

RESOLUTION NO. 09-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, LEVYING AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2009-2010 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

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

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

WHEREAS, the City Council appointed the general managers of the ten hotels subject to the assessment area, to serve as the advisory board as required by California Streets and Highways Code Section 36530; and

WHEREAS, said advisory board is known as the Costa Mesa Conference and Visitor Bureau (the "CMCVB"); and

WHEREAS, the City Council has voted to continue the special assessment for the BIA each year since its inception, and it has been levied upon the ten hotel and motel

businesses listed on Exhibit A, attached hereto and incorporated herein by this reference;
and

WHEREAS, in January 2000, the CMCVB requested, and the City Council approved, a request to raise the assessment from one percent (1%) to two percent (2%), which is based on the sale of overnight room stays; and

WHEREAS, on May 5, 2009, the City Council adopted Resolution No. 09-33, entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2009-2010 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS AND SETTING THE TIME AND PLACE OF A PUBLIC HEARING ON PROPOSAL"; and

WHEREAS, at its meeting on May 5, 2009, the City Council of the City of Costa Mesa approved the 2009 Annual Report of the Costa Mesa Conference & Visitor Bureau submitted on May 5, 2009, and such report, which is on file in the City Clerk's Office and incorporated herein by this reference, has been considered at the public hearing before this Resolution was adopted; and

WHEREAS, on June 16, 2009, in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California, a public hearing was held concerning the annual assessment for the business improvement area and no protests of the proposed assessment were filed or presented.

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

1) An assessment for the Costa Mesa Tourism & Promotion Business Improvement Area is levied for the fiscal year 2009-2010 pursuant to Streets & Highways Code Sections 36500 *et seq.* The boundaries of the Business Improvement Area are the city limits, with assessments to be made on the ten hotels listed in Exhibit A, attached hereto and incorporated herein by this reference.

2) The amount of the annual assessment on the business owners shall be computed using the following formula: two percent (2%) of the net revenue from the sale of hotel overnight guest room stays. New hotel and motel businesses commenced after the effective date of this Resolution will be exempt from the levy, pursuant to Streets & Highways Code Section 36531 and Section 36535.

3) The business owners shall pay the assessment to the Costa Mesa City Finance Department on a monthly basis.

4) The 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.

5) The type or types of activities to be funded by the assessments within the Business Improvement Area are specified in the 2009 Annual Report of the Costa Mesa Conference & Visitor Bureau, on file in the City Clerk's Office.

6) Each business owner (hotel/motel) shall separate the Business Improvement Assessment from the Transient Occupancy Tax on their guest billing statements. The specific term "Business Improvement Assessment" shall be included on the billing to identify the assessment amount.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the City Council of the City of Costa Mesa, California, by this Resolution, does hereby levy an assessment for fiscal year 2009-10 on the business owners within the Costa Mesa Tourism & Promotion Business Improvement Area, as set forth in Exhibits "A" and "B" attached hereto.

PASSED, APPROVED, AND ADOPTED this 16th day of June, 2009.

Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

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

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 09-_____ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 19th day of June, 2009, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 20th day of June, 2009.

JULIE FOLCIK, CITY CLERK

(SEAL)

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:

Ayres Hotel & 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 92663

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

Best Western Newport Mesa Inn

Property Address: 2642 Newport Boulevard, Costa Mesa

Business Owner: James Hsuan
Sheng-Pu Lee
2642 Newport Boulevard
Costa Mesa, CA 92627

Costa Mesa Marriott

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

Hilton Orange County/Costa Mesa

Property Address: 3050 Bristol Street, Costa Mesa

Business Owner: Ashford Hospitality Trust
14185 Dallas Parkway, Suite 1100
Dallas, TX 75254

Holiday Inn Costa Mesa

Property Address: 3131 Bristol Street, Costa Mesa

Business Owner: Hanford Hotels

Property Owner: Hanford Hotels
4 Corporate Drive, Suite 102
Newport Beach, CA 92660

Holiday Inn Express Hotel and Suites, Costa Mesa

Property Address: 2070 Newport Boulevard, Costa Mesa

Business Owner: Narendra B. Patel
2070 Newport Boulevard
Costa Mesa, CA 92667

Ramada Limited & Suites Costa Mesa

Property Address: 1680 Superior Avenue, Costa Mesa

Business Owner: B.D. Inns Inc./Ramada Ltd.
1680 Superior Avenue
Costa Mesa, CA 92627

Residence Inn by Marriott, 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, MD 20817

The Westin South Coast Plaza

Property Address: 686 Anton Boulevard, Costa Mesa

Business Owner: Host Hotels & Resorts
6903 Rockledge Drive, Suite 1500
Bethesda, MD 20817

Property Owner: CJ Segerstrom & Sons
c/o South Coast Plaza
686 Anton Boulevard
Costa Mesa, CA 92626

Wyndham Orange County

Property Address: 3350 Avenue of the Arts, Costa Mesa

Business Owner: Makar Bay North Costa Mesa, LLC
4100 MacArthur Boulevard, Suite 200
Newport Beach, CA 92660

EXHIBIT B

The BIA assessment will be used to fund the Costa Mesa Conference & Visitor Bureau (CMCVB). The CMCVB will fund activities to promote tourism in Costa Mesa and will sponsor related tourist events that benefit the hotel and motel businesses within the City.

The specific improvements and activities to be funded by this assessment are outlined in the CMCVB's 2009 Annual Report, which is attached as Exhibit C.

Revenue

A two percent (2%) levy will be assessed against each of the ten hotels listed in Exhibit A, based on the net revenue from the sale of overnight room stays.

Business owners shall pay the assessment to the Costa Mesa City Finance Department on a monthly basis. A penalty and interest shall be assessed on late payments.

Note: New hotel and motel businesses commenced after the effective date of this Resolution will be exempt from the levy of assessment.

EXHIBIT C

Exhibit "C" consists of the annual report submitted by the Costa Mesa Conference & Visitor Bureau (also referenced in the staff report of May 5, 2009) and on file in the City Clerk's Office.