

CITY OF GARDEN GROVE

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
Dept: City Manager
Subject: INITIATION OF FORMATION OF
TOURISM IMPROVEMENT DISTRICT
AND APPOINTMENT OF ADVISORY BOARD

From: Economic Development
Date: August 24, 2010

OBJECTIVE

To initiate proceedings to form the Garden Grove Tourism Improvement District and to appoint an advisory board.

BACKGROUND

Garden Grove hotels along Harbor Boulevard have been working with the Anaheim/Orange County Visitors and Convention Bureau (VCB) and hotels in the City of Anaheim to develop a solution for financing collective tourism marketing efforts in both cities. Garden Grove hotel representatives have requested that the City consider forming a tourism business improvement district (TID) for this purpose, as well as to fund other activities and improvements that promote tourism in the City of Garden Grove. The City of Anaheim recently initiated proceedings to form its own TID.

DISCUSSION

The Parking and Business Improvement Area Law of 1989, California Streets and Highways Code section 36500 et seq., (the "Law") authorizes cities to establish parking and business improvement areas for the purpose of funding certain improvements and activities, including the promotion of tourism, through assessments upon the businesses that benefit from those improvements and activities. Tourism business improvement districts have become an increasingly popular mechanism to fund tourism efforts through private, rather than public, funding.

The proposed Garden Grove Tourism Improvement District ("GGTID") would include the hotels along Harbor Boulevard from the boundary with the City of Anaheim to Garden Grove Boulevard. It would be broken up into two (2) separate benefit zones. Tier I would include the hotels north of Lampson Avenue, which would be subject to an assessment of up to 2.5% of gross rent charged per room occupancy per night. Tier II would encompass those hotels south of Lampson Avenue, which would subject to an assessment of up to 0.5% of gross rent charged per room occupancy per night. There currently are no hotels in Tier II, but any hotels built there in the future would

FORMATION OF TOURISM IMPROVEMENT DISTRICT

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be subject to the assessment. A map of the proposed GGTID boundaries and a list of the current hotels in the area are included as exhibits to the attached resolution.

It is anticipated that the GGTID assessments would generate approximately \$2,000,000 annually. It is proposed that up to 80% of this would be used to fund collective marketing efforts through the VCB, while the remainder would be used to fund specific improvements along Harbor Boulevard and other tourism promotion activities in Garden Grove. A more detailed description of the improvements and activities proposed to be funded with the assessment revenues is included within the attached resolution.

The City Council's adoption of a resolution declaring its intention to establish the GGTID is the first step in the proceedings required to form the assessment district. If this resolution is adopted, both a public meeting and a public hearing will be held pursuant to state law, and the affected hotels will have the opportunity to protest formation of the assessment district. If no majority protest occurs at the public hearing, and the City Council determines to proceed with formation of the GGTID, then it must adopt an ordinance to legally form the district, as well as a separate resolution actually levying the assessment for Fiscal Year 2010/2011. Accounting for the legal time periods to accomplish each of these steps, it is anticipated that assessments would begin on or about December 1, 2010.

The Law also requires the City Council to appoint an advisory board to make recommendations to the City Council on the expenditure of revenues derived from the levy of TID assessments, on the classification of businesses, as applicable, and on the method and basis of levying the assessments. The hotel operators are in the process of forming a nonprofit corporation, with which it is anticipated the City will contract to administer and spend the GGTID assessment revenues. Staff recommends the City Council appoint the board of directors of this nonprofit corporation as the required statutory advisory board.

FINANCIAL IMPACT

It is not anticipated that the City will incur significant direct costs as a result of formation of the GGTID. If approved, the GGTID will produce approximately \$2,000,000 annually for local tourism improvement efforts, and it is anticipated that these funds will be administered by the VCB and the nonprofit corporation formed by the Garden Grove hotels via contracts with the City. Any actual administrative costs incurred by the City will be reimbursed through assessment revenues, up to an agreed-upon percentage cap of assessments collected.

RECOMMENDATION

It is recommended that the City Council:

- Adopt the attached resolution declaring the City Council's intention to establish the Garden Grove Tourism Improvement District and fixing the time and place of a public meeting and public hearing thereon.
- Adopt the attached resolution appointing the advisory board for the proposed Garden Grove Tourism Improvement District.

By: 
Greg Blodgett
Senior Project Manager

Attachments: Proposed Resolutions

Recommended for Approval


Matthew Fertal
City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
DECLARING ITS INTENTION TO ESTABLISH THE GARDEN GROVE TOURISM
IMPROVEMENT DISTRICT (GGTID), AND FIXING THE TIME AND PLACE OF PUBLIC
MEETING AND PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF

WHEREAS, the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code section 36500 et seq., (Law) authorizes cities to establish parking and business improvement areas for the purpose of funding certain improvements and activities, including the promotion of tourism, through assessments upon the businesses that benefit from those improvements and activities;

WHEREAS, the City Council of the City of Garden Grove desires to form a parking and business improvement area encompassing property along or near Harbor Boulevard pursuant to the Law in order to promote the proposed area as a premier tourism and visitor district and, specifically, to aid in the promotion of local tourism related programs and activities for visitor accommodation facilities located in the proposed area;

WHEREAS, the owners and operators of visitor accommodation facilities in the proposed area have requested that the Garden Grove City Council establish such a self-assessment improvement area in order to create a stable source of revenue with which to fund necessary improvements in the area and to promote tourism in Garden Grove;

WHEREAS, the viability of the Garden Grove Tourism Industry is vital to the overall economic development of the City of Garden Grove, and any financing mechanism that provides for the health of that industry is extremely important to the visitors to and residents of Garden Grove; and

WHEREAS, the benefiting visitor accommodation facilities seek to create a stable source of revenue to defray the costs of advertising and marketing efforts designed to increase overnight stays in the area, for construction and maintenance of improvements such as sidewalks, medians, lighting, and utilities along and in the immediate vicinity of Harbor Boulevard and for other services, activities, and programs that promote and encourage tourism within the area.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

1. The recitals set forth herein are true and correct.
2. The City Council declares its intention to establish a parking and business improvement area pursuant to the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code section 36500 et seq.

3. The boundaries of proposed parking and business improvement area are proposed to generally include certain real property within that area of Garden Grove fronting, bordering, or near Harbor Boulevard from the City of Anaheim to Garden Grove Boulevard. The proposed benefit area is divided into two (2) separate zones: (i) Tier I, which includes that real property within the benefit area north of Lampson Avenue, and (ii) Tier II, which includes that real property within the benefit area south of Lampson Avenue. A map showing the precise area and boundaries of the proposed parking and business improvement area and the two benefit zones is attached hereto at Exhibit "A" and is incorporated into this Resolution by reference. A list of the existing visitor accommodation facilities within the proposed parking and business improvement area that would be subject to an assessment is attached at Exhibit "B."

4. The name of the Parking and Business Improvement Area shall be the Garden Grove Tourism Improvement District and shall also be referred to herein for convenience as the "GGTID."

5. The types of improvements and activities proposed to be funded by the levy of assessments on visitor accommodation facilities within the GGTID are GGTID and Anaheim/Orange County Visitor and Convention Bureau (VCB) tourism and marketing programs to promote the area and benefitted visitor accommodation facilities as a tourism destination; GGTID and VCB administrative oversight; physical improvements and maintenance along the right-of-way, median, and sidewalks adjacent to the benefitted visitor accommodation facilities; and other projects, programs, and activities that benefit the visitor accommodation facilities located and operating within the GGTID. A list of some of the specific improvements and activities anticipated to be funded by the levy of assessments is attached hereto at Exhibit "C" and incorporated into this Resolution by reference.

6. Except where funds are otherwise available, the City Council proposes to levy an annual assessment on all visitor accommodation facilities, existing, and future, located within the boundaries of the GGTID to fund the improvements and activities within and that benefit the GGTID, commencing on or about December 1, 2010. The proposed method and basis of levying the assessment is set forth in Exhibit "D" attached hereto and incorporated into this Resolution by reference. The amount of the annual assessment shall be capped at (i) two and one-half percent (2.5%) of the gross rent charged per room occupancy per night for all transient occupancies for visitor accommodation facilities within Tier I and (ii) one-half percent (0.5%) of the gross rent charged per room occupancy per night for all transient occupancies for visitor accommodation facilities within Tier II. It is anticipated that, upon reaching an agreement with the VCB, up to eighty percent (80%) of the annual assessment revenues will be allocated to and administered by the VCB pursuant to a contract with the City, and all remaining annual assessment revenues will be allocated to and administered by a nonprofit mutual benefit corporation comprised of members consisting of the benefitted visitor accommodation facilities, subject to annual City Council approval of the expenditure recommendations of the Advisory Board.

7. The failure of any assessed visitor accommodation facility to timely pay any assessment shall subject that visitor accommodation facility to the late payment penalties described in Exhibit "D."

8. New visitor accommodation facilities within the boundaries of the GGTID will not be exempt from levy of the assessment.

9. The City Council hereby sets September 28, 2010, as the date for a public meeting to allow for public testimony on the establishment of the GGTID and the levy of assessments and October 12, 2010, as the date for a public hearing on the establishment of the GGTID and the levy of assessments pursuant to California Government Code Section 54954.6. Both the public meeting and the Public Hearing will be held at 6:30 p.m., or as soon thereafter as practicable, in the City Council Chamber at the Garden Grove Community Meeting Center, 11300 Stanford Avenue, Garden Grove, California.

10. The City Clerk is hereby directed to give proper notice of the above-described public meeting and Public Hearing in accordance with law.

11. At the public meeting and Public Hearing, the testimony of all interested persons for or against the establishment of the GGTID, the extent of the GGTID, or the furnishing of specified types of improvements or activities will be heard. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. To count in the majority protest against the GGTID, a protest must be written. A written protest may be withdrawn in writing at any time before the conclusion of the Public Hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Garden Grove as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. If the owner of the business is a corporation, LLC, partnership, or other legal entity, the authorized representative for the entity shall be authorized to sign the protest. Written protests must be received by the City Clerk of the City of Garden Grove before the close of the Public Hearing scheduled herein and may be mailed to the City Clerk, City of Garden Grove, P.O. Box 3070, Garden Grove, California 92842, or delivered in person to the City Clerk at 11222 Acacia Parkway, Garden Grove, California 92842.

12. Pursuant to California Streets and Highways Code Section 36525, if at the conclusion of the Public Hearing, there are of record, valid written protests by the owners of the businesses within the GGTID that will pay fifty percent (50%) or more of the total assessments of the entire GGTID, no further proceedings to create the GGTID shall occur. New proceedings to form the GGTID shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council. If the majority of written protests are only as to an improvement or activity proposed, then that type of improvement or

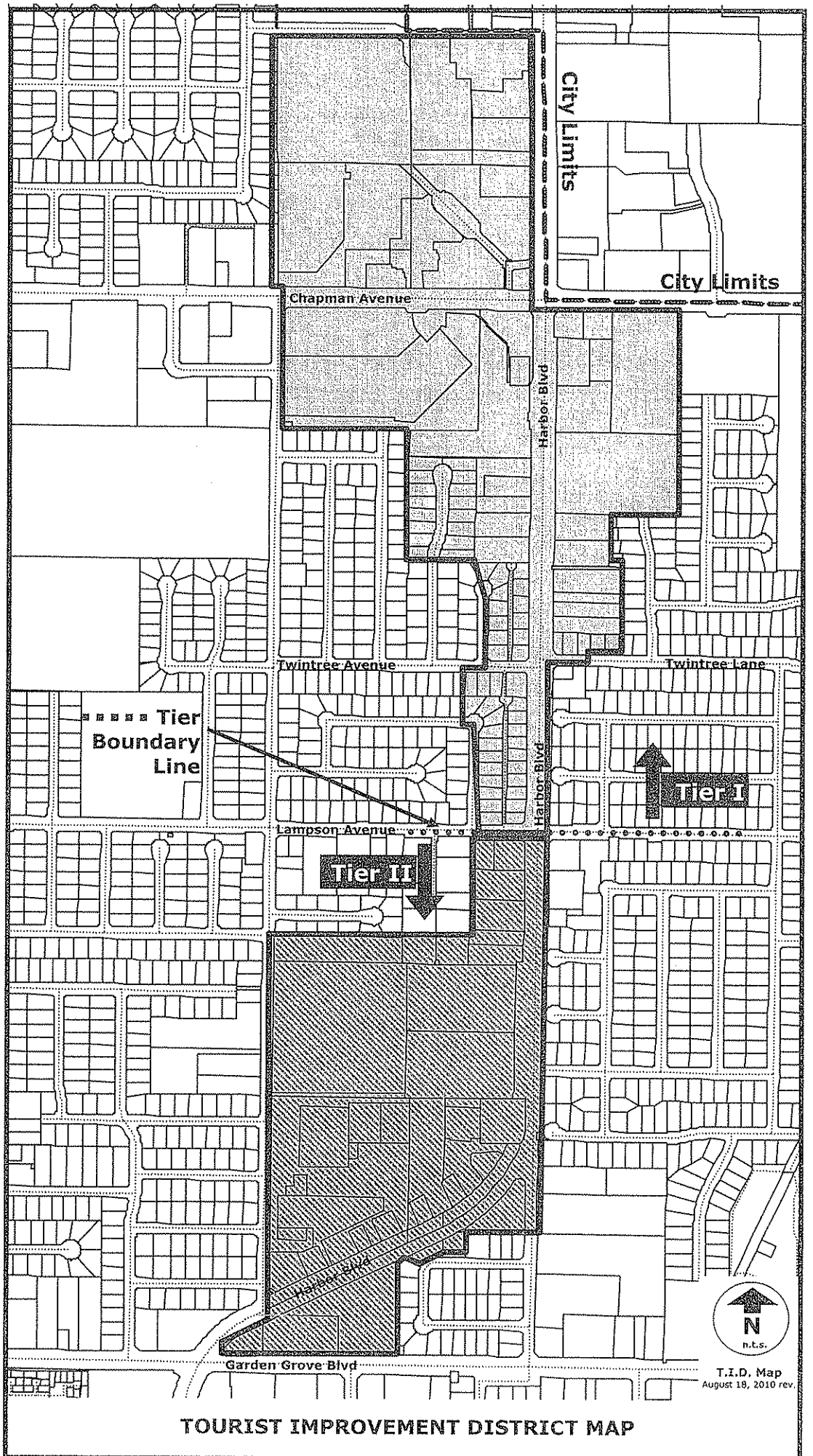
activity shall not be included in the GGTID. In order to determine the projected assessments for purposes of establishing voting percentages, the City shall make projections based on the prior three-year average of gross rental revenues for the applicable visitor accommodation facilities. Since such information is proprietary, the City, alone, will determine the total percentage protest and provide such percentage at the Public Hearing.

13. This Resolution is effective upon its adoption.

EXHIBIT "A"

**BOUNDARIES AND MAP OF THE GARDEN GROVE TOURISM IMPROVEMENT
DISTRICT AND ASSESSMENT ZONES THEREIN**

Any and all current and future Visitor Accommodation Facilities falling within the following boundaries will automatically be included in the GGTID.



TOURIST IMPROVEMENT DISTRICT MAP

T.I.D. Map
August 18, 2010 rev.

EXHIBIT "B"

**ASSESSED VISITOR ACCOMMODATION FACILITIES WITHIN
GARDEN GROVE TOURISM IMPROVEMENT DISTRICT
(AS OF AUGUST 2010)**

VISITOR ACCOMMODATION FACILITY	ADDRESS	BENEFIT ZONE
Anaheim Marriott Suites	12015 Harbor Blvd.	Tier I
Crowne Plaza Anaheim Resort	12021 Harbor Blvd.	Tier I
Embassy Suites Hotel Anaheim South	11767 Harbor Blvd.	Tier I
Hampton Inn & Suites	11747 Harbor Blvd.	Tier I
Hilton Garden Inn Anaheim/Garden Grove	11777 Harbor Blvd.	Tier I
Hyatt Regency – Orange County	11999 Harbor Blvd.	Tier I
Residence Inn Anaheim Resort Area	11931 Harbor Blvd.	Tier I
Homewood Suites Anaheim	12005 Harbor Blvd.	Tier I
Sheraton Garden Grove-Anaheim South	12221 Harbor Blvd.	Tier I

EXHIBIT "C"

IMPROVEMENTS AND ACTIVITIES TO BE FUNDED BY ASSESSMENTS ON THE BUSINESSES IN THE GARDEN GROVE TOURISM IMPROVEMENT DISTRICT

The Garden Grove Tourism Improvement District (GGTID) will serve as a funding mechanism for some or all of the following special improvements or activities to market and promote the City of Garden Grove tourism and convention industry in general and the GGTID Visitor Accommodation Facilities in particular:

- Advertising and marketing programs through the Anaheim/Orange County Visitor & Convention Bureau;
- Advertising and marketing programs through the GGTID and/or a separate nonprofit corporation formed to administer and implement the GGTID;
- Bus stop upgrades adjacent to participating Visitor Accommodation Facilities within the boundaries of the GGTID;
- Buy down assistance and rebates for participating Visitor Accommodation Facilities;
- Special events produced by resort properties – demand generators that benefit the participating Visitor Accommodation Facilities;
- Underwriting of related special events that benefit the participating Visitor Accommodation Facilities;
- Landscape and maintenance from sidewalk to curb and within medians within the boundaries of the GGTID;
- Lighting and maintenance from sidewalk to curb within the boundaries of the GGTID;
- Construction and beautification of medians, islands, fountains, and signage within the boundaries of the GGTID;
- Sidewalk maintenance within the boundaries of the GGTID;
- Utilities from sidewalk to curb within the boundaries of the GGTID;
- Private security within the boundaries of the GGTID for participating Visitor Accommodation Facilities;
- Parking upgrades and improvements, including gates within the boundaries of the GGTID;
- Transportation expenses such as ATN for participating Visitor Accommodation Facilities;
- Alternative transportation methods for participating Visitor Accommodation Facilities;
- Sponsorships, membership fees, dues, and subscriptions for programs or organizations furthering promotion of the City of Garden Grove's tourism and convention industry and benefiting participating Visitor Accommodation Facilities;
- Tourism-related studies and consultants;
- Staff and organizational operating costs related to the administration of the GGTID;
- Repayment of formation costs including the use of attorneys, consultants, and related professional services;

- Administrative fees incurred by the City of Garden Grove based upon agreement with the GGTID Visitor Accommodation Facilities and/or limited to and consistent with the percentage of total assessments charged by the City of Anaheim.

The proceeds of the GGTID assessments shall be spent to administer marketing and visitor programs to promote the benefited Visitor Accommodation Facilities in the City of Garden Grove as a tourism visitor destination and to fund projects, programs and activities, including appropriate staff administrative charges, that benefit Visitor Accommodation Facilities within the boundaries of the GGTID. The revenues from such assessments may also be used to pay or reimburse administrative costs incurred by the City or any entity contracting with the City in connection with the formation of the GGTID, the levy and collection of assessments, and the ongoing administration of the improvements and activities funded by the assessments. Notwithstanding the foregoing, payment or reimbursement to the City for administrative costs incurred by the City will not exceed three percent (3%) of assessment revenues collected.

Funds remaining at the end of any GGTID fiscal year may be used in subsequent years in which the GGTID assessments are levied as long as they are used consistent with the requirements of the Ordinance establishing the GGTID.

EXHIBIT "D"

PROPOSED METHOD AND BASIS OF LEVYING ASSESSMENT

Applicable Definitions

"Advisory Board" shall mean the Advisory Board appointed by the City Council.

"City Council" shall mean the City Council of the City of Garden Grove.

"GGTID" shall mean the Garden Grove Tourism Improvement District.

"Law" shall mean the Parking and Business Improvement Area Law of 1989, codified at California Streets and Highways Code section 36500 et seq., as it may be amended from time to time.

"Occupancy" shall mean the use or possession or the right to the use or possession, of any room or portion thereof in any Visitor Accommodation Facility for dwelling, lodging or sleeping purposes.

"Operator" shall mean the person who is the proprietor of the Visitor Accommodation Facility, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, manager or any other capacity. Where the Operator performs through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an Operator for the purposes of this Ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Ordinance by either the principal or the managing agent shall be considered to be compliance by both.

"Ordinance" shall mean the Ordinance adopted by the City Council establishing the GGTID, following a public hearing.

"Person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" shall mean the consideration charged, whether or not received, for the Occupancy of space in a Visitor Accommodation Facility, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Transient" or "Visitor" shall mean any person who exercises Occupancy or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying

space in a Visitor Accommodation Facility shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement, in writing, between the Operator and the occupant providing for a longer period of Occupancy.

“Visitor Accommodation Facility” shall mean any hotel, inn, motel, vacation time share facility, or similar lodging facility or business, which caters to casual business or tourist Visitors, in whole or in part.

Levy and Collection of Assessments

Except where funds are otherwise available, the assessment shall be levied annually on all Visitor Accommodation Facilities, existing and future, located within the boundaries of the GGTID to fund the improvements and activities within and that benefit the GGTID, commencing in fiscal year 2010-2011. The assessment shall be in addition to any other assessments, fees, charges or taxes imposed by the City.

Each annual assessment shall be set annually by Resolution of the City Council adopted pursuant Section 36535 of the Law, and shall not exceed (i) two and one-half percent (2.5%) of the gross rent charged by the Operator per room Occupancy per night for all Transient Occupancies for each Visitor Accommodation Facility in Tier I and (ii) one-half percent (0.5%) of the gross rent charged by the Operator per room Occupancy per night for all Transient Occupancies for each Visitor Accommodation Facility in Tier II.

The assessment shall be collected monthly, based on the applicable percentage of the amount of gross rent charged by the Operator per room Occupancy per night for all Transient Occupancies in the prior calendar month, in the same manner and at the same frequency as the City’s Hotel Visitors Tax imposed pursuant to Chapter 12 of Title 3 of the Garden Grove Municipal Code. Each Operator shall ensure that the assessments levied and remitted to the City pursuant to this Ordinance are clearly identified as distinct from the Hotel Visitors Tax revenues collected and remitted by the Operator. Upon request by the City, Visitor Accommodation Facilities shall furnish copies of records to the City or its designee that will allow confirmation that appropriate assessments have been paid.

Annual Review of Assessment

All of the assessments imposed pursuant to the Ordinance shall be reviewed by the City Council annually, based upon the annual report prepared by the Advisory Board appointed pursuant to the Ordinance and Sections 36530 and 36533 of the Law. After approval of the Annual Report, the City Council shall follow the hearing process as outlined in Section 36534 of the Law. At the Public Hearing the City Council shall hear and consider all protests. If written protests are received from Visitor Accommodation Facilities in the GGTID paying fifty percent (50%) or more of the annual assessment, no further proceedings to continue the levy of assessments shall take place. The protests shall be weighted based upon the annual assessment for the prior year on each Visitor Accommodation Facility subject to the assessment. For example, a Visitor Accommodation Facility that is

assessed 8.76% of the prior year's total annual assessment shall have an 8.76% weighted vote regarding the annual assessment for the immediately succeeding year.

Imposition of Assessment

The assessment imposed by the Ordinance will be levied upon the Visitor Accommodation Facilities within the GGTID, and the Operator of each Visitor Accommodation Facility shall be solely responsible for paying all assessments when due. Notwithstanding the foregoing, in the event that the Operator of a Visitor Accommodation Facility elects to pass on some or all of the assessment to customers of the Visitor Accommodation Facility, the Operator shall separately identify or itemize the assessment on any document provided to a customer. Assessments levied on the Operators of Visitor Accommodation Facilities pursuant to this Ordinance and passed onto customers are not part of a Visitor Accommodation Facility's gross rent for purposes of this Ordinance or the calculation of the City's Hotel Visitor's Tax pursuant to Chapter 12 of Title 3 of the Garden Grove Municipal Code.

Penalty for Non-Payment of Assessment

Any Visitor Accommodation Facility that fails to remit any assessments imposed by this Ordinance within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment due. Any Visitor Accommodation Facility that fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment and the ten percent (10%) penalty first imposed. Fifty percent (50%) of all such penalties collected shall be retained by the City to offset costs incurred by the City in collecting said penalties. The remaining fifty percent (50%) of all such penalties collected shall be used for the same purposes as the proceeds from the assessments. In addition to the penalties imposed, any Visitor Accommodation Facility that fails to remit any assessment imposed by this Ordinance shall pay interest at the rate of one and one-half percent (1.5%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which remittance first became delinquent. All such interest collected shall be used for the same purposes as the proceeds from the assessments.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
APPOINTING THE ADVISORY BOARD OF THE GARDEN GROVE TOURISM
IMPROVEMENT DISTRICT

WHEREAS, the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code Section 36500 et seq., (Law) authorizes the City Council to levy an assessment against businesses within a parking and business improvement area, which is in addition to any assessments, fees, charges, or taxes imposed in the City;

WHEREAS, by previous Resolution, the City Council declared its intention to establish the Garden Grove Tourism Improvement District (GGTID); and

WHEREAS, the Law requires the City Council to appoint an Advisory Board, which shall make recommendations to the City Council on the expenditure of revenues derived from the levy of assessments, on the classification of businesses, as applicable, and on the method and basis of levying the assessments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

1. The above recitations are true and correct.
2. The City Council hereby appoints the Members of the Board of Directors of The Garden Grove Tourism Promotion Corporation to serve as the Advisory Board for the proposed GGTID pursuant to Section 36530 of the Law (Advisory Board).
3. The City Council hereby directs the Advisory Board to prepare and file with the City Clerk, in accordance with Section 36533 of the Law, a report for fiscal year 2010-2011 (commencing July 1, 2010 and ending June 30, 2011) in connection with the proposed establishment of the GGTID and levy of an assessment against visitor accommodation facilities within the GGTID for fiscal year 2010-2011.
4. This Resolution is effective upon its adoption.