



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

### RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION: 1) APPROVING THE ANNUAL REPORT OF THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD; 2) DECLARING THE INTENTION TO LEVY AND COLLECT AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2022-2023 FOR THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT; AND 3) SCHEDULING A PUBLIC HEARING FOR DECEMBER 7, 2021**

**WHEREAS**, the State of California allows for the formation of business assessment districts under Streets and Highways Code Section 36500 *et seq.*; and

**WHEREAS**, the business license holders in the Montclair business district petitioned to form the Montclair Business Improvement District (District) under said legislation to undertake the Management Plan for the District (Plan) which is on file with the City Clerk; and

**WHEREAS**, the Plan provides for new security, beautification, and economic development and marketing activities with the intent of creating a positive atmosphere in the District area (as more specifically identified in the Plan); and

**WHEREAS**, the District was established by the City Council on November 27, 2001, pursuant to Ordinance 12378 C.M.S.; and

**WHEREAS**, Streets and Highways Code Sections 36533 and 36534 require that before the next annual assessment for the District is levied, the City Council must: (1) approve the District's annual report, and (2) approve a Resolution of Intention that declares the City's intention to collect the assessments, and schedules a public hearing to be held about the levy of the proposed assessment; and

**WHEREAS**, pursuant to said law, the District Advisory Board has prepared and filed with the City Clerk, the Annual Assessment Report (Report) (attached hereto as **Exhibit A**), which contains the required particulars, including a detailed description of the improvements and activities to be provided for the 2022-2023 fiscal year, the boundaries of the area and any benefit zones within the area, and the proposed assessments to be levied upon the businesses within the area for the 2022-2023 fiscal year; and

**WHEREAS**, if the District's proposed assessments for fiscal year (FY) 2022-2023 are approved and levied, they will be held (until disbursed) in a special trust fund established by the

Finance Management Bureau on behalf of the District in Miscellaneous Trusts Fund (7999), Economic Development Organization (85411), Pass Thru Assessments Account (24224), DP850 Administrative Project (1000019), Montclair BID Program (MBID); now, therefore, be it

**RESOLVED:** that the Council of the City of Oakland does hereby approve the Fiscal Year 2021-2022 Report for the District; and be it

**FURTHER RESOLVED:** That the City Council does find and state its intention as follows:

1. Pursuant to Streets and Highways Code Section 36534, the City Council declares its intention to levy and collect the assessments for FY 2022-2023 as provided for in the said Report and pursuant to the assessment formula as provided for in the Plan, if the requested assessments are approved by the City Council after the Public Hearing scheduled by this Resolution of Intention.
2. The location and boundaries of the District shall remain the same as specified in the Plan on file with the City Clerk and there are no changes to the boundaries or benefit zones.
3. The types of the improvements and activities proposed to be funded by the levy of FY 2022-2023 assessments on businesses in the area are those described in the Plan and the Report on file with the City Clerk. No substantial changes in the improvements or activities for the District are proposed to be made.
4. The proposed method and basis of calculating the assessments to be levied against each business in the District are those specified in the Plan and Report on file with the City Clerk. For the fiscal year 2022-2023 assessment, a sub-classification of businesses that earn annual gross receipts of \$25,000 or less is proposed to be created with a reduced fee for that assessment year of \$60 (instead of the \$120 fee). Such sub-classification is proposed to be temporarily created to reduce the number and expense of processing hardship partial fee waiver requests, and the reduced fee amount would not apply to future assessment years unless renewed in the annual assessment resolution for such future years; and be it

**FURTHER RESOLVED:** That **a Public Hearing is hereby set for December 7, 2021,** or as soon thereafter as the matter may be heard, to hear all public comments, protests, and to take final action as to the levying of the proposed assessments for the District for the fiscal year 2022-2023. Details regarding time, location and how to participate in the Public Hearing can be found at [www.oakland.legistar.com](http://www.oakland.legistar.com), or by emailing the Oakland City Clerk's Office at [cityclerk@oaklandca.gov](mailto:cityclerk@oaklandca.gov) or by calling 510-238-3226; and be it

**FURTHER RESOLVED:** That pursuant to Streets and Highways Code section 36534(b), the City Clerk is directed to give notice of the Public Hearing by causing the Resolution of Intention to be published once in a newspaper of general circulation in the City of Oakland not less than seven days before the Public Hearing; and be it

**FURTHER RESOLVED:** That at the Public Hearing the testimony of all interested persons for or against the proposed assessments will be heard, and written and oral protests may be made in the form and manner provided by Sections 36524 and 36525 of the Streets and Highways Code as follows:

1. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.
2. Every written protest shall be filed with the Clerk at or before the time fixed for the public hearing. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.
3. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the City as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business.
4. A written protest which does not comply with the requirements stated above shall not be counted in determining a majority protest.
5. If written protests are received from the owners of businesses in the District who will pay 50 percent or more of the assessments proposed to be levied, and protests are not withdrawn so as to reduce the protests to less than that 50 percent, the proposed assessment shall not be levied.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California