

JOINT POWERS AUTHORITY EXECUTIVE COMMITTEE

RESOLUTION NO. JPA 2020-005

Linda Evans, Chair
City of La Quinta

Geoff Kors, Vice Chair
City of Palm Springs

Ernesto Gutierrez
City of Cathedral City

Gary Gardner
City of Desert Hot Springs

Ty Peabody
City of Indian Wells

Elaine Holmes
City of Indio

Jan Harnik
City of Palm Desert

Charles Townsend
City of Rancho Mirage

V. Manuel Perez
County of Riverside

A RESOLUTION OF THE JOINT POWERS AUTHORITY EXECUTIVE COMMITTEE OF THE GREATER PALM SPRINGS CONVENTION & VISITORS BUREAU (CVB) DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE GREATER PALM SPRINGS TOURISM BUSINESS IMPROVEMENT DISTRICT (GPSTBID)

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the Joint Powers Authority Executive Committee of the Greater Palm Springs Convention and Visitors Bureau (JPA Executive Committee) 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 proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the GPSTBID have petitioned the JPA Executive Committee to renew the GPSTBID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses with fifty (50) rooms or more and all vacation rentals within the GPSTBID to pay for sales promotion and marketing programs, and other improvements and activities set forth in the Plan; and

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

WHEREAS, on June 26, 2020 at 8:30 AM at 70100 Highway 111, Rancho Mirage, CA 92270, the JPA Executive Committee adopted a Resolution of Intention, Resolution No. 2020-002; and

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

WHEREAS, on September 25, 2020, at 8:30 AM at 70100 Highway 111, Rancho Mirage, CA 92270, the JPA Executive Committee held a public meeting regarding the renewal of the GPSTBID, and the JPA Executive Committee heard and received objections and protests, if any, to the renewal of the GPSTBID and the levy of the proposed assessment; and

WHEREAS, on November 20, 2020, at 8:30 AM, at 70100 Highway 111, Rancho Mirage, CA 92270, the JPA Executive Committee held a public hearing regarding the renewal of the GPSTBID, and the JPA Executive Committee heard and received all objections and protests, if any, to the renewal of the GPSTBID and the levy of the proposed assessment; and

WHEREAS, the Clerk of the JPA Executive Committee has determined that there was no majority protest. A majority protest is defined as written protests received

from owners of assessed businesses in the renewed GPSTBID which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

WHEREAS, the JPA Executive Committee 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 JPA Executive Committee 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 COMMITTEE THAT:

1. The recitals set forth herein are adopted by the JPA Executive Committee as findings and they are true and correct.

2. The GPSTBID is hereby renewed for a ten (10) year term, beginning July 1, 2021 through June 30, 2031.

3. The Plan dated November 19, 2020, is hereby adopted and approved.

4. The activities to be provided to benefit businesses in the GPSTBID 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 GPSTBID; to provide activities or improvements outside the GPSTBID; 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 GPSTBID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the GPSTBID.

5. The JPA Executive Committee finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the GPSTBID 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 GPSTBID 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 "Tourism Business Improvement District Assessment." As an alternative, the disclosure may include the amount of the TBID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the "Tourism Assessment" as specified in the Plan.

6. The assessments levied for the GPSTBID shall be applied toward sales promotion and marketing programs to market assessed businesses, as well as key priority projects established annually by the Greater Palm Springs Convention & Visitors Bureau (CVB), including air service and rail development, work force development, research and analytics, educational support, and more, in the cities of Desert Hot Springs, Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, and Indio, and portions of the unincorporated area of Riverside County in the Coachella Valley, as described in the Plan.

7. The annual assessment rate is three percent (3%) of hotels' gross short-term room rental revenue and one percent (1%) of vacation rentals' gross short-term rental revenue. Based on the benefit received, assessments will not be collected on stays of more than twenty-seven (27) consecutive days.

8. 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 demand for room rentals, an assessment based on room rentals is the best measure of benefit.

9. The assessments for the entire GPSTBID will total approximately \$17,000,000 in year one (1).

10. Bonds shall not be issued to fund the GPSTBID.

11. The GPSTBID shall include all lodging businesses with fifty (50) rooms or more and all vacation rentals located within the boundaries of the cities of Desert Hot Springs, Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, and Indio, and portions of the unincorporated area of Riverside County in the Coachella Valley, as shown in the map in the Management District Plan.

12. Funds remaining at the end of any year may be used in subsequent years in which GPSTBID assessments are levied as long as they are used consistent with the requirements of this Resolution, the Resolution declaring results of majority protest proceedings and renewing the GPSTBID, and the Plan.

13. The CVB, Cities and/or County will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business with fifty (50) rooms or more and each vacation rental located in the boundaries of the GPSTBID. The CVB, Cities and/or County shall take all reasonable efforts to collect the assessments from each assessed business.

14. The JPA Executive Committee, 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 proposed program, which shall be the Owners' Association of the GPSTBID as defined in Streets and Highways Code §36612. The JPA Executive Committee has determined that the CVB shall be the GPSTBID Owners' Association.

15. The CVB, 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 GPSTBID.

16. The GPSTBID established 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.).

17. The Clerk of the JPA Executive Committee, or his or her designee, is directed to take all necessary actions to complete the renewal of the GPSTBID and to levy the assessments.

18. This Resolution shall take effect immediately upon its adoption by the JPA Executive Committee.

19. The JPA Executive Committee declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislations, the remaining provisions, sections, paragraphs, sentences or words of the Resolution as hereby adopted shall remain in full force and effect.

20. The Clerk of the JPA Executive Committee shall certify the roll call vote adopting this Resolution.

I HEREBY CERTIFY that the foregoing Resolution of Formation was introduced and adopted at a regular meeting of the JPA Executive Committee on the 20th day of November 2020 by the following roll call vote:

AYES: 9 Evans, Gardner, Gutierrez, Harnik, Holmes, Kors, Mertens, Perez, Townsend
NAYES: 0
ABSENT: 0
ABSTAIN: 0

DocuSigned by:
Linda Evans
21836D5E772C464...
Linda Evans, Chair
JPA Executive Committee

ATTEST:

DocuSigned by:
Revae Reynolds
101AB247E3FB437...
Revae Reynolds
Clerk for the JPA Executive Committee

APPROVED AS TO FORM:

DocuSigned by:
Lena Wade
5B2277ED0FC6460...
Lena D. Wade, General Counsel