

**RESOLUTION NO. .**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

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**RESOLUTION AUTHORIZING AND DIRECTING THE OFFICE OF LABOR STANDARDS (OLSE) AND ENFORCEMENT AND THE ENVIRONMENTAL HEALTH SERVICES DIVISION (EHS) TO IMPLEMENT A PILOT PROGRAM TO ENFORCE FINAL JUDGMENTS FOR LABOR LAW VIOLATIONS THROUGH FOOD SERVICE PERMITTING**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

**WHEREAS**, the County of San Mateo affirms the fundamental importance of safe, healthy, and fair working conditions, which are directly tied to economic security, human dignity, and public health; and

**WHEREAS**, labor standards such as minimum wage, the eight-hour workday, occupational safety laws, and protections against wage theft exist to ensure minimally acceptable physical and economic working conditions and are recognized determinants of public health and health equity; and

**WHEREAS**, the County of San Mateo has created the Office of Labor Standards and Enforcement (“OLSE”) to promote labor law compliance, conduct education and outreach, and explore and employ new tools for enforcement of local, state, and federal labor standards; and

**WHEREAS**, OLSE has identified employers operating in San Mateo County who are subject to outstanding final judgments for unpaid wages in favor of San Mateo County workers issued by the California Division of Labor Standards Enforcement (“DLSE”) that remain unpaid, often months or years after becoming final; and

**WHEREAS**, these employers include food facilities in the unincorporated and incorporated areas of the County; and

**WHEREAS**, the County of San Mateo Minimum Wage Ordinance (codified at Chapter 5.92 of the San Mateo County Ordinance Code) authorizes OLSE to take enforcement action to address minimum wage violations in the unincorporated areas of the County, and such enforcement actions may result in final administrative determinations that, if not appealed, or if appealed and hereafter upheld by a court, become final and may be entered in superior court as final judgments; and

**WHEREAS**, the Board of Supervisors seeks to create a pilot program that will empower OLSE and the County’s Environmental Health Services division (“EHS”) to collaborate to encourage food facilities to comply with final judgments for labor law violations; and

**WHEREAS**, EHS, as the County’s local enforcement agency under the California Retail Food Code (Cal. Health & Safety Code, § 113700, *et seq.*), is responsible for issuing, suspending, and revoking food facility permits throughout both the incorporated and unincorporated areas of San Mateo County; and

**WHEREAS**, existing law, including California Health & Safety Code sections 113715 and 114405, *et seq.*, provides that EHS may revoke, suspend, or deny the issuance of a food permit where EHS determines that the permit holder or applicant is not in compliance with applicable federal, state, or local laws; and

**WHEREAS**, other California jurisdictions, including Santa Clara County, San Diego County, and the City and County of San Francisco, have implemented successful programs using the authority of their environmental health departments, in partnership with their labor enforcement offices, to revoke, suspend, or deny the issuance of a food facility permit where the facility has an unpaid final judgment for failure to pay wages due under controlling law; and

**WHEREAS**, EHS's countywide jurisdiction for food facility permitting would allow it to implement a pilot program as described herein consistently and equitably across the entire county; and

**WHEREAS**, the potential loss of a food facility permit serves as a timely and powerful deterrent against noncompliance and can be more effective in securing payment of final judgments than traditional civil litigation; and

**WHEREAS**, most employers comply with labor laws in good faith, and targeted enforcement against noncompliant businesses protects workers and promotes fair competition.

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that the Board of Supervisors of the County of San Mateo hereby establishes a **pilot program to enforce final judgments for labor law violations through food service permitting** and directs the Office of Labor Standards and Enforcement (“OLSE”) and the Environmental Health Services division (“EHS”) to implement a process to enforce payment of final, unpaid judgments against San Mateo County employers for employee wages through food facility permitting. This authority shall extend to the enforcement of all final judgments obtained by state, local, or federal agencies that investigate and adjudicate violations of labor laws. This process may include the following procedures, in addition to any additional or different processes that OLSE and EHS, in consultation with the County Executive and the County Attorney, deem necessary to achieve the program’s goal of ensuring compliance with wage theft judgments:

- **Notice and Opportunity to Comply:** Before EHS takes steps to revoke or suspend an employer’s existing food permit based on the existence of an unpaid final judgment for labor law violations against an employer, OLSE shall notify the employer of the judgment and advise them of the consequences of continued noncompliance. The employer shall then have the opportunity to either (a) come into compliance, (b) demonstrate that the judgment is not final or applicable to the employer, or (c) demonstrate that the employer is already in compliance.

- **Compliance Negotiation:** For employers demonstrating good faith but needing flexibility, OLSE may facilitate a Compliance Agreement outlining a payment plan or compliance schedule.
- **Notice of Violation and Hearing:** If the employer fails to come into compliance or otherwise resolve the matter within a reasonable amount of time, EHS may issue a Notice of Violation and deny the food facility permit or initiate proceedings to suspend or revoke the food facility permit, in accordance with state law and the County Ordinance Code. The employer shall have the right to contest the action through existing state law and County procedures, including as provided in Chapter 5.68 of the County Ordinance Code.

**BE IT FURTHER RESOLVED** that OLSE shall serve as the lead agency for outreach, coordination, and compliance negotiation, while EHS retains exclusive authority to take permit actions under the California Retail Food Code and the County Ordinance Code.

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