

ORDINANCE NO. _____

An ordinance establishing the **Los Angeles Tourism Marketing District** (District) and levying assessments, pursuant to the Provisions of the Property and Business Improvement District Law of 1994 (Division 18, Part 7, Streets and Highways Code, State of California).

WHEREAS, the Property and Business Improvement District Law of 1994 authorizes cities to establish Business Improvement Districts for the purpose of levying assessments on businesses for certain purposes; and

WHEREAS, petitions were filed by owners of lodging business with 50 or more rooms in the Los Angeles Tourism Marketing District that would pay more than 50 percent of the total amount of assessments to be levied, requesting that the City Council establish the Los Angeles Tourism Marketing District; and

WHEREAS, the City Council, on Tuesday, June 16, 2015, adopted Ordinance No. 183610 declaring its intention to establish the Los Angeles Tourism Marketing District and levy assessments; and

WHEREAS, the City Clerk gave notice in the manner specified in Government Code Section 54954.6, to the owner of each lodging business with 50 or more rooms subject to the levy of an assessment that a public meeting would be held on **Tuesday, June 30, 2015** to hear testimony and comment relative to the establishment of the Los Angeles Tourism Marketing District and that a public hearing would be held on **Tuesday, August 18, 2015** concerning establishment of the District; and

WHEREAS, the City Council held a public meeting on **Tuesday, June 30, 2015** to hear testimony and comment relative to the establishment of the District shortly after 10:00 a.m. in the John Ferraro Council Chamber, Room 340, City Hall, 200 North Spring Street, Los Angeles, California; and

WHEREAS, the City Council held a public hearing concerning establishment of the District shortly after 10:00 a.m. on _____ in the John Ferraro Council Chamber, Room 340, City Hall, 200 North Spring Street, Los Angeles, California; and

WHEREAS, the City Council has heard all testimony and received all evidence concerning the establishment of the District and desires to establish the District.

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. ESTABLISHMENT OF DISTRICT AND LEVY OF ASSESSMENTS.
The City Council hereby establishes **the Los Angeles Tourism Marketing District** and levies an assessment on each lodging business with 50 or more rooms within the

District for each fiscal year referred to in the Management District Plan.

Sec. 2. MAJORITY PROTEST. The City Council hereby finds that there was no majority protest against the establishment of the District and levy of assessments.

Sec. 3. DEFINITIONS. The City Council hereby reaffirms the "Definitions" as specified in Ordinance No. 183610.

Sec.4. ADOPTION OF ENGINEER'S REPORT AND MANAGEMENT DISTRICT PLAN. The City Council hereby reaffirms its adoption, approval, and confirmation of the Engineer's Report and the Management District Plan included in Council File No. **14-0943-S1**, which have been reviewed and approved by the Office of the City Clerk.

Sec.5. LODGING BUSINESSES WITHIN THE DISTRICT. The City Council hereby reaffirms its finding that all lodging businesses within the District will receive a specific benefit from the improvements and activities funded by the assessments to be levied. New lodging businesses with 50 or more rooms opening during the term of the District, and lodging businesses expanding to 50 or more rooms during the term of the District, will be assessed in the District upon their expansion or opening. Lodging businesses with 50 or more rooms which reduce the number of rooms to less than 50 during the term of the District will cease to be assessed upon reduction of rooms to less than 50.

Sec. 6. DISTRICT BOUNDARIES. The City Council hereby reaffirms declares that the boundaries of the proposed District are as detailed in the Management District Plan. The proposed **Los Angeles Tourism Marketing District** area consists of all lodging businesses with 50 rooms or more, existing and in the future, available for public occupancy, for the duration of this District within the geographic boundaries of the City of Los Angeles.

There are **182** lodging businesses subject to assessment in the proposed **Los Angeles Tourism Marketing District**. The map included in the District's Management District Plan gives sufficient detail to locate each lodging business within the proposed District.

Sec. 7. IMPROVEMENTS AND ACTIVITIES. The City Council hereby reaffirms that the proposed tourism related activities and improvements to be funded by the levy of assessments on lodging businesses within the District are detailed in the Management District Plan. Such proposed activities include, but are not limited to, Marketing, Sales, Administration and Operations, and City Administration Fees.

Sec. 8. ANNUAL ASSESSMENTS AND DURATION. The City Council hereby reaffirms that the proposed District will begin April 1, 2016 and will continue for nine (9) years (9) months and end on December 31, 2025. The proposed District's total assessment for nine years and nine months is estimated to be **\$342,363,467**. The proposed District's total annual assessment for the first nine months is estimated to be **\$15,000,000**.

The annual assessment rate will be 1.5% of Gross Short Term Room Rental Revenue for Transient stays of less than 31 days for Lodging Businesses as defined herein. The assessment rate may increase to a maximum of three percent (3%) of gross room rental revenue within the 9 year 9 month term; the increase in any year shall not exceed one-half of one percent (0.5%) of gross room rental revenue. The assessment may also be decreased, but shall not drop below one and one half percent (1.5%) of gross room rental revenue. The Owners Association's Board of Directors will annually determine whether the assessment rate should be increased or decreased. Its determination will be included in the annual report for City Council approval.

Based on the benefit received, the following stays shall not be subject to assessment as described in the Management District Plan:

Assessments shall not include room rental revenue resulting from: a stay for which it is beyond the power of the City to impose the assessment herein provided; a stay by any Federal or State of California officer or employee, including employees of federal credit unions, who provides proof that he or she is on Federal or State business; a stay by any officer or employee of a foreign government who is exempt by express provision of federal law or international treaty; a stay by any person to whom rent is charged at the rate of \$2.00 per day or less; a stay for which rent is paid from a fund administered by the Emergency Food and Shelter National Board Program; stays by airline crews; stays of more than thirty (30) consecutive days; and stays pursuant to contracts executed prior to commencement of the District.

It is proposed that the District be renewed for a nine (9) year (9) month period. The District will not issue bonds.

Sec. 9. COLLECTION OF ASSESSMENTS. The City Council reaffirms that the City Clerk, or its designee, will collect the assessment from the lodging businesses. The assessment is imposed solely upon, and is the sole obligation of, the assessed lodging businesses. The City Council hereby declares that to the extent possible, after the effective date of an ordinance forming the District, each Lodging Business may, at its discretion, pass the assessment to the transients. The amount of assessment, if passed to the transient, shall be separately stated from the amount of the Gross Room Rental Revenue charged and each transient shall receive a receipt for payment from the Lodging Business. The assessment shall be disclosed as the "LATMD assessment."

Each Lodging Business shall, on or before the 25th day of each calendar month, make a statement to the City of Los Angeles of the total Gross Room Rental Revenue charged and received, and the amount of District assessment collected for Transient stays during the preceding calendar month.

At the time the statement is filed, the full amount of the District assessment shall be remitted to the City of Los Angeles.

All delinquent payments for assessments levied pursuant to this part shall be charged interest and penalties in accordance with California Streets and Highways

Code Section 36631 and with the approved Management District Plan for the Los Angeles Tourism Marketing District as follows:

1. Collection. The City of Los Angeles will be responsible for collecting any delinquent assessments, including penalties and interest, and forwarding them to the owners' association. The District shall reimburse the City for any costs associated with collecting unpaid assessments. If unpaid assessments are collected in conjunction with other delinquencies, the District shall reimburse the City of Los Angeles for only that portion of the cost of collection attributable to the delinquent District assessment.

2. Original Delinquency. Any business which fails to remit the District assessment within the time required shall pay a penalty of 5% of the amount of the unpaid assessment in addition to the amount of the assessment.

3. Continued Delinquency. Any business which fails to remit any delinquent assessment on or before the last day of:

(i) The first month in which the assessment first became delinquent, shall pay a second penalty of 5% of the amount of the assessment in addition to the amount of the assessment and the 5% penalty first imposed;

(ii) The second month in which the assessment first became delinquent shall pay a third penalty of 5% of the amount of the assessment in addition to the amount of the assessment and the 10% in accumulated penalties previously imposed;

(iii) The third month in which the assessment first became delinquent shall pay a fourth penalty of 5% of the amount of the assessment in addition to the amount of the assessment and the 15% in accumulated penalties previously imposed.

(iv) The fourth month in which the assessment first became delinquent shall pay a fifth penalty of 20% of the amount of the assessment in addition to the amount of the assessment and the 20% in accumulated penalties previously imposed.

4. If the City determines that the nonpayment of any assessment due is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added, in addition to the penalties stated above.

5. In addition to the penalties imposed, any business which fails to pay any assessment required to be paid shall pay interest on the amount of the assessment, exclusive of any penalty, from the date on which the assessment first became delinquent until the date it is paid, during each calendar year at the rate per month, or fraction of the month, determined by dividing by 12 the sum of the average Federal short-term rate during the months of July, August and September of the previous calendar year plus three percentage points. Unless the monthly rate is evenly divisible by one-tenth of a percentage point, it shall be rounded up to the next highest one-tenth of a percentage point.

6. For collection purposes only, every penalty imposed and the interest that is accrued under the provisions of this section shall become a part of the assessment required to be paid.

Sec. 10. AUDITING. The City of Los Angeles hereby reaffirms that the City be allowed to review the financial records of the owners' association and the lodging businesses as necessary. The City Council finds that the City Clerk, or its designee, may audit the records of the lodging businesses as necessary to ensure accurate collection of the assessments.

A contract shall be entered into between the City and the owners' association. The contract will document the accounting processes including collections, allocations, and reporting required to be submitted to the City of Los Angeles. The District will be responsible for any costs associated with audits.

The owners' association shall engage an independent certified public accountant to review the association's annual financial statement. The owners' association shall submit an annual report to the City Clerk.

Sec. 11. PERIOD TO REQUEST DISESTABLISHMENT. There shall be a 30-day period in each year of the District's operation during which lodging business owners may request disestablishment of the District. The first period shall begin one year after the effective date of this ordinance and shall continue for 30 days. The next 30-day period shall begin two years after the effective date of this ordinance and continue for 30 days. For each successive year of the District's operation, the 30-day period shall begin on the anniversary of the effective date of this ordinance and continue for 30 days.

Sec 12. SPECIAL FUND ESTABLISHMENT. The revenue from the assessment shall be collected and placed in the Special Trust Fund to be established and to be known as the Los Angeles Tourism Marketing District Fund (Fund). All interest and other earnings attributable to assessments, contributions and other revenue deposited in the Special Fund shall be credited to the Fund.

Sec. 13. AMENDMENT TO ENABLING STATUTE. The lodging businesses within the District established by this Ordinance shall be subject to any amendments to the Property and Business Improvement District Law of 1994 (Division 18, Part 7, Streets and Highways Code, State of California).

Sec. 15. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

HOLLY L. WOLCOTT, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEURER, City Attorney

By  **CHRISTY NUJANO-HIRA**
Deputy City Attorney

Date 8-5-15

File No. CF **14-0943-S1**