

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to form and legality

Oakland City Attorney's Office

2018 NOV 29 PM 4:04 OAKLAND CITY COUNCIL

RESOLUTION No. **87480** C.M.S.

**RESOLUTION CONFIRMING THE ANNUAL REPORT OF THE
MONTCLAIR BUSINESS IMPROVEMENT DISTRICT ADVISORY
BOARD AND LEVYING THE ANNUAL ASSESSMENT FOR THE
MONTCLAIR BUSINESS IMPROVEMENT DISTRICT FOR FISCAL
YEAR 2019-2020**

WHEREAS, the State of California allows for the formation of business assessment districts under Street 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, sidewalk sweeping, 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 Montclair Business Improvement District was established by the City Council on November 27, 2001 pursuant to Ordinance No. 12378 C.M.S.; and

WHEREAS, pursuant to 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 (attached hereto as **Exhibit A**) ("Report"), which contains the required particulars including a detailed description of the improvements and activities to be provided for the 2019-2020 fiscal year (January 1, 2019 through December 31, 2019), 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 2019-2020 fiscal year; and

WHEREAS, the City Council desires to confirm the Report, and levy the annual assessment for the Montclair Business Improvement District for fiscal year 2019-2020; and

WHEREAS, on November 27, 2018, the City Council Adopted a Resolution of Intention to levy the fiscal year 2019-2020 assessment, approve the district's annual report, and schedule a related public hearing for December 11, 2018 (or as soon

thereafter as the matter may be heard), pursuant to Streets & Highways Code section 36534; and

WHEREAS, written notice of the December 11, 2018 public hearing was published in the newspaper in compliance with Streets & Highways Code section 36534(b); and

WHEREAS, the FY 2019-2020 Annual Report for the Montclair Business Improvement District includes a determination and recommendation by the District Advisory Board for a 3% increase in the amount of the annual assessment in fiscal year 2019-2020 for the Montclair BID, which is within the allowable maximum annual assessment increase set forth in the approved Plan; and

WHEREAS, if the District's proposed assessments for FY 2019-2020 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 Org (85411)/Pass Thru Assessments Account (24224)/ Administrative Project (1000019)/Montclair BID Program (MBID); now therefore be it

RESOLVED: that the Council of the City of Oakland does hereby find and determine as follows:

1. The Montclair Business Improvement District was established in the Montclair area of the City of Oakland, California as a parking and business improvement area pursuant to Street and Highways Code section 36500 *et seq.* with the boundaries as specified in the Plan on file with the City Clerk.
2. Pursuant to Streets and Highways Code Section 36535, a Public Hearing was held on December 11, 2018, to hear all public comments, protests, and take final action as to the levying of the proposed assessments for the District for the fiscal year 2019-2020. The City Council finds that there was no majority protest as defined in the Street and Highways Code Section 36500 *et seq.*
3. The Annual Assessment Report for the District is approved and confirmed.
4. The City Council approves and adopts the assessments as provided for in the Plan and the Annual Assessment Report of the Advisory Board and does hereby levy and direct the collection of the assessments for the 2019-2020 fiscal year as provided for in the Annual Assessment Report in accordance with the assessment formula as provided for in the Plan and Annual Assessment Report.
5. 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 Annual Assessment Report on file with the City Clerk, which includes a 3% increase in the 2019-2020 annual assessment recommended by the Montclair Business Improvement District Advisory Board compared to the 2018-2019 assessment.
6. 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 and may provide for the

same penalties for delinquent payment. The City may 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.

7. 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.
8. 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 Annual Assessment Report on file with the City Clerk. There are no substantial changes in the improvements or activities for the District.
9. 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), Administrative Project (1000019), Montclair Business Improvement District Program (MBID).
10. The City Administrator is hereby authorized to enter into annual contracts and related amendments for the security, marketing, maintenance, or other activities and improvements for the District, or to conduct or contract for such services and improvements as provided for in the State of California Streets and Highways Code Section 36500 *et seq.*

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 14, 2018

PASSED BY THE FOLLOWING VOTE:

AYES- ~~Anderson~~ CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID - 7

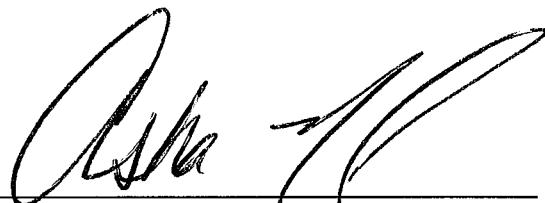
NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused - 1 ~~Breeds~~

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California