

RESOLUTION NO. 05-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2005-2006 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS AND SETTING THE TIME AND PLACE FOR A PUBLIC HEARING ON PROPOSAL.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the California Legislature in adopting the Parking and Business Improvement Area Law of 1989 (Streets & Highways Code § 36500 *et. seq.*) authorized cities to levy assessments on businesses in order to promote economic revitalization and tourism, to create jobs, attract new businesses, and prevent erosion of business districts; and

WHEREAS, on July 5, 1995, by Ordinance No. 95-9, the City Council adopted a business improvement area, commonly known as the Costa Mesa Tourism & Promotion Business Improvement Area, the purpose of which is to promote tourism to the City and to fund programs that benefit the hotel and motel businesses within the City of Costa Mesa; and

WHEREAS, the City Council has voted to continue the special assessment for the Costa Mesa Tourism & Promotion Council Business Improvement Area each year since its inception, including the adoption in May, 2004, of Resolution No. 04-31 authorizing the assessment for fiscal year 2004-2005; and

WHEREAS, in January 2000, the City Council approved an increase in the assessment, raising the assessment from one percent (1%) to two percent (2%). The two percent (2%) assessment is based on the sale of overnight room stays; and

WHEREAS, this Resolution of Intention will commence proceedings under the Parking and Business Improvement Area Law of 1989 (Streets & Highways Code § 36541) to levy the annual assessment of the Costa Mesa Tourism & Promotion Council Business Improvement Area for the 2005-2006 fiscal year;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Costa Mesa as follows:

Section 1. Assessment. An annual assessment for the Costa Mesa Tourism & Promotion Council Business Improvement Area is proposed to be levied pursuant to Streets & Highways Code § 36500 *et seq.* The proposed boundaries of the territory are the seven motels and hotels listed in Exhibit A, attached hereto and incorporated herein by this reference. The proposed amount of the annual assessment is two percent (2%). The two percent (2%) assessment is based on the sale of overnight room stays. New hotel and motel businesses commenced after the effective date of the ordinance levying the assessment will be exempt from the levy of assessment, pursuant to Streets & Highways Code § 36531 and § 36535.

Section 2. Annual Report. An annual report on the Business Improvement Area has been prepared by the Costa Mesa Conference & Visitor Bureau, acting as the advisory board as required by Streets & Highways Code § 36533 and § 36534. Said report is attached hereto as Exhibit B and incorporated herein by this reference.

Section 3. Types of Activities To Be Funded. The proposed type or types of activities to be funded by and through the annual levy of assessments on businesses within the Costa Mesa Tourism & Promotion Council Business Improvement Area are specified in Exhibit B.

Section 4. Method and Basis of Levy. The proposed method and basis of levying the assessment to allow each business owner to estimate the amount of the assessment to be levied against his or her business is set forth in Exhibit B.

Section 5. Time and Place of Public Hearing. The time and place of the public hearing on the business improvement area and the annual levy of assessments shall be at 6:30 p.m., June 7, 2005, at the Costa Mesa City Hall, City Council Chambers, 77 Fair Drive, Costa Mesa, California. At the public hearing set forth above, the testimony of all interested persons for or against the annual levy of assessment for the business improvement area, the extent of the area, or the furnishing of specific types of improvements or activities will be heard by the City Council.

Section 6. Protests. The following rules shall apply to all protests:

- (a) A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.
- (b) Every written protest shall be filed with the City Clerk's office, Costa Mesa City Hall, Room 101, 77 Fair Drive, Post Office Box 1200, Costa Mesa, California 92626-1200, at or before the time fixed for the public hearing as set forth above.
- (c) The City Council may waive any irregularity in the form or content of any written protest, and at the public hearing, may correct minor defects in the proceedings.

- (d) The City Council may waive any irregularity in the form or content of any written protest, and at the public hearing, may correct minor defects in the proceedings.
- (e) The City Council may waive any irregularity in the form or content of any written protest, and at the public hearing, may correct minor defects in the proceedings.
- (f) If written protests are received from the owners of businesses in the proposed business improvement area which will pay fifty percent (50%) or more of the assessments to be levied and protests are not withdrawn so as to reduce the protests to less than the fifty percent (50%), no further proceedings on the proposal to modify the business improvement area assessment, as specified by this resolution of intention, shall be taken by the City Council for a period of one year from the date of the filing of a majority protest.

BE IT FURTHER RESOLVED THAT the City Council of the City of Costa Mesa, California, does hereby adopt the annual report by the Costa Mesa Conference & Visitor Bureau acting as the advisory board on the business improvement area, and this Resolution of Intention as set forth herein, and Exhibits "A" and "B" attached hereto and incorporated by this reference.

PASSED AND ADOPTED this 3rd day of May, 2005.

ATTEST:

Deputy City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. 05-33 was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 3rd day of May, 2005, by the following roll call vote:

AYES: Mansoor, Monahan, Bever, Dixon, Foley

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Costa Mesa this 4th day of May, 2005.

Deputy City Clerk and ex-officio Clerk of
the City Council of the City of Costa Mesa

EXHIBIT A

The Business Improvement Area (“BIA”) benefit zone encompasses the entire City of Costa Mesa boundaries. It is anticipated that the entire City, including businesses and residents, will benefit from increased revenues generated by the activities financed by the BIA assessment.

The following businesses will be included in the BIA that is established pursuant to Streets & Highways Code § 36500 *et seq.*, the businesses commonly known as:

1. Ayres Country Inn & Suites

Property Address: 325 and 345 Bristol Street, Costa Mesa

Business Owner: Bruce Ayres
1817 Westminster Avenue
Newport Beach, Ca. 92660

Donald Ayres, Jr.
506 Vio Lido Nord
Newport Beach, CA 92626

Property Owner: Homes by Ayres
355 Bristol Street, Suite A
Costa Mesa, CA 92626

2. Hilton Costa Mesa

Property Address: 3050 Bristol Street, Costa Mesa

Business Owner: CNL Hospitality Corp.
450 South Orange Ave.
Orlando, Florida 32801

3. Holiday Inn

Property Address: 3131 Bristol Street, Costa Mesa

Business Owner: Hanford Hotels

Property Owner: Hanford Hotels
1 Corporate Drive
Newport Beach, CA 92660

4. Marriott Suites

Property Address: 500 Anton Boulevard, Costa Mesa

Business Owner: J.W. Marriott, Jr.

Property Owner: Marriott Suites, Ltd.
1 Marriott Way
Washington, D.C. 02258

5. Residence Inn - Costa Mesa

Property Address: 881 Baker Street, Costa Mesa

Business Owner: Residence Inn by Marriott
1 Marriott Way
Washington, D.C. 02258

Property Owner: Marriott Residence Inn Ltd., Partnership
10400 Fernwood Road
Bethesda, Maryland 20817

6. The Westin South Coast Plaza Hotel

Property Address: 686 Anton Boulevard, Costa Mesa

Business Owner: Starwood Hotels and Resorts

Property Owner: The Westin
c/o South Coast Plaza
686 Anton Boulevard
Costa Mesa, CA 92626

7. Wyndham Hotel

Property Address: 3350 Avenue of the Arts, Costa Mesa

Business Owner: Amgreen Heritage Hotel Partners Ltd.
31200 Via Colimas, Suite 202
Westlake Village, CA 91362

EXHIBIT B

Exhibit "B" consists of the annual report submitted by the Costa Mesa Conference & Visitor Bureau (also referenced in the staff report as Attachment "2").