ORDINANCE NO. 188565

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 have been found to meet or exceed the minimum requirements of Article XIIID of the California Constitution and the Property and Business Improvement District Law of 1994 (Section 36600 et seq., Streets and Highways Code, State of California) by the Office of the City Clerk

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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;

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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-S3.

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.

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There are **181** 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 July 1, 2025 and will continue for six (6) months and nine (9) years and end of December 31, 2034. The proposed District's total assessment for 6 months and 9 years is estimated to be **$366,200,000**. The proposed District's total annual assessment for the first year is estimated to be **$25,100,000**.

The annual assessment rate will be 2% 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 6 month and 9 year 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 two percent (2%) 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 an six (6) month and nine (9) year period. The District will not issue bonds.

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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.

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(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. 9. AUDITING. The City of Los Angeles shall 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. 10. NOTICE, PROTESTS, PUBLIC MEETING AND HEARING PROCEDURES. The City Clerk shall give notice of the public meeting and public hearing, in the manner specified in Government Code Section 54954.6, to the record owner of each lodging business subject to the levy of an assessment. A complete copy of the Ordinance of Intention and summary of the Management District Plan shall be mailed by first-class mail to each lodging business owner in the proposed district known by the City Council to be located within the proposed district. The notice shall be given

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at least 45 days before the public hearing date and shall specify that the public hearing will be to determine whether the City Council will establish the District and levy assessments.

At any time prior to the date set for hearing protests, any person affected by the proposed assessment may make a written protest stating his or her objections thereto. Such protests must contain the information contained in Section 12 below in sufficient detail to allow the City Clerk to identify the owner, the lodging business and the amount of the proposed assessment.

Sec. 11. PUBLIC MEETING AND PUBLIC HEARING Pursuant to Section 54954.6 of the Government Code, one public meeting and one public hearing shall be held before the City Council. The public meeting shall be held on April 9, 2025, at 10:00 a.m., or as soon thereafter as this matter may be heard, in the John Ferraro Council Chamber in Room 340 at City Hall, 200 North Spring Street, Los Angeles, California 90012. The public hearing shall be held on May 13, 2025, at 10:00 a.m., or as soon thereafter as this matter may be heard, in the John Ferraro Council Chamber in Room 340 at City Hall, 200 North Spring Street, Los Angeles, California 90012. The public meeting shall take place no earlier than ten days after the first mailing of the joint notice. The public hearing shall take place no earlier than seven days after the public meeting and no earlier than 45 days after the first mailing of the joint notice. City Council may continue the public hearing from time to time. At this hearing the City Council will consider the adoption of the ordinance authorizing the assessment for the District.

Sec. 12. PROTEST. At the public hearing, the City Council shall hear and consider all protests against the proposed levying of the assessment on lodging businesses located within the District and the specified types of improvements or activities within the District. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.

Every written protest shall be filed with the City Clerk prior to or during the public hearing. The City Council may waive any irregularity in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. A written protest may be withdrawn in writing at any time prior to the conclusion of the public hearing.

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Each written protest shall contain a description of the lodging business in which the person subscribing the protest is interested sufficient to identify the lodging business and, if a person subscribing is not shown on the official records of the City as the owner of the lodging business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the lodging business. A written protest that does not comply with these requirements shall not be counted in determining a majority protest.

Sec. 13. MAJORITY PROTEST. If there is a majority protest against the imposition of the assessment, the City Council will not impose the assessment. A majority protest will exist if written protests are received from the owners of lodging businesses in the District who will pay 50% or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50%. If there is a majority protest, no further proceedings to levy the proposed assessment shall be taken for a period of one year from the date of the finding of a majority protest by the City Council.

Sec. 14. 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).

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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.

Approved as to Form and Legality

HYDEE FELDSTEIN SOTO, City Attorney

Signed with ClerkSign

By Dan Whitley Feb 27, 2025 11:30AM

DANIEL WHITLEY
Deputy City Attorney

Date 02/27/2025

File No. 14-0943-S3

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed March 18, 2025

Approved 04/03/2025

Published Date: 04/07/2025
Ordinance Effective Date: 05/08/2025

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