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OFFICE OF THE CITY CLERK
OAKLAND
2011 NOV 21 PM 12:53

Approved as to form and legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 83646 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 2012/13

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; and

WHEREAS, pursuant to Streets and Highways Code Section 36533, the Annual Report (attached Exhibit A) has been prepared by the Montclair Business Improvement District Advisory Board and filed with the City Clerk, and the City Council desires to confirm the Report, and levy the annual assessment for the Montclair Business Improvement District for fiscal year 2012/2013; 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 6, 2011, 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 2011/2012. 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 Report of the Advisory Board and does hereby levy and direct the collection of the assessments for the 2012/2013 fiscal year as provided for in the Annual Report in accordance with the assessment formula as provided for in the Plan and Annual Report.
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. 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 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 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 Finance and Management Agency on behalf of the Montclair Business

Improvement District in: Miscellaneous Trusts Fund (7999), Neighborhood Commercial Revitalization & Service Delivery System Organization (88569), Pass Thru Assessments Account (24224), Undetermined Project (0000000), 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 - 6, 2011

PASSED BY THE FOLLOWING VOTE:

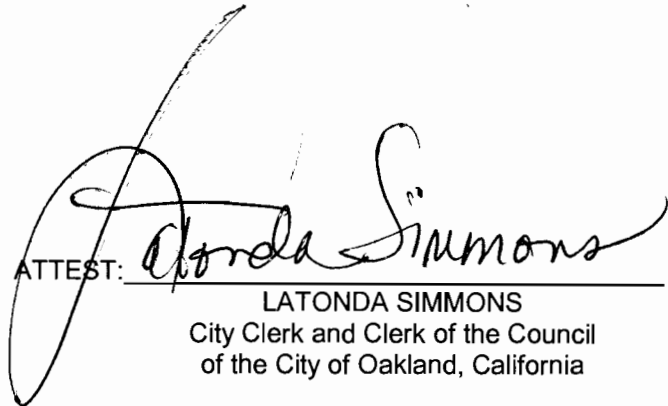
AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and
PRESIDENT REID - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:



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



EXHIBIT A

(To the Resolution to Levy the FY 2012/13 Montclair BID Assessment)

**Annual Report to the Oakland City Council Relating to
the FY 2012-2013 Montclair BID**

Pursuant to California Streets and Highways Code Part 6
Parking and Business Improvement Area Law of 1989
Chapter 4, Section 36533

- I. Proposed changes in boundaries of the parking and business improvement area or in any other benefit zones within the area.**
There are no proposed changes in the boundaries of the parking and business improvement area or any benefit zones in the area.
- II. Improvements and activities to be provided for in upcoming fiscal year.**
See the attached budget which outlines the improvements and activities to be funded and provided in the year ending December 31, 2012.
- III. Estimate of the cost of providing the improvements and activities for upcoming fiscal year.**
See attached budget
- IV. Method and basis of levying the assessment.**
The method and basis of levying the assessment has not changed from the adoption of the original ordinance.
- V. The amount of any surplus or deficit revenues to be carried over from the previous fiscal year.**
See attached budget.
- VI. The amount of any contributions to be made from sources other than assessments levied.**
Other than assessments levied, funds have been generated from Pacific Fine Arts Festivals, and from management of the Montclair Village Parking Garage. Funds from Associate Member program, started in mid-2010, are also shown on the attached budget.

Winter Williams
President, Montclair Village Association

| 2012 MVA Approved Budget | 2010 | | 2011 | | | |
|---------------------------------|----------------------|----------------------|---------------------|---------------------|---------------------|---|
| | 2010 | Actual | 2011 | Actual | 2012 | |
| | Approved | Y-T-D | Approved | Y-T-D | Approved | |
| | Budget | 12/31/10 | Budget | 8/31/2011 | Budget | Notes |
| INCOME | | | | | | |
| BID Revenues | \$ 80,000.00 | \$ 87,621.71 | \$ 75,000.00 | \$ 39,372.31 | \$ 71,250.00 | (5% reduction) |
| Associate Memberships | \$ - | \$ 150.00 | \$ 1,000.00 | \$ 120.00 | \$ 310.00 | (6 new members) |
| Pacific Fine Art Festivals | \$ 10,000.00 | \$ 8,500.00 | \$ 8,500.00 | \$ 5,000.00 | \$ 8,500.00 | |
| Garage Management | \$ 10,800.00 | \$ 11,700.00 | \$ 10,800.00 | \$ 8,100.00 | \$ 10,800.00 | |
| Total | \$ 100,800.00 | \$ 107,971.71 | \$ 95,300.00 | \$ 52,592.31 | \$ 90,860.00 | |
| EXPENSES | | | | | | |
| Beautification | | | | | | |
| Banners | \$ 4,000.00 | \$ 3,753.99 | \$ 6,200.00 | \$ 1,040.00 | \$ 4,000.00 | (Banner replacement planned) |
| Landscaping | \$ 10,000.00 | \$ 8,300.00 | \$ 10,000.00 | \$ 4,000.00 | \$ 12,000.00 | (Reduced planter budget plus tree trimming costs) |
| Maintenance | \$ 17,000.00 | \$ 14,940.00 | \$ 17,000.00 | \$ 10,840.00 | \$ 16,000.00 | |
| Land Use | \$ - | \$ 1,181.02 | \$ 3,000.00 | \$ - | \$ 1,500.00 | (Committee will identify best use, if needed) |
| Streetscape | \$ - | \$ - | \$ - | \$ 15,467.91 | \$ 2,000.00 | (Committee will identify best use, if needed) |
| <i>Subtotal</i> | <i>\$ 31,000.00</i> | <i>\$ 28,175.01</i> | <i>\$ 36,200.00</i> | <i>\$ 31,347.91</i> | <i>\$ 35,500.00</i> | |
| Security | | | | | | |
| Safety | \$ 1,000.00 | - | - | - | \$ 5,000.00 | (Committee will identify best use) |
| Security | \$ 12,000.00 | \$ 12,000.00 | \$ 12,000.00 | \$ 8,000.00 | - | (Current patrol service will be discontinued) |
| <i>Subtotal</i> | <i>\$ 13,000.00</i> | <i>\$ 12,000.00</i> | <i>\$ 12,000.00</i> | <i>\$ 8,000.00</i> | <i>\$ 5,000.00</i> | |
| Organization | | | | | | |
| Accountant | \$ 500.00 | \$ 400.00 | \$ 500.00 | \$ - | \$ 500.00 | |
| Board | \$ | \$ | \$ | \$ | \$ | |
| Insurance | \$ 2,000.00 | \$ 1,365.00 | \$ 1,500.00 | \$ 1,354.00 | \$ 2,000.00 | |
| Meetings/Mixers | \$ - | \$ - | \$ - | \$ - | - | |
| Postage | \$ 1,000.00 | \$ 70.06 | \$ 200.00 | \$ 1.22 | \$ 100.00 | |
| Rent | \$ 4,600.00 | \$ 4,933.44 | \$ 5,000.00 | \$ 3,288.96 | \$ 5,000.00 | |
| Administrator | \$ 30,000.00 | \$ 28,000.00 | \$ 28,000.00 | \$ 18,664.00 | \$ 25,000.00 | (Reduction to \$20-\$25/hour contract) |
| Supplies/Equipment | \$ 2,500.00 | \$ 2,444.78 | \$ 1,800.00 | \$ 709.05 | \$ 600.00 | (Reduction to \$50/month) |
| Taxes | \$ 50.00 | \$ 80.00 | \$ 100.00 | \$ 60.00 | \$ 100.00 | |
| Utilities | \$ 1,000.00 | \$ 730.35 | \$ 1,000.00 | \$ 504.03 | \$ 1,000.00 | |
| <i>Subtotal</i> | <i>\$ 41,650.00</i> | <i>\$ 38,023.63</i> | <i>\$ 38,100.00</i> | <i>\$ 24,581.26</i> | <i>\$ 34,300.00</i> | |
| City | | | | | | |
| <i>City Collection</i> | <i>\$ 2,750.00</i> | <i>\$ -</i> | <i>\$ 2,750.00</i> | <i>\$ -</i> | <i>\$ 2,750.00</i> | <i>1</i> |

| | | | | | | |
|---|---------------------|---------------------|---------------------|-----------------------|---------------------|---|
| <i>City Loan Payment</i> | \$ 3,250.00 | \$ - | \$ 3,250.00 | \$ - | \$ 3,250.00 | 1 |
| <i>Subtotal</i> | \$ 6,000.00 | \$ - | \$ 6,000.00 | \$ - | \$ 6,000.00 | 1 |
| Promotions | | | | | | |
| Marketing / Advertising | \$ 1,500.00 | \$ 1,831.00 | \$ 500.00 | \$ 250.00 | \$ 2,000.00 | (Brand design and promotion) |
| Directory / Brochures | \$ 5,000.00 | \$ 4,485.76 | \$ 3,000.00 | \$ 506.69 | \$ 2,000.00 | (Design and printing costs) |
| Farmer's Market | \$ - | \$ - | \$ - | \$ (300.00) | - | |
| Events | \$ 3,000.00 | \$ 2,113.43 | \$ 3,000.00 | \$ 1,182.08 | \$ 3,000.00 | (Event sponsorship and coordination) |
| Maps / Signage | \$ 1,300.00 | \$ 850.00 | \$ 1,300.00 | \$ - | \$ 1,300.00 | (Committee will identify best use, if needed) |
| Web Site / Social Media | \$ 1,000.00 | \$ 527.91 | \$ 1,000.00 | \$ 90.00 | \$ 5,000.00 | (\$500 / mo management and \$500 design) |
| <i>Subtotal</i> | \$ 11,800.00 | \$ 9,808.10 | \$ 8,800.00 | \$ 1,728.77 | \$ 13,300.00 | |
| <i>3% Reserves</i> | \$ - | \$ - | \$ - | \$ - | \$ 2,725.00 | |
| Total | \$ 97,450.00 | \$ 88,006.74 | \$ 95,100.00 | \$ 65,657.94 | \$ 90,825.00 | 2 |
| Net | \$ 3,350.00 | \$ 19,964.97 | \$ 200.00 | \$ (13,065.63) | \$ 35.00 | |
| | | | | | | |
| | | | | | | |
| 1 These figures are deducted by the City from our BID payments, and are not included in the calculations. | | | | | | |
| | | | | | | |
| 2 The large Net for 2010 resulted from an extra BID payment from 2009 being reported as received in 2010. | | | | | | |