

**RESOLUTION NO. 23-019 C.S.**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MONTEREY**

**DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND RENEWING THE MONTEREY COUNTY TOURISM IMPROVEMENT DISTRICT (MCTID)**

WHEREAS, the City of Monterey initially created the Monterey County Tourism Improvement District (MCTID) in 2006 under the Parking and Business Improvement Area Law of 1989 by Ordinance No. 3376. This district was disestablished on December 20, 2018 pursuant to Ordinance No. 3587;

WHEREAS, the existing MCTID was established effective January 1, 2019 under Property and Business Improvement District Law of 1994 by Resolution No. 18-207 for a five (5) year term, which ends on December 31, 2023;

WHEREAS, the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq., authorizes the City to renew business improvement districts for the purposes of promoting tourism; and

WHEREAS, Monterey County Destination Marketing Organization, Inc. d.b.a. Monterey County Convention and Visitors Bureau (MCCVB), lodging business owners, and representatives from the City of Monterey have met to consider the renewal of the MCTID; and

WHEREAS, MCCVB has drafted a Management District Plan (Plan) which sets forth the proposed boundary of the MCTID, a service plan and budget, and a proposed means of governance; and

WHEREAS, the renewed MCTID includes all lodging businesses, existing and in the future, located within the boundaries of the unincorporated areas of Monterey County and the cities of Carmel-by-the-Sea, Marina, Monterey, Pacific Grove, Salinas, and Seaside; and

WHEREAS, consent to include lodging businesses in their respective jurisdictions have been received from the cities of Carmel-by-the-Sea, Marina, Pacific Grove, Salinas, Sand City, and Seaside; and

WHEREAS, lodging businesses who will pay more than fifty percent (50%) of the assessment under the MCTID have petitioned the City Council to renew the MCTID; and

WHEREAS, on December 20, 2022 at 7:00 p.m. at the City of Monterey Council Chambers, the City Council adopted a Resolution of Intention, Resolution No. 22-168; and

WHEREAS, on January 17, 2023 at 4:00 p.m. at the City of Monterey Council Chambers, the City Council held a public meeting regarding the renewal of the MCTID, and the City Council heard and received objections and protests, if any, to the renewal of the MCTID and the levy of the proposed assessment; and

WHEREAS, on February 21, 2023 at 4:00pm at City of Monterey Council Chambers, the City Council held a public hearing regarding the renewal of the MCTID, and the City Council

heard and received all objections and protests, if any, to the renewal of the MCTID and the levy of the proposed assessment; and

WHEREAS, the City Clerk, or his or her designee, has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the renewed MCTID which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTEREY THAT:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.
2. The MCTID is hereby renewed for a ten (10) year term, beginning July 1, 2023, through June 30, 2033.
3. The Plan dated February 17, 2023 is hereby adopted and approved.
4. The activities to be provided to benefit businesses in the MCTID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the MCTID; to provide activities or improvements outside the MCTID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the MCTID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the MCTID.
5. The City Council finds as follows:

a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the MCTID that is not provided to those not paying the assessment.

b) The assessment is a charge imposed for a specific benefit conferred or privilege granted directly to the payors that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

c) The assessment is a charge imposed for a specific government service or product provided directly to the payors that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

d) Assessments imposed pursuant to the MCTID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all communications from the business owner as the "MCTID Assessment" or "Tourism Assessment" as specified in the Plan.

6. The annual lodging business assessment rate shall be a fixed amount per occupied room per night. The assessment is based on the business hotel type as defined in the Plan. The initial annual assessment rate for Zone 1 is \$7.00 per paid occupied room per night for luxury lodging businesses, \$4.50 per paid occupied room night for non-luxury full service lodging businesses, and \$1.50 per paid occupied room night for limited service lodging businesses. The initial annual assessment rate for Zone 2 is \$7.50 per paid occupied room per night for luxury lodging businesses, \$5.00 per paid occupied room night for non-luxury full service lodging businesses, and \$2.00 per paid occupied room night for limited service lodging businesses. Based on the provision of additional services and additional benefit to the lodging businesses, the assessment rate shall automatically increase biennially beginning in FY 2025-26 for both Zone 1 and Zone 2, unless the MCCVB Board's TID Committee votes not to implement the automatic increase based upon circumstances that they deem significant. If the MCCVB Board's TID Committee elects to cancel the automatic increase for that year, the MCCVB Board's TID Committee may implement a cumulative increase at the next regularly scheduled rate increase. Because services shall remain constant for the Salinas Visitor Services program (brochures, maps, and information regarding local events for visitors), the additional rate of \$0.50 per annum in Zone 2 shall remain static over the life of the district. The biennial assessment increase in both Zone 1 and Zone 2 (notwithstanding the static \$0.50 rate in Zone 2), shall be \$0.90 per paid occupied room per night for luxury lodging businesses, \$0.60 per paid occupied room per night for non-luxury full service lodging businesses, and \$0.20 per paid occupied room per night for limited service lodging businesses.

Based on the benefit received, assessments shall not be collected on: stays of more than thirty (30) consecutive days; stays at vacation time-share facilities; stays at vacation rentals; stays at RV parks; stays by any Federal or State of California officer or employee when on official business; and stays by any officer or employee of a foreign

government who is exempt by reason of express provision of Federal law or international treaty.

7. The assessments levied for the MCTID shall be applied towards sales and marketing programs to market MCTID lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

8. Assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

9. The assessments for the entire MCTID will total approximately \$8,856,266 in year one (1).

10. Bonds will not be issued to fund the MCTID.

11. The MCTID shall include all lodging business located within the boundaries of the unincorporated areas of Monterey County and the cities of Carmel-by-the-Sea, Marina, Monterey, Pacific Grove, Salinas, and Seaside. The MCTID is divided into two (2) benefit zones. A boundary map, which includes both zones, is attached hereto and incorporated herein by reference.

12. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the MCTID assessment is levied as long as they are used consistent with the requirements set forth herein.

13. The assessments to fund the activities and improvements for the MCTID will be collected by the cities and County on a bi-monthly or quarterly basis, and in accordance with Streets and Highways Code §36631.

14. The City Council, through adoption of this Resolution and the Plan, has the right pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the MCTID as defined in Streets and Highways Code §36612. The City Council has determined that Monterey County Destination Marketing Organization, Inc. d.b.a. Monterey County Convention and Visitors Bureau (MCCVB) shall be the MCTID Owners' Association.

15. MCCVB, pursuant to Streets and Highways Code §36650, shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvement and activities described in the report. The first report shall be due after the first year of operation of the MCTID.

15. The MCTID established pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

16. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the establishment of the MCTID and to levy the assessments.

17. This Resolution shall take effect immediately upon its adoption by the City Council.

I HEREBY CERTIFY that the foregoing Resolution of Intention was introduced and adopted at a regular meeting of the City Council on this 21st day of February, 2023, by the following vote:

AYES:	5	COUNCILMEMBERS:	Barber, Garcia, Haffa, Smith, Williamson
NOES:	0	COUNCILMEMBERS:	(None)
ABSENT:	0	COUNCILMEMBERS:	(None)
ABSTAIN:	0	COUNCILMEMBERS:	(None)

APPROVED:

ATTEST:

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 Mayor of said City

DocuSigned by:  
  
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 Assistant City Manager thereof

	<b><u>SUMMARY OF LEGISLATIVE ACTIONS RELATED TO COVID-19</u></b>	
March 17, 2020	<a href="#"><u>Reso. No. 20-033</u></a>	Ratifying the City Manager's Proclamation of a Local Emergency Related to COVID-19 (Coronavirus)
March 25, 2020	<a href="#"><u>Ordinance No. 3614</u></a>	Temporarily Prohibit Residential and Commercial Evictions Related to COVID-19
May 19, 2020	<a href="#"><u>Reso No. 20-065</u></a>	Directing Limited Beach and Park Closures to Prevent the Spread of COVID-19, Amended 05/08/2020
July 7, 2020	<a href="#"><u>Reso. No. 20-101</u></a>	Closing City of Monterey Beaches for the 4th of July Weekend to Prevent the Spread of COVID-19
July 7, 2020	<a href="#"><u>Reso. No. 20-105</u></a>	Adopting the California Department of Public Health's Guidance for the Use of Face Coverings to be Enforceable by Administrative Citation within the City of Monterey
July 17, 2020	<a href="#"><u>Ordinance No. 3618</u></a>	Adopt the California Department of Public Health's Guidance for the Use of Face Coverings to be Enforceable by Administrative Citation within the City of Monterey
August 4, 2020	<a href="#"><u>Reso. No. 20-125</u></a>	Allowing COVID19 Temporary Outdoor Business Permits and Delegating Design Approval Authority to the City's Chief Building Official
August 19, 2020	<a href="#"><u>Ordinance No. 3623</u></a>	Temporarily Prohibit Residential Evictions and Residential Rent Increases Related to COVID-19
September 1, 2020	<a href="#"><u>Reso. No. 20-129</u></a>	Temporary and Limited Closure of McAbee and San Carlos Beaches on August 15 and 16, 2020 to Prevent the Spread of COVID-19
September 1, 2020	<a href="#"><u>Reso. No. 20-130</u></a>	Temporary and Limited Closure of McAbee and San Carlos Beaches on August 21, 2020 through September 22, 2020 and all Beaches on Labor Day Weekend to Prevent the Spread of COVID-19
October 6, 2020	<a href="#"><u>Reso. No. 20-151</u></a>	Suspending Portions of Monterey City Code Section 25-10.06 (Promotion Eligibility during Probationary Period) During the Local Emergency
November 17, 2020	<a href="#"><u>Reso. No. 20-172</u></a>	Amend Resolution 20-125 to Allow COVID-19 Temporary Outdoor Parklet Permits through October 31, 2022, and Authorize Outdoor Heaters on Wharf 1 and Wharf 2
November 17, 2020	<a href="#"><u>Reso No. 20-176</u></a>	Opening Parks with Some Exceptions and Closing Certain Park Facilities

## EXHIBIT A

December 15, 2020	<a href="#">Reso. No. 20-194</a>	Amending Resolution 20-176 and Ratifying the December 4, 2020, Order of the Director of Emergency Services (Monterey City Manager) to Keep Playgrounds Closed
April 6, 2021	<a href="#">Reso. No. 21-031</a>	Reopening Playgrounds and Sports Fields with Some Exceptions and Keeping Certain Park Facilities Closed
April 20, 2021	<a href="#">Reso. No. 21-036</a>	Reopening All Parks and Playgrounds Under Certain Conditions
August 17, 2021	<a href="#">Reso. No. 21-092</a>	Cancelling the Bakersfield Train Robbers at Monterey Amberjack Game on August 1, 2021, Due to a Potential COVID-19 Outbreak Among Bakersfield Train Robbers Baseball Players