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October 16, 2014

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

Council District 12

REGARDING: CHATSWORTH BUSINESS IMPROVEMENT DISTRICT (MERCHANT-BASED) RECONFIRMATION PROCEDURE FOR THE 2014/2015 FISCAL YEAR

Honorable Members:

On September 7, 1999, the City Council adopted Ordinance 172,795, which established the Chatsworth Business Improvement District, located in Council District 12 (CF 10-0605). The City is required to conduct reconfirmation proceedings in order to levy a special assessment, which supports each year of District operations. The Chatsworth Business Improvement District completed its twelfth operating year on May 31, 2014. The Chatsworth Business Improvement District Advisory Board has submitted an Annual Report and is ready to proceed with the reconfirmation of the Chatsworth Business Improvement District. The Annual Report for the Chatsworth Business Improvement District's thirteenth operating year, beginning June 1, 2014 through May 31, 2015, is presented with this Report for Council consideration as "Attachment A."

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 Chatsworth Business Improvement District 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.

ADVISORY BOARD

The California Streets and Highways Code requires an Advisory Board, appointed by the City Council, to make recommendations for revenue expenditures. The attached Annual

Report was approved by the members of the City Council appointed Advisory Board on August 14, 2014. Pursuant to the California Streets and Highways Code, City Council should reappoint the members of the Advisory Board, as listed in the attached Annual Report, to continue their advisory board member duties as required by the California Streets and Highways Code.

PROPOSED BUDGET

The proposed budget for the Chatsworth Business Improvement District's 2014/2015 operating year is \$135,480.00. This amount includes the anticipated 2014/2015 assessment revenue of \$105,480.00, and approximately \$30,000.00 rolled over from the 2013/2014 Business Improvement District year budget to pay end of the year expenses for 2013/2014 that are billed in 2014/2015. Any remaining surplus funds, not used for end of the year expenses, will be used for the 2014/2015 Business Improvement District year improvements and activities expenses. A copy of the budget is included in the Annual Report in "Attachment A."

PROPOSED DISTRICT BOUNDARIES

The Chatsworth Business Improvement District's boundaries for its 2014/2015 operating year remain unchanged from the Business Improvement District's 2013/2014 operating year and are generally described as all commercial businesses along Devonshire Street from 20419 to 21930, along Mason Street from 10116 to 10370 on the even side and 10241 to 10317 on the odd side, and along Old Depot Plaza Road from 10030 to 10050. A map illustrating the Chatsworth Business Improvement District's boundaries for its 2014/2015 operating year is included in the Annual Report (Attachment A).

PROPOSED IMPROVEMENTS AND PROGRAMS

The Chatsworth BID's activities and programs for the 2014/2015 operating year include, but are not limited to: Administration, Communication, Security/Business Watch, Streetscape/Landscape Maintenance, and New Projects, which would be supported by assessment revenue and are described in its Annual Report (Attachment A).

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 Districts' vendors.

ASSESSMENT METHODOLOGY

The assessment methodology for the Chatsworth Business Improvement District is based on business categories. Businesses are categorized based on their type of business, and each category is assessed a flat rate. The assessments range by categories from \$120 to \$1,200 annually.

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

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 Chatsworth Business Improvement District 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 Chatsworth Business Improvement District are used to provide specific benefits directly to the payor. The specific benefit to the payor are the administration, security/business watch, streetscape/landscape maintenance, and new projects services which will be provided directly for assessed businesses within the Chatsworth Business Improvement District. These services will in turn, provide specific benefits to the payors in the form of improved area aesthetics which has the goal of increasing customers and visitors to the district. This will in turn, result in 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."

From its first operating year, the Chatsworth Business Improvement District has been administered by the Chatsworth B.I.D., Inc., a California non-profit mutual benefit corporation, which oversees expenditures and manages and implements improvements and activities related to the Business Improvement District. Through its longstanding presence in the Chatsworth community and as administrator of the Business Improvement District during its twelve years of operation, the Chatsworth B.I.D., Inc. possesses unique knowledge and expertise of the Chatsworth Business Improvement District and has a vested interest in its success. Therefore, 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 are no City-owned properties located within the Chatsworth Business Improvement District boundaries.

FISCAL IMPACT

There is no impact on the General Fund. This is a merchant-based Business Improvement District and there are no assessments for City-owned properties within the Business Improvement District.

RECOMMENDATIONS

1. FIND that the assessments imposed by the Chatsworth Business Improvement District for the 2014/2015 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 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).

5. FIND that the services to be 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.
6. APPROVE the Chatsworth B.I.D., Inc., a California non-profit mutual benefit corporation, to administer the proposed services of the Chatsworth Business Improvement District pursuant to Section 36500 et seq. of the California Streets and Highways Code and City regulations.
7. AUTHORIZE the City Clerk, subject to City Attorney approval, to prepare, execute, and administer a contract between the City of Los Angeles and the Chatsworth B.I.D., Inc. to administer the Chatsworth Business Improvement District, if the Ordinance reconfirming the Business Improvement District is adopted.
8. APPOINT the Chatsworth Business Improvement District Advisory Board Members as listed in the Chatsworth Business Improvement District Annual Report
9. ADOPT an Ordinance of Intention confirming the Chatsworth Business Improvement District Annual Report and levying an annual assessment for the Chatsworth Business Improvement District's thirteenth operating year, June 1, 2014 to May 31, 2015.
10. 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.
11. 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 Chatsworth Business Improvement District's thirteenth operating period beginning June 1, 2014 to May 31, 2015.

Sincerely,



Holly L. Wolcott
City Clerk

HLW:MCP:RMH:ev

Attachments: Chatsworth Business Improvement District's 2014/2015 Annual Report; Ordinance of Intention