

RESOLUTION NUMBER R- 311234

DATE OF FINAL PASSAGE JUL 25 2017

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 NORTH PARK PROPERTY AND BUSINESS IMPROVEMENT DISTRICT THROUGH DECEMBER 31, 2022.

WHEREAS, the Property and Business Improvement District Law of 1994, California Streets and Highways Code sections 36600-36671 (PBID Law), authorizes the City to establish a property and business improvement district for the purpose of conferring special benefits, beyond what the City traditionally provides, upon the real property 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

WHEREAS, the City received a petition (Petition) requesting the formation of a new district, the North Park Property and Business Improvement District (District), for a five-year term beginning on January 1, 2018 and ending on December 31, 2022; and

WHEREAS, the Petition meets the requirements of the PBID Law, specifically California Streets and Highways Code section 36621(a); and

WHEREAS, on May 23, 2017, the City Council adopted Resolution No. R- 311153 titled "A Resolution of the Council of the City of San Diego Declaring Its Intention to Form the North Park Property and Business Improvement District and to Levy and Collect the Associated Assessment through December 31, 2022; 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 form the District for a five-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 District (Hearing), was set for July 11, 2017, at 10:00 AM, 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 July 11, 2017, at 10:00 AM, 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, unsealed and tabulated in public view 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- 311153-4, filed May 23, 2017; 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 vested interest in the outcome of the proposed assessment, have 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 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 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- 311234-1 and is incorporated fully into this Resolution by this reference, and 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 Section VI(B) 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 formation 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 the City's impartial 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" includes, but is not

limited to, all of the following that benefit real property in the District: promotion of public events; promotion of tourism within the District; marketing and economic development, including retail retention and recruitment; providing sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality; and other services provided 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: benches, booths, kiosks, display cases, pedestrian shelters and signs; trash receptacles and public restrooms; lighting and heating facilities; decorations; parks; fountains; and planting areas.

3. The proposed assessment amount for the District's initial year is \$308,899.46.
4. The assessment shall be levied on property within the District.
5. No bonds will be issued in connection with the District.
6. 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- 311234-2 and is incorporated fully into this Resolution by this reference.

7. 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.

8. 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 the 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.

9. 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.

10. The total amount of all special benefits to be conferred on the properties within the District is \$308,899.46 (Total Assessment). The Total Assessment, as proportionally divided among the assessed parcels, is described in further detail in Appendix 2 of the District Plan. The total estimated expenditure of assessment funds over the five-year period is approximately \$1,706,759.50, and is described in further detail in Section IV(F) of the District Plan. The methodology for calculation of assessments in relation to each parcel is further described in the Resolution of Intention and Part VI of the District Plan.

11. Pursuant to PBID Law, Article XIID, section 4 of the California Constitution, and California Government Code sections 53739, 53750, 53753, 53753.5, and 54954.6, the Council establishes the District for a five-year term starting on January 1, 2018 and ending on December 31, 2022, and authorizes the levy and collection of assessments for the purpose of conferring special benefit on real property in the District as described in the District Plan.

12. The adoption of this Resolution for the formation 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.

13. 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.

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

15. 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.

16. 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.

17. The Chief Financial Officer is authorized to expend District operating funds for Fiscal Year 2018, contingent upon the City Comptroller certifying that the funds necessary for expenditure are available.

18. The Chief Financial Officer is authorized to expend \$11,321.14 from the City's General Fund for the purpose of paying for general benefits in the District, contingent upon the City Comptroller certifying that the funds necessary for expenditure are available.

19. The Chief Financial Officer is authorized to expend \$12,355.98 for the City's administration of the District for Fiscal Year 2018, contingent upon the City Comptroller certifying that the funds necessary for expenditure are available.

20. 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 formation of the District.

APPROVED: MARA W. ELLIOTT, City Attorney

By *Daphne Z. Skogen*
Daphne Z. Skogen
Deputy City Attorney

DZS:dkr
05/09/2017
Or.Dept: Econ. Dev.
Doc. No. 1501090_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 11 2017.

ELIZABETH S. MALAND
City Clerk

By *[Signature]*
Deputy City Clerk

Approved: 7/24/17
(date)

[Signature]
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on JUL 11 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 15 2017

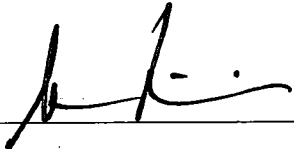
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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

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