

City of Los Angeles  
CALIFORNIA



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January 28, 2016

Honorable Members of the City Council  
City Hall, Room 395  
200 North Spring Street  
Los Angeles, California 90012

Council District 15

REGARDING: WILMINGTON COMMERCIAL DISTRICT MERCHANT-BASED BUSINESS  
IMPROVEMENT DISTRICT RECONFIRMATION PROCEDURE

Honorable Members:

On August 8, 2000, the City Council adopted Ordinance 173472, which established the Wilmington Commercial District Business Improvement District (District), located in Council District 15 (CF 14-0880). The City is required to conduct reconfirmation proceedings in order to levy a special assessment, which supports each year of District operations. The District has completed its fifteenth operating year on December 31, 2015. The District Advisory Board has approved and submitted an Annual Report and is ready to proceed with the reconfirmation of the District. The Annual Report for the District's sixteenth operating year, beginning January 1, 2016 through December 31, 2016, is presented with this Report for Council consideration as "Attachment 1."

RECONFIRMATION PROCESS

The reconfirmation process consists of the adoption of an Ordinance of Intention, the approval of the Annual Report from the District's management entity and a public hearing prior to the adoption of an Ordinance, which would authorize the special assessment to fund operations for the next year of the program. We have received and reviewed the Annual Report as submitted by the Wilmington Commercial District BID Advisory Board and as required by law (Section 36533, California Streets and Highways Code). The report includes the various programs and activities, which would be supported by assessment revenue and interest earnings.

PROPOSED BUDGET

The proposed budget for the Wilmington Commercial District BID's 2016 operating year is \$60,132.30. A copy of the budget is included in the Annual Report in (Attachment 1).



### PROPOSED DISTRICT BOUNDARIES

The Wilmington Commercial District BID's boundaries for its 2016 operating year remain unchanged from the District's 2015 operating year and are generally described as along both sides of Avalon Boulevard, from Opp Street on the north and F Street on the south; and along both sides of Anaheim Street, from Island Avenue on the west and Lakme Avenue on the east. A map illustrating the District's boundaries for its 2016 operating year is included in the Annual Report (Attachment 1).

### PROPOSED IMPROVEMENTS AND PROGRAMS

The Wilmington Commercial District BID's activities and programs for the 2016 operating year include, but are not limited to: maintenance, marketing, and administrative activities, which would be supported by assessment revenue and are described in its Annual Report (Attachment 1).

### ASSESSMENT METHODOLOGY

The assessment methodology for the Wilmington Commercial District BID is based on the number of employees for each business located within the boundaries of the District. The assessment rate is calculated as follows: Businesses operating as a sole proprietorship with no employees are assessed \$150; businesses with 1-3 employees are assessed \$250; businesses with 4-6 employees are assessed \$500; businesses with 7-9 employees are assessed \$1,000; businesses with 10-19 employees are assessed \$1,500; and businesses with 20 or more employees are assessed \$3,000. The assessment rates determined by this assessment methodology reflect the specific benefits to the payors from the services provided.

A full description of the assessment methodology with the classification of businesses and assessment schedule is included in the Annual Report (Attachment 1).

### DISTRICT ADVISORY BOARD

The District will be governed by an advisory board consisting of business owners. The advisory board provides general oversight of District operations, prepares annual reports and makes recommendations to the City Council on District budget and other issues. The Advisory Board is required to be appointed by the City Council pursuant to Section 36530 of the Streets and Highways Code. The City Council may designate existing advisory boards or commissions to serve as the advisory board for the District or may create a new advisory board for that purpose. A list of the proposed District's current advisory board members is attached to the Annual Report.

### EXEMPTION UNDER PROPOSITION 26

On November 2, 2010, voters in the State of California passed Proposition 26, which broadened the definition of taxes and which require approval by two-thirds of each house of the Legislature or by local voter approval. However, Proposition 26 provides for exemptions.

Under Proposition 26, assessments for specific benefits are not defined as taxes and are exempt under Article XIII C §1(e)(1) which states "A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege". For the City Council to find that the Wilmington Commercial District BID is exempt from Proposition 26, it must find that 1) the assessment dollars are used in a manner that creates a clear and direct link between the services provided and the benefit to the assessed business; 2) no business other than the assessed businesses will benefit from the assessment and services; and 3) the assessment imposed does not exceed the reasonable cost to the local government of conferring the benefit.

The assessments for the Wilmington Commercial District Business Improvement District are used to provide specific benefits directly to the payor. The specific benefit to the payor are the maintenance services, marketing services and administrative services which will be provided directly to assessed businesses within the Wilmington Commercial District Business Improvement District. These services will in turn, provide specific benefits to the payors in the form of overall improved area aesthetics which will result in an increase in customers and visitors to the district. This will in turn, result in the increase of retail and commercial business to payors located within the District boundaries. The services are funded solely by the assessments collected and are provided only to the businesses which pay the assessments. No services are provided to businesses which do not pay the assessments or to businesses located outside of the District boundaries. Such services cannot be provided without charging the assessment. Furthermore, the assessments are calculated based on the reasonable cost of providing the services to the payor and thus, do not exceed the reasonable cost to the local government in conferring the benefit.

Government Code section 53758 was recently enacted to, among other things, clarify the definition of specific benefit. The discussion provided herein regarding the specific benefit to payors is consistent with Government Code section 53758.

#### CONTRACTING WITH NON-PROFIT SERVICE PROVIDER

Upon the establishment of the District, State law requires that the City enter into an agreement with an Owners' Association for the administration of the District. City policy dictates that competitive bidding requirements are to be met when contracting. However, Charter sections 371(e)(2) and 371(e)(10) provide exceptions to the competitive bidding requirements, and states, in relevant part, that the competitive bidding process does not apply to contracts "for the performance of professional, scientific, expert, technical, or other special services of a temporary and occasional character" and "where the contracting authority finds that the use of competitive bidding would be undesirable, impractical or impossible or where the common law otherwise excuses compliance with competitive bidding requirements."

For the past five years, the Wilmington Chamber of Commerce has overseen expenditures and managed and implemented improvements and activities related to the District. Through its longstanding presence in the Wilmington community, the Wilmington Chamber of Commerce, a California non-profit mutual benefit corporation, possesses unique knowledge and expertise of the District area and has a vested interest in its success. Due to the unique knowledge and expertise



of the Wilmington Chamber of Commerce, the City Clerk finds that it would be undesirable and impractical to comply with the competitive bidding requirements or to select another entity to administer the District.

#### ASSESSABLE CITY PROPERTY

There is one (1) City-owned property located within the Wilmington Commercial District Business Improvement District boundaries. Because the Wilmington Commercial District Business Improvement District is a merchant-based BID, there are no assessments to be paid for this City-owned property.

#### FISCAL IMPACT

This is a merchant-based business improvement district and there are no assessments for City-owned properties within the District, therefore there is no impact on the General Fund.

#### RECOMMENDATIONS:

1. FIND that the assessments imposed by the Wilmington Commercial District Business Improvement District for the 2016 fiscal year provide services that directly benefit each of the businesses which pay the assessments.
2. FIND that the services funded by the assessments are provided only to each of the assessed businesses within the boundaries of the District.
3. FIND that the assessment imposed does not exceed the reasonable cost of conferring the benefits.
4. FIND that the proposed improvements and activities are completely separate from the day to day operations of the City of Los Angeles.
5. FIND that the assessments for the proposed business based District are not taxes and that the District qualifies for exemption from Proposition 26 under exemption 1 of Article XIII C §1(e)(1).
6. FIND that the services to be provided by the Owners' Association, Wilmington Chamber of Commerce, are in the nature of professional, expert, technical or other special services, that the services are of a temporary and occasional character, and that the use of competitive bidding would be impractical, not advantageous, undesirable or where the common law otherwise excuses compliance with competitive bidding requirements.
7. ADOPT an Ordinance of Intention confirming the Wilmington Commercial District BID Annual Report and levying an annual assessment for the Wilmington Commercial District BID's sixteenth operating year, January 1, 2016 to December 31, 2016.

8. DIRECT the City Clerk to schedule, prepare, publish, and mail the public hearing notice, as required by the provisions of Section 36500 et seq. of the California Streets and Highways Code.
9. INSTRUCT the City Clerk, subject to approval by the City Attorney as to form and legality, to prepare an enabling Ordinance levying the special assessment for the Wilmington Commercial District Business Improvement District's sixteenth operating period beginning January 1, 2016 to December 31, 2016.
10. APPROVE the Wilmington Chamber of Commerce, a California non-profit mutual benefit corporation, to administer the proposed services of the Wilmington Commercial District Business Improvement District pursuant to Section 36500 et seq. of the California Streets and Highways Code and City regulations.
11. AUTHORIZE the City Clerk, subject to City Attorney approval, to prepare, execute, and administer a contract between the City and the Wilmington Chamber of Commerce to administer the Wilmington Commercial District BID, if the Ordinance reconfirming the BID is adopted.
12. APPOINT the attached Advisory Board.

Sincerely,



Holly L. Wolcott  
City Clerk

HLW:MCP:RMH:rks

Attachments: Wilmington Commercial District Business Improvement District 2016 Annual Report;  
Ordinance of Intention

