

City of Los Angeles

CALIFORNIA

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June 24, 2016

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

Council District 11

REGARDING: VENICE BEACH BUSINESS IMPROVEMENT DISTRICT
(PROPERTY BASED)

Honorable Members:

The City Clerk has received materials relative to the formation of a proposed property and business improvement district to be called the Venice Beach Business Improvement District ("District"). The District would be formed pursuant to the provisions of the Property and Business Improvement District Law of 1994 (Section 36600 et seq., Streets and Highways Code, State of California).

This report shall serve as the Preliminary Report of the City Clerk. Attached to this report are: 1) the Management District Plan, which details the improvements and activities to be provided and serves as the framing document for the proposed District; 2) a detailed Engineer's Report prepared by a registered professional engineer certified by the State of California, which supports the assessment contained in the Management District Plan; and 3) a draft Ordinance of Intention, approved as to form and legality by the City Attorney's Office.

BACKGROUND

The District is being established in accordance with the provisions of the Property and Business Improvement District Law of 1994 (Section 36600 et seq., Streets and Highways Code, State of California) ("State Law"), which allows for the establishment of

a district in which operations would be supported by revenue collected from property owners in the district.

The proposed District programs include, but are not limited to the following: Clean and Safe Programs, District Identity and Special Projects, and Administration and Management.

PRELIMINARY PETITIONS

In order to proceed with the establishment process under the State Law, the proponent group needed to secure written support for the project in the form of petitions signed by property owners who will pay more than 50 percent of the assessments proposed to be levied. The consulting firm for the proposed District, Devine Strategies, has presented to the Office of the City Clerk a set of petitions that support the formation of the proposed District. This Office has verified the validity of the petitions using various City and County of Los Angeles sources. In addition, this Office has verified the accuracy of the assessment calculations.

The petitions received indicate affirmative financial support of the project in an amount equivalent to \$968,902.69. This represents 52.31 percent of the proposed District's projected first year revenue of \$1,871,119. Because the more than 50 percent threshold of preliminary support has been achieved, the formal business improvement district establishment process, including a public hearing before the City Council, may be initiated.

PROPOSED DISTRICT BOUNDARIES

The boundaries of the proposed Venice Beach area are as detailed in the Management District Plan. A general description of the boundaries of the proposed District is as follows: The western boundary is geographically determined by the Venice public beach and the Pacific Ocean, and consists of government owned parcels, excluding beach/sand; the southern boundary generally coincides with South Venice Blvd.; the eastern boundary is very irregular and follows along northward to include commercial and industrial zoned parcels, excluding parcels zoned solely residential to Marine Ct., then south along commercial and industrial zoned parcels to Horizon Ct., then north along Speedway and Ocean Front Walk; and the northern boundary is Barnard Way at the City limit. There are two benefit zones separated by Westminster Ave. between Riviera Ave. and Pacific Ave., and the western edge of APN 4238018900 between Mildred Ave. and South Venice Blvd. All parcels zoned solely residential are excluded from the proposed District.

There are 464 parcels owned by 349 stakeholders in the proposed District. The map included in the District's Management District Plan gives sufficient detail to locate each parcel of property within the proposed District.

DISTRICT RENEWAL AND PROPOSITION 218 COMPLIANCE

Article XIID of the California Constitution (Proposition 218) requires, among other things, that the City Council: 1) identify all parcels that will have a special benefit conferred upon them and upon which assessments will be imposed; 2) determine the proportionate special benefit derived by each identified parcel in relation to the entirety of the capital cost of the property related service; 3) not impose an assessment on a parcel which exceeds the reasonable cost of the proportional benefit conferred on that parcel; 4) assess only for special benefits and separate the general benefits from the special benefits conferred on a parcel; 5) assess all publicly owned parcels unless City Council finds, by clear and convincing evidence, that those publicly owned parcels receive no special benefit; and 6) find that all assessments are supported by a detailed Engineer's Report prepared by a registered professional engineer certified by the State of California. The City Clerk has read and approves the Engineer's Report included herewith, as supporting the assessments contained in the Management District Plan and, in addition, includes facts, which would support City Council findings relative to items 1 through 6 above. The City Clerk has read and approves the Management District Plan.

Proposition 218 also includes certain notice, protest and hearing requirements. Those requirements are codified in the Proposition 218 Omnibus Implementation Act ("Act") (California Government Code Section 53750 et seq.). This report recommends that the City Council direct the City Clerk to comply with the Act. Establishment of the proposed District is contingent upon the City's receipt of a weighted majority of financially supportive ballots as submitted by the affected property owners. The City Clerk will tabulate the ballot returns and will report the results to the City Council.

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, Article XIIC §1(e)(7) of the California Constitution states that "assessments and property-related fees imposed in accordance with the provisions of Article XIID are exempt." As previously stated, the proposed District is being established in accordance with Article XIID of the California Constitution and is therefore exempt from Proposition 26.

PROPOSED IMPROVEMENTS AND PROGRAMS

The District is expected to generate \$1,871,119.00 annually over a five-year period with a maximum five percent (5%) increase per year. Any adjustment will be included in the Annual Planning Report submitted for Council consideration. The revenue will be utilized to fund the proposed District's improvements and activities that include, but are not limited to: Clean and Safe Programs, District Identity and Special Projects, and Administration and Management.

Improvements and activities are services which will be provided to supplement the services already provided by the City of Los Angeles and will not supplant City services. The Owners' Association may contract with third party vendors to perform and complete

District improvements and activities and uphold to City and State regulations where applicable. The proposed improvements and activities are completely separate from the day to day operations of the City of Los Angeles and the City is not involved with selection of the District's vendors.

ASSESSMENT FORMULA AND DISBURSEMENTS

The District's proposed assessment formula is an allocation of program costs as described in the attached Management District Plan based upon a calculation of assessable footage. Three property assessment variables, lot square footage, building square footage and linear front footage will be used in the assessment calculation. In addition, two benefit zones as described in the Management District Plan with differing rates depending on type and frequency of special benefit services provided for properties in each zone.

The City Clerk will arrange to have the proposed District's assessments included as a line item on the property tax bills prepared and distributed by the County of Los Angeles. If necessary, this Office will directly bill property owners or entities that do not appear on the tax roll. The County will subsequently transfer assessment revenue to the City. Assessment revenue will be held in trust by the City and will be disbursed through installments to the District to support authorized District improvements and activities.

CONTRACTING WITH OWNERS' ASSOCIATION

Upon the establishment of the District, State law requires that the City enter into an agreement with a non-profit corporation to serve as the Owners' Association for the administration of the District. City policy dictates that competitive bidding requirements are to be met when contracting. However, Charter section 371(e)(2) and 371(e)(10) provides exceptions to the competitive bidding requirements, and states, in relevant part, that the competitive bidding process does not apply to contracts "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."

Upon establishment of the District, the City Clerk will contract with Venice Beach Property Owners' Association to manage the District on a day-to-day basis.

ASSESSABLE CITY PROPERTY

There are twenty-four (24) City-owned parcels within the District. The total assessment for the City-owned properties within the District is \$426,604.68, representing 23.04 percent of the total assessments levied in the District.

Further, there are seven (7) State-owned parcels within the District to which the City holds a long-term lease and controls pursuant to the agreement signed in 1948, and 1998 correspondence between the State and City agreeing to continue the relationship until such time new leases are in place. The total assessment for these State-owned

properties within the District is \$37,308.23, representing 2.01 percent of the total assessments levied in the District.

If the City assumes the assessments for the state-owned parcels, its representation will increase to 25.05 percent of the total assessments levied in the District, and the total assessment that will be charged to the City is \$463,912.91 for the first year, with a possible 5 percent annual increase.

FISCAL IMPACT

Funding for assessments levied on the City-owned properties within the District and for the general benefit, as described below, were included in the Unappropriated Balance for FY 2017.

Proposition 218 requires the separation of general benefits from the special benefits. The general benefit portion for the Venice Beach Business Improvement District is \$18,711.00 for the first year. However, funds other than assessment revenue must be budgeted annually for the general benefit expense, and each year thereafter for the remaining years of the BID's five-year term.

RECOMMENDATIONS

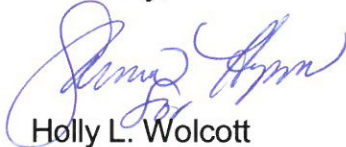
1. FIND that the petitions submitted on behalf of the proponents of the proposed Venice Beach Business Improvement District are signed by property owners who will pay more than fifty (50) percent of the assessments proposed to be levied.
2. FIND that all parcels included in the District will receive a special benefit from the improvements and activities that are to be provided.
3. FIND that all parcels that will have a special benefit conferred upon them and upon which an assessment would be imposed are those as identified in the Management District Plan.
4. FIND that in accordance with Article XIID of the California Constitution all assessments are supported by the Engineer's Report, prepared by a registered professional engineer certified by the State of California.
5. FIND that in accordance with Article XIID of the California Constitution and based on the facts and conclusions contained in the attached Engineer's Report, the assessment levied on each parcel within the proposed District is proportionate to the special benefit derived from the improvements and activities that are to be provided.
6. FIND that in accordance with Article XIID of the California Constitution and based on the facts and conclusions contained in the attached Engineer's Report, the Engineer has separated the general from special benefits. The Engineer's Report identified general benefits in the amount of 1.0 percent to be separated from the

special benefits conferred on parcels within the proposed District. The yearly general benefits cost must be paid from funds other than the assessments collected for the Venice Beach Business Improvement District. The general benefit cost for first year of operation is \$18,711.00.

7. FIND that the City shall pay the assessment levied on seven (7) State-owned parcels within the District, which the City controls and for which it holds a long-term agreement. The special benefit cost for the first year of operation is \$37,308.23.
8. FIND that clear and convincing evidence exists to exempt some publicly owned parcels from assessment.
9. FIND that the assessments for the proposed District are not taxes and that the District qualifies for exemption from Proposition 26 under exemption 7 of Article XIII C §1(e).
10. FIND that the services provided by the Owners' Association 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.
11. FIND that the proposed improvements and activities are completely separate from the day to day operations of the City of Los Angeles.
12. APPROVE Venice Beach Property Owners' Association to serve as the Owners' Association to administer the Venice Beach Business Improvement District if the District is renewed.
13. ADOPT the Preliminary Report of the City Clerk.
14. ADOPT the attached Management District Plan.
15. ADOPT the attached Engineer's Report.
16. ADOPT the attached Ordinance of Intention to establish the Venice Beach Business Improvement District.
17. AUTHORIZE the City Clerk to prepare, execute and administer a contract between the City of Los Angeles and Venice Beach Property Owners' Association, a non-profit corporation, for the administration of the District's programs.
18. AUTHORIZE the Controller, upon establishment of the District, to establish a special trust fund within FMS entitled Venice Beach Business Improvement District and assign a new revenue source code, if needed, to this special fund.

19. AUTHORIZE the Controller to transfer \$482,623.91 from the FY 2017 Unappropriated Balance to the FY 2017 Business Improvement District Trust Fund 659.
20. DIRECT the City Clerk to comply with the notice, protest, and hearing procedures prescribed in the Proposition 218 Omnibus Implementation Act (California Government Code, Section 53750 et seq.).
21. REQUEST the City Attorney, with the assistance of the City Clerk, prepare an enabling Ordinance establishing the Venice Beach Business Improvement District for Council consideration at the conclusion of the required public hearing.
22. REQUEST the Department of Recreation and Parks and the Board of Public Works designate a liaison to coordinate with the City Clerk and prepare a baseline services agreement for the proposed Venice Beach Business Improvement District.

Sincerely,



Holly L. Wolcott
City Clerk

HLW:SDH:MCP:RMH:rm

Attachments:

Management District Plan
Engineer's Report
Agreement between the State of California and the City of Los Angeles
Ordinance of Intention