

ORDINANCE NUMBER O- 13970 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 22 2010

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE CONSTRUCTION AND MAINTENANCE AGREEMENTS WITH BURLINGTON NORTHERN SANTA FE RAILWAY, THE METROPOLITAN TRANSIT SYSTEM AND THE NORTH COUNTY TRANSIT DISTRICT, AND TAKING RELATED ACTIONS ASSOCIATED WITH THE DOWNTOWN SAN DIEGO QUIET ZONE PROJECT.

WHEREAS, the federal government, through the Federal Railroad Administration, has addressed the quality of life issue of train noise in urban areas, in the Final Rule for the Use of Locomotive Horns at Highway-Rail Crossings which sets out regulatory procedures and technical requirements necessary for the implementation of a Quiet Zone; and

WHEREAS, in order for the San Diego downtown area to qualify for a Quiet Zone designation, additional safety enhancements must be constructed at the crossings; and

WHEREAS, pursuant to Resolution No. R-04192 with date of final passage on August 3, 2007, the Redevelopment Agency (Agency) certified and approved the Final Mitigated Negative Declaration (MND) SCH No. 2007021121 dated April 3, 2007 for the Downtown San Diego Quiet Zone Project including 13 railroad/public right-of-way crossings (Quiet Zone Project); and

WHEREAS, the City Council approved the conversion of "G" Street from a two-way street to a one-way eastbound street from Pacific Highway to Front Street, as part of the Quiet Zone Project, and reviewed and considered the MND; and

WHEREAS, pursuant to Resolution Nos. R-04321 and R-304077, with dates of final passage on September 10, 2008, the Agency and the City Council, respectively, made the requisite findings required by California Health and Safety section 33445 for the Agency to pay

the costs of the improvements to implement the Quiet Zone Project and the Agency authorized advertising for bids for construction of the Project; and

WHEREAS, the Agency has budgeted a total amount of Twenty Million Nine Hundred Forty Thousand Dollars (\$20,940,000) for the design and construction of the railroad/public right-of-way crossing improvements necessary to implement the Quiet Zone Project; and

WHEREAS, the City proposes to enter into contracts with the San Diego Metropolitan Transit System (MTS), the North County Transit District (NCTD), and the Burlington Northern & Santa Fe Railway Company (BNSF) for the construction, operation and maintenance of the railroad/public right-of-way crossing improvements and the Quiet Zone Project; and

WHEREAS, the Agency and the City desire to enter into a Cooperation Agreement to memorialize their arrangement to fund, design, construct and maintain the improvements necessary to implement the Quiet Zone Project; NOW, THEREFORE,

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

Section 1. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an agreement with MTS and NCTD for construction and maintenance of the Quiet Zone Project safety improvements, under the terms and conditions set forth in the Construction and Maintenance Agreement, on file with the City Clerk as Document Number OO-

13970 - 1, provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Section 2. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an agreement with BNSF for construction and maintenance of the Quiet Zone Project safety improvements, under the terms and conditions set forth in the Construction and

Maintenance Agreement, on file with the City Clerk as Document Number OO-
13970 - 2, provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Section 3. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an agreement with the Agency regarding the Quiet Zone Project, under the terms and conditions set forth in the Cooperation Agreement, on file with the City Clerk as Document Number OO- 13970 - 3.

Section 4. That the Chief Financial Officer is authorized to expend an amount not to exceed the \$9,027.00 from Fund No. 100000, solely and exclusively for the inspection and maintenance of the BNSF-related safety improvements for the first year of operation of the Quiet Zone Project pursuant to the Construction and Maintenance Agreement with BNSF, provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Section 5. That the Chief Financial Officer is authorized to expend an amount not to exceed \$50,666.00 from Fund No. 100000, solely and exclusively for the inspection and maintenance of the MTS and NCTD-related crossing improvements for the first year of operation of the Quiet Zone Project pursuant to the Construction and Maintenance Agreement with MTS and NCTD, provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Section 6. That the expenditure of funds for inspection and maintenance of the BNSF-related safety improvements and the MTS and NCTD-related crossing improvements in

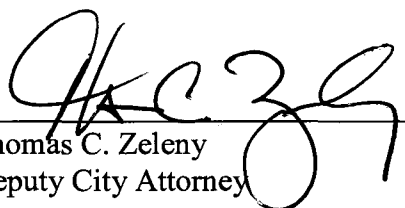
subsequent fiscal years based on estimates to be provided annually by BNSF, MTS, and NCTD is hereby authorized, contingent on such funding being approved in the annual Appropriations Ordinance each fiscal year, and provided the City Comptroller first furnishes one or more certificates demonstrating the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

Section 7. That the Mayor or his designee is authorized to accept any improvements to City facilities necessary to operate the Quiet Zone Project upon successful completion of those improvements.

Section 8. That a full reading of this ordinance is dispensed with prior to its passage, since a written copy was made available to the City Council and the public prior to the day of passage.

Section 9. That this ordinance shall take effect and be in full force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By  _____
Thomas C. Zeleny
Deputy City Attorney

TCZ:mb
06/08/10
C.Cert: _____
Or.Dept:CCDC
O-2010-110
MMS # 12343
Comp. RA-

I hereby certify that the foregoing Ordinance was passed by the Council of the City of Diego,
at its meeting of JUL 13 2010.

ELIZABETH S. MALAND, City Clerk

By 
Deputy City Clerk

Approved: 7.22.10
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor