

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2023-075

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE
CARMEL RESTAURANT DISTRICT (CRID)**

WHEREAS, the City of Carmel-by-the-Sea (City) created the CRID in 2018 by Resolution No. 2018 – 107 for a five (5) year term which ends on December 31, 2023; and

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 business owners located within the boundaries of the district; and

WHEREAS, restaurant 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 CRID have petitioned the City Council to renew the CRID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on certain restaurant businesses within the CRID to pay for sales and marketing programs, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed restaurant businesses within the CRID will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on May 2, 2023 at 4:30 PM at Council Chambers located at City Hall, east side of Monte Verde Street between Ocean and Seventh Avenues, Carmel-by-the-Sea. CA 93923, the City Council adopted a Resolution of Intention, Resolution No. 2023-050; and

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

WHEREAS, on June 6, 2023 at 4:30 PM at Council Chambers located at City Hall, east side of Monte Verde Street between Ocean and Seventh Avenues, Carmel-by-the-Sea. CA 93923, the City Council held a public meeting regarding the renewal of the CRID, held the first reading of the Ordinance to renew the CRID and continue the levy of assessments, and the City Council heard and received objections and protests, if any, to the renewal of the CRID and the levy of the proposed assessment; and

WHEREAS, on July 11, 2023 at 4:30 PM at Council Chambers located at City Hall, east side of Monte Verde Street between Ocean and Seventh Avenues, Carmel-by-the-Sea. CA 93923, the City Council held a public hearing regarding the renewal of the CRID, and the City Council heard and received all objections and protests, if any, to the renewal of the CRID and the levy of the proposed assessment; and

WHEREAS, on July 11, 2023, following the receipt of all objections and protests and the adoption of this Resolution of Formation, a second reading of the Ordinance to renew the CRID and levy the assessments will be heard. At the conclusion of the second reading of the Ordinance, the City Council may adopt the Ordinance to renew the CRID and levy the assessments; 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 renewed CRID 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 restaurant business; and

WHEREAS, adoption of this Resolution does not diminish the legal effect of the adoption of the Ordinance to be adopted at the final hearing; and

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

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 CRID is hereby renewed for a nine (9) year and six (6) month life year term, beginning January 1, 2024 or as soon as possible thereafter, and ending on June 30, 2033.

3. The Plan dated July 11, 2023 is hereby adopted and approved.

4. The activities to be provided to benefit assessed restaurant businesses in the CRID 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 CRID; to provide activities or improvements outside the CRID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, the Ordinance, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the CRID boundaries to create a specific benefit to the assessed restaurant businesses may be provided, but shall be limited to marketing or signage pointing to the CRID.

5. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed restaurant businesses within the CRID 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 CRID are levied solely upon the assessed restaurant business, and the assessed restaurant 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 restaurant business owner as specified in the Plan.

6. The assessments levied for the CRID shall be applied towards sales and marketing programs to increase restaurant food and drink sales and market assessed restaurant businesses in the CRID.

7. Assessments levied on restaurant businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase gross food and drink sales revenue, an assessment based on gross food and drink sales revenue is the best measure of benefit.

8. The assessments for the entire CRID will total approximately \$240,000 in the first full fiscal year. The initial "year" of operations will be a partial year consisting of six (6) months, with an anticipated assessment budget of \$96,000.

9. Bonds shall not be issued to fund the CRID.

10. The CRID shall include all full service restaurant businesses, existing and in the future, located within the City boundaries of the City of Carmel-by-the-Sea. A boundary map is attached hereto and incorporated herein by reference.

11. 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 CRID assessment is levied as long as they are used consistent with the requirements set forth herein.

12. The assessments to fund the activities and improvements for the CRID will be collected by the City on a quarterly basis, and in accordance with Streets and Highways Code §36631.

13. The City Council, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the CRID as defined in Streets and Highways Code §36612. The City Council has determined that Visit Carmel shall continue to be the CRID Owners' Association.

14. Visit Carmel, 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 CRID.

15. The CRID renewed 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.).

16. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the renewal of the CRID and to levy the assessments.

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

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
this 11th day of July 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk

Boundary Map

