



**CITY OF**

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# **NEWPORT BEACH**

## **City Council Staff Report**

June 11, 2019  
Agenda Item No. 10

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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**TITLE:** Resolution No. 2019-47: Resolution of Intention to Renew the Newport Beach Restaurant Association Business Improvement District, Levy Assessments in FY 2019-20, and Fix the Time and Place of a Public Hearing

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### **ABSTRACT:**

On May 28, 2019, the City Council considered staff's recommendation to renew the Newport Beach Restaurant Association Business Improvement District (NBRA BID). The City Council, after discussion and public comment, approved a motion to withhold City funding support to the BID and continued the item to provide the BID Board time to meet and revise its annual report and budget, which is attached for City Council approval.

### **RECOMMENDATION:**

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Approve the Newport Beach Restaurant Association Business Improvement District's Fiscal Year 2018-19 Annual Report and its Proposed Fiscal Year 2019-20 Budget;
- c) Adopt 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 for June 25, 2019.*

### **FUNDING REQUIREMENTS:**

The City of Newport Beach (City) contracts with a vendor (the NBRA BID pays for these services) to collect the stakeholder assessments on behalf of the City and remits the money directly to the NBRA BID's bank account. The monies are used for funding the BID's activities as described in the attached annual report.

## **DISCUSSION:**

The Newport Beach Restaurant Association Business Improvement District (NBRA BID) was formed in 1995 (Ordinance 95-55) pursuant to the Parking and Business Improvement Area Law of 1989 (1989 Law), codified in the Streets and Highway Code Sections 36500 et seq. The NBRA BID was established for the purpose of financing activities and programs to benefit the businesses located and operating in the area. The NBRA BID encompasses any food-service business within the city boundaries, such as restaurants, markets with dine-in or take-out food service, bars serving food, dessert shops, coffee shops, juice bars, catering companies, or similar food-related business (A boundary map is attached to the Resolution).

The NBRA BID Board, which serves in an advisory capacity to the City Council, has requested renewal of the BID for FY 2019-20. Pursuant to the 1989 Law, an annual report must be prepared and filed with the City Council and a public hearing (scheduled for June 25) must be held prior to the BID's renewal.

It is important to note that during the 2018 renewal process members of the City Council requested staff review the potential to reform the City's two 1989 Law BIDs (the NBRA BID and the Corona del Mar BID) under the 1994 Law. (See the separate staff report for more on the CdM BID.) For quick reference, the below table highlights a few of the major differences between the two types of BIDs.

|                | <b>1989 BID<br/>Existing Structure</b>  | <b>1994 BID<br/>Reviewed Structure</b>  |
|----------------|---|---|
| Establishment  | <ul style="list-style-type: none"> <li>• City Council may establish on its own.</li> <li>• Based on a majority member protest.</li> </ul>   | <ul style="list-style-type: none"> <li>• Members submit written petition to form.</li> <li>• Based on a majority member vote.</li> </ul>  |
| Management     | <ul style="list-style-type: none"> <li>• Compliance with the Ralph M. Brown Act.</li> <li>• Annual renewal by the City Council.</li> <li>• Compliance with all City policies and procedures.</li> </ul> | <ul style="list-style-type: none"> <li>• Compliance with the Ralph M. Brown Act.</li> <li>• Renewed every five or up to 10 years by the City Council.</li> <li>• Compliance with the City Council approved Management District Plan.</li> </ul> |
| Governing Body | <ul style="list-style-type: none"> <li>• City Council appointment of an advisory board.</li> </ul>  | <ul style="list-style-type: none"> <li>• City Council approves a contract with a designated nonprofit to serve as an owners association.</li> </ul>   |
| Other          | <ul style="list-style-type: none"> <li>• More City oversight and staff time to operate and manage.</li> </ul>   | <ul style="list-style-type: none"> <li>• More independence to operate and manage.</li> </ul>  |

Operating as a 1994 Law BID provides autonomy from the City's oversight in BID management and operations and, since a majority membership vote is required, validation that the members perceive a benefit of belonging to the organization.

At its May 28 meeting, the City Council considered the NBRA BID Board's request to renew as a 1989 Law BID and receive \$40,000 in annual funding support from the City. The City Council discussed the BID's request and its current formation as a 1989 Law BID. The Council reaffirmed its desire for confirmation that the BID members are receiving a benefit by re-forming as a 1994 Law BID.

A motion was approved to withhold the City's \$40,000 in funding support and continue the item to allow the BID Board an opportunity to revise its budget. In addition, the creation of a Council Ad Hoc Committee to review how the BID aligns with City Council priorities was recommended. (See the separate staff report for the creation of the committee.)

Per direction from the City Council, the NBRA BID Board held a special meeting on May 30 to revise its FY 2018-19 Annual Report and FY 2019-20 Budget. The Board revised its budget to eliminate the anticipated funding support from the City, reducing its proposed expenditures by \$49,000 (\$40,000 annual funding support and \$9,000 Special Event Grant support) from its meeting expenses, consumer advertising and event operating budget line items. The revised annual report and budget are included for the Council's consideration and approval (Attachment A).

### **Fiscal Year 2018-19 Operating Results**

The estimated year-end operating budget for the NBRA BID's FY 2018-19 is reflected in the table on the following page.

| <b>Estimated FY 2018-19 Year-End Operating Budget</b>       |           |
|---|-----------|
| Income (City Funding, Assessments and Special Event Income) | \$252,000 |
| Fund Balance (Retained Earnings)                            | \$20,000  |
| Total Income and Fund Balance                               | \$272,000 |
| Total Expenditures  | \$252,000 |
| Fund Balance (Retained Earnings for FY 2019-2020)           | \$20,000  |

### **Proposed Budget for Fiscal Year 2019-20**

The proposed operating budget for FY 2019-20 is attached to the NBRA BID's annual report for the City Council's approval. A summary is reflected in the table on the following page.

| <b>Proposed FY 2019-20 Operating Budget</b>       |                  |
|---|------------------|
| <b>Income</b>                                     |                  |
| Special Event Income                              | \$33,000         |
| Member Assessment                                 | \$170,000        |
| Carry Over (Retained Earnings)                    | \$20,000         |
| <b>Total Income</b>                               | <b>\$223,000</b> |
| <b>Expenses</b>                                   |                  |
| Operational Expenses                              | \$9,250          |
| Event Expenses                                    | \$24,000         |
| Administration (Board/Admin/Bookkeeping Services) | \$36,500         |
| Vendor/Contractor Services                        | \$110,000        |
| Outreach  | \$43,250         |
| <b>Total Expenses</b>                             | <b>\$223,000</b> |

## **Resolution of Intention**

The Resolution of Intention (Attachment B) for the NBRA BID provides for the following:

- The intention to renew the NBRA BID assessments for fiscal year 2019-20.
- The assessment levies shall be:
  - \$600 for full-serve restaurants
  - \$500 for fast-casual restaurants
  - \$500 for grocery or markets
  - \$150 for coffee, tea or specialty shops, dessert, bakery or treat shops, juice bar or smoothie shop, and catering companies.
- The improvements and activities to be funded shall be:
  - Marketing, advertising, and public relations;
  - Brochure development and distribution;
  - Promotion of public events;
  - General promotion of restaurant trade activities;
  - Educational and training classes for members; and
  - Membership in various organizations.
- The public hearing shall be heard on June 25, 2019 at 7 p.m. in the City Council Chambers.

Per the 1989 Law, the City Council may revise, change, reduce or modify the assessment or the type or types of improvements and activities proposed to be funded by the NBRA BID Board.

## **ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this action 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.

## **NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

## **ATTACHMENTS:**

Attachment A – NBRA BID Revised Annual Report and Budget  
Attachment B – Resolution No. 2019-47