Date: December 30, 2019

To: Mayor and Members of the City Council

From: Thomas B. Modica, Acting City Manager

Subject: Street Performer Study

At its June 20, 2017 meeting, the City Council requested the City Manager to complete a study regarding street performing and make recommendations for the guidelines to further support street performing in premium areas/zones, such as Business Improvement Districts (BIDs). The need for the Street Performer Study (Study), as noted by the agenda item’s sponsors, Councilmembers Pearce, Gonzalez, Uranga, and Austin, is a lack of consistency in the Long Beach Municipal Code (LBMC), which leads to inconsistent enforcement and discourages people from performing.

The following factors were requested to be considered in the Study:

- Review whether the City can provide Long Beach BIDs with the option to implement these guidelines within their assessment area.

- If the City cannot delegate power to the BIDs, consider other areas/zones within the City; looking at impact on surrounding residences and businesses.

- Request the City Manager to work with the Long Beach Council of Business Associations and the Long Beach Music Council to solicit input.

- Consider spatial arrangement of street performing within the areas/zones (i.e., feet away from the entrance of businesses, etc.).

- Look at volume (sound level) considerations of street performing.

- Consider times for the street performing.

- Review potential monitoring and compliance process.

- Create consistency in code by removing LBMC 14.14.055, which says a permit is required to perform in the public right-of-way, when no such permit exists.

Accordingly, the goal of the Street Performer Study (Study) was to create clear guidelines for performers to exercise their First Amendment rights, while being cognizant of Long Beach’s mixed-use residential nature, ensuring a positive environment for residents, businesses, and performers alike. The Study was comprised of four major components: (1) stakeholder engagement; (2) review of policies and practices of other cities; (3) defining a Street Performer and performance guidelines; and, (4) a pilot program. The Study has been completed and the report of findings, with recommendations, is attached for your consideration.
Thank you for your support and patience through the course of the Study. Please contact Manager of Special Events and Filming Tasha Day at (562) 570-5313 or via email at tasha.day@longbeach.gov with any questions.

ATTACHMENT

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Street Performer Study
REPORT OF FINDINGS
December 15, 2019
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BACKGROUND

At its June 20, 2017 meeting, the City Council requested the City Manager to complete a study regarding street performing and make recommendations for the guidelines to further support street performing in premium areas/zones, such as Business Improvement Districts (BIDs). The need for the study, as noted by the agenda item’s sponsors, Councilmembers Pearce, Gonzalez, Uranga, and Austin, is that there is a lack of consistency in the Long Beach Municipal Code (LBMC), which leads to inconsistent enforcement and discourages people from performing.

The following factors were requested to be considered in the study:

- Review whether the City can provide Long Beach BIDs with the option to implement these guidelines within their assessment area.
- If the City cannot delegate power to the BIDs, consider other areas/zones within the City; looking at impact on surrounding residences and businesses.
- Request the City Manager to work with the Long Beach Council of Business Associations and the Long Beach Music Council to solicit input.
- Consider spatial arrangement of street performing within the areas/zones (i.e., feet away from the entrance of businesses, etc.).
- Look at volume (sound level) considerations of street performing.
- Consider times for the street performing.
- Review potential monitoring and compliance process.
- Create consistency in code by removing LBMC 14.14.055, which says a permit is required to perform in the public right-of-way, when no such permit exists.

Accordingly, the goal of the Street Performer Study (Study) was to create clear guidelines for performers to exercise their First Amendment rights, while being cognizant of Long Beach’s mixed-use residential nature, ensuring a positive environment for residents, businesses, and performers alike.

STUDY COMPONENTS

The Study was comprised of four major components: (1) stakeholder engagement; (2) review of policies and practices of other cities; (3) defining a Street Performer and performance guidelines; and, (4) a pilot program. Each of these components is discussed in detail in this report.
**Stakeholder Engagement**

The Study began with stakeholder engagement. On August 9, 2017, to better understand the needs of the local businesses and BIDs, City staff from the Office of Special Events and Filming (Special Events), and Police and Fire Departments met with the Long Beach Council of Business Associations and members of the Downtown Long Beach Business Alliance (DLBA), the Belmont Shore Business Association (BSBA), and other business owners from throughout the city. At this meeting, staff received suggestions for creating a successful Street Performer Program.

On May 8, 2018, Special Events staff met with members of the Long Beach Music Council to get a better understanding of its needs. A number of suggestions were received, including that a pilot program to be implemented as portion of the Study.

**Studying Other Cities**

An attempt was made to learn more about other cities and how they manage their Street Performers. Cities engaged in this process included, Santa Monica, CA, Oceanside, CA, New Orleans, LA, Austin, TX, and Seattle, WA.

One of the most frequently cited cities for fostering a vibrant Street Performer environment is Santa Monica, CA. On September 27, 2017, Special Events and Police Department staff traveled to Santa Monica to meet with their staff. Much of the information for this report, as related to Street Performer definitions, program management, database creation, and program enforcement, was gleaned from this meeting and subsequent discussions with Santa Monica staff.

Special Events and Police Department staff also attended the Responsible Hospitality Institute Convention in New Orleans, LA, on February 17-20, 2018. This convention is one of the premiere entertainment-related conventions, bringing together members of business associations, club owners, and government officials to exchange ideas and make connections. At some level, elements of each of the examined city’s Street Performer and/or entertainment district successes as well as suggestions to avoid failures, have influenced the Study’s conclusion.

During time spent at the conference, members of the City team met with their counterparts from Austin, TX, and Seattle, WA, which both have vibrant, well-managed Street Performer programs. Their Street Performer programs closely resemble that of Santa Monica.

Oceanside, CA, uses a similar management process as the cities listed above, but builds on those processes by creating a partnership with their BIDs. The BID in an entertainment district partners with the city to provide matching “Hi-Viz” vests to not only the police officers assigned to the district, but to the front-door security staff of the bars, clubs, and restaurants within the district. The net result of this partnership is to make security much more visible and create a feeling of safety. This appearance of additional security has a dual benefit in that it allows for a more secure atmosphere as well as helps curtail Street Performers from gathering in one area, usually in front of the clubs and restaurants that may be perceived as being more popular.
Much was learned from meeting with staff from San Francisco, CA, where their approach is less restrictive. Even though their less restrictive approach allows for more freedom from the artists, it has come at a cost in conflict between the Street Performers as some performers try to overtake and monopolize the more popular areas. With a less restrictive program and no regulatory agency, there is no recourse for the Street Performers. This often leads to frustration and sometimes physical altercations between the performers. While meeting with staff from San Francisco, staff learned that a less restrictive Street Performer policy also leads to louder performances, as performers are vying for the attention of the public in undefined areas. This results in a domino effect, where an increase in complaints from both business owners and area residents occur.

In keeping with the direction to better understand Street Performer and entertainment-related issues as well as how to address them, Special Events, Police Department, and Financial Management/Business Licensing Department staff attended the Americana Music Conference in Nashville, TN, on September 11-14, 2018. Staff attended sessions from industry professionals and had several one-on-one meetings with respective counterparts from Nashville. During our meetings, we discovered Nashville takes an approach much like San Francisco. This has led to significant complaint calls from business owners and residents. There is no resource for addressing the unique situations that arise with Street Performers. All issues related to Street Performers are handled by local law enforcement. A resource for performers and city departments would not only reduce the confrontation between the Street Performers and business owners and residents, but would free up valuable law enforcement time and resources.

**Street Performer Description and Performance Guidelines**

The most important aspects of the Study were to determine (1) what is a Street Performer; (2) what Street Performers are allowed to do; and, (3) how, where, and when Street Performers are allowed to perform (i.e., performance guidelines). The City recognizes that Street Performers are engaged in their First Amendment rights. Further, the City recognizes the existence of Street Performers has the ability to enhance the character of a neighborhood, and the City itself. That said, the City also recognizes that the very nature of street performance can draw crowds of spectators. This can create safety concerns and problems such as impacting the ability of pedestrians to walk safely on city sidewalks and through crosswalks, impeding the timely response of emergency personnel, causing ADA violations, and increasing parking issues. Street performers may also impact the ability for customer access to local businesses.

Based on the research of other cities, input of City staff (including Police and Fire), and the meetings with stakeholders, the following definitions and guidelines are suggested:

**Definition of a Street Performer:**

- A Street Performer is any individual who provides entertainment or a performance on public property.
The Street Performer may seek donations, engage in an “open case” or conduct a “passing-of-the-hat.”

Street Performers may not “charge” for a performance. All contributions should be voluntary in nature.

A Street Performer may not charge for merchandise or recorded media related to their performance. A donation may be offered for the item and can be either accepted or rejected by the performer.

Allowable Street Performer Activities:
- Any individual playing a musical instrument(s)
- Two or more musicians
- Acting
- Singing
- Dancing
- Pantomiming
- Puppeteering
- Juggling
- Magic acts
- Creating visual art
- Spoken word (poetry, stand-up comedy, recitals, etc.)
- Anything that can hold the attention of an audience
- Street Performer activities are to entertain and enhance the public’s experience of that specific location or neighborhood

Examples of Street Performer Activities Not Allowed:
- Personal services (massages, hair styling, nail styling, skin products, etc.)
- Any sales of product(s)
- Any mass-produced products or visual art with limited production or variation
- Creation of handcrafts (jewelry, weaving/sewing, leather goods, trinkets, etc.)
- Any product sales or service deemed by City staff to not include an entertainment component is not considered a Street Performance
- Activities surrounding the sales of products or services is covered under the State of California SB 946 amendment and pending City LBMC
Pilot Program

Once the definitions were in place, Special Events staff were able to incorporate Street Performers as part of the Low Volume/Street Performer Pilot Program (Pilot Program). (A formal introduction to the Pilot Program and its parameters was provided to the City Council in a memorandum dated June 7, 2018.) The Street Performer portion of the Pilot Program was launched on June 21, 2018 in the Downtown Entertainment District and waterfront area, and concluded with the last performance on September 21, 2019. The Pilot Program pertained to local businesses and City property only.

As part of the Pilot Program, if a business wished to have a Street Performer in front of their business to attract potential customers, all they needed to participate in the program was to have a valid business license. Street Performers also had the option to participate on their own without a sponsoring business, the Street Performer was required to inform Special Events where and when they planned to perform. Special Events distributed this information weekly to both the Police and Fire Departments. There was no fee associated to participate in the Pilot Program.

During the Pilot Program, most Street Performers did not contact the Special Events Office. This lack of participation made it difficult to accurately assess any issues or concerns. What did happen was that several performances occurred in the Downtown area within close proximity to both businesses and residents. This resulted in complaints regarding sound level, spatial separation, and an overconcentration of performers in the area.

Since there is currently no management related to allowing street performances, and the Study needed an accurate representation of how and where the performances occurred, Special Events took a passive approach to just collecting information, and not correcting some of the issues listed above. The main points learned from the Street Performer portion of the Pilot Program was with proper Street Performer management, these issues may be controlled.

STREET PERFORMER RECOMMENDATIONS

Having defined what constitutes a Street Performer and allowable activities (as described earlier), a structured management approach must be defined. Based on the findings of the Study, staff believes such an approach requires both a new administrative component and enforcement component. Many of the program ideas for the management for the Street Performer program have been taken from the cities studied.

Modifications to LBMC 14.14.055

Currently, LBMC 14.14.055, Subsection A, requires that a Street Performer obtain a Public Walkways Occupancy Permit. Staff recommends this requirement be replaced by a Street Performer Permit, to be obtained through Special Events, which will include management-related to time, place and manner of allowable performances. Below is the current LBMC Section, followed by the necessary changes.
LBMC Section 14.14.055 currently reads:

A. No person shall perform or cause to be performed any entertainment activity on the public right-of-way without first obtaining a public walkways occupancy permit which permits such entertainment.

B. In the downtown area, non-amplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. until twelve o'clock (12:00) midnight each day. Amplified outdoor entertainment is permitted from five o'clock (5:00) p.m. to twelve o'clock (12:00) midnight Monday through Friday, except if such day is a holiday. Amplified outdoor entertainment is permitted from ten o'clock (10:00) a.m. to twelve o'clock (12:00) midnight on Saturday, Sunday and holidays.

C. This Section shall not apply to any holder of a permit issued pursuant to Chapter 5.60 or Section 14.04.070 of this Code. Nothing in this Section shall operate to modify any requirement of Chapter 3.80 or 5.72 of this Code.

The following changes to the above ordinance are necessary:

Subsection A: Remove the section “Public Walkways Occupancy Permit” (permit currently does not exist) and replace with “Street Performer Permit to be obtained through the Office of Special Events and Filming.”

Subsection B: Change the times in the Section to reflect the new time recommendations for Street Performers in BIDs, multi-use, and designated areas to 10:00 a.m. to 10:00 p.m.

In addition to the changes to the LBMC, the creation of a new Ordinance governing street performances and allowable activities is recommended. This would allow the City to manage the time, place, and manner in which Street Performers may perform.

Business Improvement District Involvement

It should be noted that, as part of the Study, Special Events was asked to determine if the City’s BIDs could take responsibility in permitting Street Performers. It was determined in meeting with the BIDs, and through discussions with the City Attorney’s Office, that due to liability issues and responsibilities, the BIDs could not take on the responsibility of permitting Street Performer activity.

A Phased Approach

Like the Pilot Program that was implemented on May 22, 2018, it is recommended that the Long Beach Street Performer Program (Program) begin in the same Downtown waterfront area. This controlled space will make it easier to establish busk stops and will provide an opportunity to make corrections/adjustments. This phased approach will not only give the Program a chance to grow, but will allow the various BIDs to evaluate and implement street performances in their respective areas.
It is estimated a full citywide implementation of the Program could take two years to implement. It is anticipated the development of initial administrative framework of the Program, which includes creating permit application templates, designing a permit, creating a citation system, and corresponding database will take approximately 12 months. As the Program expands, additional staff will be necessary.

**ESTIMATED PROGRAM EXPENDITURES AND REVENUES**

The estimated costs and revenues associated with the Program are identified below:

**Costs**

The annual estimated City costs for the Program are as follow:

| Event Coordinator I (Mid-Range) | $77,000 |
| Event Coordinator II (Mid-Range) | $89,500 |
| Technology | $7,000 |
| **Total:** | **$173,500** |

There will be a one-time cost for a license maker ($13,261), and the design and implementation of a database (cost unknown).

**Revenues**

At this time, it is unknown how many permitted Street Performers Long Beach might have in the initial phase of the Program; therefore, it is difficult to estimate the revenue from permit fees.

Currently, the City of Santa Monica has 1,300 permitted Street Performers, for which each is charged a $37 annual permit fee. With total revenue amounting to only $48,100, the City of Santa Monica is subsidizing/supporting their program with other resources. This is true for most cities studied.

Assuming a permit fee of $37 (like that of Santa Monica), the City of Long Beach would need to issue nearly 4,700 permits annually to recover the City’s annual estimated cost of $173,000. This is simply not feasible, especially in the initial phase of the Program.

Special Events recommends charging a $100 annual fee for a Street Performer Permit, recognizing that even at that amount, the City would only recover a portion of the overall cost. There may be opportunities for additional revenues through the sale of advertising at busk stops and in a Street Performer guide. That said, these revenues would be nominal.
CONCLUSION

With an increase in the number of Street Performers in Long Beach over the last several years, the city is nearing a tipping point where some sort of management will become necessary to balance the rights of the performers with the needs of the residents and business owners. Simply changing the LBMC will not adequately address the management needs of a robust Street Performer Program. New staff positions must be created.

Most of the cities studied have had administrative and enforcement policies in place for years and continuously build upon them based on issues and opportunities that arise. If the Program is implemented, a phased approach is recommended for the City to learn from its successes and failures.
Appendix

Example of Street Performers ID 10
Examples of Busk Stops 11
Example of the Guide for Street Performers 13
Example of Street Performer ID:

Examples of Busk Stops:

- Example of an ‘A’ Frame Busk Stop
• Example of a light pole Busk Stop

• Example of a pop-up Busk Stop
Example of a Scotchcal laminate Sidewalk Busk Stop

Sidewalk neighborhood advertising – East Fourth Street & Junipero Avenue
The following is an example of the Music and Culture Coalition of New Orleans (MACCNO) “Guide to New Orleans Street Performance.”