

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 RESOLUTION NO. RES-08-0026

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH CALLING SPECIAL ELECTION
5 REGARDING ALTERATION OF THE FACILITIES
6 AUTHORIZED TO BE FINANCED BY COMMUNITY
7 FACILITIES DISTRICT NO. 5 (LONG BEACH TOWNE
8 CENTER)

9
10 WHEREAS, on February 19, 2008, this City Council adopted a resolution
11 entitled "A Resolution of the City Council of the City of Long Beach of Consideration to
12 Alter the Facilities Authorized to be Financed By Community Facilities District No. 5
13 (Long Beach Towne Center)" (the "Resolution of Consideration"), proposing to alter the
14 facilities authorized to be financed by Community Facilities District No. 5 (Long Beach
15 Towne Center) of the City of Long Beach (the "District"), pursuant to the Long Beach
16 Special Tax Financing Improvement Law, constituting Section 3.52.511 et seq. of the
17 Long Beach Municipal Code (the "Law"), by adding certain facilities (the "Additional
18 Facilities") specified in the Resolution of Consideration to the list of facilities authorized to
19 be financed by the District; and

20 WHEREAS, the Resolution of Consideration, which makes reference to the
21 map of the boundaries of the District and contains a description of the Additional
22 Facilities, is on file with the City Clerk and the provisions thereof are incorporated herein
23 by this reference as if fully set forth herein; and

24 WHEREAS, on March 4, 2008, the City Council opened the public hearing
25 called pursuant to the Resolution of Consideration and continued the hearing to March
26 11, 2008;

27 WHEREAS, on this date, the City Council held the continued public hearing
28 as required by the Law and the Resolution of Consideration relative to the proposed

1 Additional Facilities; and

2 WHEREAS, at said hearing all interested persons desiring to be heard on
3 all matters pertaining to the Additional Facilities were heard and a full and fair hearing
4 was held; and

5 WHEREAS, written protests with respect to the Additional Facilities have
6 not been filed with the City Clerk by fifty percent (50%) or more of any registered voters
7 residing within the territory of the District or the owners of land or of leasehold interests in
8 land constituting one-half (1/2) or more of the area of land within the District and not
9 exempt from the levy of the special tax; and

10 WHEREAS, the proposition of the addition of the Additional Facilities to the
11 list of facilities authorized to be financed by the District shall be submitted to the qualified
12 electors of the District as required by the Law;

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

15 Section 1. The foregoing recitals are true and correct.

16 Section 2. The proposed addition of the Additional Facilities to the list of
17 facilities authorized to be financed by the District has not been precluded by majority
18 protest pursuant to Sections 3.52.535 and 3.52.5210 of the Law.

19 Section 3. All prior proceedings taken by this City Council in connection
20 with the proposed alteration of the facilities authorized to be financed by the District as
21 set forth in the Resolution of Consideration have been duly considered and are hereby
22 found and determined to be valid and in conformity with the requirements of the Law.

23 Section 4. Subject to the approval of the qualified elector of the District at
24 the special election referred to below, the facilities authorized to be financed by the
25 District are hereby altered to include the Additional Facilities.

26 Section 5. Pursuant to Sections 3.52.535, 3.52.5211 and 3.52.5217 of
27 the Law, the issue of the alteration of the facilities to be financed by the District shall be
28 submitted to the qualified elector of the District at an election called therefor as provided

1 below.

2 Section 6. The ballot measure shall be in the form attached hereto as
3 Exhibit A and by this reference incorporated herein, and said form of ballot is hereby
4 approved.

5 Section 7. This City Council hereby finds that fewer than 12 persons
6 have been registered to vote within the territory of the District for each of the ninety (90)
7 days preceding the close of the public hearing heretofore conducted and concluded by
8 this City Council for the purposes of these proceedings, and that the City is the sole
9 owner of all of the land in the District. This City Council hereby further finds that the
10 special taxes to be levied in the District are to be levied on leasehold interests in the real
11 property in the District. Accordingly, and pursuant to Sections 3.52.535 and 3.52.5217B.
12 of the Law, this City Council finds that for purposes of these proceedings the qualified
13 elector is the City as the owner of all of the real property within the District and that the
14 vote shall be by the City, with one vote for each acre or portion thereof the City owns in
15 the District as of the close of said public hearing. The City's Director of Financial
16 Management is hereby authorized and directed to execute the ballot for the land owned
17 by the City within the boundaries of the District, and to vote yes on the proposition.

18 Section 8. This City Council hereby calls a special election to consider
19 the measure described in Section 6 above, which election shall be held immediately
20 following adoption of this Resolution in the City Council Chambers. The City Clerk is
21 hereby designated as the official to conduct said election. It is hereby acknowledged that
22 the City Clerk has on file a copy of this Resolution, a map of the boundaries of the
23 District, and a sufficient description to allow the City Clerk to determine the boundaries of
24 the District.

25 Section 9. The voted ballot shall be returned to the City Clerk
26 immediately following adoption of this Resolution, and when the qualified elector has
27 voted, the election shall be closed.

28 Section 10. Pursuant to Section 3.52.5218 of the Law, the election shall

1 be conducted by mail ballot pursuant to the City's Municipal Code and, as applicable, the
2 California Elections Code.

3 Section 11. This City Council acknowledges that the City Clerk has
4 caused to be delivered to the sole qualified elector of the District a ballot in the form set
5 forth in Exhibit A hereto. The ballot indicates the number of votes to be voted by the
6 landowner.

7 The ballot was accompanied by all supplies and written instructions
8 necessary to the use and return of the ballot. The envelope to be used to return the ballot
9 was enclosed with the ballot, had the return postage prepaid, and contained the
10 following: (a) the name and address of the landowner, (b) a declaration, under penalty of
11 perjury, stating that the voter is owner of record or authorized representative of the
12 landowner entitled to vote and is the person whose name appears on the envelope, (c)
13 the printed name, signature and address of the voter, (d) the date of signing and place of
14 execution of the declaration pursuant to clause (b) above, and (e) a notice that the
15 envelope contains an official ballot and is to be opened only by the canvassing board.

16 Analysis and arguments with respect to the ballot measure have been
17 waived by the landowner voter, by means of the waiver contained in its voted ballot, as
18 permitted by Section 3.52.5218 of the Law. The City Council hereby concurs in said
19 waiver.

20 Section 12. The City Clerk shall accept the ballot of the qualified elector in
21 the City Council Chambers upon and prior to the adoption of this Resolution, whether
22 said ballot be personally delivered or received by mail.

23 Section 13. This City Council hereby further finds that the provision of
24 Section 3.52.5217A. of the Law requiring a minimum of 5 days following the adoption of
25 the resolution of calling the election to elapse before said special election is for the
26 protection of the qualified elector of the District. The voted ballot of the sole qualified
27 elector of the District contains a waiver of the time for said special election. Accordingly,
28 this City Council finds and determines that said qualified elector has been fully apprised

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 of and has agreed to the shortened time for the election and has thereby been fully
2 protected in these proceedings. This City Council also finds and determines that the City
3 Clerk has concurred in the shortened time for the election.

4 Section 14. This resolution shall take effect immediately upon its adoption
5 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

6 I hereby certify that the foregoing resolution was adopted by the City
7 Council of the City of Long Beach at its meeting of March 11, 2008, by the
8 following vote:

9 Ayes: Councilmembers: S. Lowenthal, DeLong, O'Donnell,
10 Schipske, Gabelich.

11
12
13 Noes: Councilmembers: None.

14
15 Absent: Councilmembers: B. Lowenthal, Andrews,
16 Reyes Uranga, Lerch.

17
18 
19 _____
20 City Clerk

21
22
23
24
25
26
27
28 HAM:fl
2/7/08; rev. 3/6/08
#A08-00517

EXHIBIT A

OFFICIAL BALLOT

SPECIAL ELECTION
(March 11, 2008)

COMMUNITY FACILITIES DISTRICT NO. 5
(LONG BEACH TOWNE CENTER)
OF THE CITY OF LONG BEACH

This ballot is for a special, mailed ballot election. You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Long Beach no later than immediately after adoption of the resolution of the City Council calling said election, either by mail or in person. The City Clerk's office is located at 333 West Ocean Boulevard, Long Beach, California, 90802.

To vote, mark a cross (X) in the voting square after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Long Beach and obtain another.

BALLOT MEASURE: Shall the facilities authorized to be financed by Community Facilities District No. 5 (Long Beach Towne Center) of the City of Long Beach (the "District") be altered as described in the resolution of the City Council of the City of Long Beach adopted February 19, 2008, entitled "A Resolution of the City Council of the City of Long Beach of Consideration to Alter the Facilities Authorized to be Financed By Community Facilities District No. 5 (Long Beach Towne Center)"?

Yes _____

No _____

By execution below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 3.52.5217A and 3.52.5218 of the Long Beach Special Tax Financing Improvement Law.

Number of Votes: 82

Property Owner: City of Long Beach, California

By: _____
Director of Financial Management

By our execution below, we hereby acknowledge our support for the Ballot Measure indicated in the attached Official Ballot-Special Election (March 4, 2008), and for the waivers described in the last paragraph of said Official Ballot.

CREA/PPC Long Beach Towne Center PO,
LLC, a Delaware limited liability company

By: CREA/PPC Venture, LLC, a Delaware
limited liability company, its sole member

By: Massachusetts Mutual Life Insurance
Company, a Massachusetts corporation,
managing member

By: Cornerstone Real Estate Advisers, Inc.,
a Massachusetts corporation, its authorized
agent

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____