



# AGENDA REPORT

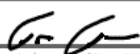
**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Ashleigh Kanat  
Director, Economic and  
Workforce Development  
Department

**SUBJECT:** Oakland Tourism Business  
Improvement District 2024

**DATE:** April 24, 2024

City Administrator Approval

  
Jestin Johnson (Apr 26, 2024 05:56 PDT)

Date: April 26, 2024

## RECOMMENDATION

**Staff Recommends That The Oakland City Council Adopt An Ordinance Of The City Council Establishing The Oakland Tourism Business Improvement District.**

## EXECUTIVE SUMMARY

The proposed Ordinance would initiate the establishment of the Oakland Tourism Business Improvement District (OTBID) in the City of Oakland (City) to continue and update the current OTBID 2018. The introduction of the Ordinance to establish the OTBID (in addition to pursuing the traditional Resolution of Formation which was [approved the City Council on April 16, 2024](#)) and is recommended due to the new potential requirement if the Taxpayer Protection & Government Accountability Act (TPGAA) is approved by voters on the November 2024 ballot. That proposed law would require all districts formed after January 1, 2022 to be formed via ordinance within 12 months of the TPGAA passing. Because the California Property and Business Improvement District Law of 1994 requires formation and renewal of Business Improvement Districts (BIDs) by resolution, the establishment of the OTBID via both resolution and ordinance is proposed.

The proposed introduction and first reading of the Ordinance to establish the OTBID and levy the assessments is related legislation to the scheduled Public Meeting to be conducted by the City Council at the May 7, 2024 City Council meeting, pursuant to California Streets and Highways Code Section 36623 and Government Code Section 54954.6, which require one Public Meeting and one Public Hearing to be conducted during the process of forming the proposed OTBID via resolution. The purpose of both the Public Meeting and the Public Hearing is to provide an opportunity for affected business owners to file a formal protest to the formation and/or to provide public testimony regarding the proposed formation of the above special assessment district. If, at the close of the June 4, 2024 Public Hearing, written protests are received from owners of affected lodging businesses who represent 50 percent (50%) or more of the estimated annual assessments to be levied, then a majority protest will exist, and the

CED Committee  
April 9, 2024

OTBID shall not be established and the assessment shall not be imposed. If, however, there is insufficient protest to stop formation, then the district may be formed by the City Council by conducting a second reading and adopting the proposed Ordinance as well as by adopting a Resolution of Formation to establish the district at the close of the June 4, 2024 Public Hearing, resulting in the assessment taking effect on August 1, 2024 and ending on June 30, 2035.

A resolution to modify the current management plan will be brought to Council for consideration on June 4, 2024, in order to dissolve the OTBID 2018 on July 31, 2024 in time for the new OTBID to begin assessments and services on August 1, 2024. Accordingly, in January 2024, a proposed OTBID Management District Plan was finalized (Exhibit A to this report) and the required petition drive initiated in February 2024.

If formed, the district anticipates generating revenues of \$3,040,269 per year, or approximately \$43,830,543 over a proposed term of nine (9) years and eleven (11) months beginning August 1, 2024 and ending June 30, 2034.

The proposed assessment rate is two percent (2%) of gross short-term sleeping room rental revenue for lodging businesses with 50 or more rooms located within the City. During the OTBID term, the assessment rate may be increased by a maximum of one percent (1 %) per year after the initial eleven (11) months. If the increase is less than one percent (1 %) the minimum increment would be one quarter of a percent (0.25%). There will be some years where no increase is implemented. The assessment cannot exceed three percent (3%) during the term of the district. Exemptions to the assessment include the portion of stays that exceed 30 consecutive days, stays by any office or employee of a foreign or domestic government agency-provided billing is made directly to and payment is received from the government agency qualifying for this exemption, and room occupancies resulting from stays pursuant to contracts executed prior to August 1, 2024.

Monies generated will be administered by Visit Oakland, acting as the OTBID's Owners' Association, to coordinate and to provide enhanced special benefit marketing, advertising, sales and special events intended to increase room occupancy for assessed lodging businesses over the proposed term of nine (9) years and eleven (11) months of the district.

A list of affected businesses and the proposed service plan can be found in Appendix 2 and Section IV, respectively, of the OTBID Management District Plan (Exhibit A to the attached ordinance).

## **BACKGROUND/ LEGISLATIVE HISTORY**

Tourism Business Improvement Districts (TBIDs) are an evolution of the traditional Business Improvement District (BID). The first TBID was formed in West Hollywood, California, in 1989. Since then, over 100 California destinations have followed suit, resulting in California's TBIDs collectively generating over \$300 million per year for local destination marketing. In recent years, other U.S. cities and states have adopted-or are in process of adopting-their own TBID legislation based on the California model (e.g. Washington, Montana and Texas).

In California, Streets and Highways code section 36600 *et seq.* (Property and Business Improvement District Law of 1994) allows for TBIDs to be established undertaking a range of special benefit services, independent from government, to utilize the efficiencies of private sector operation in the market-based promotion of tourism districts and allow lodging business owners to organize their efforts to increase commerce. Lodging business owners within the TBID pay an assessment and those funds are used to provide services that increase commerce.

In November 2008, a Resolution of Intention to form a citywide TBID was adopted by the City Council (Resolution No. 81641 C.M.S.); however, formation efforts were subsequently withdrawn due to the inclusion of Measure C on the local ballot. Measure C (which passed in July 2009 and became effective in January 2010) provided that one half of a three percent (3%) increment to the local Transient Occupancy Tax (TOT) could be used to fund Oakland Convention and Visitors Bureau (Visit Oakland) operations. In 2014, to leverage Measure C funds and keep pace with marketing initiatives in neighboring Bay Area jurisdictions, local hotel industry stakeholders revisited the effort to form a TBID. Pursuant to those efforts, the City Council adopted [Resolution No. 85725 C.M.S.](#) on July 21, 2015 to form the OTBID for a period of three years beginning August 1, 2015, and ending July 31, 2018. The OTBID was then renewed by City Council on June 19, 2018, in [Resolution No. 87242 C.M.S.](#) for a seven (7) year term beginning August 1, 2018 and ending July 31, 2025.

Prior to 2015, Visit Oakland's only dedicated consistent funding was received from Measure C, with annual budget ranging from \$1.5 million to \$1.9 million, and an average occupancy rate of 75% for lodging businesses with 50 or more rooms in Oakland. The first year of receiving BID assessments in Fiscal Year 2015-16, Visit Oakland received a combined \$3,985,992 of Measure C and OTBID 2015 funds (\$2,727,324 and \$1,258,668, respectively) to market Oakland to visitors and overnight guests. In 2017, Visit Oakland received \$1.3 million in BID assessments and 3.7 million visitors came to Oakland with 41% or 1.5 million staying overnight, representing a 20% increase since 2010. Visitors generated \$827 million in total business sales, representing an increase of 3.4% over 2016. By 2019, Visit Oakland's TOT and BID annual revenue had increased to \$3,719,393 and \$1,563,638, respectively, allowing Visit Oakland to provide over \$5,283,031 in marketing, sales and promotion services for Oakland tourism. However, in 2020, the first year of the pandemic total revenue from the BID and TOT decreased by 56% in one year to \$2.3 million from over \$5 million in 2019. From 2020 to 2023, both OTBID and TOT revenues slowly increased, but in 2023 annual revenue still remained at 75% of 2019 revenue levels. In addition, during this time, 5 hotels closed permanently or converted to transitional housing for unhoused residents, decreasing TOT and OTBID assessment revenues, as well as limiting future potential increases by removing lodging businesses from TOT and OTBID assessment rolls. Despite the decrease in revenues, in 2022, there were 3.3 million visitors to Oakland and direct visitor spending was \$590 million. Tourism generated 5,377 jobs, \$86 million in state and local taxes, and had a total economic impact of \$784 million in Oakland.

To build on OTBID 2018 accomplishments, support post-pandemic recovery of tourism in Oakland, and to enable continued marketing and sales services, OTBID 2018 representatives desire to replace OTBID 2018 a year before it expires at the end of July 2024, in order to form the next generation renewed district, OTBID. The proposed OTBID changes calculation of BID assessments to a progressive model that also will increase OTBID revenues, in order to

continue services and support rebounding of the Tourism industry post-pandemic while compensating for decreased level of Measure C revenues.

The boundaries of the proposed OTBID (See Exhibit A to this report for the OTBID boundary map) and criteria for assessed businesses will remain the same as OTBID 2018, including only those lodging businesses, existing and in the future, with fifty (50) rooms or more, located within the boundaries of the City. However, the assessment rate calculation shall change from a flat assessment rate of \$1.50 per paid occupancy per night for each assessed hotel in the OTBID 2018, to be a more progressive and equitable assessment calculation with a rate of two percent (2%) of gross short-term sleeping room rental revenue, with an option to increase to 3% over the term of OTBID, after the initial 11 months. This new assessment rate would also mirror the structure and rate used in the vast majority of TBIDs in California, improving Visit Oakland's competitive position. Also, based on input from affected lodging business owners, the term of the proposed OTBID will be nine (9) years and eleven (11) months compared to seven (7) years for OTBID 2018. Because the proposed OTBID is a renewal of the OTBID established in 2015 and then renewed in 2018, the OTBID is allowed to have a term up to ten (10) years long per Streets and Highways Code section 36622(h) and 36660(c).

For the OTBID formation process to proceed via Ordinance, the City Council would need to introduce and conduct the first reading of the attached proposed Ordinance, and then conduct a second reading and adoption of the ordinance at another City Council meeting (currently proposed for June 4, 2024). If the City Council conducts the second reading and approves the adoption of the Ordinance at the meeting, then the OTBID shall be established for the proposed term, and annual assessments will be levied starting August 1, 2024.

For the OTBID formation process to proceed via Resolution, a threshold number of petitions must be received. As of April 15, 2024, petitions endorsed by affected business representing more than 90% of total proposed district assessments in favor of forming the OTBID were received by the City. The submitted petitions far exceeded the minimum threshold of petitions representing more than 50% percent of the total value of assessments that would be imposed if the OTBID is established, and accordingly on April 16, 2024, the City Council adopted a related Resolution of Intention (Resolution No. 90191 C.M.S.) to form the proposed OTBID, scheduling a Public Meeting for May 7, 2024 (not less than 10 days after notice thereof is given) and a Public Hearing for June 4, 2024 (not less than 45 days after notice thereof is given).

As mentioned, should a majority protest exist at the close of the Public Hearing (scheduled for June 4, 2024), the OTBID shall not be established and the assessment shall not be imposed. If, however, no majority protest exists, then City Council may consider whether to form the proposed district by adopting a resolution to form the OTBID, which will be presented at the conclusion of the Public Hearing at the June 4, 2024 City Council meeting.

## **ANALYSIS AND POLICY ALTERNATIVES**

The OTBID is one of 11 existing business- and property-based BIDs that collectively generate approximately \$6 million per year in property, business and tourism assessments. Revenues are used for enhanced services and activities (e.g., cleaning, private security, marketing, business attraction and retention) that proportionally benefit assessed business and property

owners. Such special benefit services also enhance the overall economic development climate of affected commercial neighborhoods. As more mixed-use development occurs in Oakland commercial zones, residents have also begun to benefit from special benefit services provided by BID special assessment districts. As such the cumulative impact of BIDs continues to grow, making them an increasingly useful tool for supporting broader revitalization efforts in Oakland's commercial neighborhoods.

The OTBID has played a key role in the growth of Oakland's tourism industry and increased awareness of Oakland as a tourist, meeting and event destination. To remain competitive with neighboring Bay Area Visitors and Convention Bureaus, to support the momentum of sales and marketing programs funded by OTBID assessments and continue programs driving recovery of the tourism industry post-COVID, local lodging industry stakeholders (as evidenced by the endorsed petitions described above) seek to form the proposed OTBID. If approved, the proposed OTBID will generate approximately \$2,786,913 in Fiscal Year (FY) 2024-2025, and up to approximately \$43 million over the nine-year eleven-month term of the district, if the allowable one percent increase to the assessment rate is effectuated starting in year two (FY) 2025-2026. These revenues represent a total increase of 143% in OTBID assessments compared to the OTBID 2018 annual assessments of \$1,251,091.93, with that increase largely/proportionally funded by assessed lodging businesses with higher annual revenues, since the new proposed OTBID assessment will be calculated as a percentage of gross annual revenues. Consistent with OTBID 2018, the annual assessment income for OTBID will fluctuate as room sales do.

There is no anticipated adverse impact related to the adoption of the attached Ordinance; however, there would be a negative impact to the assessed lodging businesses and tourism-related industries if the proposed Ordinance is not adopted and the OTBID was not approved for formation. Without the increase in assessment funds from OTBID in the upcoming fiscal year, the current revenues provided by OTBID 2018 assessments would maintain the 75% reduced funding level available for the sales and marketing of local lodging businesses compared to 2019 BID assessments. And if the OTBID were terminated completely, funding for sales and marketing of local lodging businesses would decrease by approximately 31% from 2023 service levels.

Given the limitations on municipal funding and a growing need to identify alternate economic development revenue sources, the proposed OTBID represents a unique opportunity for the City to maintain a viable, cost neutral funding source to increase key marketing services for the lodging sector of the local tourism industry.

Because OTBID formation efforts are driven by district stakeholders themselves, and the proposed district will be self-funded (by the proposed special assessment) and self-administered (by the OTBID Owner's Association), the formation proposal also represents a productive step towards community self-empowerment as well as an increased opportunity to cultivate additional public-private investment partnerships and enhanced economic development activity in the City's downtown and neighborhood commercial corridors. Special benefit services to be provided by the proposed district are intended to improve the marketing and sales of assessed lodging businesses and to stimulate ongoing economic revitalization consistent with City Council goals and objectives. Formation of the OTBID would advance the citywide priority of housing, economic and cultural security.

## **FISCAL IMPACT**

There is no fiscal impact from the approval of the Ordinance to establish the proposed OTBID.

There are costs of City staff time to provide technical assistance to the OTBID formation effort and to ongoing administration of the citywide BID Program which is part of the City's adopted Budget supporting the BID Program. As the program continues to grow and the demand on City staff time continues to increase, additional resources or revenue offset from the BID agreements may need to be evaluated as part of the City agreements with the BIDs and would also need to be included in future budget development processes.

If the OTBID levy is approved, the City's Revenue Management Bureau will collect the assessment (on a monthly, semi-annual or annual basis) in Miscellaneous Trusts Fund (7999), Revenue Administration Organization (08411), Pass Thru Assessments Account (24224), Oakland Tourism Business Improvement District Project (1001503), Financial Management Program (IP59), and remit the amount collected to Visit Oakland, less a three percent (3%) City cost recovery administrative fee. The three percent (3%) administrative fee is estimated to total approximately \$91,208 per year, and will be booked to General Purpose Fund (1010), Revenue Administration Organization (08411), Other Revenue: Administrative Fees Account (48726), Oakland Tourism Business Improvement District Project (1001503), Financial Management Program (IP59) and will be used primarily to offset the cost of staffing support from the City's Revenue Management Bureau and the Economic and Workforce Development Department. This arrangement is pursuant to the OTBID Management Plan (Exhibit A to this report) and a written disbursement agreement to be executed between the City and Visit Oakland, the OTBID's designated Owners' Association.

## **PUBLIC OUTREACH / INTEREST**

For the City Council to adopt the attached Ordinance, enabling legislation does not require City staff to conduct public outreach other than the City Council meeting requirements. District stakeholders, however, did perform outreach necessary to secure petitions from over 50% of assessed lodging business owners required to propose the Resolution of Intention, which was adopted by City Council on April 16, 2024. On April 16, 2024, the City Council adopted the Resolution of Intention (Resolution No. 90191 C.M.S.) to form the proposed OTBID, scheduling a Public Meeting for May 7, 2024 (not less than 10 days after notice thereof is given) and a Public Hearing for June 4, 2024 (not less than 45 days after notice thereof is given). Per legislative requirements, such notice (of both the Public Meeting and the Public Hearing) was mailed to each affected business on or before April 19, 2024. Pursuant to Streets and Highways Code Section 36623(b) and Government Code Section 54954.6 the above notice included:

- The proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the amount of assessment to be levied;
- A description of the special benefits that the assessment will fund;
- The address to which business owners may mail a protest against the assessment;

- The telephone number and address of an individual, office or organization that interested persons may contact to receive more information about the assessment;
- A statement that a majority protest will cause the assessment to be abandoned; and,
- The dates, times and locations of the Public Meeting and Public Hearing described above.

### **COORDINATION**

The City Controller and Revenue Management Bureaus of the Finance Department, the Office of the City Attorney and the City Clerk's Office were consulted in the preparation of this report and its attachments.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The proposed OTBID will continue to fund activities aimed at increasing room sales of affected lodging businesses. Increased room sales and the increase in overnight visitors, in turn, support increased sales, and business tax revenues, as well as increased job opportunities and on-going economic development within the local lodging sector and in related industries/sectors such as restaurants, retail and entertainment businesses.

***Environmental:*** No specific environmental opportunities were identified in the preparation or in the adoption of the proposed Resolution of Intention.

***Race & Equity:*** The proposed OTBID will incorporate representatives of assessed lodging businesses throughout the City into the board of the OTBID's Owner's Association (Visit Oakland). Stakeholders themselves will be responsible for administering district revenues which contributes to community self-empowerment. In addition, the OTBID assessments contribute funding to marketing and special event activities that support enhanced community identity that not only attracts increased tourism but also provides benefits to priority neighborhoods.

Additionally, in 2022, the City entered into a contract with Urban Place Consulting (UPC) to provide organizational assistance to underserved commercial corridors to help establish equity in BID formation. With direction from the City, UPC has been engaging groups of business owners and property owners in underserved commercial corridors throughout the City, providing education not just on BID formation, but on alternative means of formal organization, such as establishing nonprofit status or a merchant's organization, that can accomplish many goals of a commercial district while serving as interim steps to BID formation.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The Oakland City Council Adopt An Ordinance Of The City Council Establishing The Oakland Tourism Business Improvement District

For questions regarding this report, please contact Shifra de Benedictis-Kessner, Urban Economic Analyst, at 510-238-6230.

Respectfully submitted,

*Ashleigh Kanat*  
Ashleigh Kanat (Apr 25, 2024 13:57 PDT)

**ASHLEIGH KANAT**  
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