

ATTACHMENT C

ORDINANCE NO. 2021-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, REPEALING ORDINANCE NO. 97-24, ORDINANCE NO. 98-15 AND ORDINANCE 99-18, AND DISESTABLISHING THE CORONA DEL MAR BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Sections 36500 *et seq.*) ("Act") authorizes cities to establish parking and business improvement areas for the purpose of imposing assessments on businesses for certain activities;

WHEREAS, on July 14, 1997, the City Council of the City of Newport Beach ("City Council") adopted Ordinance No. 97-24 establishing the Corona del Mar Business Improvement District ("CdM BID");

WHEREAS, on July 13, 1998, the City Council adopted Ordinance No. 98-15, which modified the basis for levying assessments in the CdM BID;

WHEREAS, on August 23, 1999, the City Council adopted Ordinance No. 99-18, which modified the basis for levying assessments in the CdM BID;

WHEREAS, on March 15, 2021, the CdM BID's Advisory Board voted to recommend that the City Council disestablish the BID due to the completion of its projects under its "Vision Plan" and the fulfillment of the CdM BID's original mission and submitted a proposal for the disposal of its physical assets;

WHEREAS, on May 11, 2021, the City Council adopted Resolution No. 2021-40 ("Resolution") declaring its intention to disestablish the BID and set a public hearing for June 8, 2021 at 4:00 p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California, pursuant to California Streets and Highways Code Section 36550;

WHEREAS, in accordance with California Streets and Highways Code Section 36523(a), the City Clerk caused a complete copy of the Resolution to be published in a newspaper of general circulation in the City;

WHEREAS, in accordance with California Streets and Highways Code Section 36523(b), the City Clerk caused a complete copy of the Resolution be mailed by first-class mail to each business owner assessed within the BID, within seven (7) days following the adoption of the Resolution; and

WHEREAS, a public hearing was held by the City Council on June 8, 2021, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, in person and via teleconferencing, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"). Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: Ordinance No. 97-24, Ordinance No. 98-15, and Ordinance No. 99-18, are hereby repealed in their entirety. In addition, the City Council repeals all ordinances and resolutions, or portions thereof, which relate to the CdM BID.

Section 2: Pursuant to California Streets and Highways Code Section 36550, the City Council hereby disestablishes the CdM BID.

Section 3: In accordance with California Streets and Highways Code Section 36550(b), assets acquired with the revenues from the assessments levied within the CdM BID shall be donated in accordance with the Resolution.

Section 4: In accordance with California Streets and Highways Code Section 36551, upon the effective date of this ordinance, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be refunded to the owners of the businesses then located and operating within the CdM BID by applying the same method and basis that was used to calculate the assessment levied this fiscal year or the immediate prior fiscal year if no assessment has been levied for the current fiscal year.

Section 5: The recitals provided in this ordinance are true and correct and are incorporated into the operative part of this ordinance.

Section 6: If any section, subsection, sentence, clause or phrase of this ordinance 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 ordinance. The City Council hereby declares that it would have passed this ordinance, 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 7: The City Council finds the adoption of this ordinance 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 8: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 8th day of June, 2021, and adopted on the 22nd day of June, 2021, by the following vote, to-wit:

AYES: _____

NAYS: _____

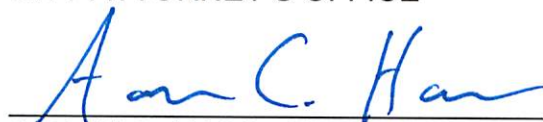
ABSENT: _____

BRAD AVERY, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY