



CITY COUNCIL AGENDA REPORT

MEETING DATE: June 4, 2013

ITEM NUMBER: PH-2

SUBJECT: BUSINESS IMPROVEMENT AREA (BIA) REAUTHORIZATION AND RESOLUTION TO LEVY ANNUAL ASSESSMENT

DATE: MAY 23, 2013

FROM: CITY CEO'S OFFICE

PRESENTATION BY: CHRISTINE CORDON, SPECIAL EVENTS COORDINATOR
PAULETTE LOMBARDI-FRIES, PRESIDENT, COSTA MESA CONFERENCE AND VISITOR BUREAU

FOR FURTHER INFORMATION CONTACT: Christine Cordon, Special Events Coordinator, (714) 754-5121

RECOMMENDATION:

Staff recommends that the Council conduct a public hearing regarding the Business Improvement Area (BIA) reauthorization and approve Resolution No. 13-xx: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, LEVYING AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2013-2014 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS. (Attachment 1)

BACKGROUND:

The California Legislature adopted the Parking in Business Improvement Area Law of 1989 (Streets and Highways Code, §36500), which enables cities to impose an assessment fee on businesses within an area designated by the city.

On July 5, 1995, the City Council adopted Ordinance No. 95-9 to establish a Business Improvement Area (BIA) for the purpose of assisting the hotel and motel industry in its promotion of tourism within the city. The BIA imposed a one percent (1%) assessment on the sale of hotel and motel overnight guest room stays. This money was to be used for the establishment and maintenance of a local tourism and promotion council. The Costa Mesa City Council authorized the city manager to enter into an agreement with the Costa Mesa Tourism and Promotion Council to develop and administer the BIA. In 2001, the Costa Mesa Conference & Visitor Bureau (CVB) became the administrator of the BIA.

In January 2000, the participating hotels requested an increase in the assessment from one percent (1%) to two percent (2%), which was approved. In October 2010, the participating hotels requested an increase to the assessment from two percent (2%) to three percent (3%). The increase was approved by Council resolution and became effective on November 1, 2010. The BIA benefit zone encompasses all areas within the boundaries of Costa Mesa.

At the May 7, 2013 meeting, the City Council approved Resolution No. 13-13, declaring the intention to levy an annual assessment for Fiscal Year 2013-2014, and set the public hearing for June 4, 2013 at 7 p.m. A copy of the adopted resolution was mailed to every hotel and motel owner on file with the City, notifying them of the proposed assessment renewal and their opportunity to protest the annual assessment or other concerns regarding the BIA.

ANALYSIS:

Property owners will be provided an opportunity to protest the annual assessment or address any concerns regarding the BIA at the public hearing. The City Council will vote to adopt or deny the resolution levying an annual assessment for the upcoming fiscal year, and makes the ultimate decision as to the size of and the properties to be included in the BIA. Once the annual assessment is approved, the assessment is collected along with the city's Transient Occupancy Tax (TOT). The hotels and motels included in the BIA are required to itemize the BIA levy as a separate assessment. The CVB staff manages the day-to-day activities and provides all services to administer the BIA.

Per the agreement between the City of Costa Mesa and the CVB and as required by Streets and Highways Code (§36533), the CVB provided an annual review at the May 7 Council meeting, describing the programs and activities implemented during the previous fiscal year as well as the status of the programs and activities implemented during the current fiscal year.

Highlights of the 2012-2013 Fiscal Year

The CVB focused on marketing the "City of the Arts" over the past fiscal year with the goal of marketing the city's location and amenities and making Costa Mesa a desirable tourism destination. Through online marketing, print and social media, the CVB focused on the city attributes that would entice overnight guests to stay in Costa Mesa. The CVB's campaign featured three pillars or highlights throughout the year -- "Art of Fashion," "Art of the Stage," and "Art of Dining."

The CVB partnered with the city on local programs, and sponsored Costa Mesa Restaurant Week, OC Marathon and the ONE Travel Conference. Focused on need times, the CVB created "50 Reasons to Stay," a successful new hotel package that ran during the summer and holiday timeframes.

The hotels within the CVB continued to make enhancements to their properties. Ayres Hotel and Suites renovated 171 elegant guestrooms that comprise the hotel main building as well as their on-site restaurant, Le Chateau Garden Bistro. Hilton completely renovated all of their guest rooms and the Avenue of the Arts Wyndham Hotel remodeled their lobby, added a gift shop and a new bar with direct street access from Avenue of the Arts. The Westin South Coast Plaza reinvented their waterfall terrace and the Ramada Inn and Suites added an exterior dining patio for the Sunset Grille and Lounge. The Hotel Hanford became a branded hotel and is now the Crowne Plaza.

New restaurants found their homes in Costa Mesa, which include Shuck and ARC at the OC Mix, Blackmarket Bakery and Umami Burger at The CAMP, and Sidecar Doughnuts and Coffee on 17th Street. Further enhancements and renovations include The Triangle and the addition of El Corazon and Saddle Ranch Chop House, and the amphitheater at the OC Fair and Event Center.

The travel industry continues to drive growth to the state economy. According to Visit California, travel-related spending within the state was projected to reach \$107 billion in 2012. Total visits to the state of California are forecasted at 221 million. Smith Travel Research reported for calendar year 2012, occupancy growth for the state was +3.6 percent with a 5.8 percent increase in average daily rate, and revenue per available room (REVPAR) +9.6 percent compared to 2011. For 2012, REVPAR was at \$86.54 for our participating Costa Mesa hotels (nine out of 10 report to Smith Travel Research) an increase of 7.4 percent compared to 2011. Average room rate was +2.9 percent and occupancy was +4.4 percent. The weekend segment gained the most (vs. weekday) with an overall REVPAR of \$77.10, which is an increase of 9.7 percent. Occupancy was +7.4 percent and average room rate was +2.2 percent.

In August 2012, the CVB added a fourth full-time member to the team to ensure the continued success of the CVB for future years to come.

ALTERNATIVES CONSIDERED:

The Council may vote to reject the resolution, which will prevent the city from levying an annual assessment for the upcoming fiscal year.

FISCAL REVIEW:

The recently completed audit shows the CVB's cash equity as of June 30, 2012 to be \$1,288,743. According to the 2012-2013 annual report, the CVB has a total of \$1,796,354 in BIA actual revenues through April and is estimating to generate an additional \$300,000 for the months of May and June for an estimated fiscal year total of \$2.1 million. Total projected revenue and expenditures for Fiscal Year 2013-2014 is \$2.1 million.

The city receives one percent (1%) of the BIA revenue/assessment as partial reimbursement for its collection and administrative costs. The one percent (1%) allocated to the city for reimbursement is estimated at \$21,000 for the 2013-2014 Fiscal Year. This fee will sufficiently cover the costs incurred by the City of Costa Mesa in assisting the CVB. Examples of CVB expenditures include an advertising campaign, media relations, brochures/promotional items, video production, administration, special promotions, and hotel niche marketing.

LEGAL REVIEW:

Legal counsel has prepared the resolution and reviewed the documents and approved as to form.

CONCLUSION:

State law mandates a specific procedure to be followed in the establishment of a BIA area and the levying of an annual assessment. Adoption of the attached resolution is the final step in the reauthorization of the BIA assessment, and the City Council must approve the proposed resolution before an annual assessment can be levied for the 2013-2014 fiscal year.

DAN JOYCE
Public Affairs Manager

THOMAS R. HATCH
Chief Executive Officer

THOMAS DUARTE
City Attorney

BOBBY YOUNG
Finance & IT Director

DISTRIBUTION: Costa Mesa Conference & Visitor Bureau

ATTACHMENTS: 1 Proposed Resolution

RESOLUTION NO. 13-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, LEVYING AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2013-2014 FOR A BUSINESS IMPROVEMENT AREA COVERING CERTAIN COSTA MESA HOTELS AND MOTELS

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 10 hotels subject to the assessment area, to serve as the advisory board as required by California Streets and Highways Code Section 36530; 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 10 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;

WHEREAS, this Resolution of Intention was adopted by the City Council

pursuant to the Parking and Business Improvement Area Law of 1989 (Streets & Highways Code § 36500 *et seq.*) at a meeting on May 7, 2013; and

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 to be levied pursuant to Streets & Highways Code § 36500 *et seq.* The boundaries of the territory are the 10 motels and hotels listed in Exhibit A, attached hereto and incorporated herein by this reference. The 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 resolution 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. Said report is on file in the City Clerk's Office.

Section 3. Types of Activities To Be Funded. The 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 and Exhibit B.

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 10 percent (10%) penalty and half percent (0.5%) interest will be assessed on late remittances.

Section 5. Method and Basis of Levy. 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 are set forth in the annual report relative to the Business Improvement Area, Ordinance 95-9, and Exhibit B.

BE IT FURTHER RESOLVED THAT the City Council of the City of Costa Mesa, California, does hereby adopt the annual report on the business improvement area (referenced report on file in the City Clerk's Office), and this Resolution as set forth herein, and Exhibits "A" and "B" which are attached hereto and incorporated by this reference.

PASSED AND ADOPTED this 4th day of June, 2013.

James M. Righeimer, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Thomas Duarte, City Attorney

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

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 13-XX and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 4th day of June, 2013, 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 XXth day of June, 2013.

BRENDA GREEN, CITY CLERK

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: Newport Country Inn & Suites, Inc.
355 Bristol Street, Suite A
Costa Mesa, CA 92626

Property Owner: Newport Country Inn & Suites, Inc.
355 Bristol Street, Suite A
Costa Mesa, CA 92626

Best Western Plus Newport Mesa Inn

Property Address: 2642 Newport Boulevard, Costa Mesa

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

Property Owner: James Hsuen & Shang-Pu Lee
2642 Newport Boulevard
Costa Mesa, CA 92627

Hilton Costa Mesa

Property Address: 3050 Bristol Street, Costa Mesa

Business Owner: Ashford TRS CM LLC
14185 Dallas Parkway, Suite 1100
Dallas, TX 75254

Property Owner: Remington Lodging & Hospitality LP
14185 Dallas Parkway, Suite 1100
Dallas, TX 75254

Crowne Plaza

Property Address: 3131 Bristol Street, Costa Mesa

Business Owner: Brighton Management
1901 Main Street, Suite 150
Irvine, CA 92614

Property Owner: 3131 Bristol Property UC, LLC
2711 Centerville Road, Suite 400
Wilmington, DE 19808

Holiday Inn Express Hotel & Suites

Property Address: 2070 Newport Boulevard, Costa Mesa

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

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

Costa Mesa Marriott

Property Address: 500 Anton Boulevard, Costa Mesa

Business Owner: Marriott International
10400 Fernwood Road
Bethesda, MD 20817

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

Ramada Inn & 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

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

Residence Inn by Marriott

Property Address: 881 Baker Street, Costa Mesa

Business Owner: Marriott International
10400 Fernwood Road
Bethesda, MD 20817

Property Owner: ING Clarion Partners
2650 Cedar Springs Road, Suite 850
Dallas, TX 75201-1491

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

Avenue of the Arts Wyndham Hotel

Property Address: 3350 Avenue of the Arts, Costa Mesa

Business Owner: Rosanna Inc.
3350 Avenue of the Arts
Costa Mesa, CA 92627

Property Owner: Rosanna Inc.
3350 Avenue of the Arts
Costa Mesa, CA 92627

EXHIBIT B

The BIA assessment will be used to fund the Costa Mesa Conference & Visitor Bureau (CVB). The CVB 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 2013-2014 Annual Report.

Revenue

A three percent (3%) levy will be assessed against each of the 10 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 within the BIA commenced after the effective date of this resolution will be exempt from the levy of assessment.