

RESOLUTION NO. RES-2020-161

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA APPROVING THE ADMINISTRATIVE AGREEMENT FOR COLLECTION OF ASSESSMENTS FOR SONOMA COUNTY TOURISM BUSINESS IMPROVEMENT AREA; AUTHORIZING THE REMITTANCE OF ANY ASSESSMENT FUNDS COLLECTED FROM SANTA ROSA LODGING ESTABLISHMENTS BUT NOT REMITTED BETWEEN JULY 2019 AND SEPTEMBER 20; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ADMINISTRATIVE AGREEMENT

WHEREAS, in 2001, recognizing the value of the tourism industry, the County of Sonoma initiated a public/private collaborative process to create the Sonoma County Tourism Bureau, and explore the creation of a tourism business improvement area; and

WHEREAS, with advocacy by the Sonoma County Lodging Association, Santa Rosa City Council passed Resolution Number 25954 on May 4, 2004, consenting to the inclusion of the City of Santa Rosa within the proposed Sonoma County Tourism Business Improvement Area (SCTBIA); and

WHEREAS, with this and similar resolutions passed by all other incorporated Sonoma County cities except for Healdsburg and Sonoma, the subsequent Ordinance Number 5525 of the Board of Supervisors of the County of Sonoma was passed, officially establishing the SCTBIA on November 2, 2004; and

WHEREAS, the first administrative agreement for collection of assessments for SCTBIA between the County and the City was entered into on December 28, 2004, with subsequent agreements entered into in 2006, 2009, 2012 and most recently in 2017, which terminated on June 30, 2019; and

WHEREAS, due to the 2017 agreement's termination on June 30, 2019, assessments totaling \$1,302,179 were collected by the City but not remitted to the County pending a new agreement retroactive to the termination date of the last agreement thus requiring the need to authorize the release of the remaining unremitted funds.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa approves the Administrative Agreement for Collection of Assessments for Collection of Assessments for Sonoma County Tourism Business Improvement Area, retroactive to July 1, 2019, in substantially the same form as Exhibit A to the resolution, subject to approval as to form by the City Attorney.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to execute the Administrative Agreement for Collection of Assessments for Sonoma County Tourism Business Improvement Area.

BE IT FURTHER RESOLVED that the Council authorizes the remittance of any assessment funds collected from Santa Rosa lodging establishments resulting from Santa Rosa's participation in the Sonoma County Tourism Business Improvement Area per Resolution Number 25954, but not remitted to the County after July 1, 2019.

IN COUNCIL DULY PASSED this 13th day of October, 2020.

AYES: (7) Mayor Schwedhelm, Vice Mayor Fleming, Council Members Dowd, Olivares, Rogers, Sawyer, Tibbetts

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: Stephanie A. Williams
City Clerk

APPROVED: J Schwedhelm
Mayor

APPROVED AS TO FORM:

Sue Gallagher
Sue Gallagher (Oct 28, 2020 16:23 PDT)
City Attorney

Exhibit A - Administrative Agreement for Collection of Assessments for Sonoma County
Tourism Business Improvement Area

EXHIBIT A

ADMINISTRATIVE AGREEMENT FOR COLLECTION OF ASSESSMENTS FOR SONOMA COUNTY TOURISM BUSINESS IMPROVEMENT AREA

This Agreement for Collection of Assessments ("Agreement"), dated for convenience _____, is made between the City of Santa Rosa ("City") and the County of Sonoma ("County").

RECITALS

A. Pursuant to Sonoma County Code Chapter 33 originating from Ordinance No. 5525 ("the BIA Ordinance"), the County has formed a Business Improvement Area ("BIA") pursuant to the Parking and Business Improvement Area Law of 1989 for the promotion of tourism in Sonoma County. Pursuant to the BIA Ordinance, a levy of two percent (2%) of rent charged by lodging operators is assessed ("the BIA assessments") on lodging operators generating total gross rent greater than \$350,000 in the preceding fiscal year (July 01 to June 30). The City has consented to the formation of the BIA and to the collection of BIA assessments from lodging operators located within the City.

B. The BIA Ordinance contemplates that the collection of BIA assessments from lodging operators within the City may be performed by the City pursuant to an administrative agreement with the County. The BIA Ordinance permits the City to retain from BIA assessments the City's actual costs of collection and administration, not to exceed two percent (2%) of the BIA assessments collected.

C. City has agreed to collect BIA assessments from lodging operators within its incorporated area, and City and County desire to memorialize the collection and

administrative functions to be performed by the City as contemplated by the BIA Ordinance.

D. City and County have agreed to cooperate in obtaining additional information from the Sonoma County Tourism Bureau regarding evidence of benefit to City and County lodging operators resulting from BIA assessment programs.

WHEREFORE, the City and County agree as follows:

AGREEMENT

1. Collection of BIA Assessments. Pursuant to and in conformance with the terms of the BIA Ordinance, City shall collect BIA assessments from lodging operators within the incorporated area of the City.
2. Frequency of Collection. City shall collect BIA assessments from lodging operators on a quarterly basis, no later than the last day of the month following the end of a calendar quarter. City may collect BIA assessments in conjunction with City's collection of any transient occupancy tax ("TOT") imposed by City on lodging operators.
3. Registration. City shall require each lodging operator within its incorporated area to provide such information as City shall deem necessary to collect BIA assessments. Information previously provided by a lodging operator to a City in connection with TOT collections may be used by the City for this purpose.
4. Remittance and Reporting to County. City shall remit BIA assessments collected from lodging operators in the most recent calendar quarter, less any administrative fee permitted by the BIA Ordinance and this Agreement, to the Sonoma County Tax Collector within 60 business days of the last day of the month following the

end of each calendar quarter. City's remittance of fees shall be accompanied by a report showing the aggregate total of gross room receipts for the quarter, the total amount of exemptions claimed, the aggregate total of BIA assessments collected, the amount of administrative fee withheld by the City, and the total net BIA assessment remitted to the Sonoma County Tax Collector by the City.

5. Delinquent Remittance to County. If payment is not received by the County from the City on or before the 60th business day of the last day of the month following the end of each calendar quarter, the City will be held liable for a 10% penalty. Said penalty will be calculated on the amount of BIA assessment received from lodging operators, less any administrative fee permitted by the BIA ordinance and this Agreement.

Notwithstanding the foregoing, City will not be liable for a delinquent remittance penalty for the quarters of July-September 2019, October-December 2019, January-March 2020, and April-June 2020.

6. Delinquency and Collection. If a lodging operator fails to report and remit BIA assessments when due, City shall assess and determine delinquencies, penalties, and interest, and take such actions as are necessary with respect to the assessment and determination of delinquencies, penalties, and interest as are required and provided in sections 33-8 and 33-9 of the BIA Ordinance.

7. Cooperation with County. In the event a lodging operator appeals any assessment by the City pursuant to section 33-10 of the BIA Ordinance, or in the event the County institutes legal action to collect any delinquent assessments, penalties, or interest owed by a lodging operator within the City pursuant to section 33-11 of the BIA Ordinance, the City shall cooperate with the County in connection with such proceedings

by providing documentation and witnesses reasonably necessary to the conduct of such proceedings.

8. Records and Inspection. City shall retain all records relating to its collection of BIA assessments and its performance under this Agreement for a period of three years, and shall allow County to inspect and copy such records upon County's reasonable request. If City performs an audit of any lodging operator to determine whether the lodging operator has complied with the City's TOT ordinance or the BIA Ordinance, City shall provide a copy of such audit to County upon request. Nothing in this Agreement shall prohibit the County from conducting an independent audit of lodging operators within the City for the purpose of determining compliance with the BIA Ordinance. County shall provide a copy of such audit to City upon request.

9. Documentation of Eligibility for Exemption. The determination of eligibility for inclusion in the BIA is calculated on a fiscal year basis and liability for payment of the BIA begins in the fiscal year immediately following the close of the prior fiscal year. By August of each year, City shall provide County with a list of all lodging operators within the City's incorporated area and the rent collected by each lodging operator during the prior fiscal year, for the purpose of determining whether each lodging operator is subject to assessment under section 33-5(a) of the BIA Ordinance. The amount to be used to determine eligibility is the amount of rent actually collected by the lodging operator in the previous fiscal year, not the amount collected as of the date TOT payments are due to the City.

10. Compensation. City may deduct from BIA assessments remitted to County under this Agreement the City's actual costs of collecting BIA assessments and

administering this Agreement, up to a maximum of two percent (2%) of the BIA assessments collected by the City.

11. Term; Termination. The term of this Agreement shall commence on July 1, 2020, and shall remain in effect until or unless City or County notifies the other party of its intent to terminate the Agreement at the end of the fiscal year. Such notice must be given no later than sixty (60) days before the end of the fiscal year for termination to be effective. This Agreement shall also terminate 90 days after (a) the effective date of any modification to the BIA that excludes the City from the boundaries of the BIA or (b) the effective date of any disestablishment of the BIA pursuant to section 33-17 of the BIA Ordinance.

12. Amendments. This agreement may be amended by the City and the County in writing, signed by both the City and the County.

13. Notices and Payments

All notices and payments to the parties shall be addressed as follows:

City: Finance Director
City of Santa Rosa
90 Santa Rosa Avenue
Santa Rosa, CA 95404

And CC to

Economic Development Director
City of Santa Rosa
100 Santa Rosa Avenue
Santa Rosa, CA 95404

County: Treasurer-Tax Collector
County of Sonoma
Post Office Box 3879
Santa Rosa, CA 95402

City of Santa Rosa

By _____
Sean McGlynn, City Manager

Date _____

Approved as to form:

By _____
City Attorney

Date _____

County of Sonoma

By _____
Treasurer-Tax Collector

Date _____

Approved as to form:

By _____
County Counsel

Date _____