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CITY HALL • ONE FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Clerk
La Tonda Simmons
City Clerk and Clerk of the Council

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July 19, 2018

Honorable Council President Reid and
Members of the Oakland City Council
City Hall
Oakland, CA 94612

Dear Council President Reid and Members of The Oakland City Council,

Pursuant to the California Elections Code and relevant sections of the Oakland Municipal Code, ordinances may be submitted to the legislative body of a city by a petition filed with the city elections official.

The Office of the City Clerk received two independent filings from verified residents for circulation of petitions entitled:

- 1) Hotel Worker rights and Protections, and
- 2) Children's initiative of 2018.

The Office of the City Clerk completed the prima facia examination of both initiative petitions and determined the petitions contain at least the required number of signatures at the time of filing. The initiative petitions were submitted to the Alameda County Registrar of voters for signature verification. The Alameda County Registrar of Voters notified this office that both initiative petitions were found sufficient and contained the required number of signatures of registered voters of the City of Oakland. The attached two (2) resolutions should be adopted by the City Council and certified copies filed with the Alameda County Registrar of Voters for inclusion in the Sample Ballot for the November 6, 2018 General Municipal Election consolidated with the Statewide General Election. The City Council is required pursuant to the Elections Code to adopt these resolutions. Also, attached are the certifications received from the Alameda County Registrar of Voters indicating that the initiative petitions were found sufficient.

Accordingly the Office of The City Clerk requests that the City Council adopt the following resolutions as a ministerial action in accordance with elections code section 9215 to authorize

Item: _____
City Council
July 24, 2018

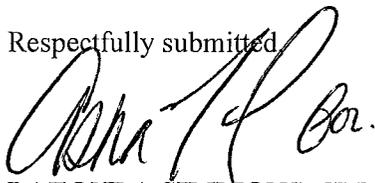
placement of the measures on the City of Oakland's November 6, 2018 General Municipal Election:

- 1) **A RESOLUTION PURSUANT TO ELECTIONS CODE SECTION 9215 REGARDING AN INITIATIVE PETITION, SUBMITTING TO THE QUALIFIED ELECTORS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION A PROPOSED ORDINANCE AND AMENDMENT TO THE OAKLAND MUNICIPAL CODE "CREATING WORKPLACE PROTECTIONS AND A MINIMUM WAGE FOR HOTEL EMPLOYEES, MODIFYING HOW OAKLAND'S LOCAL EMPLOYMENT STANDARDS ARE ENFORCED, AND CREATING A DEPARTMENT OF WORKPLACE AND EMPLOYMENT STANDARDS" AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION; AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE LAW AND AUTHORIZING CERTAIN OTHER ELECTION ACTIVITIES.**

- 2) **A RESOLUTION PURSUANT TO AN INITIATIVE PETITION, SUBMITTING TO THE QUALIFIED ELECTORS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE PRIMARY ELECTION A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF OAKLAND CREATING THE "CHILDREN'S INITIATIVE OF 2018" AND APPROVING A PARCEL TAX TO FUND EARLY CHILDHOOD EDUCATION AND COLLEGE READINESS PROGRAMS AND TO DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE LAW AND AUTHORIZING CERTAIN OTHER ELECTION ACTIVITIES**

Thank you for your consideration.

Respectfully submitted,



LATONDA SIMMONS, CMC
City Clerk and Clerk of the Council

Attachments (4): Resolutions
Certificates of Sufficiency

Item: _____
City Council
July 24, 2018

REGISTRAR OF VOTERS CERTIFICATE TO PETITION

I, **Tim Dupuis**, Registrar of Voters for the County of Alameda, State of California, hereby certify that: an Initiative Petition Entitled: "Hotel Worker Rights and Protections" was filed with the Oakland City Clerk within the statutory time limit and forwarded to this office for verification on June 1, 2018 and

The petition contained 36,871 unverified signatures; and

Pursuant to California Elections Code section 9215, in order to be sufficient, the petition must have been signed by 23,466 qualified registered voters of the City of Oakland, that number being equal to 10 percent of the total registered voters of the City at the last Report of Registration to the Secretary of State; and

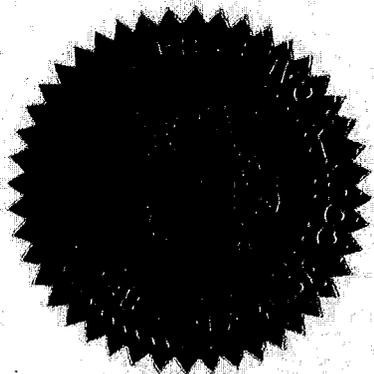
I have examined, or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

Have determined that the petition contained 861 valid signatures of qualified registered voters in the City of Oakland based on the random sample examination set forth in section 9115 and the formula prescribed by the California Secretary of State; and

That this number represents 113.13% of the total number of signatures needed to qualify the initiative therefore;

The petition is found to be sufficient to require the City Council of the City of Oakland to take the appropriate action specified in the California Elections Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 9th day of **July 2018**.



A handwritten signature in black ink, appearing to read "Tim Dupuis".

Tim Dupuis
Registrar of Voters
County of Alameda
State of California

REGISTRAR OF VOTERS CERTIFICATE TO PETITION

I, **Tim Dupuis**, Registrar of Voters for the County of Alameda, State of California, hereby certify that: an Initiative Petition Entitled: "The Children's Initiative of 2018" was filed with the Oakland City Clerk within the statutory time limit and forwarded to this office for verification on June 21, 2018 and

The petition contained 56,841 unverified signatures; and

Pursuant to California Elections Code section 9215, in order to be sufficient, the petition must have been signed by 35,199 qualified registered voters of the City of Oakland, that number being equal to 15 percent of the total registered voters of the City at the last Report of Registration to the Secretary of State; and

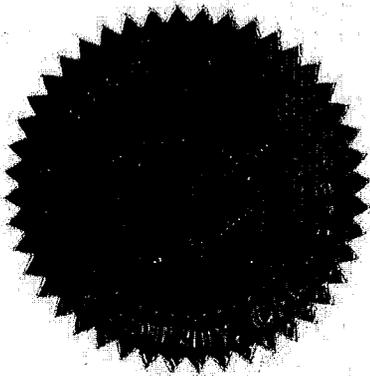
I have examined, or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

Have determined that the petition contained 1,271 valid signatures of qualified registered voters in the City of Oakland based on the random sample examination set forth in section 9115 and the formula prescribed by the California Secretary of State; and

That this number represents 111.19% of the total number of signatures needed to qualify the initiative therefore;

The petition is found to be sufficient to require the City Council of the City of Oakland to take the appropriate action specified in the California Elections Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 9th day of **July 2018**.

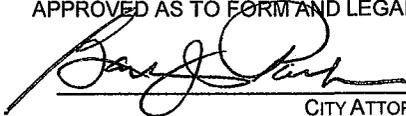


A handwritten signature in black ink, appearing to read "Tim Dupuis". The signature is written in a cursive style and is positioned above a horizontal line.

Tim Dupuis
Registrar of Voters
County of Alameda
State of California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

18 JUL 19 PM 4:39

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION PURSUANT TO AN INITIATIVE PETITION, SUBMITTING TO THE ELECTORS AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION A PROPOSED ORDINANCE AND AMENDMENTS TO THE OAKLAND MUNICIPAL CODE “CREATING WORKPLACE PROTECTIONS AND A MINIMUM WAGE FOR HOTEL EMPLOYEES, MODIFYING HOW OAKLAND’S LOCAL EMPLOYMENT STANDARDS ARE ENFORCED, AND CREATING A DEPARTMENT OF WORKPLACE AND EMPLOYMENT STANDARDS”; REQUESTING THAT THE ELECTION BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION; DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION; AND AUTHORIZING CERTAIN OTHER ELECTION ACTIVITIES

WHEREAS, the City Clerk has certified to the City Council that upon examination of the petition for the proposed ordinance and amendment to the Oakland Municipal Code, “Creating Workplace Protections and a Minimum Wage for Hotel Employees, Modifying How Oakland’s Local Employment Standards Are Enforced, and Creating a Department of Workplace and Employment Standards” and that the petition is signed by the requisite number of registered voters; and

WHEREAS, in accordance with the Oakland City Charter and the California Elections Code, the Alameda County Registrar of Voters requires a resolution from the City Council to place the initiative on the ballot; and,

WHEREAS, such action by the City Council is mandatory and ministerial and not a discretionary act and not a statement that the City Council or its members are either for or against the initiative; now, therefore be it

RESOLVED: that the City Council does hereby submit to the qualified voters of the City of Oakland at the November 6, 2018 General Municipal Election, proposed amendments to Title 2 and Title 5 of the Oakland Municipal Code; and be it

FURTHER RESOLVED: that the proposed initiative ballot measure text shall read as follows:

“SECTION 1. HOTEL MINIMUM WAGE AND WORKING CONDITIONS.

A new Chapter 5.93 is added to the City of Oakland Municipal Code, entitled “Hotel Minimum Wage and Working Conditions,” as follows:

5.93.010 - Definitions.

“*Additional-bed rooms*” means a room with additional beds such as cots or rollaways.

“*Checkout*” means a room occupied by guests who are ending their stay at the hotel.

“*Guest*” means registered guests, others occupying guest rooms with registered guests, and visitors invited to guest rooms by a registered guest or other occupant of a guest room.

“*Guest room*” means a room made available by a hotel for transient occupancy, within the meaning of Oakland Municipal Code section 4.24.020.

“*Hotel*” means structures as defined by Oakland Municipal Code section 4.24.020, and containing 50 or more guest rooms, or suites of rooms. “Hotel” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building.

“*Hotel Employer*” means a person who owns, controls, and/or operates a hotel in the City of Oakland, or a person who owns, controls, and/or operates any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel’s purpose, or a person, other than a hotel employee, who provides services at the hotel.

“*Hotel Employee*” means any individual (1) who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at a hotel in the City of Oakland; and (2) who was hired to or did work an average 5 hours/week for 4 weeks at one or more hotels.

“*Panic button*” means an emergency contact device carried by the hotel employee which allows him or her in the event of an ongoing crime, threat, or other emergency to alert another employee or security guard responsible for providing immediate on-scene assistance.

“*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.

“*Room cleaner*” means a hotel employee whose principal duties are to clean and put in order residential guest rooms in a hotel, regardless of who employs the person.

“*Workday*” means a 24-hour period beginning at 12:00 a.m. and ending at 11:59 p.m.

Sec. 5.93.020 - Measures to protect hotel employees from threatening behavior.

A. **Purpose.** Hotel employees who work by themselves are vulnerable to crimes and other threatening behavior, including sexual assault. This Chapter enables hotel workers to protect their safety by, among other measures, requiring that hotel employers provide workers who clean guest rooms with panic buttons which they may use to report threatening conduct by a hotel guest and other emergencies. Many instances of sexual assault go unreported to the police. This

Chapter also includes provisions that support hotel employees' ability to report criminal and threatening guest behavior to the proper authorities.

B. Each hotel employee assigned to work in a guest room or bathroom without other employees present shall be provided by the hotel employer, at no cost to the hotel employee, a panic button.

1. If a hotel employee encounters a situation necessitating his or her use of the panic button as described above, the hotel employee may cease working and remove him/herself from the situation to await the arrival of the employee or security guard responsible for providing immediate assistance. No hotel employee may be disciplined for ceasing work under these circumstances.

2. No hotel employee may be disciplined for use of a panic button absent clear and convincing evidence the hotel employee knowingly and intentionally made a false claim of emergency.

C. A hotel employee who brings to the attention of a hotel employer the occurrence of violence or threatening behavior, including but not limited to indecent exposure, solicitation, assault, or coercive sexual conduct by a guest, shall be afforded the following rights.

1. If the hotel employee reasonably believes that his or her safety is at risk and so requests, the hotel employee shall be reassigned to a different floor, or, if none is available for his or her job classification, a different work area, away from the person who is alleged to have engaged in the violence or threatening behavior, for the entire duration of the person's stay at the hotel;

2. The hotel employer shall immediately allow the affected hotel employee sufficient paid time to contact the police and provide a police statement and to consult with a counselor or advisor of the hotel employee's choosing; the hotel employer will permit, but may never require, the complaining hotel employee to report an incident involving alleged criminal conduct by a guest to the law enforcement agency with jurisdiction; and

3. The hotel employer shall cooperate with any investigation into the incident undertaken by the law enforcement agency and/or any attorney for the complaining hotel employee.

D. Each hotel shall place a sign on the back of each guestroom door, written in a font size of no less than 18 points, that includes the heading "The Law Protects Hotel Housekeepers and Employees From Threatening Behavior," a citation to this Chapter of the Oakland Municipal Code, and notice of the fact that the hotel is providing panic buttons to its housekeepers, room servers, and other hotel employees assigned to work in guest rooms without other employees present, in compliance with this Chapter.

Sec. 5.93.030 - Humane workload.

A. **Purpose.** Hotel employees who clean guest rooms are frequently assigned overly burdensome room cleaning quotas and unexpected overtime, which undermines the public interest in ensuring that hotel room cleaners can perform their work in a manner that adequately protects public health and interferes with their ability to meet family and personal obligations. This provision assures that workers receive fair compensation when their workload assignments exceed proscribed limits and prohibits hotel employers from assigning hotel employees overtime work when their shifts exceed 10 hours in a day, except in emergency situations, without obtaining workers' informed consent.

B. A hotel employer shall not require a room cleaner to clean rooms amounting to more than 4,000 square feet of floorspace, or more than the maximum floor space otherwise specified in this Section, in any one, eight-hour workday unless the hotel employer pays the room cleaner twice his or her regular rate of pay for all hours worked by the room cleaner during the workday. If a room cleaner works fewer than eight hours in a workday, the maximum floor space shall be reduced on a prorated basis. When a room cleaner during a workday is assigned to clean any combination of seven or more checkout rooms or additional-bed rooms, the maximum floorspace to be cleaned shall be reduced by 500 square feet for each such checkout or additional-bed room over six. The limitations contained herein apply to any combination of spaces, including guest rooms and suites, meeting rooms or hospitality rooms, and apply regardless of the furniture, equipment or amenities in any rooms.

C. A hotel employer shall not suffer or permit a hotel employee to work more than 10 hours in any workday unless the hotel employee consents. Consents must be written and signed by the hotel employee or communicated electronically through an account or number particular to the hotel employee. No consent is valid unless the hotel employer has advised the hotel employee in writing not more than 30 days preceding the consent that the hotel employee may decline to work more than 10 hours in any workday and that the hotel employer will not subject the hotel employee to any adverse action for declining. Such notice shall be provided in each language spoken by more than ten percent (10%) or ten (10) hotel employees at the hotel, whichever is less. An assignment in excess of 10 hours in a workday due to an emergency situation shall not violate this section. For purposes of this Section, an "emergency situation" shall mean an immediate threat to public safety or of substantial risk of property loss or destruction.

Sec. 5.93.040 - Hotel employee minimum wage.

- A. Effective July 1, 2019, hotel employers shall pay hotel employees a wage of no less than \$15.00 per hour with health benefits, not including gratuities, service charge distributions, or bonuses, or \$20.00 per hour without health benefits, not including gratuities, service charge distributions, or bonuses.
- B. Health benefits under this Section shall consist of the payment of the difference between the higher wage and lower wage under Section 5.93.040(A) towards the provision of health care benefits for hotel employees and their dependents. Proof of the provision of these benefits must be kept on file by the hotel employer, if applicable.
- C. The wage rates set forth in this Section shall be adjusted for inflation annually in the manner set forth in Section 5.92.020(B).

Sec. 5.93.050 - Preservation of records.

- A. Each hotel employer shall preserve for at least three (3) years:
 - 1. for each room cleaner, a record of his or her name, pay rates received, and the rooms (or at the hotel employer's option, total amount of square footage) each cleaned each workday;
 - 2. a record of the written consents it received from hotel employees to work more than ten hours during a shift; and
 - 3. for each hotel employee, a record of his or her name, hours worked, pay rate, and proof of health benefits consistent with Section 5.93.040(B) (if applicable).
- D. The hotel employer shall make such records available to hotel employees or their representatives for inspection and copying, except that hotel employees' names (and any addresses and social security numbers) shall be redacted unless the requester is a hotel employee requesting his or her own records. Where a hotel employer does not maintain or retain adequate records consistent with this Section, or does not permit reasonable access to such records, it shall be presumed, in any administrative or judicial proceeding enforcing this Chapter, that:
 - 1. the hotel employer required the room cleaner to clean total square footage in excess of 4,000 square feet on the day for which records are missing or inadequate, absent clear and convincing evidence otherwise;
 - 2. no written consent to work more than ten hours during a shift exists for a hotel employee for days on which written consents are missing or inadequate, absent clear and convincing evidence otherwise; and
 - 3. the hotel employer paid the hotel employee no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise.

5.93.060 - No retaliation. A hotel employer shall not discharge, reduce the compensation of nor otherwise discriminate against any person for making a complaint to the City, participating in

any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Chapter. Within one hundred twenty (120) days of a hotel employer being notified of such activity, it shall be unlawful for the hotel employer to discharge any person who engaged in such activity unless the hotel employer has clear and convincing evidence of just cause for such discharge.

5.93.070 - Waiver.

The provisions of this Chapter may not be waived by agreement between an individual hotel employee and a hotel employer. All of the provisions of Section 5.93.030 and 5.93.040, or any part thereof, may be waived in a *bona fide* collective bargaining agreement but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms.

5.93.080 - Enforcement and miscellaneous provisions.

A. This Chapter shall be enforced in accordance with the procedures set forth in Oakland Municipal Code Section 5.92.050, and the remedies set forth in that Section shall apply to violations of this Chapter, except that for a willful violation of Section 5.93.060, the amount damages attributable to lost income due to the violation shall be trebled.

C. No hotel employer may fund increases in compensation required by this Chapter, nor otherwise respond to the requirements of this Chapter, by reducing the compensation of any non-management hotel employees nor by reducing the pension, vacation, or other non-wage benefits of any such hotel employees, nor by increasing charges to them for parking, meals, uniforms or other items. If a hotel employer makes such adverse changes after the filing of the notice to circulate the petition giving rise to this Chapter but before this Chapter has become effective, then upon this Chapter's effective date, such hotel employer shall restore the conditions of the *status quo ante*.

D. Each hotel employer shall give written notification to each current hotel employee, and to each new Hotel Employee at time of hire, of his or her rights under this Chapter. The notification shall be in each language spoken by more than ten percent (10%) or ten (10) hotel employees at the hotel, whichever is less.

E. A hotel employer that contracts with another person, including, without limitation, another hotel employer, a temporary staffing agency, employee leasing agency or professional employer organization, to obtain the services of hotel employees shall share all civil legal responsibility and civil liability for violations of this Chapter by that person for hotel employees performing work

pursuant to the contract. For the purposes of this subsection, the term "person" shall not include: (1) A bona fide nonprofit, community-based organization that provides services to workers; (2)

A bona fide labor organization or apprenticeship program or hiring hall operated pursuant to a collective bargaining agreement.

5.93.090 - No preemption of higher standards.

The purpose of this Chapter is to ensure minimum labor standards for hotel employees. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City or Port of Oakland. This Chapter shall not be construed to limit a discharged hotel employee's right to bring a common law cause of action for wrongful termination.

SECTION 2. WORKER RETENTION AT LARGE-SCALE HOSPITALITY BUSINESSES.

Oakland Municipal Code Section 2.36.010(A) is amended to read as follows:

(A) "Hospitality Business" means any for-profit hotel within the City with 50 or more guest rooms or food service operation within the City which has employed more than one hundred and fifty (150) persons at a single site during any payroll period during the prior year. For these purposes "hotel" also includes any related facilities such as pools, restaurants, or spas which hotel guests may use.

SECTION 3. DEPARTMENT OF WORKPLACE AND EMPLOYMENT STANDARDS.

A new Chapter 2.44 is added to the Oakland Municipal Code, entitled "Department of Workplace and Employment Standards," as follows:

2.44.010. Department of Workplace and Employment Standards. There is hereby created under the jurisdiction of the City Administrator a Department of Workplace and Employment Standards. Effective July 1, 2020, the Department of Workplace and Employment Standards shall enforce Chapter 2.28 ("Living Wage Ordinance"); Chapter 2.36 ("Worker Retention at Large-Scale Hospitality Business Ordinance"); Chapter 5.92 ("City Minimum Wage, Sick Leave, and Other Employment Standards"); Chapter 5.93 ("Hotel Minimum Wage and Working Conditions"); Prevailing Wage Resolution (Resolution No. 57103 C.M.S.), Local Employment Program (Part IV of the Local and Small Local Business Enterprise Program, Resolution No. 69687 C.M.S., as amended and codified by Ordinance No. 12389 C.M.S., and as subsequently amended), and 15% Apprenticeship Program (Resolution No. 74762 C.M.S.), and shall carry out such additional duties and functions as assigned by the City Administrator, or by Charter, ordinance, or City Council resolution. The Department of Workplace and Employment Standards may impose penalties and take any and all appropriate action to enforce the requirements of such provisions. The Department of Workplace and Employment Standards shall have authority to adopt rules and regulations consistent with and necessary for the implementation of the foregoing laws. Such rules and regulations shall have the force and effect

of law, and may be relied upon by employers, employees and other persons to determine their rights and responsibilities. The Department of Workplace and Employment Standards may enforce the provisions of the California Labor Code to the extent permitted by State law.

2.44.020. The Department of Workplace and Employment Standards shall be administered by a Chief Officer, who shall be appointed by, and shall serve at the pleasure of, the City Administrator. In appointing the Chief Officer, the City Administrator shall consider, among other relevant factors, the individual's experience enforcing employment standards, including prevailing wage requirements. The Chief Officer shall coordinate his or her activities with federal and state labor standards agencies.

2.44.030. All City departments and agencies shall cooperate with the Chief Officer and his or her designees. The Chief shall have the authority to subpoena the production of books, papers, records or other items relevant to investigations under the jurisdiction of the Department of Workplace and Employment Standards.

SECTION 4. ENFORCEMENT OF CERTAIN CITY EMPLOYMENT STANDARDS.

Oakland Municipal Code Section 5.92.050 is amended as follows (deleted text is indicated by ~~strike through~~; added text is indicated with an underline; omitted text is indicated by (* * * *):

A. Retaliation. * * * *

C. Retention of Records. Each Employer shall maintain for at least (3) three years for each Employee a record of his or her name, hours worked, pay rate, Paid Sick Leave accrual and usage, and Service Charge collection and distribution. Each Employer shall provide each Employee or his or her representative a copy of the records relating to such Employee upon the Employee's or representative's reasonable request, except that the Employees' names (and any addresses and social security numbers) shall be redacted unless the requester is an Employee requesting his or her own records. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow reasonable access to such records, it shall be presumed in any administrative or judicial enforcement proceeding to enforce the provisions of this Chapter that the Employer paid the Employee no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise. ****

G. Enforcement Procedures.

1. Enforcement Priority. It is the policy of the City of Oakland that all employees be compensated fairly according to the law and that Employers who engage in wage theft be held accountable.

2. Administrative Enforcement.

a. The City is authorized to take appropriate steps to enforce this Chapter. The City may investigate any possible violations of this Chapter by an Employer or other person and, where the City has reason to believe that a violation has occurred, it may order appropriate temporary or interim relief to mitigate the violation or maintain the *status quo* pending completion of a full investigation or hearing.

b. Where the City, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief, including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the payment of an additional sum as an administrative penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued. A violation for unlawfully withholding wages or service charges shall be deemed to continue from the date immediately following the date that the sums were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the sums are paid in full. Where prompt compliance is not forthcoming, the City may take any appropriate action to secure compliance, including initiating a civil action pursuant to Section 5.92.050(G)(3), and, except where prohibited by state or federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits, or licenses held or requested by the Employer or person until such time as the violation is remedied. All City agencies and departments shall cooperate with such revocation or suspension requests. In order to compensate the City for the costs of investigating and remedying the violation, the City may also order the violating Employer or person to pay to the City a sum of not more than \$50 for each day and for each Employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the City and shall be used to offset the costs of implementing and enforcing this Chapter and, on and after July 1, 2020, other laws under the jurisdiction of the Department of Workplace and Employment Standards. The amounts of all sums and payments authorized or required under this Section shall be updated annually for inflation, beginning January 1, 2019, using the inflation rate and procedures set forth in Section 5.92.020(B).

c. An Employee, representative of Employees, or other person may report in writing any suspected violation of this Chapter to the City. The City shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the person reporting the violation and any Employee whose name is included in the report. Provided, however, that with the written authorization of such person, the City may disclose his or her name and identifying information as necessary to enforce this Chapter or for any other appropriate purpose. In order to further encourage reporting by Employees, if the City notifies an employer that the City is investigating a complaint, the City shall require the Employer to post or otherwise inform its Employees that the City is conducting an investigation, using a form provided by the City.

3. Civil Enforcement. The City, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity 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 the Employer or other person violating this Chapter and, upon prevailing, shall be entitled to ~~G. Private Rights of Action.~~ Any Person claiming harm from a violation of this Chapter may bring an action against the Employer in court to enforce the provisions of this Chapter and shall be entitled to all remedies available to remedy any violation of this Chapter, including but not limited to back pay, reinstatement and/or injunctive relief, and the payment of an additional sum as penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, up to a maximum of \$1,000 per Employee or aggrieved person. Violations of this Chapter are declared to irreparably harm the public and covered employees generally. The Court shall award reasonable attorney's fees, witness fees and expenses to any plaintiff who prevails in an action to enforce this Chapter. Provided that any person or entity enforcing this Chapter on behalf of the public shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs. Any Person who negligently or intentionally violates this Chapter shall be liable for civil penalties for each violation with a maximum of one thousand dollars (\$1000.00) per violation, the amount to be determined by the court. No criminal penalties shall attach for any violation of this Chapter, nor shall this Chapter give rise to any cause of action for damages against the City.

H. Interest. In any administrative or civil action brought for the non-payment of wages or service charge distributions under this Chapter, the City or court, as the case may be, shall award interest on all due and unpaid sums at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date the sums were due and payable, as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the sums are paid in full.

HI. No Preemption of Higher Standards. The purpose of this Chapter is to ensure minimum labor standards. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City or Port of Oakland. This Chapter shall not be construed to limit a discharged Employee's right to bring a common law cause of action for wrongful termination.

IJ. Severability. If any provision or application of this Chapter is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Chapter in order to preserve the maximum permissible effect of each subsection herein. Nothing herein may be construed to impair any contractual obligations of the Port or City of Oakland. This Chapter shall not be applied to the extent it will cause the loss of any federal or state funding of City or Port activities.

J. Department of Workplace and Employment Standards. On and after July 1, 2020, the Department of Workplace and Employment Standards shall enforce this Chapter, and shall have authority to take any action permitted of the City in this Section.

K. Regulations. The City and, on and after July 1, 2020, the Department of Workplace and Employment Standards, may promulgate and enforce rules and regulations, and issue determinations and interpretations, consistent with and necessary for the implementation of this Chapter. Such rules and regulations, determinations and interpretations shall have the force of law and may be relied upon by Employers, Employees, and other persons to determine their rights and responsibilities under this Chapter.

SECTION 4. SEVERABILITY.

If any provision or application of this Ordinance is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this chapter in order to preserve its maximum permissible effect.

SECTION 5. CONFLICTING MEASURES.

In the event that another measure or measures on the same ballot seeks to affect the same subject matter as this Initiative, any provisions of the other measure or measures shall be deemed to be in conflict with this Initiative. In the event that this Initiative receives a greater number of affirmative votes, the provisions of this Initiative shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

SECTION 6. AMENDMENTS.

The City Council may amend this Ordinance in order to further this Ordinance’s purposes of providing workplace protections to hotel workers and effective enforcement of City employment standards.”

and be it

FURTHER RESOLVED: that the City Council does hereby request that the Board of Supervisors of Alameda County order the consolidation of the general municipal election of November 6, 2018 with the statewide general election of November 6, 2018 consistent with the provision of state law; and be it

FURTHER RESOLVED: that the City Council does hereby acknowledge that the consolidated election will be held and conducted in the manner prescribed in Section 10418 of the California Elections Code; and be it

FURTHER RESOLVED: that each ballot used at said election shall have printed therein, in addition to any other matter required by law, the following:

A PROPOSED ORDINANCE AND AMENDMENTS TO THE OAKLAND MUNICIPAL CODE
 CREATING WORKPLACE PROTECTIONS AND A MINIMUM WAGE FOR HOTEL
 EMPLOYEES, MODIFYING HOW OAKLAND'S LOCAL EMPLOYMENT STANDARDS
 ARE ENFORCED, AND CREATING A DEPARTMENT OF WORKPLACE AND
 EMPLOYMENT STANDARDS

MEASURE _____

Measure _____. Shall the measure to amend Oakland's Municipal Code to: (1) establish workplace protections and a minimum hourly wage of \$15, to be increased annually with inflation, for employees of Oakland hotels with 50 or more guest rooms; (2) authorize administrative enforcement of Oakland's local employment standards for both hotel and non-hotel workers; and (3) create a new City department to administratively enforce Oakland's local employment standards for both hotel and non-hotel workers, be adopted? [SUBJECT TO FINAL APPROVAL BY THE CITY ATTORNEY]	Yes	
	No	

and be it

FURTHER RESOLVED: that the City Clerk shall, at least eighty-eight (88) days prior to November 6, 2018, file with the Alameda County Board of Supervisors and the County Clerk copies of this resolution, and be it

FURTHER RESOLVED: that in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed amendments to the Oakland Municipal Code, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: that in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed amendments to the Oakland Municipal Code in the manner provided for by law; and be it

FURTHER RESOLVED: that the City Clerk and the City Administrator are hereby authorized and directed to take any and all action necessary under law to prepare for and conduct the November 6, 2018 General Municipal Election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 6, 2018 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA _____, 2018

PASSED BY THE FOLLOWING VOTE:

AYES: BROOKS, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, CAMPBELL
WASHINGTON, AND PRESIDENT REID

NOES

ABSENT

ABSTENTIONS

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council
Of the City of Oakland, California