

ORDINANCE NO. 183610

An Ordinance of Intention to establish a Business Improvement District to be known as the "**Los Angeles Tourism Marketing District**" 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) and to levy assessments.

WHEREAS, the tourism industry is important to the economy of the City of Los Angeles (City) and in order to retain and expand the City's tourism industry, it is necessary to undertake extensive marketing activities promoting Los Angeles as a tourist destination; and

WHEREAS, the City Council of the City of Los Angeles finds that it is in the interest of the lodging businesses with 50 or more rooms and vital to the welfare of the economy of these same businesses to expand the market for and to develop tourism in Los Angeles; and

WHEREAS, the City Council recognizes that separate and distinct lodging businesses in the Los Angeles tourism industry often lack the resources or the market power to conduct these marketing and promotional activities on their own; and

WHEREAS, the marketing programs to be created under this assessment district are intended to benefit all lodging businesses with 50 or more rooms and paying the assessments to be levied, should a Tourism Marketing District be established; and

WHEREAS, such an assessment district, should it be established, would operate under an approved management district plan; and

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, lodging businesses in the **Los Angeles Tourism Marketing District** that will pay more than 50 percent of the total amount of assessments to be levied, have filed written petitions requesting that the City Council establish a business improvement district to be named the **Los Angeles Tourism Marketing District**; and

WHEREAS, the Management District Plan and Engineer's Report supporting the establishment of the proposed Business Improvement District have been reviewed and approved by the Office of City Clerk.

NOW THEREFORE,

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

Section 1. DECLARATION. Pursuant to the provisions of the Property and

Business Improvement District Law of 1994, Section 36600 *et seq.*, of the Streets and Highways Code (Act), the City Council declares its intention to consider the establishment of a Business Improvement District to be named the **Los Angeles Tourism Marketing District** (District) for the levy of assessments on Lodging Businesses.

Sec. 2. DEFINITIONS.

1. "Lodging Business" means and is defined as any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio, hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, or other similar structure or portion thereof, with 50 or more rooms;

2. "Transient" means and is defined as:

a. Any person, other than an individual, who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for any period of time, or

b. Any individual who personally exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such individual so occupying space in a lodging business shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy;

3. "Gross Room Rental Revenue" means and is defined as the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Gross revenue shall not include any federal, state or local taxes collected;

4. "Lodging Business Owner" means and is defined as the person or organization shown as the owner of the business on the City of Los Angeles' records or other governmental records as appropriate;

5. "Owners' Association" means and is defined as a private nonprofit entity that is under contract with the City of Los Angeles to administer or implement activities and improvements specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with *Section 54950*) of *Part 1 of Division 2*

of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all documents relating to activities of the District;

6. "Baseline Level of Services" means and is defined as those tourism marketing services funded by the City of Los Angeles prior to the establishment of the District. The services provided pursuant to the City's existing contract for marketing services are considered the baseline level of services. The LATMD funded services will supplement, not supplant, the City's pre-existing marketing programs. In the event the City of Los Angeles reduces tourism marketing to a level below the baseline subsequent to the renewal of the LATMD, it is the intent of the lodging businesses with 50 or more rooms to gather petitions to disestablish the LATMD pursuant to Streets and Highways Code section 36670(a)(2).

Sec. 3 ADOPTION OF ENGINEER'S REPORT AND MANAGEMENT DISTRICT PLAN. The City Council hereby adopts, approves and confirms the Engineer's Report and the Management District Plan included in Council File No. **14-0943 - 61**.

Sec. 4. BENEFIT TO LODGING BUSINESSES WITHIN THE DISTRICT. The City Council hereby affirms 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. 5. DISTRICT BOUNDARIES. The City Council hereby 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. 6. IMPROVEMENTS AND ACTIVITIES. The City Council hereby declares 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. 7. ANNUAL ASSESSMENTS AND DURATION. 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. 8. COLLECTION OF ASSESSMENTS. The City Council finds 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