

Report to the Los Angeles City Ethics Commission on
Prohibited Campaign Contributions by the Central City
East Association and Larry Rauch

March 4, 2017

Contents

1	Background	3
2	Facts	3
3	Conclusions	3
4	Appendices	4
4.1	Appendix 1 – May 23, 2014 Memo from Clerk to Council re: CCEA renewal	5
4.2	Appendix 2 – Contract between CCEA and City of Los Angeles	12

1 Background

1. The Central City East Association (“CCEA”) is a 501(c)(6) organization that contracts with the City of Los Angeles to administer the Downtown Industrial District Business Improvement District (“the BID”).

2 Facts

2. On or before May 23, 2014, the CCEA submitted materials to the City Clerk’s office requesting that the BID be renewed (see Council file 12-0931). This triggered a memo from the Clerk to the Council recommending that they authorize the Clerk to enter into a contract with the CCEA to administer the BID. The estimated value of this contract was more than \$2,000,000 per year. See Appendix 1 (page 5).
3. This recommendation was adopted by Ordinance in Council on September 5, 2014 (again, see Council file 12-0931).
4. The resulting contract, C-124929, was signed by CCEA Chairman Larry Rauch on October 1, 2014 and by City Clerk Holly Wolcott on November 25, 2014. It was attested by the Clerk’s office on December 2, 2014. See Appendix 2 (page 12) for the signature page.
5. On June 23, 2014, Larry Rauch donated \$1,000 to Mike Feuer, at that time a candidate for the office of Los Angeles City Attorney. On September 23, 2014, Larry Rauch donated \$500 to Carolyn Ramsay, at that time a candidate for the Los Angeles City Council.
6. On August 20, 2015, the CCEA donated \$700 to Marqueece Harris-Dawson, at that time a candidate for Los Angeles City Council. On October 30, 2015, the CCEA donated \$700 to Mitch O’Farrell, at that time a candidate for Los Angeles City Council.

3 Conclusions

7. Contract C-124929 meets the definition of “contract” found in LAMC §49.7.35(A)(4) and was “approved by an elected City office” within the meaning of LAMC §49.7.35(A)(1). Larry Rauch meets the definition of “principal” found in LAMC §49.7.35(A)(6)(a).
8. The contributions listed above were prohibited under the terms of the Los Angeles City Charter §470(c)(12)(A)(i) and §470(c)(12)(B)(i) and they fell within the time limitations given in §470(c)(12)(E).
9. One of the purposes of Charter §470, given in subsection (a), is “...to avoid corruption or the appearance of corruption in city decision making, and protect the integrity of the City’s procurement and contract processes...” These contributions create the appearance of corruption in the contract process.

4 Appendices

**4.1 Appendix 1 – May 23, 2014 Memo from Clerk to Council re:
CCEA renewal**

City of Los Angeles
CALIFORNIA



ERIC GARCETTI
MAYOR

OFFICE OF
CITY CLERK
Neighborhood and Business
Improvement District Division

ROOM 224, 200 N. SPRING STREET
LOS ANGELES, CALIFORNIA 90012
(213) 978-1100
FAX: (213) 978-1107

MIRANDA PASTER
ACTING DIVISION HEAD

May 23, 2014

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

Council District 14

REGARDING: DOWNTOWN INDUSTRIAL DISTRICT (PROPERTY BASED)
BUSINESS IMPROVEMENT DISTRICT RENEWAL

Honorable Members:

The City Clerk has received materials from the owners' association relative to a request for the formation of a proposed property and business improvement district to be called the District 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 originally established through adoption of City Ordinance 172155 on August 5, 1998, and started its operational term on January 1, 1999, its second operational term began on January 1, 2004, its third operational term on January 1, 2010 and is set to expire on December 31, 2014. The Property and Business Improvement District Law of 1994 (Section 36600 et seq., Streets and Highways Code, State of California) ("State Law") allows for business improvement districts to renew by completing the same formation steps as the original establishment. This District is being reestablished in accordance with the provisions of 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.

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 proponent group for the proposed District, the Central City East Association, 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 \$1,063,780.02. This represents 52.42 percent (52.42%) of the proposed District's projected first year assessment revenue of \$2,029,339.98. 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 proposed Downtown Industrial District renewal area is unchanged from the current District and consists of approximately 50 blocks of the east-central area of downtown Los Angeles. The District is bounded roughly by San Pedro Street from 8th Street to 7th Street and both sides of San Pedro from 7th Street to 3rd Street on the west, 3rd Street on the north, Alameda Street on the east and Olympic Boulevard and 8th Street on the south.

There are 862 parcels owned by 474 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 ESTABLISHMENT AND PROPOSITION 218 COMPLIANCE

Article XIID of the California Constitution (Proposition 218) requires, among other things, that: 1) the City Council identify all parcels that will have a special benefit conferred upon them and upon which assessments will be imposed; 2) the City Council not impose an assessment on a parcel which exceeds the reasonable cost of the proportional benefit conferred on that parcel; 3) the City Council separate the general benefits from the special benefits conferred on a parcel; and 4) all assessments be supported by a detailed Engineer's Report prepared by a registered professional Engineer certified by the State of California. The Engineer's Report included herewith supports the assessments contained in the Management District Plan and, in addition, includes facts, which would support City Council findings relative to items 1 through 3 above.

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 XIII C §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 \$2,067,590 annually over a seven-year period with a maximum increase of five percent (5%) per year to be determined by the Owners' Association. 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, Economic Development/Communication and Management/City Fees/Delinquent Assessments.

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 FORMULA AND DISBURSEMENTS

The District's proposed assessment formula is based upon an allocation of program costs by 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. Assessments are a calculation of assessable lot square footage.

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 an 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) 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."

The Central City East Association has administered the Downtown Industrial District Business Improvement District since the District was originally established in 1999, overseeing expenditures, managing and implementing the District's improvements and activities. The Central City East Association possesses the unique knowledge and expertise relative to the administration of the District and has a vested interest in the success of the District during its limited term. Therefore, it would be impractical, not advantageous and undesirable to comply with the competitive bidding requirements or to select another entity to administer the District, if the District is renewed.

ASSESSABLE CITY PROPERTY

There are six (6) City-owned parcels within the District which includes four (4) General Fund parcels and two (2) and two CRA of LA parcels. The total assessment for these City-owned properties within the District is \$30,646.19, representing 1.51% of the total assessments levied in the District.

FISCAL IMPACT

Assessments levied on the four (4) City-owned property within the District to be paid from the General Fund total \$7,851.51 for the first year of the District. Funding is available in the Business Improvement District Trust Fund 659 to pay the General Fund's share of assessments for the first operating year. Assessments levied on the CRA of LA property within the District will not be paid from the General Fund.

Proposition 218 requires the separation of general benefits from the special benefits. The general benefit portion for the Downtown Industrial District Business Improvement District is \$38,251.00 for the first year. However, funds other than assessment revenue must be budgeted annually for the general benefit expense for the remaining years of the BID's seven-year term.

RECOMMENDATIONS

1. FIND that the petitions submitted on behalf of the proponents of the proposed Downtown Industrial District 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 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.
3. 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.
4. 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 1.85% 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 Downtown Industrial District Business Improvement District. The general benefit cost for first year of operation is \$38,251.00.
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, no assessment imposed on any parcel exceeds the reasonable cost of the proportional special benefit conferred on that parcel.
6. 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 XIIC §1(e).
7. 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.
8. FIND that the proposed improvements and activities are completely separate from the day to day operations of the City of Los Angeles.
9. APPROVE the Central City East Association to serve as the Owners' Association to administer the Downtown Industrial District Business Improvement District.

10. ADOPT the Preliminary Report of the City Clerk.
11. ADOPT the attached Management District Plan.
12. ADOPT the attached Engineer's Report.
13. ADOPT the attached Ordinance of Intention to establish the Downtown Industrial District Business Improvement District.
14. AUTHORIZE the City Clerk, upon establishment of the District, to prepare, execute and administer a contract between the City of Los Angeles and the Central City East Association, a non-profit corporation, for the administration of the District's programs upon adoption of the ordinance establishing the District.
15. 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.).
16. REQUEST the City Attorney, with the assistance of the City Clerk, to prepare an enabling Ordinance establishing the Downtown Industrial District Business Improvement District for City Council consideration at the conclusion of the required public hearing.

Sincerely,



Holly L. Wolcott
Interim City Clerk

HLW:MCP:RMH:rks

Attachments:

Draft Ordinance of Intention
Management District Plan
Engineer's Report

4.2 Appendix 2 – Contract between CCEA and City of Los Angeles

IN WITNESS WHEREOF, this Agreement is duly executed by THE CITY OF LOS ANGELES and the CENTRAL CITY EAST ASSOCIATION for administration of the Downtown Industrial District Business Improvement District on behalf of the parties to this Agreement.

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting by and through its Office of the City Clerk

CORPORATION:

CENTRAL CITY EAST ASSOCIATION, a California non-profit corporation

By: 

HOLLY L. WOLCOTT
City Clerk

Date: 11/25/2014

By: 

LARRY RAUCH
Chairman

Date: _____

By: 

MARK SHINBANE
Vice-Chairman

Date: 10/1/14

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: 

Deputy City Attorney

Date: 11-20-14

ATTESTATION:

HOLLY L. WOLCOTT, City Clerk

By: 

Deputy



Date: 12/2/14

Council File No. 12-0931

C-124929