

Item 201  
Mon. 5/12/15

RESOLUTION NUMBER R- 309673

DATE OF FINAL PASSAGE MAY 12 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CONSIDERING THE PROTESTS, APPROVING THE ASSESSMENT FORMULA, AND AUTHORIZING THE LEVY AND COLLECTION OF THE ASSESSMENT FOR THE DOWNTOWN PROPERTY AND BUSINESS IMPROVEMENT DISTRICT THROUGH JUNE 30, 2025.

WHEREAS, the Property and Business Improvement District Law of 1994, California Streets and Highways Code sections 36600-36671 (PBID Law), authorizes cities and counties to establish and renew property and business improvement districts for the purposes of promoting economic revitalization and physical maintenance of improvements; and

WHEREAS, on February 22, 2000, the City Council adopted Resolution No. R-292797, establishing the San Diego Downtown Property and Business Improvement District (District) for a five-year term; and

WHEREAS, on June 14, 2005, the City Council adopted Resolution No. R-300533, renewing the District for a ten-year term; and

WHEREAS, on September 25, 2012, the City Council adopted Resolution No. R-307698, establishing the Commercial Marketing District Zone, a new zone within the District; and

WHEREAS, pursuant to PBID Law, the number of years in which an assessment shall be levied is a maximum of five years for a new district, and a maximum of ten years upon renewal; and

WHEREAS, the City received a petition meeting the requirements of PBID Law, specifically California Streets and Highways Code section 36621(a), requesting the renewal of

the District upon the expiration of the District as of June 30, 2015, for a period of ten years (Petition); and

WHEREAS, on February 25, 2015, the City Council adopted Resolution No. R-309520, titled "A Resolution of the Council of the City of San Diego Declaring Its Intention to Renew the Downtown Property and Business Improvement District and to Levy and Collect the Associated Assessment through June 30, 2025; Directing the Mailing of Ballots to Identified Property Owners; and Setting the Date and Time for a Public Hearing with Respect to this Matter," stating its intent to renew the District for a ten-year term (Resolution of Intention); and

WHEREAS, the date and time for a public hearing, pursuant to California Government Code section 53753 concerning the establishment of the renewed District (Hearing), was set for May 11, 2015, at 2:00 PM, or as soon thereafter as it may be heard, in the City Council Chambers of the City Administration Building, 202 C St., 12th floor, San Diego, California; and

WHEREAS, the City Clerk and City staff mailed, or caused to be mailed, notice of the Hearing and assessment ballots to all affected property owners, whose names and addresses appear on the last equalized secured property tax assessment roll, all in the manner and form provided for in California Government Code sections 53750-53756; and

WHEREAS, on May 11, 2015, at 2:00 PM, in the City Council Chambers of the City Administration Building, 202 C St., 12th floor, San Diego, California, the City Council held the Hearing, at which all persons were permitted to present written or oral testimony regarding the District and the levy of the proposed assessment, and the City Council considered all objections or protests to the levy of the proposed assessment; and

WHEREAS, ballots were issued, accepted, and at the conclusion of the Hearing, tabulated in the manner set forth in PBID Law, Article XIID, section 4 of the California

Constitution, California Government Code section 53753, and the Guidelines for the Return and Tabulation of Assessment Ballots, a copy of which is on file with the City Clerk as Document No. RR- 309520-4, filed February 24, 2015, and incorporated herein by reference; and

WHEREAS, the City Clerk, or person designated by the City Clerk, and Koppel & Gruber Public Finance, an impartial contractor for the City having no vesting interest in the outcome of the assessment, have tabulated the ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. A majority protest would preclude the renewal of the District under PBID Law. For purposes of calculating whether a majority protest exists, each ballot returned by a property owner was weighted by the estimated assessment obligation of the property owner; and

WHEREAS, the renewed District is subject to the Management District Plan (District Plan), a copy of which is on file with the City Clerk as Document No. RR- **309673-1** and incorporated herein by reference, which describes that the estimated assessment obligation applicable to each property owner was calculated by applying the assessment rates set forth in detail in the District Plan, and specifically identified in Appendix 1 of the District Plan; and

WHEREAS, among other things, the District Plan describes how the property within the District will be benefitted by the improvements, maintenance, and activities funded by the proposed assessments, and how the property within the District will receive a special benefit; and

WHEREAS, this Resolution is intended to constitute a resolution of formation with respect to the ten-year renewal of the District in compliance with PBID Law, including California Streets and Highways Code section 36625; NOW, THEREFORE,

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

1. The City Clerk, or person designated by the City Clerk, and City contractor, have

tabulated the ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. Based on this tabulation, the City Clerk and the City Council have determined that no majority protest exists, as that term is defined in California Government Code section 53753(e)(4).

2. The proposed improvements, maintenance, and activities of the District can be generally described as activities and improvements which confer a benefit to assessed parcels and consisting of those items described in the District Plan. "Activities" means, but is not limited to, all of the following that benefit real property in the District: promotion of public events; furnishing of music in any public place; 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 services supplemental to those normally provided by the municipality; and providing other services for the purpose of conferring special benefit upon assessed real property located in the District. "Improvement" means 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; and rehabilitation or removal of existing structures.

3. The assessment shall be levied on each property within the District.

4. No bonds will be issued in connection with the District.

5. The exterior boundaries of the proposed District are identified on the District

Map, a copy of which is on file with the City Clerk as Document No. RR- **309673-2** and incorporated herein by reference.

6. The properties in the District are subject to any amendments to Part 7 of Division 18 of the California Streets and Highways Code, presently consisting of sections 36600-36671.

7. The improvements, maintenance, and activities to be conferred on properties in the District will be funded by the levy of the assessments. The revenue from the levy of assessments within a District shall not be used to provide improvements, maintenance, or activities outside the District or for any purpose other than the purposes specified in the Resolution of Intention.

8. The City Council finds that property within the District will be benefited by the improvements, maintenance, and activities funded by the proposed assessments and that property within the District will receive a special benefit. The total amount of all special benefits to be conferred on the properties within the District will equal the actual expenditure of assessment funds under the District Plan. The total estimated expenditure of assessment funds is approximately \$93,080,623.13 over the ten-year period, as set forth in Section V of the District Plan, and specifically identified in further detail in Appendix 6 of the District Plan. The methodology for calculation of assessments in relation to specific benefit zones is further described in the Resolution of Intention and Part VII of the District Plan.

9. The City Council hereby declares its intent to renew the District through June 30, 2025, and 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 District Plan, located within the boundaries of the District, in the City under the provisions of PBID Law,

Article XIIIID, section 4 of the California Constitution, and California Government Code sections 53739, 53750, 53753, 53753.5, and 54954.6.

10. The adoption of this resolution of formation for the renewal of the District, along with the recordation of the notice and map by the Clerk in the Office of the San Diego County Recorder in accordance with California Streets and Highways Code section 3114, shall constitute the levy of an assessment in each of the fiscal years referred to in the District Plan.

11. The Chief Financial Officer is authorized to manually bill and collect District assessments as necessary and appropriate, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments.

12. The annual budget for the District shall be determined by and contingent upon approval by the City Council of the District budget resolution each fiscal year. The District budget resolution is subject to the City's annual appropriation ordinance, as approved by the Mayor, or designee, and adopted by the City Council through the City annual budget process.

13. The Chief Financial Officer is authorized to establish an interest-bearing fund for the District.

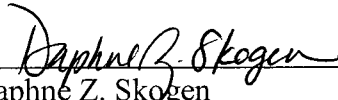
14. The Chief Financial Officer is authorized to appropriate and expend from the District fund once it is established, consistent with the District Plan and all applicable District budgets, contingent upon the City Comptroller certifying that the funds necessary for expenditure are available.

15. The Chief Financial Officer is authorized to appropriate and expend District operating funds for Fiscal Year 2016, contingent upon approval of the City's Fiscal Year 2016 Appropriation Ordinance, and contingent upon the City Comptroller certifying that the funds necessary for expenditure are available.

16. The Chief Financial Officer is authorized to appropriate and expend funds from the General Fund and Gas Tax Funds for the purpose of paying for general benefits in the District, contingent upon approval of the City's Fiscal Year 2016 Appropriation Ordinance and contingent upon the City Comptroller certifying that the funds necessary for expenditure are available.

17. The City Council designates authority to the Mayor or designee to preclude the expenditure of all or any portion of District assessments during the pendency of any litigation that has been timely initiated to challenge the renewal of the District.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Daphne Z. Skogen  
Deputy City Attorney

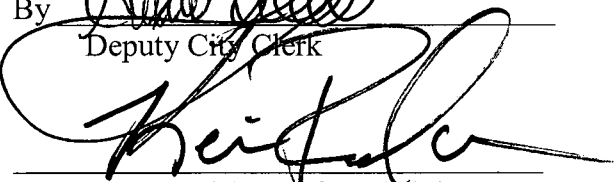
DZS:dkr  
April 28, 2015  
Or.Dept:Econ. Dev.  
Doc. No.: 1004383

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 5/12/2015.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 5/12/2015  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAY 12 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 12 2015

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By  Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **309673**