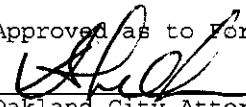


Approved as to Form and Legality  
  
Oakland City Attorney's Office

RECEIVED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 OCT -6 PM 5:51 OAKLAND CITY COUNCIL  
79524  
RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION OF INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR FISCAL YEAR 2006/07 FOR THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT, APPROVING THE ANNUAL REPORT OF THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD, AND SCHEDULING A PUBLIC HEARING FOR NOVEMBER 15, 2005**

**WHEREAS**, the State of California allows for the formation of business assessment districts under Street and Highways Code Section 36500 et seq. [Senate Bill 1424]; and

**WHEREAS**, the City Council approved a Neighborhood Business Improvement District ("NBID") Program pursuant to Oakland City Council Resolution No. 75323, dated November 9, 1999, to provide technical and financial assistance to stakeholder groups of business owners in the City to assist in the formation of such districts; 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 new security, crime prevention, beautification, parking resolution, sidewalk sweeping, economic development, lighting, 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 Plan was prepared in accord with the provisions of the law overseeing the formation of the District as referenced above, and has been filed with the City; and

**WHEREAS**, pursuant to the requirements of the law the Montclair Business Improvement District was established by the City Council on November 27, 2001 pursuant to Ordinance Number 12378; and

**WHEREAS**, the Annual Assessment Report (attached as EXHIBIT A) has been prepared by the Montclair Business Improvement District Advisory Board and filed with the City Clerk, and the City Council approves the Report, and the City Council wishes to levy the annual assessment for the Montclair Business Improvement District;

**NOW, THEREFORE,** the Council of the City of Oakland does resolve 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. The Annual Assessment Report for the District is approved, and the City Council declares its intent to levy and collect the assessments for the 2006/07 fiscal year as provided for in the Annual Assessment Report and pursuant to the assessment formula as provided for in the Plan, if the requested assessments are approved by the City Council after the Public Hearing scheduled by this Resolution of Intention.
3. 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.
4. The types of the improvements and activities proposed to be funded by the levy of assessments on businesses in the area are those specified above in this Resolution and more specifically as described in the Plan and the Annual Assessment Report on file with the City Clerk. No substantial changes in the improvements or activities for the District are proposed to be made. Please refer to the Plan and Report on file with the City Clerk for a full and detailed description of the improvements and activities to be provided for the 2006/07 fiscal year, 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 2006/07 fiscal year.
5. The proposed method and basis of levying 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.
6. A Public Hearing is set for November 15, 2005, 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 2006/07.
7. The City Clerk is directed to give notice of the Public Hearing by causing the Resolution of Intention to be published once in a newspaper of general circulation in the City of Oakland for not less than seven days before the Public Hearing.
8. At the Public Hearing the testimony of all interested persons for or against the proposed assessments will be heard and written and oral protests may be made. The form and manner of

protests shall comply with Sections 36524 and 36525 of the Streets and Highways Code.

9. 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.
10. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.
11. 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.
12. A written protest which does not comply with the requirements stated above shall not be counted in determining a majority protest.
13. If written protests are received by 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, the proposed assessment shall not be levied.

IN COUNCIL, OAKLAND, CALIFORNIA, OCT 18 2005 ..

**PASSED BY THE FOLLOWING VOTE:**

AYES- BRUNNER, [REDACTED], BROOKS, NADEL, REID, QUAN, KERNIGHAN and PRESIDENT DE LA FUENTE **-7**

NOES-

ABSENT-

ABSTENTION-

**Excused - Chang - 1**

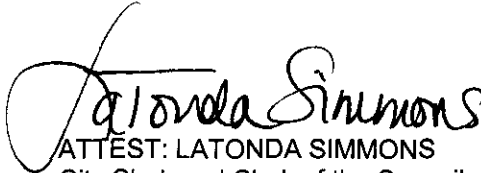
  
ATTEST: LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

EXHIBIT A  
(to resolution of intention to levy Montclair BID FY06/07 assessment)



ANNUAL REPORT TO THE NEIGHBORHOOD COMMERCIAL REVITALIZATION PROGRAM (CEDA) RELATED TO THE THIRD YEAR OF THE MONTCLAIR B.I.D.

Section 36533

(b)(1)

There are no proposed changes in the boundaries of the parking and business improvement area or in any benefit zones in the area.

(b)(2)

Please see the attached budget which will outline the improvements and activities to be funded and provided in the year ending December 31, 2006.

(b)(3)

Please see attached budget.

(b)(4)

The method and basis of levying the assessment has not changed from the adoption of the original ordinance.

(b)(5)

There are no anticipated surplus or deficit funds to be carried over. All funds anticipated with the exception of non B.I.D. revenues have been accounted for.

(b)(6)

Other than assets levied, funds have been generated from Pacific fine Arts Festivals, Jazz and Wine Festival off-set and management of the Montclair Parking Garage.

Justice Baxter  
President, Montclair Village Association

