

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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**RESOLUTION: 1) CONFIRMING THE ANNUAL REPORT OF THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD; AND 2) LEVYING THE ANNUAL ASSESSMENT FOR THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2023-2024**

**WHEREAS**, the State of California allows for the formation of business assessment districts under California 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 special benefit services such as enhanced 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**, On November 27, 2001, the City Council adopted Ordinance No. 12378 C.M.S., which established the District and approved the Plan; and

**WHEREAS**, pursuant to California Streets and Highways Code Section 36533, the Montclair Business Improvement 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 fiscal year (FY) 2023-2024, 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 FY 2023-2024; and

**WHEREAS**, on November 1, 2022, the City Council adopted a Resolution of Intention to levy the FY 2023-24 assessment, approve the district's annual report, and schedule a related public hearing for December 6, 2022, pursuant to California Streets and Highways Code section 36534; and

**WHEREAS**, written notice of the December 6, 2022 public hearing was published in the newspaper in compliance with California Streets and Highways Code section 36534(b); and

**WHEREAS**, if the District's proposed assessments for FY 2023-2024 are approved and levied, they will be held (until disbursed) in a special trust fund established by the Finance Department 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); and

**WHEREAS**, the Montclair Village Association of Oakland is the nonprofit corporation that administers the District and oversees the disbursement of funds, pursuant to the Plan and the Disbursement Agreement between the City and Montclair Village Association of Oakland (Disbursement Agreement); and

**WHEREAS**, the funds that are levied and held by the City will be disbursed to the Montclair Village Association of Oakland pursuant to the Disbursement Agreement, which remains in effect contingent upon the annual review and approval of the District's Report and the levy of the annual assessments; now, therefore, be it

**RESOLVED**: that the Council of the City of Oakland does hereby find and determine the District was established in the Montclair area of the City of Oakland, California as a parking and business improvement area pursuant to California Street and Highways Code section 36500 *et seq.* with the boundaries as specified in the Plan on file with the City Clerk; and be it

**FURTHER RESOLVED**: That pursuant to California Streets and Highways Code Section 36535, a Public Hearing was held on December 6, 2022, to hear all public comments, protests, and take final action as to the levying of the proposed assessments for the District for the FY 2023-2024. The City Council finds that there was no majority protest as defined in the Street and Highways Code Section 36500 *et seq.*; and be it

**FURTHER RESOLVED**: That the Report for the District is approved and confirmed; and be it

**FURTHER RESOLVED**: That the City Council approves and adopts the assessments as provided for in the Plan and the Report of the Advisory Board and does hereby levy and direct the collection of the assessments for the FY 2023-2024 as provided for in the Report in accordance with the assessment formula as provided for in the Plan and Report; and be it

**FURTHER RESOLVED**: That 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; and be it

**FURTHER RESOLVED**: That the time and manner of collecting assessments shall be at the same time and in the same manner as for the annual business tax billings. The City may, but is not obligated to, use the same process and procedures for the collection of delinquent assessments as it uses to collect delinquent business tax billings or such other processes and procedures as are convenient to complete such collection and may reimburse itself out of the proceeds collected for the costs of such collection. The assessments shall be coordinated with the

City of Oakland’s annual business tax billing cycle, and shall be included along with the annual business tax notifications, or in a supplemental notice following thereafter if, for any reason, they are not ready or cannot be included along with the business tax notices. Supplemental notices shall be permissible for new businesses or for correction or supplementation of prior notices; and be it

**FURTHER RESOLVED:** That the 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; and be it

**FURTHER RESOLVED:** That the types of the improvements and activities proposed to be funded by the levy of assessments on businesses in the area are those described in the Plan and the Report on file with the City Clerk. There are no substantial changes in the improvements or activities for the District; and be it

**FURTHER RESOLVED:** That until disbursed, BID assessments will be held in a special trust fund established by the City on behalf of the Montclair Business Improvement District in: Miscellaneous Trusts Fund (7999), Economic Development Organization (85411), Pass Thru Assessments Account (24224), DP850 Administrative Project (1000019), Montclair BID Program (MBID); and be it

**FURTHER RESOLVED:** That the Disbursement Agreement is hereby renewed, and the City Administrator is hereby authorized to make amendments if necessary pursuant to State of California Streets and Highways Code Section 36500 *et seq.*

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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