

ATTACHMENT B

RESOLUTION NO. 2019-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DECLARING ITS INTENTION TO RENEW THE NEWPORT BEACH RESTAURANT ASSOCIATION BUSINESS IMPROVEMENT DISTRICT AND LEVY ASSESSMENTS FOR THE FISCAL YEAR OF JULY 1, 2019 TO JUNE 30, 2020, AND FIX THE TIME AND PLACE OF A PUBLIC HEARING

WHEREAS, the Newport Beach Restaurant Association Business Improvement District ("NBRA BID") was established in 1995 by Ordinance No. 95-55, pursuant to the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code, Sections 36500 *et seq.*, ("1989 Law"), which requires an annual report to be filed and approved by the City Council of the City of Newport Beach ("City") for each fiscal year;

WHEREAS, the advisory board, known as the NBRA BID Board of Directors, has prepared an Annual Report for the 2018-2019 fiscal year which is on file in the Office of the City Clerk ("Annual Report"); and

WHEREAS, on June 11, 2019, the Annual Report was filed with and approved by the City Council.

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

Section 1: The City Council hereby declares its intention to renew the NBRA BID for fiscal year July 1, 2019 to June 30, 2020, pursuant to the 1989 Law.

Section 2: The City Council hereby declares its intention to levy assessments for the NBRA BID for the fiscal year July 1, 2019 to June 30, 2020, pursuant to the 1989 Law. Such benefit assessment shall be as follows:

Stakeholder Category	Assessment Levy
Full-serve restaurant (e.g., with wait staff)	\$600
Fast-casual restaurant (e.g., place order at counter)	\$500
Grocery or market	\$500
Coffee, tea or specialty shop	\$150
Dessert, bakery or treats	\$150
Juice bar or smoothie shop	\$150
Catering company	\$150

Businesses Exempt from the NBRA BID
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Certified Farmer's Markets, mini-marts, yachts and charters, banquet facilities, private membership clubs, theaters and gas stations.

Section 3: The penalty for delinquent payments shall be equal to that established for delinquent business license fees pursuant to Newport Beach Municipal Code Chapter 5.04, providing that the penalty to be added shall in no event exceed fifty percent (50%) of the assessment amount due.

Section 4: The benefit assessments shall be collected by the City, or its designee, in one annual installment. The assessment for new businesses shall be pro-rated according to the number of full months remaining in the NBRA BID's fiscal year.

Section 5: The improvements and activities to be funded by the benefit assessments shall include only the following:

- A. Marketing, advertising, and public relations;
- B. Brochure development and distribution;
- C. Promotion of public events;
- D. General promotion of restaurant trade activities;
- E. Educational and training classes for members; and
- F. Memberships in various organizations deemed to promote dining in Newport Beach.

The implementation of these actions is described in the Annual Report, which is on file with the City Clerk's Office located at 100 Civic Center Drive, Bay 2E, Newport Beach, CA 92660.

Section 6: Any food service business within the boundaries of the City of Newport Beach, such as restaurants, markets with dine-in or take-out food service, bars serving food, dessert shops, coffee or tea shops, juice bars, catering companies, or similar food-related business within the boundaries of the City of Newport Beach is part of the NBRA BID, as set forth with greater specificity in the boundary map attached hereto as Exhibit A, and incorporated herein by reference.

Section 7: The time and place for a public hearing on the NBRA BID renewal is set for 7:00 p.m. or as soon thereafter as the matter may be heard on June 25, 2019, at the Council Chambers located at 100 Civic Center Drive, Newport Beach, CA 92660.

Section 8: During the public hearing, the City Council shall hear and consider all protests against the establishment area, or the furnishing of specified types of improvements or activities within the area. Protests may be made orally or in writing, but if written shall be filed with the City Clerk at or before the time fixed for the hearing and contain sufficient documentation to verify business ownership and validate the particular protest. If written protests are received by the owners of the businesses within the NBRA BID which pay fifty percent (50%) or more of the total assessments to be levied, no further proceedings to renew the NBRA BID shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specific type or types of improvements or activity or benefit within the NBRA BID, those types of improvements or activities or benefit zones shall be eliminated.

Section 9: Further information regarding the proposed NBRA BID renewal may be obtained at the City Manager's Office, 100 Civic Center Drive, Bay 2E, Newport Beach, CA 92660; 949-644-3031.

Section 10: The City Clerk is directed to provide notice of the public hearing in accordance with Streets and Highways Code Sections 36523 and 36541.

Section 11: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 12: 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 13: 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, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 14: 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 11th day of June, 2019.

Diane B. Dixon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A - Boundary Map

