

RESOLUTION NO. 2014 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FRESNO DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE FRESNO/CLOVIS TOURISM BUSINESS IMPROVEMENT DISTRICT

Whereas, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the City to renew business improvement districts upon petition by a weighted majority of the lodging business owners located within the boundaries of the district; and

Whereas, lodging business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the Fresno/Clovis Tourism Business Improvement District ("FCTBID") have petitioned the City Council to renew the FCTBID; and

Whereas, included with the petitions was a Management District Plan summary that describes the proposed assessment to be levied on lodging businesses within the FCTBID to pay for sales promotion and destination marketing activities, and other improvements and activities set forth in the Management District Plan; and

Whereas, the City has requested and received consent from the City of Clovis to include lodging businesses in its jurisdiction in the FCTBID; and

Whereas, the assessed lodging businesses within the FCTBID will be specifically benefited by the activities and improvements set forth in the Management District Plan; and

Whereas, on October 30, 2014 at 10:00 AM at 2600 Fresno Street, Council Chambers, Fresno, CA 93721, the City Council adopted a Resolution of Intention, Resolution No. 2014-177, Declaring its Intention to Renew the Fresno/Clovis Tourism Business Improvement District (FCTBID) and Fixing the Time and Place of a Public Meeting; and

Whereas, the public meeting and public hearing to consider the renewal of the FCTBID have been properly noticed in accordance with Streets and Highways Code §36623; and

Whereas on November 20, 2014 at 3:30 PM at 2600 Fresno Street, Council Chambers, Fresno, CA 93721, the City Council held a public meeting regarding the renewal of the FCTBID, and the City Council heard and received objections and

protests, if any, to the renewal of the FCTBID and the levy of the proposed assessment;
and

Whereas, on December 18, 2014 at 2:00 PM at 2600 Fresno Street, Council Chambers, Fresno, CA 93721, the City Council held a public hearing regarding the renewal of the FCTBID, and the City Council heard and received all objections and protests, if any, to the renewal of the FCTBID and the levy of the proposed assessment;
and

Whereas, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the proposed district which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.

2. The FCTBID is hereby renewed for a ten (10) year term, beginning January 1, 2016 through December 31, 2025.

3. The activities to be provided to benefit businesses in the district will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the district; to provide activities or improvements outside the FCTBID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Management District Plan.

4. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the FCTBID that is not provided to those not paying the assessment.

b) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

c) The assessment is a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

d) Assessments imposed pursuant to the FCTBID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "FCTBID Assessment."

5. The assessments levied for the FCTBID shall be applied towards sales, promotions and marketing programs to market Fresno/Clovis lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Management District Plan.

6. Assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

7. The assessments for the entire District will total approximately \$1,400,000 in years one through five and will total approximately \$2,000,000 in years six through ten.

8. Bonds shall not be issued to fund the FCTBID.

9. The FCTBID shall include all lodging business, existing and in the future, available for public occupancy located within the boundaries of the cities of Fresno and Clovis. A boundary map is attached hereto and incorporated herein by reference.

10. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the FCTBID assessment is levied as long as they are used consistent with the requirements set forth herein. Upon renewal, any remaining revenues derived from the levy of assessments in the prior district shall be transferred to the renewed district, and shall be spent to benefit only the businesses in the prior district.

11. The assessments to fund the activities and improvements for the FCTBID will be collected by the cities of Fresno and Clovis via regular reports from the lodging businesses, and in accordance with Streets and Highways Code §36631.

12. The Fresno/Clovis Convention and Visitor's Bureau shall be the Owners' Association pursuant to Streets and Highways Code §36614.5.

13. The Fresno/Clovis Convention and Visitor's Bureau, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the district.

14. The FCTBID established pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

15. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the establishment of the FCTBID and to levy the assessments.

16. This Resolution shall take effect immediately upon its adoption by the City Council.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Katherine B. Doerr Date
Supervising Deputy

Boundary Map

