

RESOLUTION NUMBER R- 300533

ADOPTED ON JUN 14 2005

RESOLUTION CONSIDERING THE PROTESTS, APPROVING ENGINEER'S REPORT, CONFIRMING THE ASSESSMENTS, AND ORDERING THE PROPOSED ACTIVITIES, IMPROVEMENTS, MAINTENANCE, AND SERVICES IN THE MATTER OF THE DOWNTOWN PROPERTY AND BUSINESS IMPROVEMENT DISTRICT.

WHEREAS the Council proposes the renewal of a business improvement assessment district to be designated the Downtown Property and Business Improvement District [District] pursuant to California Streets and Highways Code sections 36600 et seq.

WHEREAS the Council proposes and intends to levy and collect assessments to pay a prescribed portion of the cost of future activities, improvements, maintenance and/or services of those items described in the Engineer's Report and Management Plan for the Downtown Property and Business Improvement District [Report], located within the boundaries of the District, in the City under the provisions of Article XIII D, section 4 of the California Constitution and California Government Code sections 53739, 53750, 53753, 53753.5, and 54954.6 [collectively referred to herein as the Law].

WHEREAS the proposed improvements, activities, maintenance and/or services for the District [Activities and Improvements] consist in general of those items described in the Report. "Activities" means, but is not limited to, all of the following: promotion of public events which benefit businesses or real property in the district; furnishing of music in any public place within the district; promotion of tourism within the district; marketing and economic development, including retail retention and recruitment; providing security, sanitation, graffiti removal, street

and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality; and activities which benefit businesses and real property located in the district.

"Improvement" means, but is not limited to, the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following: parking facilities; benches, booths, kiosks, display cases, pedestrian shelters and signs; trash receptacles and public restrooms; lighting and heating facilities; decorations; parks; fountains; planting areas; closing, opening, widening, or narrowing of existing streets; facilities or equipment, or both, to enhance security of persons and property within the area; ramps, sidewalks, plazas, and pedestrian malls; rehabilitation or removal of existing structures.

WHEREAS, pursuant to the Law, a joint notice and mail ballot was duly and regularly given, including the notice that this Council would be conducting a public hearing on JUN 14, 2005 on the question of the levy of the proposed assessment;

WHEREAS, the notice of the time and place fixed for the hearing of protests in the matter of the proposed levy of assessments and renewal of the District pursuant to Resolution No. R- 300287, adopted on APR 04 2005, having been duly given in the manner required by law and the legal time for filing such protests and the time fixed for hearing thereon having passed;

WHEREAS, on JUN 14 2005 at the hour of 10:00 AM at the Council Chambers located at 202 "C" Street, San Diego, California, the public hearing was duly and regularly held as noticed, and all persons interested and desiring to be heard were given an opportunity to speak and be heard, and all matters and things pertaining to the levy were fully

heard and considered by this Council, and all oral statements and all written protests or communications were duly considered;

WHEREAS, after the conclusion of the public hearing, the mail ballots were tabulated and the Council found that a majority protest as defined by Article XIID of the California Constitution did not exist, and this Council thereby acquired jurisdiction to order the levy of assessments; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The assessment ballots submitted by the owners of property within the business improvement assessment district in favor of the assessment exceeded those submitted in opposition to the assessment with each ballot weighted by the amount of assessment it represents.

2. The assessments described in Document No. RR- 300287, on file in the Office of the City Clerk and on file in the Office of Community and Economic Development Department, in the Economic Development Division, are hereby confirmed and approved and the Downtown Property and Business Improvement District is hereby established.

3. Properties in the District will benefit from the Activities and Improvements and assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the City Clerk, which map is made a part hereof by reference thereto.

4. The assessment district map for the "Downtown Property and Business Improvement District," described in Document No. RR- 300287 is hereby approved.

5. The Activities and Improvements described in said Resolution of Intention and Report are hereby ordered performed.

6. The Engineer's Report and Management Plan for the Downtown Property and Business Improvement District, filed in the Office of the City Clerk as Document No. RR- 300287, be and the same is hereby approved for these purposes.

7. The authorized maximum assessment to be levied in future fiscal years includes an annual adjustment, not to exceed 5% per year.

8. Based on the oral and documentary evidence, including the Report, offered and received at the hearing, this Council expressly finds and determines (a) that each of the several lots and parcels of land will be specially benefited by the Activities and Improvements at least in the amount if not more than the amount, of the assessment apportioned against the lots and parcels of land, respectively, and (b) that there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the aforesaid finding and determination as to special benefits.

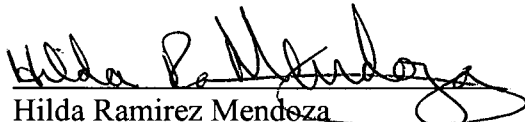
9. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the District.

10. The moneys representing assessments collected by San Diego County, shall be deposited in the City Treasury to the credit of the fund previously established under the distinctive designation of the District. The Activities and Improvements to be provided in the

District will be funded by the levy of the assessments. The revenue from the levy of assessments within the District shall not be used to provide activities or improvements outside the District or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the District.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Hilda Ramirez Mendoza
Deputy City Attorney

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03/18/2005
Or.Dept: C&ED.
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