

Item 334
Tues. 11/15/16
(R-2017-101)

RESOLUTION NUMBER R- 310802

DATE OF FINAL PASSAGE NOV 28 2016

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 LA JOLLA MAINTENANCE ASSESSMENT DISTRICT FOR THE LIFE OF THE DISTRICT.

WHEREAS, the Maintenance Assessment District Procedural Ordinance (San Diego Municipal Code sections 65.0201 – 65.0222) (MAD Procedural Ordinance) authorizes the creation of a maintenance assessment district (MAD) within the City of San Diego and sets forth the procedure for the formation of MADs; and

WHEREAS, in accordance with San Diego Municipal Code section 65.0221, each MAD remains in operation unless and until the Council later disestablishes the MAD; and

WHEREAS, the City has approved the District Management Plan (DMP) and Engineer’s Report (Engineer’s Report) (collectively, District Plan) on file in the Office of the City Clerk as Document No. RR- 310701-1 and incorporated herein by reference, for the proposed formation of the La Jolla Maintenance Assessment District (District), located in the Village area of the La Jolla neighborhood of the City; and

WHEREAS, the improvements and activities to be undertaken within the District, as further described in the District Plan, generally consist of the procurement, maintenance, operation, and servicing of landscaping, sidewalk cleaning, and trash and graffiti removal, all which shall be in excess of the City’s baseline services provided within the District; and

WHEREAS, the amount of the proposed assessment for the District in Fiscal Year 2018 is \$502,378.00, which amount shall be indexed (increased or decreased) annually, starting in Fiscal Year 2019, by the annual factor published in the San Diego Consumer Price Index – All

Urban Consumers not to exceed 3 percent and subject to further limitations as described in the Engineer's Report; and

WHEREAS, no bonds shall be issued in connection with the District; and

WHEREAS, the District Plan contains a detailed map which describes the boundaries of the proposed District and a list of the lots and parcels, and the proposed assessments upon the assessable lots and parcels, of land within the District; and

WHEREAS, on September 27, 2016, the Council adopted Resolution No.

R- 310701, titled "A Resolution of the Council of the City of San Diego Approving the District Management Plan and Assessment Engineer's Report and Declaring its Intention to Form the La Jolla Maintenance Assessment District and to Levy and Collect Annual Assessments within the District for the Life of the District; Directing the Mailing of Ballots to Identified Property Owners; and Setting the Date and Time for a Public Hearing with Respect to this Matter" (Resolution of Intention); and

WHEREAS, the date and time for a public hearing, under California Government Code section 53753 concerning formation of the District (Hearing) was set for November 15, 2016, at 10:00 a.m, or soon thereafter as it may be heard, in the City Council Chambers of the City Administration Building located at 202 C Street, 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 Proposition 218 Omnibus Implementation Act (California Government Code sections 53750 – 53758); and

WHEREAS, on November 15, 2016, at 10:00 a.m., in the City Council Chambers of the City Administration Building located at 202 C Street, 12th Floor, San Diego, California, the 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 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 Article XIID of the California Constitution, Proposition 218 Omnibus Implementation Act, the MAD Procedural Ordinance, Council Policy 100-21, 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-310701-2 filed SEP 27, 2016, and incorporated herein by reference; and

WHEREAS, the City Clerk, or person designated by the City Clerk, an impartial person having no vested interest in the outcome of the assessment, has tabulated the ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. A majority protest would preclude the formation of the District under California Government Code section 53753. 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 District is subject to the District Plan, which describes that the estimated obligation applicable to each property owner was calculated by applying the assessment rates set forth in detail in the Engineer's Report; and

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

WHEREAS, this Resolution constitutes a resolution of formation with respect to the District in compliance with the MAD Procedural Ordinance, Article XIID of the California Constitution, Proposition 218 Omnibus Implementation Act; 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, has 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 Council have determined that no majority protest exists, as that term is defined in California Government Code section 53753(e)(4).

2. The Council elects to establish the District.

3. The assessments described in the District Plan, on file in the Office of the City Clerk as Document No. RR-310701-1, are confirmed and are authorized to be levied annually within the range of assessments described in the Engineer's Report.

4. 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- 310701-3 and incorporated herein by reference.

5. The properties in the District established by this Resolution shall be subject to any future amendments to Chapter 6, Article 5, Division 2 of the San Diego Municipal Code.

6. The improvements and activities to be conferred on properties in the District will be funded by the levy of assessments as described in the District Plan. The revenue from the levy of assessments within the District shall not be used to provide improvements or activities outside the District for any purpose other than the purposes specified in the Resolution of Intention, including any modifications made by the Council at the Hearing.

7. Based on information provided in the District Plan, the Council finds that the property within the area of the District will receive special benefits as a result of the improvements and activities funded by the District assessments.

8. The adoption of this Resolution constitutes the levy of an assessment in each of the fiscal years for the life of the District.

9. The validity these assessments and the formation of the District shall not be contested in any action or proceeding unless the action is commenced within thirty (30) calendar days after the final passage of this Resolution.

10. The assessment shall be collected at the same time and in the same manner as specified for the collection of ad valorem property tax in San Diego County.

11. The Chief Financial Officer is authorized to manually bill and collect District assessments as necessary and appropriate, including assessments which are not billed by the County of San Diego, in the same time and manner as county taxes are collected.

12. All delinquent payments for assessments levied shall be charged interest and penalties in accordance with the rates applicable to ad valorem property tax in San Diego County at the time of collection. All laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments. The assessments shall have the same lien priority and penalties for delinquent payments as the ad valorem property tax in San Diego County, subject to relevant law applicable at the time of collection.

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 the District fund once it is established, consistent with the District Plan and all applicable District budgets,

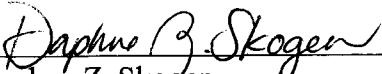
contingent upon the adoption of the annual appropriation ordinance for Fiscal Year 2018 and the Chief Financial Officer certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

15. The Chief Financial Officer is authorized to expend \$37,521.25 from the City's General Fund for assessments levied to City-owned parcels, contingent upon the adoption of the annual appropriation ordinance for Fiscal Year 2018, and the Chief Financial Officer certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

16. The Chief Financial Officer is authorized to expend amounts owed in connection with assessments levied to City-owned parcels from the City's General Fund, contingent upon the adoption of the annual appropriation ordinance each Fiscal Year, and the Chief Financial Officer certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

17. The 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 establishment of the District.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Daphne Z. Skogen
Deputy City Attorney

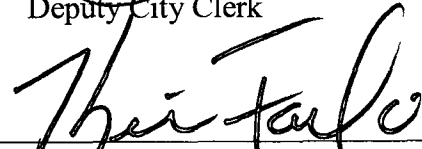
DZS:dkr
September 12, 2016
Or.Dept: Economic Development
Doc. No.: 1345078

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 15 2016.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11/28/16
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on NOV 15 2016, by the following vote:

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

Date of final passage NOV 28 2016

(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.

By , Deputy

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number R- 310802