

RESOLUTION NO. 2018-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE HUNTINGTON BEACH TOURISM BUSINESS IMPROVEMENT DISTRICT (HBTBID)

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the City to renew business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district; and

WHEREAS, lodging business owners who will pay more than fifty percent (50%) of the renewed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the HBTBID have petitioned the City Council to renew the HBTBID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the renewed assessment to be levied on lodging businesses within the HBTBID to pay for tourism enhancement programs, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed lodging businesses within the HBTBID will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on October 15, 2018 at 6:00 PM at 2000 Main Street, Huntington Beach, CA 92684, the City Council adopted a Resolution of Intention, Resolution No. 2018-59; and

WHEREAS, the public meeting and public hearing to consider the renewal of the HBTBID have been properly noticed in accordance with Streets and Highways Code §36623; and

WHEREAS, on November 19, 2018 at 6:00 PM at 2000 Main Street, Huntington Beach, CA 92684, the City Council held a public meeting regarding the renewal of the HBTBID, and the City Council heard and received objections and protests, if any, to the renewal of the HBTBID and the levy of the renewed assessment; and

WHEREAS, on December 17, 2018 at 6:00 PM at 2000 Main Street, Huntington Beach, CA 92684, the City Council held a public hearing regarding the renewal of the HBTBID, and the City Council heard and received all objections and protests, if any, to the renewal of the HBTBID and the levy of the renewed assessment; and

WHEREAS, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the renewed HBTBID which would pay fifty percent (50%) or more of the assessments renewed to be levied. Protests are weighted based on the assessment renewed to be levied on each lodging business; and

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.

2. The HBTBID is hereby renewed for a nine (9) and five (5) months year term, beginning February 1, 2019 through June 30, 2028.

3. The Plan dated October 9, 2018 is hereby adopted and approved.

4. The activities to be provided to benefit businesses in the HBTBID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the HBTBID; to provide activities or improvements outside the HBTBID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the HBTBID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the HBTBID.

5. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the HBTBID that is not provided to those not paying the assessment.

b) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

c) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

d) Assessments imposed pursuant to the HBTBID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all

communications from the business owner as the "HBTBID Assessment" or "Tourism Assessment" as specified in the Plan.

6. The assessments levied for the HBTBID shall be applied towards tourism enhancement programs to market Huntington Beach lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. Assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

8. The assessments for the entire HBTBID will total approximately \$5,000,000 annually. The initial 'year' of operation will be a partial year consisting of five (5) months, for which the anticipated budget is \$2,083,333.

9. Bonds shall not be issued to fund the HBTBID.

10. The HBTBID shall include all lodging business located within the boundaries of the City of Huntington Beach. A boundary map is attached hereto and incorporated herein by reference.

11. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the HBTBID assessment is levied as long as they are used consistent with the requirements set forth herein.

12. The assessments to fund the activities and improvements for the HBTBID will be collected by the City on a monthly basis, and in accordance with Streets and Highways Code §36631.

13. The City Council, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the renewed program, which shall be the Owners' Association of the HBTBID as defined in Streets and Highways Code §36612. The City Council has determined that Visit Huntington Beach shall be the HBTBID Owners' Association.


14. Visit Huntington Beach, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the HBTBID.

15. The HBTBID renewed pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

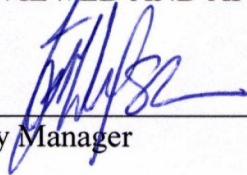
16. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the renewal of the HBTBID and to levy the assessments.

17. This Resolution shall take effect immediately upon its adoption by the City Council.

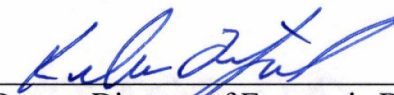
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 17th day of December, 2018.

  
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Mayor

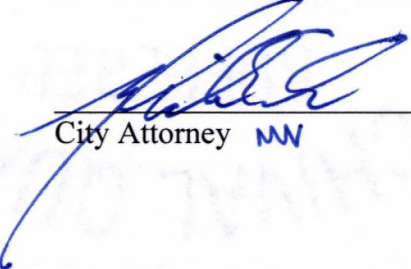
REVIEWED AND APPROVED:

  
\_\_\_\_\_  
City Manager

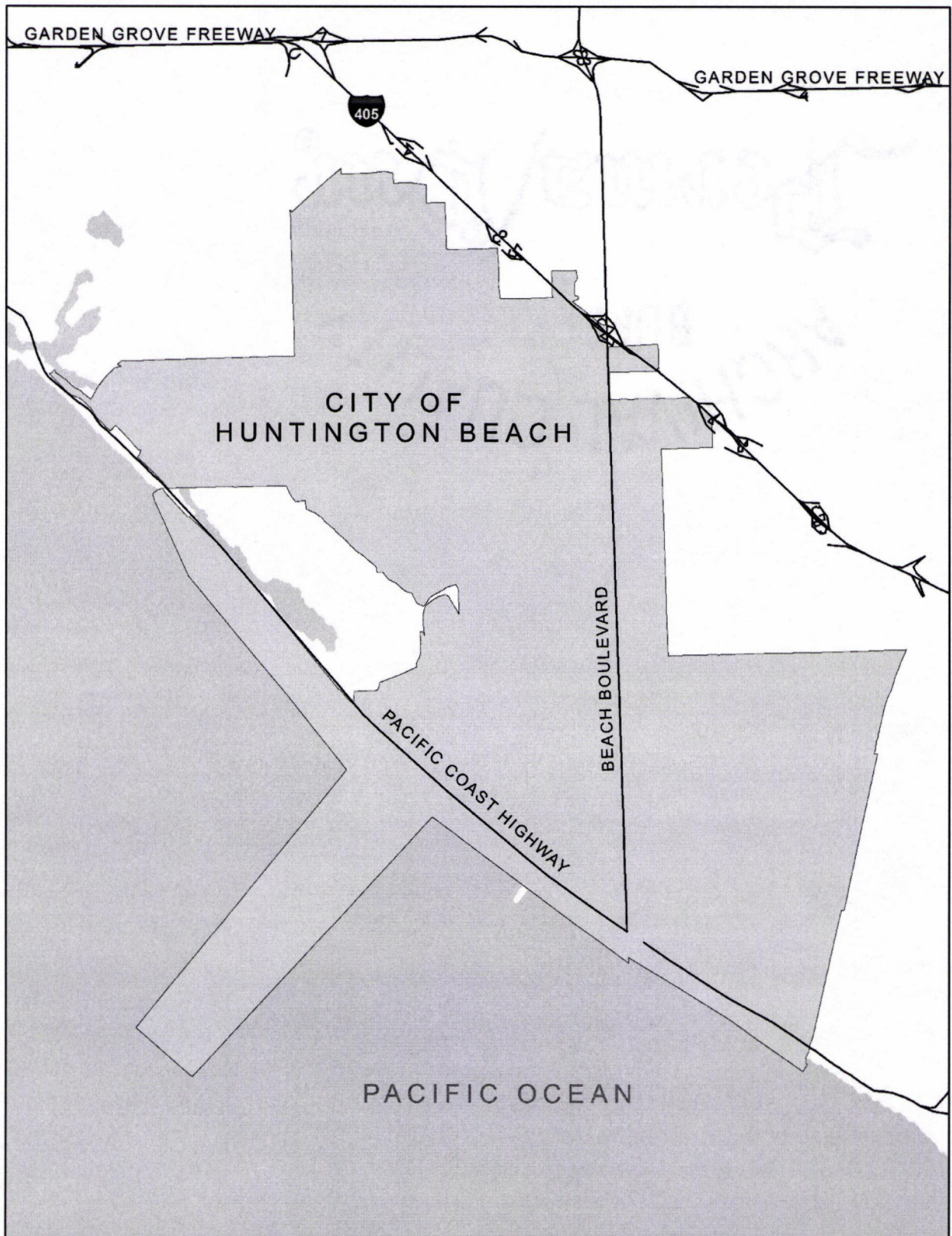
INITIATED AND APPROVED:

  
\_\_\_\_\_  
Deputy Director of Economic Development

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney **MM**


Boundary Map



STATE OF CALIFORNIA  
COUNTY OF ORANGE                    ) ss:  
CITY OF HUNTINGTON BEACH        )

I, ROBIN ESTANISLAU, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **Regular** meeting thereof held on **December 17, 2018** by the following vote:

**AYES:**        Brenden, Carr, Semeta, Peterson, Posey, Delgleize, Hardy  
**NOES:**        None  
**ABSENT:**    None  
**RECUSE:**    None

  
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City Clerk and ex-officio Clerk of the  
City Council of the City of  
Huntington Beach, California