

RESOLUTION NO. 2016 - 190

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE TEMECULA WINE COUNTRY TOURISM MARKETING DISTRICT

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the County to establish 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 Temecula Wine Country Tourism Marketing District ("TWCTMD") have petitioned the Board of Supervisors to establish the TWCTMD; 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 TWCTMD 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 TWCTMD will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on July 26, 2016 at 9:00 AM at 4080 Lemon Street, 1st Floor Board Chambers, Riverside, CA 92501, the Board of Supervisors adopted a Resolution of Intention, Resolution No. 2016-094; and

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

WHEREAS, on August 23, 2016 at 9:00 AM at 4080 Lemon Street, 1st Floor Board Chambers, Riverside, CA 92501, the Board of Supervisors held a public meeting regarding the establishment of the TWCTMD, and the Board of Supervisors heard and received objections and protests, if any, to the establishment of the TWCTMD and the levy of the proposed assessment; and

WHEREAS, on September 13, 2016 at 9:00 AM at 4080 Lemon Street, 1st Floor Board Chambers, Riverside, CA 92501, the Board of Supervisors held a public hearing regarding the establishment of the TWCTMD, and the Board of Supervisors heard, received and overruled all objections and protests, if any, to the establishment of the TWCTMD and the levy of the proposed assessment; and

FORM APPROVED COUNTY COUNSEL
BY Daley E. Gardner DATE 8/16/16
DALEA GARDNER

WHEREAS, the Clerk of the Board 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 County 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 County 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 BOARD OF SUPERVISORS THAT:

1. The recitals set forth herein are adopted by the Board of Supervisors as findings and they are true and correct.

2. The Temecula Wine Country Tourism Marketing District is hereby established for a five (5) year term, beginning November 1, 2016 through October 31, 2021.

3. The Plan dated June 30, 2016 is hereby adopted and approved.

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 TWCTMD; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan.

5. The Board of Supervisors find as follows:

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

6. The assessments levied for the TWCTMD shall be applied towards sales, promotions and marketing programs to market Temecula Wine Country 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 \$188,500 in year one.

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

10. The TWCTMD shall include all lodging business located within the boundaries of the the Temecula Valley region of Riverside County. 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 TWCTMD 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 TWCTMD will be collected by the County on a quarterly basis, and in accordance with Streets and Highways Code §36631.

13. The Board of Supervisors, 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 TWCTMD as defined in Streets and Highways Code §36612. The Board of Supervisors has determined that Visit Temecula Valley shall be the Owners' Association.

14. Visit Temecula Valley, 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.

15. The TWCTMD 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.).

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16. The adoption of this resolution shall constitute the levy of the TWCTMD assessment in each fiscal year of the TWCTMD's five (5) year term referred to in the Plan.

17. The Clerk of the Board, or his or her designee, is directed to take all necessary actions to complete the establishment of the TWCTMD and to levy the assessments.

18. This Resolution shall take effect immediately upon its adoption by the Board of Supervisors.

I HEREBY CERTIFY that the foregoing Resolution of Formation was introduced and adopted at a regular meeting of the Board of Supervisors on the 13th day of September, 2016 by the following vote:

ROLL CALL:

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
Nays: None
Absent: None

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-JHEM, Clerk of said Board
By Cecilia Ford
Deputy

