

RESOLUTION NO. 17-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OJAI
DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND
RENEWING THE OJAI TOURISM IMPROVEMENT DISTRICT**

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 lodging 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 Ojai Tourism Improvement District ("OTID") have petitioned the City Council to renew the OTID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses within the OTID to pay for sales promotion and marketing activities, and other improvements and activities set forth in the Plan; and

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

WHEREAS, on January 31, 2017 at 7:00 PM at 401 S. Ventura Street, Ojai, CA 93023, the City Council adopted a Resolution of Intention, Resolution No. 2017-03; and

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

WHEREAS, on February 28, 2017 at 7:00 PM at 401 S. Ventura Street, Ojai, CA 93023, the City Council held a public meeting regarding the renewal of the OTID, and the City Council heard and received objections and protests, if any, to the renewal of the OTID and the levy of the proposed assessment; and

WHEREAS, on March 28, 2017 at 7:00 PM at 401 S. Ventura Street, Ojai, CA 93023, the City Council held a public hearing regarding the renewal of the OTID, and the City Council heard and received all objections and protests, if any, to the renewal of the OTID and the levy of the proposed 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 proposed district 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 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 Ojai Tourism Improvement District is hereby renewed for a three (3) year term, beginning November 1, 2017 through October 31, 2020.

3. The Plan dated November 8, 2016 is hereby adopted and approved with revisions to reflect that the Council's resolution of intent adopted January 31, 2017 provides that the term "lodging business" includes only hotels, inns, bed and breakfasts, motels, and other commercial establishments of similar nature with current licenses and that are in compliance with all state, federal and local laws and does not include short-term rentals or vacation rentals located in residential structures or residential zones and revisions to reflect the Council's actions on March 28, 2017 to amend the Plan as follows:

(a) The membership of the Ojai Visitor's Bureau Advisory Committee shall include one City representative appointed by the City Council;

(b) The membership of the Board of the Ojai Valley Chamber of Commerce, which is the Owners' Association of the Ojai Tourism Improvement District, shall include one City representative appointed by the City Council;

(c) The Plan's budget shall allocate 15% of each annual budget for research and studies regarding tourism impacts, traffic impacts from tourism, and related miscellaneous studies, and reduce the annual allocation for sales and marketing from 75% down to 60% of each annual budget; and

(d) Section I, Overview, is edited to add the following sentence to the "Services" paragraph: "All activities listed under Streets and Highways Code section 36606 and all improvements listed under Streets and Highways Code section 36610 are activities and improvements that may be funded by the assessment."

4. The activities to be provided to benefit businesses in the district 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 district; to provide activities or improvements outside the OTID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan.

5. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the OTID 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 OTID 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 "OTID Assessment."

6. The assessments levied for the OTID shall be applied towards sales, promotions and marketing programs to market Ojai 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 District will total approximately \$425,000 in year one.

9. The initial annual assessment rate (November – December 2017) is one percent (1%) of gross short-term room rental revenue. Beginning January 1, 2018, the annual assessment rate shall be one and one-half percent (1.5%) of gross short-term room rental revenue. The assessment rate may be decreased by the Owners' Association Board, but shall not drop below one percent (1%) of gross short-term room rental revenue. The maximum decrease in any year shall be one-quarter of one percent (0.25%). Any decrease authorized by the Owners' Association Board shall be included in the annual report required by Streets and Highways Code section 36650 and must be approved by the City Council before taking effect, as provided in Streets and Highways Code section 36650, subdivision (c).

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

11. The OTID shall include all lodging business located within the boundaries of the City of Ojai, as shown in the map attached as Exhibit A, attached hereto and incorporated herein by reference. The term "lodging business" includes only hotels, inns, bed and breakfasts, motels, and other commercial establishments of similar nature with current licenses and that are in compliance with all state, federal and local laws and does not include short term rentals or vacation rentals located in residential structures or residential zones. A boundary map is attached hereto and incorporated herein by reference.

12. 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 OTID assessment is levied as long as they are used consistent with the requirements set forth herein.

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

14. 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 proposed program, which shall be the Owners' Association of the OTID as defined in Streets and Highways Code §36612. The City Council has determined that the Ojai Valley Chamber of Commerce shall continue to be the Owners' Association.

15. The Ojai Valley Chamber of Commerce, 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 district.

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

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

I HEREBY CERTIFY that the foregoing Resolution of Formation was introduced and adopted at a regular meeting of the City Council on the 28th day of March, 2017 by the following vote:

AYES: COUNCIL MEMBERS: BLATZ, HANEY, WEIRICK
NOES: COUNCIL MEMBERS: FRANCIANA, JOHNSTON
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE



John F. Johnston Mayor

Attest



Deputy City Clerk

Approved as to Form:



Matthew Summers, City Attorney

**Exhibit A
Boundary Map**

