

RESOLUTION NO 11. -xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2011-2012 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 and activities that benefit the hotel and motel businesses within the City of Costa Mesa; 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 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, in November 2010, the City Council approved an increase in the assessment, raising the assessment from two percent (2%) to three percent (3%). The three percent (3%) assessment is based on the sale of overnight room stays; and

WHEREAS, on May 17, 2011, the City Council adopted Resolution No. 11-xx, 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 2011-2012 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 17, 2011, the City Council of the City of Costa Mesa approved the 2010-2011 Annual Report of the Costa Mesa Conference & Visitor Bureau submitted on May 17, 2011, 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 07, 2011, 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.

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 2010-2011 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 ten motels and hotels listed in Exhibit A, attached hereto and incorporated herein by this reference. The proposed amount of the annual assessment is three percent (3%). The three percent (3%) 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 on file in the City Clerk's Office.

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 the referenced annual report.

Section 4. Reporting and Remitting to the City of Costa Mesa Finance Department. Each hotel/motel owner shall separate the Business Improvement Assessment from the Transient Occupancy Tax on guest billing statements. The specific term "Business Improvement Assessment" shall be included on the billing to identify the assessment amount. The hotel/motel owner shall collect and subsequently remit the assessment to the City Finance Department at the same time and manner as the Transient Occupancy Tax. A ten percent (10%) penalty and half percent (.5%) interest will be assessed on late remittances.

Section 5. 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 the Costa Mesa Conference & Visitor Bureau's annual report relative to the Business Improvement Area.

Section 6. 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 7:00 p.m., June 7, 2011, 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 7. 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) 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 continue 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 (referenced report on file in the City Clerk's Office), and this Resolution of Intention as set forth herein, and Exhibit "A" which is attached hereto and incorporated by this reference.

PASSED, APPROVED, AND ADOPTED this 17th day of May, 2011.

Gary Monahan, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Tom Duarte, 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. 11-____ and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 17th day of May, 2011, 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 ____ day of May, 2011.

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 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

Best Western Newport Mesa Inn

Property Address: 2642 Newport Boulevard, Costa Mesa

Business Owner: Somes Hsuen
Shang-Pu Lee
2642 Newport Boulevard,
Costa Mesa, CA 92627

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

Hotel Hanford

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 Blvd., Costa Mesa

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

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

Ramada Inn

Property Address: 1680 Superior Ave., Costa Mesa

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

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, MD 20817

The Westin South Coast Plaza Hotel

Property Address: 686 Anton Boulevard, Costa Mesa

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

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

Wyndham Hotel

Property Address: 3350 Avenue of the Arts, Costa Mesa

Business Owner: Rosanna Inc.
4100 MacArthur Blvd., 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 2010-2011 Annual Report, which is attached as Exhibit C.

Revenue

A three percent (3%) 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.