



RESOLUTION NO. 2010 - 295

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FRESNO
DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS,
ESTABLISHING THE FRESNO-CLOVIS TOURISM BUSINESS
IMPROVEMENT DISTRICT, AND AUTHORIZING THE LEVY OF
DISTRICT ASSESSMENTS**

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes cities and counties to establish property and 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 establish 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 marketing activities, and other improvements and activities set forth in the Management District Plan; and

WHEREAS, the assessed lodging businesses within the FCTBID will be benefited by the activities and improvements set forth in the Management District Plan and funded by the proposed assessment; and

WHEREAS, on October 28, 2010 at 2600 Fresno Street, Second Floor, Fresno, CA 93721, the City Council adopted Resolution No. 2010-234, Declaring its Intention to Establish the Fresno-Clovis Tourism Business Improvement District and Fixing the Time and Place of a Public Meeting and a Public Hearing Thereon and Giving Notice Thereof; and

WHEREAS, the City Council has requested and received consent from the City of Clovis to include its jurisdiction in the FCTBID; and

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

WHEREAS, on November 18, 2010 at 10:00 a.m. at 2600 Fresno Street, Second Floor, Fresno, CA 93721, the City Council held a public meeting regarding the establishment of the FCTBID, and the City Council heard and received objections and protests, if any, to the establishment of the FCTBID and the levy of the proposed assessment; and

WHEREAS, on December 16, 2010 at 10:00 a.m. at 2600 Fresno Street, Second Floor, Fresno, CA 93721, the City Council held a public hearing regarding the establishment of the

Adopted 12.16.10
Approved 12.16.10
Effective 12.16.10



FCTBID, and the City Council heard and received all objections and protests, if any, to the establishment 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 in accordance with Streets and Highways Code §36623.

NOW, THEREFORE, the Council of the City of Fresno hereby finds, determines, declares and resolves as follows:

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

Section 2. The Fresno-Clovis Tourism Business Improvement District is hereby established for a five-year term, effective January 1, 2011 and expiring December 31, 2015.

Section 3. The Management District Plan dated December 7, 2010, as revised pursuant to Streets and Highways Code §36624 and on file with the City Clerk, is hereby adopted.

Section 4. The assessments levied for the FCTBID shall be applied towards sales, promotions and marketing programs to market Fresno-Clovis as a tourist, meeting and event destination, and other improvements and activities as set forth in the Management District Plan.

Section 5. The revenue from the levy of the assessments on lodging businesses within the FCTBID may not be used to provide for activities or improvements outside the FCTBID or for any purpose other than those specified in the Resolution of Intention.

Section 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.

Section 7. The amount of assessment, if passed on to each transient, shall be separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business.

Section 8. The assessments for the entire District will total approximately \$800,000 in year one.

Section 9. The activities and improvements set forth will be funded by the levy of an assessment on lodging businesses within the FCTBID with more than twenty (20) rooms, as described in the Management District Plan that is on file with the City Clerk.

Section 10. Bonds shall not be issued to fund the FCTBID.



Section 11. The boundaries of the FCTBID shall be the boundaries of the cities of Fresno and Clovis. Please see the attached map, incorporated herein as Exhibit A.

Section 12. 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.

Section 13. The assessments to fund the activities and improvements for the FCTBID will be collected at the same time and in the same manner as are transient occupancy taxes, and in accordance with Streets and Highways Code §36631.

Section 14. Pursuant to Streets and Highways Code §36631:

- (a) **Original Delinquency.** Any lodging business that fails to remit any assessment levied pursuant to this resolution within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
- (b) **Continued Delinquency.** Any lodging business that fails to remit delinquent remittance levied pursuant to this resolution on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.
- (c) **Interest.** In addition to the penalties imposed, any lodging business that fails to remit any assessment levied pursuant to this resolution within the time required shall pay interest at a rate of one-half of one percent (0.5%) per month or fraction thereof on the amount of the assessment exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (d) **Merger With Tax.** Every penalty imposed and such interest as accrues under the provisions of this Section 14 shall be merged with the assessment at the end of each thirty (30) day period following the date on which the unpaid assessment first became delinquent.

Section 15. Fresno Convention and Visitors Bureau shall be the Owners' Association pursuant to Streets and Highways Code §36614.5.

Section 16. Fresno Convention and Visitors 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.

Section 17. 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.).

Section 18. The City Manager, or his or her designee, is directed to take all necessary actions to complete the establishment of the FCTBID and to levy the assessments.

Section 19. The City Clerk is directed to record in the Fresno County Recorder's Office a notice and assessment diagram, as required by Streets and Highways Code §36627. The text of the recorded notice shall state that the assessment is levied only against lodging businesses within the area of the FCTBID with more than twenty (20) rooms.

Section 20. This Resolution shall take effect immediately upon its adoption by the City Council.



STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 16th day of December, 2010.

AYES: Borgeas, Brand, Dages, Olivier, Sterling, Westerlund
NOES: None
ABSTAIN: None
ABSENT: Xiong

REBECCA E. KLISCH
City Clerk

BY: Rebecca E. Klisch
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: Mark J. Gleason
Mark J. Gleason, Deputy City Attorney



Exhibit A District Map

Fresno-Clovis Tourism Business Improvement District

