

PUBLIC HEARING NOTICE

RESOLUTION NO. 2018-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DECLARING ITS INTENTION TO MODIFY THE NEWPORT BEACH TOURISM BUSINESS IMPROVEMENT DISTRICT'S MANAGEMENT DISTRICT PLAN AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF

WHEREAS, on April 28, 2009, the City Council of the City of Newport Beach ("City") adopted Resolution No. 2009-21 and established the Newport Beach Tourism Business Improvement District ("NBTBID") pursuant to the Property and Business Improvement Law of 1994, Streets and Highways Code Sections 36600 *et seq.* ("1994 Law"), and a Management District Plan on file with the City Clerk;

WHEREAS, on April 24, 2012, the City Council adopted Resolution No. 2012-28, which amended the NBTBID and the Management District Plan to include the Newport Dunes Waterfront Resort & Marina;

WHEREAS, on January 28, 2014, the City Council adopted Resolution No. 2014-7 renewing the NBTBID for a ten-year term;

WHEREAS, the NBTBID currently includes eight hotels and resorts and is managed by the NBTBID's owners' association, Visit Newport Beach, Inc. ("VNB");

WHEREAS, on May 25, 2018, VNB submitted a written request approved by a majority of the existing TBID members to the City requesting an amendment to the Management District Plan, which among other things includes the Lido House within the NBTBID; and

WHEREAS, the Management District Plan, which sets forth the NBTBID boundary, service plan, budget, and means of governance may be amended by the City Council upon the request of the VNB and following a public hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council finds that the NBTBID owners' association has requested an amendment of the Management District Plan.

Section 2: The City Council declares its intention to amend the NBTBID's Management District Plan and levy and collect assessments on additional lodging businesses within the NBTBID boundaries pursuant to the 1994 Law as more fully set forth in the Amended Management District Plan, attached hereto as Exhibit "I" and incorporated herein by reference.

Section 3: The boundaries of the NBTBID are the boundaries of the City of Newport Beach, as depicted on the map attached to the Amended Management District Plan.

Section 4: The name of the district shall remain the Newport Beach Tourism Business Improvement District.

Section 5: The NBTBID shall assess nine (9) hotels and resorts within the city limits of Newport Beach three percent (3%) of gross short term (stays less than thirty (30) days) room rental revenue. The NBTBID shall include the Balboa Bay Resort, the Fashion Island Hotel, the Hyatt Regency John Wayne Airport Newport Beach, the Hyatt Regency Newport Beach, the Newport Beach Marriott Bayview, the Newport Beach Marriott Hotel & Spa, the Newport Dunes Waterfront Resort & Marina, the Renaissance Newport Beach Hotel, and the Lido House. Gross room revenue is defined as total room revenue less any local, state, or federal sales taxes or transient occupancy taxes. Lodging business stays of more than thirty (30) consecutive days shall not be assessed. Based on benefits received, stays by airline personnel and government employees on government business shall not be assessed. Similarly, time shares shall not be assessed.

Section 6: The assessments levied for the NBTBID shall be applied to provide specific benefits directly to the assessed businesses by increasing room night sales. Marketing, public art, sales promotions, advertising, and communications will increase overnight tourism and market assessed businesses as tourist, meeting and event destinations, thereby increasing room night sales. Funds remaining at the end of any year may be used in subsequent years in which NBTBID assessments are levied as long as they are used consistent with the requirements of this resolution and the Amended Management District Plan.

Section 7: Bonds will not be issued.

Section 8: The time and place for the public meeting to consider the NBTBID Amended Management District Plan is June 26, 2018 at 7:00 p.m. or as soon thereafter as the matter may be heard, at the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. Pursuant to Section 36623 of the 1994 Law, the City Clerk is directed to provide notice of this Resolution of Intention to the lodging businesses subject to the assessment and to publish this Resolution of Intention in a newspaper of general circulation at least ten (10) days prior to the public meeting.

Section 9: The time and place for the public hearing to consider the NBTBID Amended Management District Plan is July 10, 2018 at 7:00 p.m. or as soon thereafter as the matter may be heard, at the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California.

Section 10: At the public hearing, the testimony of all interested persons for or against the Amended Management District Plan may be received. If, at the conclusion of the public hearing, there are recorded protests by the owners of the lodging businesses within the proposed NBTBID that will pay fifty percent (50%) or more of the estimated total assessment of the entire NBTBID, the Management District Plan shall not be amended.

Section 11: The Amended Management District Plan is on file with the City Clerk, 100 Civic Center Drive, Newport Beach, California 92660, and may be reviewed upon request.

Section 12: To receive additional information about the proposed assessment or to submit a written protest, interested persons may contact the City Clerk, 100 Civic Center Drive, Newport Beach, California 92660, (949) 644-3005.

Section 13: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 14: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 15: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 16: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 12th day of June, 2018.

/s/ Will O'Neill, Mayor Pro Tem

ATTEST:

/s/ Leilani I. Brown, City Clerk

APPROVED AS TO FORM:

CITY ATTORNEY'S OFFICE

/s/ Aaron C. Harp

City Attorney

Attachment: Amended Management District Plan – Hard copy can be found in the City Clerk's office or at newportbeachca.gov/amendedmdp