

CORRECTED REPORT

ECONOMIC DEVELOPMENT COMMITTEE REPORT and ORDINANCE OF INTENTION FIRST CONSIDERATION relative to the establishment of the Venice Beach Business Improvement District (BID).

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. REAFFIRM City Council's action of June 29, 2016 to FIND that:

- a. The petitions submitted on behalf of the proponents of the proposed Venice Beach BID are signed by property owners who will pay more than 50 percent of the assessments proposed to be levied.
- b. All parcels included in the BID will receive a special benefit from the improvements and activities that are to be provided.
- c. 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, attached to the Council file.
- d. In accordance with Article XIID of the California Constitution all assessments are supported by the Engineer's Report, attached to the Council file, prepared by a registered professional engineer certified by the State of California.
- e. In accordance with Article XIID of the California Constitution and based on the facts and conclusions contained in the attached Engineer's Report, attached to the Council file, 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.
- f. In accordance with Article XIID of the California Constitution and based on the facts and conclusions contained in the attached Engineer's Report, attached to the Council file, the Engineer has separated the general from special benefits and as such, the Engineer's Report identified general benefits in the amount of 1.0 percent to be separated from the Venice Beach BID special benefits conferred on parcels within the proposed BID and that the yearly general benefits cost must be paid from funds other than the assessments collected for the Venice Beach BID and that the general benefit cost for first year of operation is \$18,711.00.
- g. The City shall pay the assessment levied on seven State-owned parcels within the BID, which the City controls and for which it holds a long-term agreement and that the special benefit cost for the first year of operation is \$37,308.23.
- h. That clear and convincing evidence exists to exempt some publicly owned parcels from assessment.

- i. The assessments for the proposed District are not taxes and that the BID qualifies for exemption from Proposition 26 under exemption 7 of Article XIIC, Section 1(e).
 - j. 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.
 - k. The proposed improvements and activities are completely separate from the day to day operations of the City of Los Angeles.
- 2. REAFFIRM City Council's June 29, 2016 action to APPROVE the Venice Beach Property Owners' Association to serve as the Owners' Association to administer the Venice Beach BID if the District is renewed.
- 3. REAFFIRM City Council's June 29, 2016 action to ADOPT the following documents, attached to the Council file:
 - a. June 24, 2016 City Clerk report
 - b. Management District Plan
 - c. Engineer's report
- 4. PRESENT and ADOPT the accompanying ORDINANCE dated September 2, 2016 to repeal the Ordinance of Intention (Ordinance No. 184382) and Ordinance of Establishment adopted on August 24, 2016; and adopt a new Ordinance of Intention to establish and levy assessments in a Property and BID to be known as the Venice Beach Business Improvement 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).
- 5. REAFFIRM City Council's June 29, 2016 action to AUTHORIZE the City Clerk to prepare, execute and administer a contract between the City of Los Angeles and Venice Beach Property Owner's Association, a non-profit corporation, for the administration of the BID's programs.
- 6. REAFFIRM City Council's June 29, 2016 action to AUTHORIZE the Controller, upon establishment of the BID, to establish a special trust fund with the Financial Management System entitled Venice Beach BID and assign a new revenue source code, if needed, for this special fund.
- 7. REAFFIRM City Council's June 29, 2016 action to AUTHORIZE the the Controller to transfer \$482,623.91 from the Fiscal Year (FY) 2017 Unappropriated Balance to the FY 2017 Business Improvement District Trust Fund 659.
- 8. REAFFIRM City Council's June 29, 2016 action to 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.).

9. REAFFIRM City Council's June 29, 2016 action to REQUEST the City Attorney, with the assistance of the City Clerk, to prepare and present an enabling Ordinance establishing the Venice Beach BID for Council consideration at the conclusion of the required public hearing.
10. REAFFIRM City Council's June 29, 2016 action to 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 BID.

Fiscal Impact Statement: The City Clerk reports that funding for assessments levied on the City-owned properties within the BID 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 BID 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.

Community Impact Statement: None submitted.

Summary:

On September 13, 2016, your Committee considered a September 2, 2016 City Attorney report and Ordinance dated September 2, 2016 relative to the establishment of the Venice Beach BID (Property Based). According to the City Attorney, on June 29, 2016, Council adopted an Ordinance of Intention to consider the establishment of the District and levy assessments on property owners (Ordinance No. 184382). Subsequently, on August 23, 2016, Council held a public hearing to determine whether to establish the District and at the conclusion of the public hearing the City Clerk tabulated all the assessment ballots. The results of the tabulation were announced on August 24, 2016 and Council adopted the Ordinance of Establishment of the District. That ordinance is not yet legally effective.

In a letter date August 24, 2016, the Legal Aid Foundation of Los Angeles alleged that the formation of the District was legally in jeopardy because not all members of the public who requested to provide testimony during the public hearing were allowed to do so. To address this allegation and mitigate against the potential legal challenge over the District's formation, the City Attorney is recommending that the public hearing upon the proposed assessment be repeated. In order to repeat the public hearing, State law requires the adoption of a new Ordinance of Intention and new findings to be made in accordance with the City Clerk Report dated June 24, 2016, and other related documents already in Council File No. 16-0749. The new Ordinance of Intention will also provide notice by mail at least 45 days prior to the date of the public hearing. Therefore, the City Attorney is recommending the adoption of the proposed draft Ordinance of Intention for the establishment of the District. The proposed draft ordinance also repeals the original Ordinance of Intention and the recently adopted Ordinance of Establishment.

After consideration and having provided an opportunity for public comment, the Committee moved to recommend approval of new Ordinance of Intention as detailed in the September 2,

2016 City Attorney report and detailed above in Recommendation No. 4. Additionally, the Committee recommended taking actions as noted in the September 2, 2016 City Attorney report to reaffirm Council's various actions taken on June 29, 2016. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

ECONOMIC DEVELOPMENT COMMITTEE

A handwritten signature in black ink, appearing to be "J. M. ...", written over a horizontal line.

<u>MEMBER</u>	<u>VOTE</u>
PRICE:	YES
CEDILLO:	YES
HARRIS-DAWSON:	YES
KREKORIAN:	YES
O'FARRELL:	YES

ARL
9/13/16

-NOT OFFICIAL UNTIL COUNCIL ACTS-