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RESOLUTION NO. RES-19-0075

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH ADOPTING PROPOSITION 218
ASSESSMENT BALLOT PROCEEDINGS PROCEDURES

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding
Articles XIIC and XIID to the California Constitution; and

WHEREAS, Articles XIIC and XIID of the California Constitution impose
certain procedural and substantive requirements relating to assessments (as defined);
and

WHEREAS, the City Council believes it to be in the best interest of the Long
Beach Health Department's Bureau of Environmental Health Mosquito and Vector
Control Program (VCP) to record its decisions regarding implementation of the provisions
of Proposition 218 relating to assessments and to provide the community with a guide to
those decisions and how they were reached;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as
follows:

Section 1. Statement of Legislative Intent. In adopting this resolution, it
is the City Council's intent to adopt assessment ballot proceedings, which are consistent
and in compliance with Articles XIIC and XIID of the California Constitution and with the
Government Code Sections 53750 through 53754. It is not the intent of the City Council
to vary in any way from the requirements of either the California Constitution or the laws
of the State of California.

Section 2. Definition of Assessment. Proposition 218 defines
"assessment" as "any levy or charge by an agency upon real property that is based upon
the special benefit conferred upon the real property by a public improvement or services,
that is imposed to pay the capital cost of the public improvement, the maintenance and

1 operation expenses of the public improvement or the cost of the service being provided.”
2 “Assessment” includes, but is not limited to, “special assessment,” “benefit assessment,”
3 “maintenance assessment,” and “special assessment tax.”

4 Section 3. Vector Control. According to Government Code section
5 53750(l) “vector control means any system of public improvements or services that is
6 intended to provide for the surveillance, prevention, abatement, and control of vectors as
7 defined in subdivision (k) of Section 2002 of the Health and Safety Code and a pest as
8 defined in Section 5006 of the Food and Agricultural Code.”

9 Section 4. Assessment Ballot Proceeding. The following procedures
10 shall be used in an assessment ballot proceeding that follows the requirements of Article
11 XIIIID, section 4 of the California Constitution:

12 A. Amount of Assessment. Only special benefits are
13 assessable. The amount of each assessment shall be each identified
14 parcel’s proportionate share of the cost of the vector control services and
15 capital improvement costs based upon that parcel’s special benefit from the
16 improvement or service. The amount shall be proportional to and no
17 greater than the special benefits conferred on the property.

18 B. Engineer’s Report. The City Council shall direct the filing of
19 an engineer’s report that shall comply with the applicable state statute
20 authorizing the assessment and with Article XIIIID, Section 4, of the
21 California Constitution. The engineer’s report shall explain the special
22 benefit conferred by the improvement or service. The engineer’s report
23 shall also provide the evidence upon which the City Council may find that a
24 special benefit exists. If the improvement or service confers a general
25 benefit, the engineer’s report shall describe the general benefit and an
26 alternative funding source for any general benefits. The engineer’s report
27 shall be prepared by a registered professional engineer certified by the
28 State of California (the “Assessment Engineer”).

1 C. Notice. The following guidelines shall apply to giving notice of
2 an assessment:

3 1. The record owner(s) of each parcel to be assessed
4 shall be determined from the last equalized property tax roll. If the property
5 tax roll indicates more than one owner, each owner shall receive notice.
6 Only property owners shall receive notice;

7 2. The notice shall be sent at least forty-five (45) days
8 prior to the date set for the public hearing on the assessment;

9 3. The notice provided by this section shall contain the
10 following information:

11 a. The total amount to be assessed for the entire
12 assessment district;

13 b. The amount to be assessed to the owner's
14 particular parcel;

15 c. The duration of the payments;

16 d. The reason for the assessment;

17 e. The basis upon which the amount of the
18 proposed assessment was calculated;

19 f. The date, time and location of the public hearing
20 on the proposed assessment;

21 g. A summary of the procedures for the
22 completion, return and tabulation of the assessment ballots;

23 h. A disclosure statement that the existence of a
24 majority protest will result in the assessment not being imposed; and

25 i. A ballot to be completed by the owner, as further
26 described in section 4D of this resolution.

27 4. The notice provided in accordance with this section and
28 in accordance with Government Code Sections 53753(b) and (c) shall

1 supersede and be in lieu of any other statutes requiring notice to levy or
2 increase an assessment, including but not limited to the notice required by
3 the state statute authorizing the assessment and Government Code section
4 54954.6;

5 5. Failure of any person to receive notice shall not
6 invalidate the proceedings;

7 6. The cost of providing notice shall be included as a cost
8 of the assessment.

9 D. Assessment Ballot. The following guidelines shall apply to the
10 assessment ballot:

11 1. The ballot required by Article XIID, section 4(d), of the
12 California Constitution shall be mailed with the notice to all property owners
13 of record subject to the proposed assessment at least forty-five (45) days
14 prior to the date of the public hearing on the proposed assessment. This
15 ballot and the ballot envelope shall comply with Government Code Sections
16 53753(b) and (c). The ballot envelope, in which the ballot and notice are
17 enclosed, there shall appear in substantially the following form in no smaller
18 than 16-point bold type: "OFFICIAL BALLOT ENCLOSED." The ballot shall
19 be designed in such a way that, once sealed, its contents are concealed.

20 2. All ballots must be returned either by mail or by hand
21 delivery not later than the date for return of ballots stated on the notice and
22 ballot described in this section. Mailed ballots must be returned to the City
23 Clerk, the company/person delegated and approved by the City Council to
24 tabulate the ballots (the "Tabulator"), at the address shown on the ballot:
25 Office of the City Clerk, City of Long Beach, 333 West Ocean Boulevard,
26 Lobby Level, Long Beach, CA 90802, or, if delivered at the time and
27 location of the public hearing, to the City Clerk. Ballots must be returned
28 either by mail or by hand delivery prior to the conclusion of the public input

1 portion of the public hearing.

2 3. Each ballot must be signed under penalty of perjury. In
3 the event that more than one of the record owners of a parcel submits an
4 assessment ballot, the amount of the proposed assessment to be imposed
5 upon the parcel shall be allocated to each ballot submitted in proportion to
6 the respective record ownership interests or, if the ownership interests are
7 not shown on the record, as established to the satisfaction of the City Clerk
8 or the Assessment Engineer by documentation provided by the record
9 owners. If two or more persons own a parcel subject to the assessment,
10 any one owner may cast an assessment ballot for all owners.

11 4. If a parcel has multiple owners, any owner may request
12 a proportional assessment ballot. If the ownership interest of the owner is
13 not shown on the last equalized secured property tax assessment roll, such
14 request must include evidence, satisfactory to the City Clerk, of the owner's
15 proportional rights in the parcel. The City Clerk will provide the proportional
16 ballot to the owner at the address shown on the assessment roll. Any
17 request for a ballot to be mailed to another location must include evidence,
18 satisfactory to the City Clerk, of the identity of the person requesting the
19 ballot. Each proportional ballot will be marked to identify it as a proportional
20 ballot and to indicate the owner's proportional rights in the parcel. The City
21 Clerk will keep a record of each proportional ballot provided to an owner.

22 5. The City Clerk will only accept official ballots mailed or
23 otherwise provided to owners by the City Clerk.

24 6. If an assessment ballot is lost, withdrawn, destroyed or
25 never received, the City Clerk will mail or otherwise provide a replacement
26 ballot to the owner upon receipt of a request delivered to the City Clerk or
27 the Assessment Engineer. The replacement ballot will be marked to
28 identify it as a replacement ballot or a replacement proportional ballot. Any

1 request for a replacement or replacement proportional ballot to be mailed to
2 another location must include evidence, satisfactory to the City Clerk or the
3 Assessment Engineer, of the identity of the person requesting the ballot.
4 The same procedure applies to replacement ballots or replacement
5 proportional ballots, which are lost, withdrawn, destroyed, or never
6 received.

7 7. If an assessment ballot is returned by the United States
8 Post Office as undeliverable, the City Clerk may mail a redelivered ballot to
9 the current property owner, if updated ownership or owner mailing address
10 can be determined. The redelivered ballot will be marked to identify it as a
11 redelivered ballot.

12 8. An assessment ballot proceeding is not an election or
13 voting for purposes of Article II of the California Constitution.

14 9. Assessment ballots shall remain sealed until the
15 tabulation of ballots commences, provided that an assessment ballot may
16 be withdrawn or changed by the person who submitted the ballot prior to
17 the conclusion of the public input portion of the hearing on the assessment.
18 An assessment ballot is a disclosable "public record" as that phrase is
19 defined by Government Code section 6252 during and after tabulation of
20 the ballots.

21 10. The California Government Code requires that
22 assessment ballots be signed by property owners.

23 11. To complete an assessment ballot, the owner of the
24 parcel or his authorized representative must (1) mark the appropriate box
25 (or circle) supporting or opposing the proposed assessment, and (2) sign,
26 under penalty of perjury, the statement on the ballot that the person
27 completing the ballot is the owner of the parcel or the owner's authorized
28 representative. Only one box may be circled or marked on each ballot. All

1 incomplete or improperly marked ballots shall be disqualified from balloting.
2 The City Clerk will retain all such invalid ballots.

3 12. After returning an assessment ballot to the City Clerk,
4 the person who signed the ballot may withdraw the ballot by submitting a
5 written statement to the City Clerk directing the City Clerk to withdraw the
6 ballot. Such statement must be received by the City Clerk prior to the close
7 of the public input portion of the public hearing on the proposed
8 assessment. When ballots for the assessment are tabulated, the City Clerk
9 will segregate withdrawn ballots from all other returned ballots. The City
10 Clerk will retain all withdrawn ballots and will indicate on the face of such
11 withdrawn ballots that they have been withdrawn.

12 13. In order to change the contents of a ballot that has
13 been submitted, the person who has signed that ballot may (1) request that
14 such ballot be withdrawn, (2) request that a replacement ballot be issued,
15 and (3) return the replacement ballot fully completed. Each of these steps
16 must be completed according to the procedures set forth above and prior to
17 the conclusion of the public input portion of the public hearing.

18 E. Tabulating Ballots. The following guidelines shall apply to
19 tabulating assessment ballots:

20 1. Assessment ballots shall remain sealed until tabulation
21 commences at the conclusion of the public input portion of the public
22 hearing.

23 2. An independent third party may tabulate the
24 assessment ballots (the "Tabulator"). The Tabulator shall follow the rules
25 and procedures of the laws of the State of California, this resolution and any
26 other rules and procedures of the City Council. If the Tabulator needs
27 clarification, then they shall inquire of the City Council, who is the final
28 arbiter. All ballots shall be accepted as valid except those in the following

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categories:

a. A photocopy of a ballot, a letter or other form of a ballot that is not an official ballot provided by the City Clerk;

b. An unsigned ballot, or ballot signed by an unauthorized individual;

c. A ballot which lacks an identifiable mark in the box for a "yes" or "no" vote or with more than one box marked, will not be counted;

d. A ballot which appears tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;

e. A ballot for which the barcode representing the parcel number is damaged or obstructed, unless the parcel number or property ownership information is legible and allows the Tabulator to clearly determine the property(s) identified on the ballot.

f. A ballot received after the close of the balloting time period.

3. The Tabulator's decision, after consultation with the City Attorney, that a ballot is invalid shall be final and may not be appealed to the City Council.

4. If more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot in proportion to the respective record ownership interests, as shown on the record or as established to the City Clerk's satisfaction by documentation provided by the record owners.

5. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City

1 Clerk will make such determination from the official County Assessor
2 records and any evidence of ownership submitted to the City Clerk prior to
3 the conclusion of the public hearing. The City Council will be under no duty
4 to obtain or consider any other evidence as to ownership of property and its
5 determination of ownership will be final and conclusive.

6 6. In the event of a dispute regarding whether the signer
7 of a ballot is an authorized representative of the owner of the parcel, the
8 City Clerk may rely on the statement on the ballot signed under penalty of
9 perjury that the person completing the ballot is the owner's authorized
10 representative and any evidence submitted to the City Clerk prior to the
11 conclusion of the public hearing. The City Clerk will be under no duty to
12 obtain or consider any other evidence as to whether the signer of the ballot
13 is an authorized representative of the owner and its determination will be
14 final and conclusive.

15 7. A property owner who has submitted an assessment
16 ballot may withdraw the ballot and submit a new or changed ballot up until
17 the conclusion of the public input portion of the public hearing on the
18 assessment. Assessment ballots may be withdrawn and newer changed
19 ballots submitted up until the conclusion of the public input portion of the
20 public hearing on the assessment.

21 8. A property owner's failure to receive an assessment
22 ballot shall not invalidate the proceedings conducted under this section and
23 section 4, Article XIID, of the California Constitution.

24 9. The City Clerk shall retain all ballots for a period of two
25 (2) years from the date of the public hearing.

26 F. Public Hearing.

27 1. At the public hearing, the City Council shall hear and
28 consider all public testimony, objections and protests regarding the

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proposed assessment and accept ballots until the close of the public input portion of the public hearing.

2. Reasonable time limits may be imposed on both the length of the entire hearing and the length of each speaker's testimony.

3. At the conclusion of the public input portion of the hearing, but prior to the conclusion of the public hearing, the Tabulator shall begin tabulation of the ballots at the direction of the City Council.

4. If it is not possible to tabulate the ballots on the day of the public hearing, or if additional time is necessary for public testimony, the City Council may continue the public hearing to a later date to receive additional testimony, information, or to finish tabulating the ballots.

5. If according to the final tabulation of the ballots, ballots submitted, and not withdrawn, in opposition of the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel, a "majority protest" exists and the City Council shall not impose the assessment.

Section 5. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of May 7, 2019

by the following vote:

Ayes: Councilmembers: Pearce, Price, Supernaw, Mungo,
Andrews, Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Gonzalez, Uranga, Austin.



City Clerk