California Department of Finance, and the California Bureau of State Audits have the right to review and copy any records and supporting documentation pertaining to the funds awarded to City by CalRecycle to support the Program expansion ("Expansion Funds").
- b. Maintain records of Expansion Funds for a minimum of 3 years after May 2, 2024.
- c. Submit in writing requests to change the budget or scope of work, if applicable, to City's CalRecycle Grant Manager for work performed using Expansion Funds.
- d. Enter into separate agreements with participating cities for the collective purchase of equipment and supplies using Expansion Funds, if applicable. Such agreements shall establish which city owns the piece of equipment.
- e. Enter into separate agreements with nonprofit organizations to lease equipment purchased using Expansion Funds, if City owns such equipment.
- f. Submit all required reporting documents related to Expansion Funds to CalRecycle for each year by November 3, 2022, May 3, 2023, and May 2, 2024.

III. Attachment A to Amendment No. 1 entitled "San Gabriel Valley Regional Food Recovery Task 5 & 6 Program Scope of Work" shall be deleted in its entirety and replaced with the revised Attachment A, which is attached hereto and incorporated herein by this reference.

IV. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings set forth for such terms in the MOA.

- V. This Amendment integrates all of the terms and conditions mentioned herein and supersedes all negotiations with respect to matters referenced herein. Except as specifically amended hereby, the MOA and Amendment No. 1 shall remain in full force and effect. To the extent there is any conflict or inconsistency between the terms and provisions of this Amendment and the MOA or Amendment No. 1, this Amendment shall control.

[Signature page to follow]

FOR THE CITY OF MONTEREY PARK:

By: _____

Ron Bow
City Manager

Date: _____

ATTEST:

Vincent D. Chang
City Clerk

APPROVED AS TO FORM:

Karl H. Berger
City Attorney

FOR THE SAN GABRIEL VALLEY
COUNCIL OF GOVERNMENTS:

By: _____

Marisa Creter
Executive Director

Date: _____

APPROVED AS TO FORM:

David DeBerry
General Counsel

ATTACHMENT A – TASK 5 & 6 SCOPE OF WORK

SAN GABRIEL VALLEY REGIONAL FOOD RECOVERY PROGRAM

Task 5 Inspection Program Development

Task 5.1 Develop Inspection Schedule and Plan

Based on the information identified in Task 2, the Consultant shall develop a schedule and plan to implement a program, including a mechanism that allows for the submission of anonymous complaints and determining the validity of those complaints based on Section 18995.3 of the adopted guidelines, to conduct inspections of participating cities' Tier 1 commercial edible food generators and food recovery organizations and services for compliance with the adopted SB 1383 guidelines. Please note that cities must conduct inspections of Tier 1 commercial edible food generators and food recovery organizations and services for compliance beginning January 1, 2022. Inspections of Tier 2 commercial edible food generators for compliance with the adopted guidelines must begin on January 1, 2024. By law, the Consultant does not have authority to issue citations; however, the Consultant shall develop an effective method to quickly and effectively inform participating cities to issue educational materials and/or citations in the event that noncompliance is identified during inspections. Between January 1, 2022 and December 31, 2023, cities must provide educational materials describing the applicable requirements of the adopted guidelines in response to violations. Starting on January 1, 2024, cities must enforce the adopted guidelines pursuant to Sections 18995.4 and 18997.2 of the adopted guidelines in response to violations.

Deliverable: A report detailing the proposed schedule and plan to implement an inspection program in participating cities, including details of an effective method to quickly and effectively inform participating cities to issue educational materials and/or citations in the event that noncompliance is identified during inspections. The report must be presented to the SGVCOG and participating cities for review before November 29, 2021.

Task 6 Inspection Program Implementation

Task 6.1 Project Team Coordination

Monthly 30-minute project team meetings, regular phone and e-mail correspondence, and other communications with the SGVCOG to ensure that the tasks listed in this SOW stay on schedule and within budget.

Deliverable: Meeting notifications, agendas, and notes.

Task 6.2 Implement Inspection Schedule and Plan

Upon the approval by the SGVCOG and participating cities, the Consultant shall begin implementing the inspections beginning January 1, 2022 and until August 1, 2024. The Consultant shall document the number of inspections conducted by type for commercial edible food generators and food recovery organizations, the number

of complaints pursuant to Section 18995.3 of the adopted guidelines that were received and investigated, and the number of Notices of Violations issued (in partnership with participating cities) based on investigation of those complaints. Additionally, the Consultant shall, in partnership with participating cities, document the number of Notices of Violation, penalty orders, and enforcement actions that were resolved, categorized by type of entity subject to the adopted guidelines. Table 1 establishes the framework by which the Consultant is expected to perform the inspections, although the exact number of inspections per city may vary. Should a change to the number of inspections be required, the SGVCOG and the Consultant will work with the affected city to revise the number of inspections to ensure the city remains in compliance with SB 1383 while maintaining the approved not-to-exceed MOU amount as outlined in Article III. Responsibilities of the Parties, Section A, Subsection 7.

Table 1: Anticipated Number of Inspections by Entity per City; Years 2022-2024

City	2022				
	Tier 1 - First Site Visit	Tier 1 - Second Site Visit	Tier 2 - First Site Visit	Tier 2 - Second Site Visit	FRO - First Site Visit
Azusa	14	0	8	0	1
Covina	16	0	15	0	3
Duarte	7	7	7	7	1
Glendora	14	0	18	0	1
Irwindale	11	0	4	0	2
La Canada Flintridge	6	2	9	3	0
Monrovia	9	3	16	3	1
Monterey Park	22	6	13	4	0
South Pasadena	7	5	0	0	2
Temple City	3	3	4	4	0
Total	109	26	94	21	11

City	2023					
	Tier 1 - First Site Visit	Tier 1 - Second Site Visit	Tier 2 - First Site Visit	Tier 2 - Second Site Visit	FRO - First Site Visit	FRO - Second Site Visit
Azusa	16	12	8	6	2	1
Covina	18	0	16	0	5	0
Duarte	9	9	8	8	4	3
Glendora	16	10	20	11	3	2
Irwindale	13	0	5	0	4	0
La Canada Flintridge	6	3	9	4	2	0
Monrovia	10	3	17	5	2	0
Monterey Park	24	4	14	3	1	0
South Pasadena	8	5	6	3	3	0
Temple City	10	10	10	10	4	4
Total	130	56	113	50	30	10

City	2024					
	Tier 1 - First Site Visit	Tier 1 - Second Site Visit	Tier 2 - First Site Visit	Tier 2 - Second Site Visit	FRO - First Site Visit	FRO - Second Site Visit
Azusa	16	12	8	6	3	1
Covina	18	0	16	0	6	0
Duarte	10	10	8	8	4	4
Glendora	16	7	20	6	3	0
Irwindale	13	0	5	0	5	0
La Canada Flintridge	7	1	10	1	2	0
Monrovia	11	3	18	4	2	0
Monterey Park	25	5	14	3	2	0
South Pasadena	8	0	7	0	3	0
Temple City	13	13	10	10	6	6
Total	137	51	116	38	36	11

Deliverable: Documentation of the number of inspections conducted by type for commercial edible food generators and food recovery organizations, the number of complaints pursuant to Section 18995.3 of the adopted guidelines that were received and investigated, and the number of Notices of Violations issued (in partnership with participating cities) based on investigation of those complaints. Additionally, the Consultant shall, in partnership with participating cities, provide documentation of the number of Notices of Violation, penalty orders, and enforcement actions that were resolved, categorized by the type of entity subject to the adopted guidelines. Such documents shall be provided on a monthly basis.

***Not all 14 participating cities that participate in Tasks 1-4 of the San Gabriel Valley Regional Food Recovery Program will participate in Tasks 5-6. The final contract amount will depend on the number of cities that choose to participate in Tasks 5-6.**

TASKS 7-9 SCOPE OF WORK

SAN GABRIEL VALLEY REGIONAL FOOD RECOVERY PROGRAM

PHASE II EXPANSION

Task 7 Project Management

Task 7.1 Kickoff Meeting

The Consultant shall conduct a kickoff meeting with the SGVCOG. The primary objectives will be to review scope, schedule, project goals, and key issues.

Deliverables: Meeting notes and materials for kickoff meeting.

Task 7.2 Project Team Coordination

Monthly project team meetings, regular phone and e-mail correspondence, and other communications with the SGVCOG to ensure that the tasks listed in this SOW stay on schedule and within budget.

Deliverables: Meeting notifications, agendas, and notes.

Task 7.3 Project Management Update Meetings

The Consultant shall facilitate monthly meetings with the SGVCOG and representatives of participating cities to provide key project updates. These meetings can also be used to obtain feedback and input on key discussions. Monthly Project Management Update meetings can cease after the completion of Tasks 2.2 and 3.1; however, a final Project Management Update meeting should be provided towards the end of Task 3.2 to provide outreach and education updates for participating cities.

Deliverables: Meeting notifications, agendas, notes, presentations, and other relevant drafts and documents.

Task 8 Subregional Food Recovery Hubs

Task 8.1 Food Recovery Hub Expansion Facilitation

The Consultant shall review the list of identified food recovery organizations in the San Gabriel Valley and facilitate discussions with the largest food recovery organizations to identify their interests with serving as subregional food recovery hubs. A total of three subregional food recovery hubs should be established in the San Gabriel Valley. The Consultant should already possess a list of existing food recovery organizations' infrastructure and capacity limitations, ongoing partnerships with smaller food recovery organizations in their communities, and ongoing agreements/contracts with local Tier 1 and Tier 2 generators. At least one subregional food recovery hub may be located in Baldwin Park and at least one subregional food recovery hub may be located in Monterey Park due to priority

funding status (increased amount of funding provided). Other participating cities will have priority access to these hubs. However, if no subregional food recovery hub is able to be cited in either of these communities, then Monterey Park and Baldwin Park agree to utilize their portion of funding toward locating hubs in other communities that can support the subregional food recovery hubs.

Deliverables: A detailed report summarizing discussions held, along with the surveyed food recovery organizations' interest to serve as subregional food recovery hubs, their infrastructure and capacity limitations, their ongoing partnerships with smaller food recovery organizations, and their ongoing agreements/contracts with local Tier 1 and Tier 2 generators. Additionally, the report should note any possible challenges and concerns for each surveyed food recovery organization to serve as a subregional food recovery hub. The report shall be compiled in the form of one regional document, with the information on each San Gabriel Valley city formatted by sections.

Task 8.2 Capacity Expansion Support

Upon approval of the Task 2.1 report, the SGVCOG shall be responsible for coordinating the purchase of all of the necessary equipment. The Consultant shall support coordinating with selected food recovery organizations to obtain and set up the equipment. Upon completion, the Consultant shall develop a report of the total amounts of equipment and infrastructure that were added to selected food recovery organizations and calculate the amount of food recovery capacity increased.

Deliverables: A detailed report summarizing the total amounts of equipment and infrastructure that were added to selected food recovery organizations and calculations of food recovery capacity increased. The report should also include a location-by-location inventory and a map of supported food recovery hubs.

Task 9 Public Outreach

Task 9.1 Develop Outreach and Education Plan

The Consultant shall expand on the existing comprehensive outreach and education campaign for participating cities' Tier 1 and Tier 2 edible food waste generators and stakeholder groups and specify plans and schedules to incorporate 12 workshops (once every 2 months), 6 social media campaigns (once every 4 months), and 6 rounds of mailer/flyer mailing campaigns (once every 4 months) for participating cities throughout the duration of this project. All materials must be provided in English, Chinese, and Spanish.

Deliverables: Outreach and education campaign materials and a detailed plan and schedule for a comprehensive outreach and education campaign for participating cities' Tier 1 and Tier 2 edible food waste generators and stakeholder groups prepared for the SGVCOG's approval.

Task 9.2 Implement Outreach and Education Campaign

Upon approval by the SGVCOG, the Consultant shall implement an outreach and education campaign for participating cities' Tier 1 and Tier 2 edible food waste generators and stakeholder groups. The Consultant shall provide records of outreach and education efforts, along with copies of the utilized marketing materials, that were conducted. The records shall include the date and to whom the information was disseminated or direct contact made.

Deliverables: Monthly reports on conducted outreach and education efforts and copies of the utilized marketing materials.



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3F

TO: The Honorable Mayor and City Council
FROM: Kelly Gordon, Chief of Police
SUBJECT: California Office of Traffic Safety (OTS) STEP Grant Fiscal Year 2022/2023

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopt a Resolution authorizing the City Manager to apply for, accept, and execute any documents, in a form approved by the City Attorney, with the California Office of Traffic Safety in the amount of \$189,000 for the Selective Traffic Enforcement Program (STEP) Grant;
2. If adopted, the Resolution would also authorize an amendment to the City's FY 2022-23 Budget to allocate \$189,000 in grant funding; and
3. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The City of Monterey Park Police Department was notified of a tentative award of \$189,000.00 from the California Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant. The police department will utilize the grant to continue its education and enforcement of traffic related laws to reduce injury and fatal traffic collisions.

BACKGROUND:

The California Office of Traffic Safety distributes federal funding apportioned to California under the National Highway Traffic Safety Administration (NHTSA). The California Office of Traffic Safety's mission is to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses. Grants are used to mitigate traffic safety deficiencies, expand ongoing activity, or develop innovative programs.

In 2020, the City of Monterey Park experienced a total of 596 traffic collisions and five fatalities. The STEP Grant supports the Monterey Park Police Department's efforts to reduce DUI related traffic collisions and enhances enforcement efforts that concentrate on factors contributing to traffic collisions, such as: alcohol, speed, red light violations, and unsafe turning movements.

The Monterey Park Police Department's STEP Grant total allocation is \$189,000.00.

FISCAL IMPACT:

Staff requests approval for the Management Services Department to appropriate \$189,000.00 grant funding to the FY22-23 budget. There is no fiscal impact to the general fund.

Respectfully submitted by:



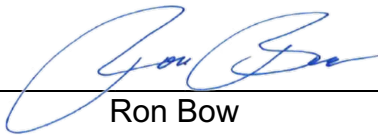
Kelly Gordon
Chief of Police

Reviewed by:



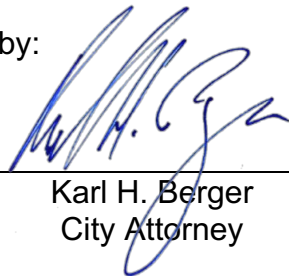
Martha Garcia
Director Management Services

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. Conditional Approval email notice for STEP Grant funding.
2. Resolution

ATTACHMENT 1
Tentative Approval Letter for STEP Funding

Yung, Peter

From: OTS Email <contact@ots.ca.gov>
Sent: Wednesday, June 22, 2022 3:44 PM
To: Yung, Peter
Subject: OTS Tentatively Approved Your Application

Follow Up Flag: Flag for follow up
Flag Status: Flagged

[EXTERNAL EMAIL]

Congratulations! Through a competitive process, the Office of Traffic Safety (OTS) has tentatively approved your application 23-003989 in the amount of \$189,000 with the proposal titled "Selective Traffic Enforcement Program (STEP)." This tentative award is contingent on approval from the National Highway Traffic Safety Administration.

Your OTS Coordinator will contact you to discuss your proposal and explain the grant agreement process. It is our goal to have all new grants start the first of October. If approval from a City Council or the Board of Supervisors is required, you should begin that process now. Do not incur grant reimbursable costs yet, as this is a tentative award.

The OTS will initiate a statewide media news release regarding this year's applications selected for funding. Your agency should not publicly announce this tentative award until the grant agreement is fully negotiated and signed by the OTS.

Again, congratulations on the success of your application.

Sincerely,
Barbara L. Rooney
Director

ATTACHMENT 2

Resolution for STEP Funding

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO RECEIVE AND APPROPRIATE GRANT FUNDS FOR THE SELECTIVE TRAFFIC ENFORCEMENT GRANT PROGRAM

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

- A. The City applied for the Office of Traffic Safety (OTS) for Selective Traffic Safety Grant (STEP).
- B. The Monterey Park Police Department will utilize the grant funding to continue its education and enforcement of traffic related laws to reduce injury and fatal traffic collisions.
- C. The City will receive \$189,000.00 from the California Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant.).

SECTION 2: The City Manager, or designee, is authorized to receive grant funds from the California Office of Traffic Safety to be used to continue education and enforcement of traffic related laws to reduce injury and fatal traffic collisions.

SECTION 3: The City Manager, or designee, is authorized to execute any required documents and agreements to receive the grant for purposes identified herein. To the extent required, the City's Budget for Fiscal Year 2022-23 is amended to include any grant funds allocated to the City.

SECTION 4: *Severability.* If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provision or application and, to this end, the provisions of this Resolution are severable.

SECTION 5: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: *Recordation.* The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or his duly appointed deputy, may attest thereto.

SECTION 7: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

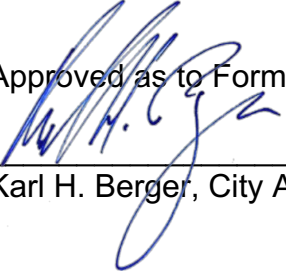
PASSED AND ADOPTED this ____ day of _____, 2022.

Henry Lo, Mayor

Attest:

Vincent D. Chang, City Clerk

Approved as to Form:



Karl H. Berger, City Attorney



City Council Staff Report

DATE: August 1, 2022

AGENDA ITEM NO: Consent Calendar - 3G

TO: The Honorable Mayor and City Council
FROM: Kelly Gordon, Chief of Police
SUBJECT: Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant Fiscal Year 2022/2023

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting a Resolution authorizing the City Manager to apply for, accept, and execute documents, in a form approved by the City Attorney, with the California Office of Traffic Safety in the amount of \$25,000 for the Pedestrian and Bicycle Safety Program Grant;
2. If adopted, the Resolution would also amend the FY 2022-23 Budget to allocate \$25,000; and
3. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The City of Monterey Park Police Department was notified of a tentative award of \$25,000 from the California Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant. The police department will utilize the grant to educate the community on pedestrian and bicycle safety to reduce injury and fatal traffic collisions.

BACKGROUND:

The California Office of Traffic Safety distributes federal funding apportioned to California under the National Highway Traffic Safety Administration (NHTSA). The California Office of Traffic Safety's mission is to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses. Grants are used to mitigate traffic safety deficiencies, expand ongoing activity, or develop innovative programs.

In 2020, the City of Monterey Park experienced a total of 596 traffic collisions and five fatalities. The Pedestrian and Bicycle Safety Program Grant supports the Monterey Park Police Department's efforts to educate the community on pedestrian traffic safety, bicycle safety, and traffic laws.

The Monterey Park Police Department's Pedestrian and Bicycle Safety Program Grant total allocation is \$25,000.00.

FISCAL IMPACT:

Staff requests approval for the Management Services Department to appropriate \$25,000.00 in grant funding to the FY22-23 budget. There is no fiscal impact to the general fund.

Respectfully submitted by:



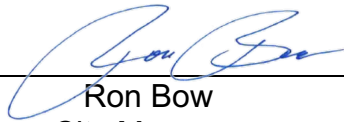
Kelly Gordon
Chief of Police

Reviewed by:



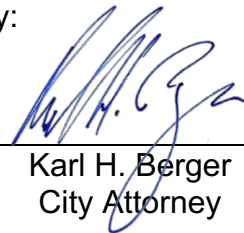
Martha Garcia
Director Management Services

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. Conditional Approval email notice for Pedestrian and Bicycle Safety Program Funding
2. Resolution

ATTACHMENT 1
Tentative Approval Letter for Pedestrian and
Bicycle Safety Program Funding

Yung, Peter

From: Castellano, David
Sent: Wednesday, June 22, 2022 7:33 PM
To: Yung, Peter
Subject: Fw: OTS Tentatively Approved Your Application

Follow Up Flag: Flag for follow up
Flag Status: Flagged

From: OTS Email <contact@ots.ca.gov>
Sent: Wednesday, June 22, 2022 3:45:13 PM
To: Castellano, David
Subject: OTS Tentatively Approved Your Application

[EXTERNAL EMAIL]

Congratulations! Through a competitive process, the Office of Traffic Safety (OTS) has tentatively approved your application 23-003990 in the amount of \$25,000 with the proposal titled "Pedestrian and Bicycle Safety Program." This tentative award is contingent on approval from the National Highway Traffic Safety Administration.

Your OTS Coordinator will contact you to discuss your proposal and explain the grant agreement process. It is our goal to have all new grants start the first of October. If approval from a City Council or the Board of Supervisors is required, you should begin that process now. Do not incur grant reimbursable costs yet, as this is a tentative award.

The OTS will initiate a statewide media news release regarding this year's applications selected for funding. Your agency should not publicly announce this tentative award until the grant agreement is fully negotiated and signed by the OTS.

Again, congratulations on the success of your application.

Sincerely,
Barbara L. Rooney
Director

ATTACHMENT 2
Resolution for Pedestrian and Bicycle Safety
Program Funding

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO RECEIVE AND APPROPRIATE GRANT FUNDS FOR THE PEDESTRIAN AND BICYCLE SAFETY GRANT PROGRAM

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

- A. The City applied for the Office of Traffic Safety (OTS) for Pedestrian and Bicycle Safety Program Grant.
- B. The Monterey Park Police Department will utilize the grant to educate the community on pedestrian and bicycle safety to reduce injury and fatal traffic collisions.
- C. The City will receive \$25,000.00 from the California Office of Traffic Safety (OTS) for Pedestrian and Bicycle Safety Program Grant.

SECTION 2: The City Manager, or designee, is authorized to receive grant funds from the California Office of Traffic Safety to be used to educate the community on pedestrian and bicycle safety to reduce injury and fatal traffic collisions.

SECTION 3: The City Manager, or designee, is authorized to execute any required documents and agreements to receive the grant for purposes identified herein. The City's Fiscal Year 2022-23 Budget is amended to the extent needed to accept and allocate the grant funds identified in this Resolution.

SECTION 4: *Severability.* If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provision or application and, to this end, the provisions of this Resolution are severable.

SECTION 5: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: *Recordation.* The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or his duly appointed deputy, may attest thereto.

SECTION 7: *Effective Date.* This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

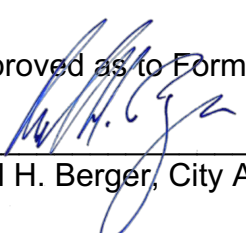
PASSED AND ADOPTED this ____ day of _____, 2022.

Henry Lo, Mayor

Attest:

Vincent D. Chang, City Clerk

Approved as to Form:



Karl H. Berger, City Attorney