

[REVISED DRAFT 12/14/15, LATE MATERIAL]

BILL NO. ____

ORDINANCE No. 2016-__

AN ORDINANCE CREATING THE DOWNTOWN NEIGHBORHOOD IMPROVEMENT DISTRICT PURSUANT TO CHAPTER 271 OF THE NEVADA REVISED STATUTES FOR THE PURPOSE OF PAYING FOR A PORTION OF THE COSTS REQUIRED TO MAINTAIN THE DOWNTOWN STREETScape ENHANCEMENT PROJECT, WHICH INCLUDES IMPROVEMENTS TO CARSON STREET BETWEEN FIFTH STREET AND WILLIAM STREET, IMPROVEMENTS TO THIRD STREET BETWEEN CARSON STREET AND CURRY STREET, AND IMPROVEMENTS TO CURRY STREET BETWEEN MUSSER STREET AND ROBINSON STREET.

The Board of Supervisors of Carson City do hereby ordain:

SECTION I:

1. This ordinance creates the Downtown Neighborhood Improvement District (hereinafter "NID") pursuant to Chapter 271 of the Nevada Revised Statutes (hereinafter "NRS") based upon a petition submitted by property owners representing at least fifty percent of the assessed valuation of the properties within the NID. The NID's sole purpose is to cover that portion of the cost of ongoing maintenance for those off-street improvements first constructed along the frontages of private properties within the NID as part of the Downtown Streetscape Enhancement Project (e.g. sidewalks, landscaping, benches, etc.) that exceeds the maintenance costs already borne by Carson City for the frontages of those private properties.

2. Pursuant to NRS 271.325, the Board of Supervisors has determined that public convenience and necessity require the NID's creation, and that its creation is economically sound and feasible.

SECTION II:

The NID comprises only the area depicted on EXHIBIT A, including only the Assessor Parcel Numbers set forth on EXHIBIT C.

SECTION III:

The Downtown Streetscape Enhancement Project improvements that are to be maintained, in part, through NID-derived funds are graphically shown on Exhibit B, all of which front private properties within the NID's geographical boundaries. Maintenance of improvements fronting the public properties identified on Exhibit A are hereby expressly excluded from the NID and any NID-funded maintenance obligation.

LATE MATERIAL
MEETING DATE 12/17/15
ITEM # 10C

SECTION IV:

1. The property owners within the NID shall respectively be assessed for fiscal tax year 2016-2017 ("Year One") the amounts shown on Exhibit C for each such property.

2. The City currently spends approximately \$37,284 per year on maintenance of the areas where Downtown Streetscape Enhancement Project's improvements will be constructed. The City will hereafter continue to contribute at least that amount toward the maintenance of those improvements.

3. The present annual maintenance cost estimate for the Downtown Streetscape Enhancement Project's improvements, including those on Carson Street, Curry Street, and the Third Street Plaza, is \$107,335. That estimate includes improvements that front properties owned by the State of Nevada ("State") and Carson City ("City"), respectively. The State and City will continue to maintain all improvements along their building frontages (as they do currently). The State and City properties occupy 29% (2,600 feet of a total of 8,950 feet) of the property frontage where Downtown Streetscape Enhancement Project improvements will be constructed. The difference between the current maintenance expenditure by the City (\$37,284) and the Year One estimated maintenance cost (\$107,335) is \$70,051. The private property owners' annual maintenance cost share (71% of \$70,051) is therefore estimated to be \$49,736. This is the amount that will be assessed to property owners in Year One, as further detailed below in Section V of this Ordinance.

4. The Curry Street improvements under the Downtown Streetscape Enhancement Project are scheduled for construction two years after the Carson Street and Third Street improvements. It is the intent of this Ordinance to hereby establish a maintenance assessment for all of those improvements under the Downtown Streetscape Enhancement Project, including those made to Curry Street.

5. The NID Maintenance Plan, attached to this ordinance as Exhibit D, details the improvements to be maintained, the anticipated schedule and levels of maintenance of those improvements, and the estimated time and expense of that maintenance. The NID Maintenance Plan further provides for the power washing of sidewalks, garbage removal, general cleanup, landscape maintenance, and sidewalk snow removal.

SECTION V:

1. The NID's sole purpose is to self-assess its members in an amount equal to Carson City's increased maintenance costs for the portions of the Downtown Streetscape Enhancement Project that are constructed within the NID's geographic boundaries. No portion of any funds received from the NID, through assessment or otherwise, shall be used to pay all or any portion of an expense previously obligated for, or which has traditionally been borne by, the City.

2. This NID's geographic boundaries will include all non-excluded real property depicted on **Exhibit A**, with those included properties being assessed based upon the **commercial** building square footage of a property relative to the total

commercial building square footage of all properties included within the NID. Generally, properties that directly front on the Downtown Streetscape Enhancement Project improvements are assessed at a 100% assessment rate, and properties that are elsewhere within the NID (i.e., are located on a side or adjacent street), are assessed at a 75% rate. All properties within the NID that are zoned exclusively residential (e.g., private homes and all private residences included within a mixed-use property) will be excluded from the NID and the resulting NID assessments. *Where a change in use occurs for a property within the NID from commercial to residential or residential to commercial and that change becomes effective in the Assessor's records, the assessment will be adjusted with the next full assessment year as established at the time the Board of Supervisors confirms the assessment.* No pro-ration by Carson City will be required for assessed NID properties sold during a tax year; rather, all such pro-rations will be privately addressed, if at all, by the buyer and seller to each such respective transaction. A Notice of NID Annual Assessment will be recorded against title to each and every assessed NID property.

3. The NID assessment will be annually due from all owners of property within the NID, as part of their respective ad valorem tax. *The assessment may be paid in quarterly installments as determined by the Carson City Treasurer with each owner's respective ad valorem tax. This ordinance hereby directs the Carson City Treasurer to collect the assessment along with any NID-approved operating and administrative costs.*

4. The total Year One assessment to all non-excluded property owners within the NID shall be \$49,736, collectively. The assessment shall be pro-rated each year among the NID's property owners based on the distribution method described in detail below.

5. The assessment shall increase each year by the Consumer Price Index for ~~All Urban Consumers the closest, and therefore most applicable, city or town to Carson City~~ ("CPI") – *All Items (1982-1984=100), as published by the U.S. Department of Labor, Bureau of Labor Statistics for the twelve month period ending December 31 next preceding the year for which the increase is being calculated*, but in no event more than 5% on a year-over-year basis. An assessment shall not decrease from the prior year if the CPI goes negative for an evaluated period; provided, however, that once a credit balance of twenty percent (20%) above the projected cost of maintenance is established in the maintenance account for unexpected expenses (e.g. unanticipated heavy snow removal), the City shall reduce the assessment amount to the actual projected maintenance cost (if that cost is less than the base assessment amount plus CPI increases). If the credit balance decreases below 20% of the projected cost of maintenance, the assessment shall be increased that year to cover the projected cost of maintenance plus the additional cost to reestablish the 20% credit balance, but in no case shall the assessment be more than the base assessment plus CPI increases *described above. If the cost of maintenance in any given year exceeds the assessed amount plus any available credit balance and the City incurs the cost to meet contractual maintenance obligations, the assessment shall be increased the following year to reimburse the City for those additional maintenance expenditures and replenish the credit balance but in no case shall the assessment be more than the base assessment plus CPI increases described above.*

6. *The City shall prepare the annual assessment estimate to be considered by the Board of Supervisors at or prior to its first meeting in June each year, at which time the Board of Supervisors may confirm the assessment by resolution and levy the assessment for the following tax year. In confirming the assessment, the Board of Supervisors shall direct the Clerk to report to the City Assessor the a description of the properties contained in the assessment roll, with the amount of the assessment levied upon each and the name of the owner or occupant against whom the assessment is made. The Board of Supervisors authorizes the Treasurer to reduce or waive for good cause the collection of any penalties assessed pursuant to subsection 4 of NRS 271.415 and any interest incurred pursuant to NRS 271.585.*

~~4-7.~~ In Year One and all subsequent years, Carson City must itemize and document the alleged increased maintenance costs by spreadsheet and corroborating documentation, which may include actual costs of maintenance or the cost of contracting the maintenance to a private company, as applicable.

~~5. The NID will be administered by a Nevada non-profit corporation to be run by a three-person board of directors elected annually by property owners within the NID, and represented by a single corporate officer to be appointed annually by the NID's board of directors. No board member or officer would be entitled to receive compensation for serving in those capacities, and the corporation's maximum annual overhead would be prohibited from exceeding 1% of the previous year's total assessment to the NID.~~

~~6-8.~~ All NID assessments shall be allocated, and all NID member voting shall be weighted, in the proportion to the square footage of each Member's NID building(s) bear(s) to the total square footage of all buildings within the NID, as reduced by 25% for each 75%-assessed NID Member, as detailed above and on Exhibit C. Square footage will be determined based upon the Carson City Assessor's Records.

~~7-9.~~ Carson City and the State are not a part of the NID, and will be solely responsible for the maintenance of all improvements fronting their respective properties.

~~8-10.~~ Upon request from the NID's board of directors, the Board of Supervisors may decrease the base assessment based upon an actual reduction in maintenance costs or other special considerations. The Board of Supervisors may further consider a request from the NID's board of directors for an increase in the base assessment to pay for other improvements or activities, such as marketing and advertising, so long as such a request is approved in writing by no less than those property owners within the NID that collectively represent at least ~~50%-75%~~ of the basis for assessment.

11. The City shall establish a procedure for obtaining a hardship determination on the basis of a property owner's ability to pay the assessment pursuant to NRS 271.357.

SECTION VI:

1. Pursuant to NRS 271.325(6), upon adoption of this Ordinance, the Board of Supervisors shall cause to be recorded in the office of the Carson City Recorder a

certified copy of a list of the tracts to be assessed and the amount of maximum benefits estimated to be assessed against each tract in the assessment area, as shown on the assessment plat, as revised and approved by the governing body pursuant to NRS 271.320 (the area and the list of assessed properties). Neither the failure to record that list nor any defect or omission in that list shall affect the validity of any assessment, the lien for the payment thereof, or the priority of that lien.

2. In addition to the specific provisions of this ordinance, the NID shall be subject to all applicable requirements of NRS Chapter 271, Local Improvements.

SECTION VII:

EXHIBIT LIST. This ordinance contains the following exhibits:

- A. NID Map.
- B. Downtown Improvements Plan.
- C. NID Property List and Year-One Assessment
- D. NID Maintenance Plan and Cost Estimate

PROPOSED on _____, 2015.

PROPOSED by _____.

PASSED _____, 2016.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

SUE MERRIWETHER
CLERK/RECORDER

This ordinance shall be in force and effect from and after the _____ day of _____, 2016.