ATTACHMENT A

RESOLUTION NO. 2021-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DECLARING ITS INTENTION TO DISESTABLISH THE NEWPORT BEACH RESTAURANT ASSOCIATION BUSINESS IMPROVEMENT DISTRICT AND FIX THE TIME AND PLACE OF A PUBLIC HEARING

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 November 13, 1995, the City Council of the City of Newport Beach ("City") adopted Ordinance No. 95-55 establishing the Newport Beach Restaurant Association Business Improvement District ("NBRA BID");

WHEREAS, the assessments collected on behalf of the NBRA BID has enabled the NBRA BID to provide marketing, promotion and advertising of food establishments within the NBRA BID;

WHEREAS, the Act requires that each year, the activities, boundaries, and assessments of the NBRA BID be reviewed by the NBRA BID's Advisory Board for purposes of making recommendations to the City Council, and an annual report be filed and approved by the City Council for each fiscal year; and

WHEREAS, on May 11, 2021, the Newport Beach City Council reviewed the NBRA BID's 2020-2021 annual report and directed staff to bring back a resolution to disestablish the NBRA BID due to it having fulfilled its original mission.

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

Section 1: The City Council hereby declares its intention to disestablish the NBRA BID.

Section 2: Pursuant to California Streets and Highway Code Section 36550(b), should the NBRA BID be disestablished, all assets, if any, acquired with the revenues from the assessments levied within the NBRA BID shall be sold. Pursuant to California Streets and Highways Code Section 36551(a) any remaining revenues derived from the levy of assessments or the sale of assets, if any, shall be refunded to businesses within the NBRA BID that have paid their annual assessment by applying the same method and

basis that was used to calculate the most recent assessment levied on businesses within the NBRA BID.

Section 3: Pursuant to California Streets and Highways Code Section 36550(b), on Tuesday, July 13, 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, a public hearing shall be held by the City Council on the disestablishment of the NBRA BID.

Section 4: The City Clerk is directed to give notice of the public hearing on the disestablishment of the NBRA BID in accordance with California Streets and Highway Code Section 36523. Notice of the public hearing shall be given by publishing this resolution of intention in a newspaper of general circulation in the City once, for at least seven (7) days before the public hearing. Notice of public hearing shall be given by mailing a complete copy of this resolution by first-class mail to each business owner assessed within the NBRA BID, within seven (7) days following the City's Council's adoption of this resolution of intention.

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

Section 6: 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 7: 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 8: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

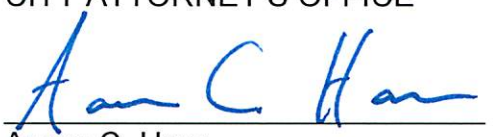
ADOPTED this 8th day of June, 2021.

_____
Brad Avery
Mayor

ATTEST:

_____
Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney