

# Resolution No. 2022-XXX N.C.S. of the City of Petaluma, California

## **ESTABLISHING THE LEVY FOR THE 2023 ANNUAL ASSESSMENT FOR THE DOWNTOWN PETALUMA BUSINESS IMPROVEMENT DISTRICT**

**WHEREAS**, on November 20, 2000, in accordance with California Streets and Highways Code Section 36500 et seq. (“the Act”), the Petaluma City Council adopted Ordinance 2104 N.C.S., later codified as Chapter 6.04 of the Petaluma Municipal Code, establishing the Downtown Business Improvement District (“DBID”), within the area described in Exhibit A, which is attached to and made a part of this Resolution; and

**WHEREAS**, Section 6.04.050 of the Petaluma Municipal Code lists the types of improvements and activities that may be funded by the levy of assessments on businesses within the DBID as follows:

A. The acquisition, construction, installation or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following improvements:

1. Benches
2. Trash Receptacles
3. Decorations
4. Façade Improvements
5. Permanent Landscaping

B. Activities including, but not limited to, the following:

1. Promotion of public events which benefit businesses in the area and which take place on or in public places within the area.
2. Furnishing of music in any public place in the area.
3. Activities which benefit businesses located and operating in the area, including but not limited to, commercial shopping and promotional programs; and

**WHEREAS**, under Section 6.04.100 of the Petaluma Municipal Code, the Board of Directors established to govern the affairs of the DBID must present the City Council with an annual report and budget for review and approval prior to the City Council consideration of levying a benefit assessment for the following fiscal year; and

**WHEREAS**, the requirements of Petaluma Municipal Code Section 6.04.100 are in accordance with the Act, which establishes annual procedures governing the levy of assessments pursuant to the Act, including preparation of an annual report, adoption of a resolution of intent giving notice of a public hearing at which written and oral protests may be made concerning levy of an annual assessment, and adoption of a resolution approving the annual report and levying the assessment; and

**WHEREAS**, Section 36535 of the Act provides that public hearings on levy of annual assessments pursuant to the Act must be conducted in accordance with Sections 36524 and 36525 of the Act, which provide as follows:

A. The City Council shall hear and consider all protests against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities within the area. 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.

- B. Every written protest shall be filed with the City Clerk at or before the time fixed for the public hearing. The City Council may waive any irregularity in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.
- C. 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. A written protest which does not comply with this section shall not be counted in determining a majority protest.
- D. If written protests are received from the owners of businesses in the proposed area which 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, no further proceedings to create the specified parking and business improvement area or to levy the proposed assessment, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the City Council.
- E. If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated; and

**WHEREAS**, in accordance with Section 36533 of the Act, the City Council has reviewed and approved the 2023 DBID Annual Report and Budget submitted by the DBID Board of Directors at the regularly scheduled and duly noticed December 5, 2022, City Council meeting; and

**WHEREAS**, in accordance with Section 36534 of the Act, at the regularly scheduled and duly noticed December 5, 2022, City Council meeting, the City Council adopted a Resolution of Intention to levy the 2023 annual assessment for the DBID; and

**WHEREAS**, the Resolution of Intention was published in a newspaper of general circulation in the City at least seven (7) days prior to the hearing; and

**WHEREAS**, the proposed DBID 2022 Budget establishes the following budgetary priorities with estimated revenues and expenditures:

27%	Security	\$20,250
23%	Marketing	\$17,250
30%	Beautification	\$22,500
20%	Administration	<u>\$15,000</u>
	Total:	\$75,000

**WHEREAS**, the Annual Report of the DBID is on file at the City Clerk's office for public review and contains a full and detailed description of the DBID improvements and activities to be provided for the 2023 fiscal year, the boundaries of the DBID and any benefit zones within the DBID, and the proposed assessments to be levied on businesses in the DBID for the 2023 fiscal year; and

**WHEREAS**, in accordance with Section 36524 of the Act, on December 19, 2022, the City Council held the public hearing on the 2023 DBID annual levy and heard and considered all protests against the annual levy, the DBID area, the extent of the area, or the furnishing of specified types of improvements or activities within the area; and

**WHEREAS**, in accordance with Section 36525 of the Act, following the public hearing on December 19, 2022, all written protests received and not withdrawn were tallied and the City Council determined that written protests concerning the assessment, or particular improvements or activities to be funded by the assessment, were not received from the owners of the businesses in the DBID area that will pay 50 percent or more of the proposed annual assessment; and

**WHEREAS**, administration of assessment districts does not constitute a project under the California Environmental Quality Act (CEQA) because it involves continuing administrative or maintenance activities and organizational or administrative activities that will not result in direct or indirect physical changes in the environment. [14 Cal. Code Regs. § 15378(b)(2) & (5); and

**WHEREAS**, if the proposed action did constitute a project under CEQA the proposed action is statutorily exempt under CEQA Guidelines Section 15273(a) (Rates, Tolls, Fares, and Charges) and categorically exempt under CEQA Guidelines Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) as the resulting funds will be used to maintain downtown.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Petaluma as follows:

1. The above recitals are hereby declared to be true and correct and are incorporated into findings of the City Council.
2. Finds that the administration of assessment districts does not constitute a project under the California Environmental Quality Act (CEQA) because it involves continuing administrative or maintenance activities and organizational or administrative activities that will not result in direct or indirect physical changes in the environment. [14 Cal. Code Regs. § 15378(b)(2) & (5). And if the proposed action did constitute a project under CEQA the proposed action is statutorily exempt under CEQA Guidelines Section 15273(a) (Rates, Tolls, Fares, and Charges) and categorically exempt under CEQA Guidelines Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) as the resulting funds will be used to maintain downtown.
3. The DBID 2022 Annual Report and Budget is hereby approved.
3. Levies the assessment described in the DBID Annual Report and Budget for Fiscal Year 2023, which is attached and made a part of this Resolution as Exhibit B, to pay for improvements and activities within the DBID in accordance with Chapter 6.04 of the Petaluma Municipal Code and the Act.

Under the power and authority conferred upon this Council by the Charter of said City.

**REFERENCE:**

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 19<sup>th</sup> day of December 2022, by the following vote:

Approved as to  
form:

\_\_\_\_\_  
City Attorney

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor