

**RESOLUTION NO. 2023- \_\_\_\_\_**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MERCED FORMING THE DOWNTOWN MERCED PROPERTY BASED IMPROVEMENT DISTRICT AND LEVYING ASSESSMENTS STARTING WITH FISCAL YEAR 2023-2024 PURSUANT TO THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994**

WHEREAS, the Property and Business Improvement District Law of 1994 (Division 18, Part 7, Streets and Highway Code, State of California) authorizes cities to establish Property and Business Improvement Districts for the purpose of levying assessments on real property for certain purposes; and

WHEREAS, consistent with the Property and Business Improvement District Law of 1994 and provisions of Article XIID of the State Constitution (“Proposition 218”), the City Council of the City of Merced (“Council”) proposes to form a property and business improvement district (“PBID”) in Downtown Merced for an initial five-year term which expires on December 31, 2028; and

WHEREAS, property owners in the Downtown Merced business community who would pay more than 50 percent of the total amount of assessments to be levied have filed written petitions requesting that the City Council form the Downtown Merced PBID; and

WHEREAS, the purpose of establishing the PBID is to provide revenues for services beyond what the City traditionally provides, specifically enhanced cleaning and safety; and

WHEREAS, on June 20, 2023, the City Council declared its intention to form the PBID and levy assessments; and

WHEREAS, the City Clerk gave notice, in the manner specified in Government Code Section 53753, to the record owner of each parcel subject to the levy of an assessment that a public hearing would be held on August 7, 2023, concerning formation of the PBID; and

WHEREAS, the City Council held a public hearing concerning establishment of the PBID on August 7, 2023 in the Council Chambers, Merced Civic Center, 678 W. 18<sup>th</sup> Street, Merced, CA 95340; and

WHEREAS, the City Council has heard all testimony and received all evidence concerning the formation of the PBID and desires to form the PBID.

BE IT RESOLVED by the Council of the City of Merced as follows:

SECTION 1. Pursuant to the provisions of the Property and Business Improvement Law of 1994, the City Council forms the Downtown Merced PBID.

SECTION 2. There was a favorable majority for the imposition of the assessment. A majority of the assessment ballots submitted, and not withdrawn, were in favor of the proposed assessment and exceed the assessment ballots submitted, and not withdrawn, by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

SECTION 3. The City Council adopts, approves and confirms the Downtown Merced Property Based Business Improvement District Management District Plan (“Management District Plan”) and the Downtown Merced Business Improvement District’s Engineer’s Report (“Engineer’s Report”) on file in the City Clerk’s office.

SECTION 4. The City Council finds that all parcels that will have a special benefit conferred upon them and upon which an assessment will be imposed are identified in the Management District Plan.

SECTION 5. Based upon the Engineer’s Report, the City Council finds that the proposed assessment to be imposed on each parcel does not exceed the reasonable cost of the proportional benefit conferred on that parcel.

SECTION 6. Based upon the Engineer’s Report, the City Council finds that it has separated the general benefits, if any, from the special benefits conferred on each parcel.

SECTION 7. The City Council finds that all proposed assessments are supported by a detailed Engineer’s Report prepared by a registered professional engineer certified by the State of California.

SECTION 8. The City Council declares that the boundaries of the PBID are as detailed in the Management District Plan. The District encompasses approximately 25 whole and partial blocks in the commercial core of Downtown Merced. The PBID boundary is concentrated with parcels fronting primarily along W. 16<sup>th</sup> Street to the South, R Street to the west, W. 18<sup>th</sup> and W. 19<sup>th</sup> Streets to the north, and G Street to the east. The map included in the PBID’s Management District Plan gives sufficient detail to locate each parcel of property within the proposed PBID.

SECTION 9. The City Council finds that activities and improvements to be funded by the levy of assessment on property within the PBID are detailed in the Management District Plan. They include, but are not limited to, the following special benefits: cleaning, safety and beautification. Each of the programs is designed to meet the goals of the PBID; to improve the appearance and safety of the PBID, to increase building occupancy and lease rates, to encourage new business development, and to attract ancillary businesses and services.

SECTION 10. The City Council finds that the PBID’s total assessment for five (5) years (January 1, 2024 to December 31, 2028) is estimated to be \$2,306,841 (adjusted with 5% inflation factor). The PBID’s total annual assessment for the first year is estimated to be \$417,480. Annual assessment for subsequent years may be adjusted by a percentage rate not to exceed a maximum of five percent (5%) per year. The PBID will not issue bonds. The assessment calculation is described per zone on page 16 of the Engineer’s Report dated June 2023 as follows:

<b>Benefit Zone</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
<b>Base Level</b>					
Lot SF	\$0.0113	\$0.0118	\$0.0124	\$0.0130	\$0.0137
Bldg SF	\$0.0997	\$0.1046	\$0.1099	\$0.1154	\$0.1211
Linear	\$3.2074	\$3.3678	\$3.5362	\$3.7130	\$3.8987
<b>Enhanced Zone</b>					
Lot SF	\$0.0113	\$0.0118	\$0.0124	\$0.0130	\$0.0137
Bldg SF	\$0.1178	\$0.1237	\$0.1299	\$0.1364	\$0.1432
Linear	\$6.3273	\$6.6436	\$6.9758	\$7.3246	\$7.6908
<b>Downtown Core</b>					
Lot SF	\$0.0113	\$0.0118	\$0.0124	\$0.0130	\$0.0137
Bldg SF	\$0.1178	\$0.1237	\$0.1299	\$0.1364	\$0.1432
Linear	\$7.9310	\$8.3276	\$8.7439	\$9.1811	\$9.6402

SECTION 11. The City Council declares that the assessment are to begin with fiscal year 2023-2024, and, to the extent possible, assessments shall be collected at the same time and in the same manner as County *ad valorem* property taxes and shall be subject to all laws providing for the collection and enforcement of assessments. For properties that do not appear on the County tax rolls or for assessments for any years in which the City is unable to transmit the assessment information to the County in sufficient time for the County to collect the assessments with the County *ad valorem* property taxes, the City's Finance Department may bill and collect the assessments by mailing assessment notices (Statement of Assessment Due) to each property owner within the PBID at the address shown on the City records. Assessments billed by the City's Finance Department are due 45 calendar days after the Statement of Assessment Due. The City's duties may be assigned to an appropriate service provider, including but not limited to the District Managing entity. The City shall be reimbursed by the District for any costs incurred.

SECTION 12. The City Clerk followed the notice, protest, and hearing procedures prescribed in the Proposition 218 Omnibus Implementation Act (California Government Code, Section 53750, *et seq.*).

SECTION 13. The City Council held a public hearing to determine whether to form the PBID and levy assessments on August 7, 2023 at 6:00 p.m., or as soon thereafter as City Council business permitted, in Council Chambers, Merced Civic Center, 678 W. 18<sup>th</sup> Street, Merced, CA 95348. At the hearing, all interested persons were permitted to present written or oral testimony, and the Council considered all objections or protests to the proposed assessment.

SECTION 14. The City Clerk gave notice of the public hearing, in the manner specified in Government Code Section 53753, to the record owners of each parcel subject to the levy of an assessment. The notice was given at least 45 days before the public hearing date and specified that the public hearing was to determine whether the Council would establish the PBID and levy assessments.

SECTION 15. At the conclusion of the public hearing, the City Clerk tabulated all assessment ballots that were submitted and not withdrawn. To be included in the tabulation, assessment ballots must have been received by the City Clerk either at the address indicated in the notice required by the Government Code Section 53753 or at the site of the public hearing prior to the conclusion of the public hearing. The City Clerk certified the results of the tabulation to the Council.

SECTION 16. The properties and businesses within the PBID established by this Resolution shall be subject to any amendments to the Property and Business Improvement District Law of 1994.

SECTION 17. City Council is to readopt each fiscal year assessment when CPI, maximum of 5%, is applied to the assessment.

SECTION 18. The City of Merced’s Finance Officer is directed to request the County of Merced to collect the assessments for the District each fiscal year.

SECTION 19. An exhibit showing for each assessment, the Assessor’s Parcel Number (“APN”), owner, and the amount of the Parcel Assessment is to be included with each assessment collection request.

SECTION 20. The City Clerk is directed to and shall certify to the passage of this Resolution and have it published in accordance with City Council policy.

SECTION 21. The City Clerk is directed to send a certified copy of the adopted Resolution to the Merced County Assessor’s Office to place the assessment on the secured property tax roll.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 202\_, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

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Mayor

ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

BY: \_\_\_\_\_  
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

 7/31/2023  
\_\_\_\_\_  
City Attorney Date