

Communication from Public

Name: Ginetta Giovinco

Date Submitted: 08/23/2022 08:04 AM

Council File No: 21-1355

Comments for Public Posting: Honorable President and Members of the City Council: On behalf of Save Our Open Space, an unincorporated association, we write to object to the proposed City Council action to approve Resolution No. 22-10046 authorizing the proposed Fifth Amendment to Lease No. 915 between the City of Los Angeles Harbor Department and San Pedro Public Market, LLC. If approved, this item will authorize an encumbrance on public property held in trust by the City pursuant to a State Tidelands Grant, without any analysis of the implications of that action. This item also proposes to authorize the potential, future transfer of the ground lease for the underlying public trust property without any oversight by the City. While the agenda title suggests that this is a simple extension of a lease, and the August 17, 2022 Report from Board of Harbor Commissioners states that the “proposed Fifth Amendment is not anticipated to have a financial impact on the harbor [sic] Department,” this is far from the case. Instead, buried in the documents is information stating the intention to encumber public property held in trust by the City pursuant to a State Tidelands Grant. Specifically, based on the documents included online as part of the agenda packet, the Lessee is requesting that the City extend the “Milestones Completion Deadlines” to November 16, 2022, and also execute certain documents related to the Lessee’s efforts to secure financing from Parkview Financial REIT, LP and Petros PACE Administrator, LLC. One of these documents is Exhibit N-2 to the Lease, entitled, “Consent and Agreement to the Levy of a Contractual Assessment on a Leasehold Interest and to Related Matters.” There is no explanation provided as to how the City of Los Angeles, holding the underlying property pursuant to a State Tidelands Grant, can agree to encumber this property. Nor is there any indication that the State Lands Commission has consented to the levy of a contractual assessment on the property. Furthermore, none of the information provided states what the improvements are upon which the contractual assessments are being levied. This is particularly critical because the West Harbor Modification Project has not yet been approved or constructed (the Notice of Preparation for the Environmental Impact Report was only issued in April 2022). In addition, under the “Consent and Agreement” section of Exhibit N-2, the City is asked in paragraph iv to agree

that in the event of the Lessee's delinquency in the payment of its Assessment Obligations (as defined) and "the subsequent purchase of any portion of the Leasehold interest at a foreclosure sale ... the Ground Lease shall automatically transfer to such purchaser or transferee without the need for further action, documentation ... approval or consent of the [City]." There is no explanation or analysis provided as to how a lease for the State Tidelands Grant property could be transferred without any further review, agreement, or oversight by the City. We understand that the City takes its role as a steward of the property seriously, and we are concerned that this proposed term in the document could jeopardize those efforts. This item is being rushed forward without any review by the Travel, Trade, and Tourism Committee, or any analysis by the City Administrative Officer as to the financial implications of encumbering public property held in trust pursuant to a State Tidelands Grant. There is no indication that the State Lands Commission has reviewed this proposal or consented to it. There is no analysis of the risks to the public fisc of encumbering public trust property in this manner. And there is no explanation as to the extent of the encumbrance and what it covers. As a result, we strongly object to Council approval and ask that the City Council defer action on this item and thoroughly vet the terms of the proposed amendment to the Lease, including the exhibits thereto. Very truly yours, /s/ Ginetta L. Giovinco



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August 11, 2022

VIA ELECTRONIC MAIL

Ms. Nury Martinez, President, and
Members of the Los Angeles City Council
Los Angeles City Hall
200 North Spring Street, Room 340
Los Angeles, CA 90012

Re: **Item 31 on August 23, 2022 City Council Meeting Agenda (21-1355; CD 15)**
(Fifth Amendment to Lease No. 915 with San Pedro Public Market, LLC)

Honorable President and Members of the City Council:

On behalf of Save Our Open Space, an unincorporated association, we write to **object** to the proposed City Council action to approve Resolution No. 22-10046 authorizing the proposed Fifth Amendment to Lease No. 915 between the City of Los Angeles Harbor Department and San Pedro Public Market, LLC. If approved, this item will authorize an encumbrance on public property held in trust by the City pursuant to a State Tidelands Grant, without any analysis of the implications of that action. This item also proposes to authorize the potential, future transfer of the ground lease for the underlying public trust property without any oversight by the City.

While the agenda title suggests that this is a simple extension of a lease, and the August 17, 2022 Report from Board of Harbor Commissioners states that the “proposed Fifth Amendment is not anticipated to have a financial impact on the harbor [sic] Department,” this is far from the case. Instead, buried in the documents is information stating the intention to encumber public property held in trust by the City pursuant to a State Tidelands Grant. Specifically, based on the documents included online as part of the agenda packet, the Lessee is requesting that the City extend the “Milestones Completion Deadlines” to November 16, 2022, and also execute certain documents related to the Lessee’s efforts to secure financing from Parkview Financial REIT, LP and Petros PACE Administrator, LLC. One of these documents is Exhibit N-2 to the Lease, entitled, “Consent and Agreement to the Levy of a Contractual Assessment on a Leasehold Interest and to Related Matters.”

There is no explanation provided as to how the City of Los Angeles, holding the underlying property pursuant to a State Tidelands Grant, can agree to encumber this property. Nor is there any indication that the State Lands Commission has consented to the levy of a contractual assessment on the property. Furthermore, none of the information provided states what the improvements are upon which the contractual assessments are being levied. This is particularly

critical because the West Harbor Modification Project has not yet been approved or constructed (the Notice of Preparation for the Environmental Impact Report was only issued in April 2022).

In addition, under the “Consent and Agreement” section of Exhibit N-2, the City is asked in paragraph iv to agree that in the event of the Lessee’s delinquency in the payment of its Assessment Obligations (as defined) and “the subsequent purchase of any portion of the Leasehold interest at a foreclosure sale ... the Ground Lease shall automatically transfer to such purchaser or transferee without the need for further action, documentation ... approval or consent of the [City].” There is no explanation or analysis provided as to how a lease for the State Tidelands Grant property could be transferred without any further review, agreement, or oversight by the City. We understand that the City takes its role as a steward of the property seriously, and we are concerned that this proposed term in the document could jeopardize those efforts.

This item is being rushed forward without any review by the Travel, Trade, and Tourism Committee, or any analysis by the City Administrative Officer as to the financial implications of encumbering public property held in trust pursuant to a State Tidelands Grant. There is no indication that the State Lands Commission has reviewed this proposal or consented to it. There is no analysis of the risks to the public fisc of encumbering public trust property in this manner. And there is no explanation as to the extent of the encumbrance and what it covers.

As a result, we strongly object to Council approval and ask that the City Council defer action on this item and thoroughly vet the terms of the proposed amendment to the Lease, including the exhibits thereto.

Very truly yours,

/s/

Ginetta L. Giovinco