

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802

RESOLUTION NO. RES-20-0085

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3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH, CALIFORNIA CALLING FOR THE
5 PLACEMENT OF A GENERAL TAX MEASURE ON THE
6 BALLOT FOR THE NOVEMBER 3, 2020 GENERAL
7 MUNICIPAL ELECTION FOR THE SUBMISSION TO THE
8 QUALIFIED VOTERS OF AN AMENDED ORDINANCE TO
9 INCREASE THE MAXIMUM RATE OF THE CITY'S
10 GENERAL PURPOSE OIL BARREL PRODUCTION TAX
11 (BARREL TAX) FROM 15 CENTS PER BARREL TO THIRTY
12 CENTS PER BARREL, TO BEGIN OCTOBER 1, 2021, WITH
13 ANNUAL CPI INCREASES.
14

15 WHEREAS, the City of Long Beach ("City") is authorized to levy an oil barrel
16 production tax (Barrel Tax) for general purposes, pursuant to City Charter, subject to
17 approval by a majority vote of the electorate pursuant to Article XIIIC, Section 2 of the
18 California Constitution ("Proposition 218"); and

19 WHEREAS, pursuant to section 3.80.221 of Chapter 3.80 of Title 3 of the
20 Long Beach Municipal Code ("LBMC"), the City currently imposes a general purpose Barrel
21 Tax at the rate of 15 cents per barrel upon every person conducting, managing or carrying
22 on the business of oil production from any well located within the City; the revenues from
23 which are deposited in the City's General Purpose Fund and may be used for general City
24 services; and

25 WHEREAS, the general purpose Barrel Tax was separately adopted and is
26 in addition to the City's special purpose Barrel Tax (LBMC section 3.80.222, also known
27 as "Prop. H"), which is currently imposed at the rate of 33 cents per barrel, the revenues
28 from which are deposited in the City's "Police and Fire Public Safety Oil Production Act

1 Fund,“ the proceeds of which may only be used for public safety purposes, including, but
2 not limited to, equipment, facilities and training, all intended to ensure responses to public
3 safety needs, natural and man-made disasters and possible acts of terrorism; and

4 WHEREAS, pursuant to City Charter and California Elections Code section
5 9222, the City Council has authority to place local measures on the ballot to be considered
6 at a Municipal Election; and

7 WHEREAS, based upon the above, the City Council would like to submit to
8 the voters a measure increasing the general purpose Barrel Tax rate found in LBMC
9 section 3.80.221 from 15 cents per barrel to a maximum of 30 cents per barrel, subject to
10 annual CPI increases as provided in the Measure; and

11 WHEREAS, the City Council intends to propose an Ordinance amending
12 section 3.80.221 of the City’s Municipal Code, thereby amending the general purpose
13 Barrel Tax as described above, subject to voter approval; and

14 WHEREAS, this proposed Ordinance/measure does not amend LBMC
15 section 3.80.222 and is not intended to increase or alter the rate of the special purpose
16 Barrel Tax, which shall remain at 33 cents per barrel; and

17 WHEREAS, this proposed Ordinance/measure is a general tax, the revenue
18 of which will be placed in the City’s general fund and will be used to pay for important
19 general City services; and

20 WHEREAS, on November 6, 1996, the voters of the State of California
21 approved Proposition 218, an amendment to the State Constitution which requires that all
22 general taxes which are imposed, extended or increased must be submitted to the
23 electorate and approved by a majority vote of the qualified electors voting in the election;
24 and

25 WHEREAS, pursuant to Proposition 218 (California Constitution Article XIII C,
26 §2(b)), an election for the approval of a new or increased general tax must generally be
27 consolidated with a regularly scheduled general election for members of the governing
28 body of the local government; and

1 WHEREAS, the next regularly scheduled general election at which City
2 Council members are to be elected is on November 3, 2020; and

3 WHEREAS, the Ordinance to be considered by the qualified voters and the
4 terms of approval, and collection and use of the general purpose Barrel Tax are described
5 and provided for in the ballot measure attached hereto as Exhibit "A" (the "Measure") and
6 by this reference made an operative part hereof, in accordance with all applicable laws;
7 and

8 WHEREAS, Long Beach City Charter section 210 states, in pertinent part,
9 "[N]either ordinance nor resolution shall be in full force and effect unless it shall have
10 received the affirmative votes of not less than five (5) members of the City Council."

11 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
12 follows:

13 Section 1. Incorporation of Recitals. The foregoing recitals are true and
14 correct and are hereby incorporated and made an operative part of this Resolution.

15 Section 2. Calling of Election. The City Council, by the affirmative vote of
16 not less than five (5) of its members, hereby calls and orders to be held in the City of Long
17 Beach on Tuesday, November 3, 2020, a General Municipal Election for the purpose of
18 submitting the Measure attached hereto as Exhibit "A" and incorporated herein by this
19 reference to the qualified electors of the City.

20 Section 3. The City Council, pursuant to City Charter and California
21 Elections Code section 9222, hereby orders that the following question be submitted to the
22 qualified electors of the City of Long Beach at the General Municipal Election to be held on
23 November 3, 2020:

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1	"LONG BEACH COMMUNITY SERVICES GENERAL PURPOSE OIL PRODUCTION TAX INCREASE MEASURE. To provide funding for community healthcare services; air/ water quality and climate change programs; increase childhood education/ youth programs; expand job training opportunities; and maintain other general fund programs, shall a measure be adopted increasing Long Beach's general oil production tax from 15¢ to maximum 30¢ per barrel, subject to annual adjustments, generating approximately \$1,600,000 annually, until ended by voters, requiring audits/ local control of funds?"	YES
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8 Section 4. Conduct of Election. The City Clerk is authorized, instructed,
9 and directed to coordinate with the Los Angeles County Registrar of Voters/Elections
10 Division to procure and furnish any and all official ballots, printed matter and all supplies,
11 equipment and paraphernalia that may be necessary in order to properly and lawfully
12 conduct the election. In all particulars not recited in this Resolution, the election shall be
13 held and conducted as provided by law for holding municipal elections.

14 Section 5. Pursuant to California Elections Code Section 9280, the City
15 Council hereby directs the City Clerk to transmit a copy of the Barrel Tax Measure to the
16 City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to
17 exceed 500 words in length, showing the effect of the Measure on the existing law and the
18 operation of the Measure, and transmit such impartial analysis to the City Clerk not later
19 than the deadline for submittal of primary arguments for or against the Measure.

20 Section 6. The impartial analysis shall include a statement indicating
21 whether the Measure was placed on the ballot by a petition signed by the requisite number
22 of voters or by the City Council. In the event the entire text of the Measure is not printed on
23 the ballot, nor in the voter information portion of the sample ballot, there shall be printed
24 immediately below the impartial analysis, in no less than 10-font bold type, the following:
25 **"The above statement is an impartial analysis of Ordinance or Measure _____. If you**
26 **desire a copy of the ordinance or measure, please call the Office of the City Clerk at**
27 **[insert phone number] and a copy will be mailed at no cost to you."**

1 Section 7. Notice of the election is hereby given and the City Clerk is
2 authorized, instructed and directed to give further or additional notice of the election, in
3 time, form and manner as required by law.

4 Section 8. Placement on the Ballot. The full text of the Measure shall not
5 be printed in the voter information guide, and a statement shall be printed in the ballot
6 pursuant to Elections Code §9223 advising voters that they may obtain a copy of this
7 Resolution and the Measure, at no cost, upon request made to the City Clerk.

8 Section 9. Filing with County. The City Clerk shall, not later than the 88th
9 day prior to the General Municipal Election to be held on Tuesday, November 3, 2020, file
10 with the Board of Supervisors and the County Clerk – Registrar of Voters of the County of
11 Los Angeles, State of California, a certified copy of this Resolution.

12 Section 10. Public Examination. Pursuant to California Elections Code
13 §9295, this Measure will be available for public examination for no fewer than ten (10)
14 calendar days prior to being submitted for printing in the voter information guide. The City
15 Clerk shall post notice in the Clerk’s office of the specific dates that the examination period
16 will run.

17 Section 11. The City Treasurer is hereby authorized and directed to
18 appropriate the necessary funds to pay for the City's cost of placing the Measure on the
19 election ballot.

20 Section 12. The City Council finds that this Resolution is not subject to the
21 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity
22 will not result in a direct or reasonably foreseeable indirect physical change in the
23 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of
24 the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has
25 no potential for resulting in physical change to the environment, directly or indirectly.

26 Section 13. Severability. The provisions of this Resolution are severable
27 and if any provision of this Resolution is held invalid, that provision shall be severed from
28 the Resolution and the remainder of this Resolution shall continue in full force and effect,

1 and not be affected by such invalidity.

2 Section 14. This Resolution shall take effect immediately upon its adoption
3 by the City Council, and the City Clerk shall certify the vote adopting this Resolution.

4 I hereby certify that the foregoing resolution was adopted by the City Council
5 of the City of Long Beach at its meeting of July 29, 2020, by the following vote:

6

7 Ayes: Councilmembers: Zendejas, Pearce, Price, Supernaw,
8 Mungo, Uranga, Austin, Richardson,
9 Andrews.

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11 Noes: Councilmembers: None.

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13 Absent: Councilmembers: None.

14

15 Recusal(s): Councilmembers: None.

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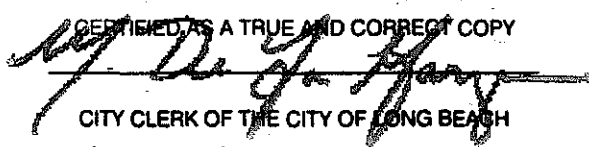

City Clerk

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CITY CLERK OF THE CITY OF LONG BEACH

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BY: Paradee Cook
DATE: 7/31/2020

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EXHIBIT "A"

(General Purpose Oil Barrel Tax Ordinance/Measure)

ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LONG BEACH, CALIFORNIA, AMENDING PORTIONS OF SECTION 3.80.221 OF THE LONG BEACH MUNICIPAL CODE INCREASING THE RATE OF THE CITY'S GENERAL PURPOSE OIL BARREL PRODUCTION TAX (BARREL TAX) FROM 15 CENTS PER BARREL TO A MAXIMUM OF 30 CENTS PER BARREL, SUBJECT TO ANNUAL CPI INCREASES

(NOTE: Additions are shown in ***bold italics*** and deletions are shown in ~~strikeout~~)

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

Section 1. Subject to the approval of a majority of the voters of the City of Long Beach at the General Municipal Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, Section 3.80.221 of the Long Beach Municipal Code is hereby amended to read as follows:

3.80.221 Tax on oil production.

Notwithstanding any other provision of this Chapter 3.80, the provisions of this Section 3.80.221 and Section 3.80.223 shall apply to the business license tax on the business of oil production.

"A. Every person conducting, managing or carrying on the business of oil production from any well located in the City, including the City when functioning in the capacity of a unit operator, shall pay an annual ***maximum*** business license tax to the City of ~~fifteen cents (\$0.15)~~ ***thirty cents (\$0.30)*** per barrel produced, subject to annual

1 adjustments for inflation/deflation. In the event that the price per barrel on
2 the monthly average of the daily WTI (West Texas Intermediate Crude Index)
3 is reported in an amount less than twenty dollars (\$20.00) for any month, the
4 rate of this general tax on oil production as described above shall be
5 temporarily suspended only for that same month. In the event that the WTI
6 ceases to exist or otherwise becomes impractical to use, the City shall
7 substitute an index which is reasonably comparable. For the purposes of this
8 Section, the general tax shall be automatically adjusted on June 1st of each
9 year, upward or downward, equivalent to the most recent change in the
10 annual average of the Consumer Price Index as published by the United
11 States Department of Labor for the Los Angeles-Riverside-Orange County,
12 CA, area ("CPI"). For purposes of calculating the annual inflation/deflation
13 factor under this Section, the base year shall be the year ended December
14 31, 2019. Rates shall first be adjusted on June 1, 2021, and annually
15 thereafter, based upon the annually calculated change from the base year.
16 The June 1, 2021 adjustment shall be for the change in the CPI for the year
17 ending December 31, 2020, and the adjusted rate shall first be applied to the
18 entire payment due on December 31, 2021.

19 **G. REPEAL OR AMENDMENT OF SECTION. This Section**
20 **may be repealed or amended by the City Council without a vote of the**
21 **People of the City of Long Beach. However, as required by California**
22 **Constitution Article XIII C (Proposition 218), voter approval is required**
23 **for any amendment or provision that would increase the maximum rate**
24 **or methodology of any tax levied pursuant to this Section. The people**
25 **of the City of Long Beach affirm that the following actions shall not**
26 **constitute an increase of the rate or methodology of the general Oil**
27 **Barrel Production (Barrel) Tax requiring subsequent voter approval:**

28 (a) **The restoration of the rate of the tax to a rate that is**

1 ***no higher than the maximum set by this voter-approved section, if the***
2 ***City Council has previously acted to reduce the rate of the tax;***

3 ***(b) An action that interprets or clarifies the***
4 ***methodology of the tax, or any definition applicable to the tax, so long***
5 ***as interpretation or clarification (even if contrary to some prior***
6 ***interpretation or clarification) is not inconsistent with the language of***
7 ***this section;***

8 ***(c) The establishment of a class of person or service that is***
9 ***exempt or excepted from the tax or the discontinuation of any such***
10 ***exemption or exception (other than the discontinuation of an exemption or***
11 ***exception explicitly set forth in this section); and***

12 ***(d) Resuming collection of the tax imposed by this section,***
13 ***even if the City had, for some period of time, either suspended collection of***
14 ***the tax or otherwise failed to collect the tax, in whole or in part."***

15 Section 2. The Barrel Tax set forth herein shall be collected and
16 administered in the manner set forth in Chapter 3.80 of the Long Beach Municipal Code.

17 Section 3. Pursuant to Article XIII B of the California Constitution, the
18 appropriation limit for the City of Long Beach will be increased by the maximum projected
19 aggregate collection authorized by the levy of this general tax, as indicated in Section 1,
20 in each of the years covered by this Ordinance plus the amount, if any, by which the
21 appropriation limit is decreased by law as a result of the levy of the general tax set forth
22 in this Ordinance.

23 Section 4. If any portion of this Ordinance is declared invalid by a court
24 of law or other legal body with applicable authority, the invalidity shall not affect or
25 prohibit the force and effect of any other provision or application of the Ordinance that is
26 not deemed invalid. The voters of the City hereby declare that they would have
27 circulated for qualification and/or voted for the adoption of this Section, and each portion
28 thereof, regardless of the fact that any portion of the initiative may be subsequently

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1 deemed invalid.

2 Section 5. Pursuant to California Constitution Article XIII C §(2)(b) and
3 California Elections Code §9217, this Ordinance shall take effect only if approved by a
4 majority of the eligible voters of the City of Long Beach voting at the General Municipal
5 Election to be held on November 3, 2020, and shall become effective as of October 1,
6 2021.

7 Section 6. The Mayor is hereby authorized to attest to the adoption of
8 this Ordinance by the People voting thereon on November 3, 2020, by signing where
9 indicated below.

10
11 I hereby certify that the Long Beach Barrel Tax Ordinance was PASSED,
12 APPROVED, AND ADOPTED by the People of the City of Long Beach on the 3rd day of
13 November, 2020.

14
15 Dated: _____

ROBERT GARCIA, MAYOR

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19 ATTEST:

APPROVED AS TO FORM:

20
21 _____
22 MONIQUE DE LA GARZA
City Clerk

CHARLES PARKIN
City Attorney

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