

# CITY OF OAKLAND

## AGENDA REPORT

2009 NOV -5 PM 5:48

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: November 17, 2009

RE: **A Public Hearing And The Adoption Of A 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 2010/11**

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### SUMMARY

A resolution to confirm the annual report of the Montclair Business Improvement District (BID) advisory board and to levy the annual assessment for fiscal year 2010/11 for the Montclair Business Improvement District (BID) has been prepared pursuant to Streets and Highways Code Section 36500 *et seq.* and the City of Oakland's Neighborhood Business Improvement District program.

State law requires that business-based BIDs receive the City Council's approval before levying the upcoming fiscal year's assessment. Therefore, to enable the Montclair BID to collect its FY 2010/11 assessment City Council must adopt the attached resolution. Assessment funds will be used to pay for economic development and beautification activities outlined in the district management plan on file with the Office of the City Clerk and the annual report submitted by the Montclair BID advisory board (Exhibit A to the attached resolution).

A public hearing and majority protest procedure must precede the City Council's consideration of the attached resolution. A majority protest exists if owners of affected businesses which will pay fifty percent (50%) or more of the proposed assessments to be levied submit qualifying written protests on or before the public hearing date of November 17, 2009, for this matter.

If no majority protest exists, then City Council may adopt the attached resolution. If, however, a majority protest exists, then City Council cannot adopt the resolution to levy the FY 2010/11 assessments for the Montclair BID and no further proceedings to levy the proposed assessment shall be taken for a period of one year.

### FISCAL IMPACTS

No fiscal impact is anticipated to the City. The Montclair BID is a self-funded, self-administered entity which will pay all of its own operating costs and will be cost neutral to the City budget.

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If the FY 2010/11 levy is approved, the City will conduct a special billing, at or around the same time as the annual business tax billing, to collect the assessment and will remit the amount collected (less the City's costs of collections) to designated BID administrators.

Until disbursed, BID assessments will be held in a special pass-through account established by the Finance and Management Agency on behalf of the Montclair BID in Miscellaneous Trusts Fund (7999), Neighborhood Commercial Revitalization & Service Delivery System Organization (88569), Pass Thru Assessments Account (24224), Undetermined Project (0000000), Montclair BID Program (MBID).

## **BACKGROUND**

On November 9, 1999, the City Council approved Resolution No. 75323 C.M.S. which initiated a City of Oakland Neighborhood Business Improvement District (NBID) Program. This program is authorized by Section 36500 *et seq.* of the California Streets and Highway Code which allows for the establishment of local business improvement districts throughout the state.

Pursuant to the above legislation Ordinance No. 12378 C.M.S. was passed by City Council on November 27, 2001, to establish the Montclair BID. Subsequently, a resolution was adopted on November 3, 2009, which stated the City Council's intent to levy a FY 2010/11 assessment for the district, to approve the district's annual report, and to schedule a related public hearing for November 17, 2009.

The BID model for economic development is also being used in the Rockridge (established 2000), Fruitvale (established 2001 and renewed 2006), Lakeshore/Lake Park (established 2002), Temescal (established 2004), Laurel (established 2005), Koreatown/Northgate (established 2007), Lake Merritt/Uptown (established 2008), and the Downtown Oakland (established 2008) districts.

BIDs seek to create both a stable cash flow and to incorporate all of the members of a business community into a productive and proactive entity representing the interests of that community.

Revenues generated by BIDs are applied to a variety of local improvements and services beyond those already provided by existing municipal services. Examples of BID-funded services include, but are not limited to, enhanced maintenance services, security, marketing and promotions, special events, parking and transportation services, economic development activities, capital improvements, and human services. These types of enhanced services lead to increased property, sales and business tax revenues as well as increased job opportunities and the improved economic development of commercial neighborhoods.

## KEY ISSUES AND IMPACTS

There is no anticipated adverse impact associated with the authorization to levy FY 2010/11 assessments for Montclair BID.

In terms of positive impacts, authorizing the continued collection of assessments for the district will provide the Montclair BID an ongoing private funding source for enhanced safety and security, beautified physical appearance, and organized economic development and marketing activities within the district. This model for economic development has been successfully used in other commercial neighborhoods throughout the state and country. Accordingly, reauthorization of assessments for the Montclair BID will enable the district to continue serving as an effective self-help model for other Oakland business districts.

## PROGRAM DESCRIPTION

*The Montclair BID encompasses approximately 218 businesses located in and around the Montclair commercial area and estimates a fiscal year 2010/11 budget of approximately \$101,050 of which \$80,000 represents BID assessments to be collected in FY 2010/11.*

If the City Council approves the FY 2010/11 levy for the Montclair BID, assessments of \$60 to \$2,500 per year per business license will be collected based on business classification and level of annual gross receipts, calculated in accordance with an approved assessment methodology table contained in the district's management plan on file with the Office of the City Clerk.

Key aspects of the district's BID service program include, but are not limited to, enhanced safety and security; beautified physical appearance; special events such as the Montclair Holiday Stroll, and the Montclair Farmer's Market; holiday decorations; and other organized economic development and marketing activities within the district as further outlined in the annual report (Exhibit A to the attached resolution).

The attached annual report indicates no changes in the boundaries of the business improvement district or in any benefit zones in the area. There is also no change in the original method and basis of levying the assessment.

## SUSTAINABLE OPPORTUNITIES

***Economic:** The proposed levy will fund activities which are intended to support the eventual increase of property, sales, and business tax revenues as well as increased job opportunities and economic development of the Montclair commercial district.*

***Environmental:*** The proposed levy will enable the Montclair BID to continue its efforts to strengthen and beautify the physical image of the existing neighborhood commercial area through the use of enhanced sidewalk and street cleaning and maintenance. Attractive new banners, directional signage and holiday decorations will also uplift and unify the district's appearance.

***Social Equity:*** BIDs incorporate all members of a business community into a productive and proactive entity representing the interests of that community. Administration of the cash flow generated by the district itself contributes to local merchant self-empowerment and provides enhanced services for the overall physical and economic betterment of the district.

### **DISABILITY AND SENIOR ACCESS**

The reauthorization of assessments for the BID has no direct implications for disability and senior access. However, the BID's efforts toward revitalization may encourage businesses to continue to abide by applicable state, federal and local codes and legislation regarding disability and senior access. Improved public safety and security provided by the BID could also serve to make the area safer and more accessible to all visitors, including senior citizens and disabled persons.

### **RECOMMENDATION(S) AND RATIONALE**

Staff recommends that the City Council adopt the resolution confirming the annual report of the Montclair BID advisory board and levying the annual assessment for the Montclair BID for fiscal year 2010/11.

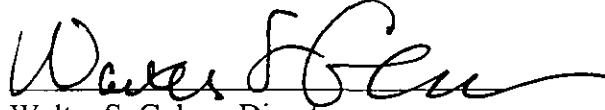
Adoption of the attached resolution will support continued operations in the Montclair BID and the delivery of related special services outlined in the district's annual report (Exhibit A to the attached resolution). Such business improvement districts represent a proactive effort on the part of neighborhood business owners to improve the conditions and image of their area which assists in the economic revitalization and physical maintenance of the concerned commercial district.

Additionally, because BIDs are self-initiated, self-funded, and self-administered entities, there are no anticipated fiscal impacts for the City associated with continuance of the Montclair BID. Consequently, the Montclair BID might also be viewed as a positive self-help model for other neighborhood commercial areas.

**ACTION REQUESTED OF THE CITY COUNCIL**

The action requested of the City Council is to adopt the Resolution Confirming The Annual Report Of The Montclair BID Advisory Board And Levying The Annual Assessment For The Montclair BID For Fiscal Year 2010/11.


Respectfully submitted,



Walter S. Cohen, Director

Community and Economic Development  
Agency

Reviewed by: -

Gregory Hunter, Deputy Director   
Economic Development and Redevelopment

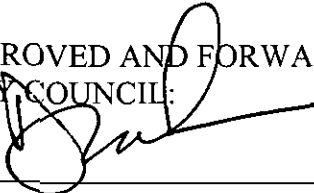
Aliza Gallo, Coordinator

Economic Development/Business Development Services

Prepared by:

Maria Rocha, Urban Economic Analyst  
Economic Development/Business Development Services

APPROVED AND FORWARDED TO THE  
CITY COUNCIL:



\_\_\_\_\_  
Office of the City Administrator

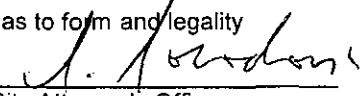
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City Council  
November 17, 2009

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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Approved as to form and legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**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 2010/11**

**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 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 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**, 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 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 2010/11; 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 November 17, 2009, 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 2010/11. 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 2010/11 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 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 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).

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

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 2010/11 Montclair BID Assessment)



**Annual Report To The City Of Oakland Relating To  
The 2009-2010 Montclair BID**

Pursuant to California Streets and Highways Code Part 6  
Parking and Business Improvement Area Law of 1989  
Chapter 3, Section 36533

- I. Proposed changes in the boundaries of the parking and business improvement area or in any 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 fiscal year 2010/11.**  
See the attached budget which outlines the improvements and activities to be funded and provided in the year ending December 31, 2010.
- III. Estimate of the cost of providing the improvements and activities for fiscal year 2010/11.**  
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.**  
There are no anticipated surplus or deficit funds to be carried over. All funds anticipated with the exception of non-BID revenues, have been accounted for.
- 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.

Claudia Falconer  
President, Montclair Village Association

2009 MVA Annual Report

	2009 Approved Budget	2009 Actual Y-T-D 8/28/09	2010 Projected Budget
<b>INCOME</b>			
BID Revenues	\$ 99,900.00	\$ 77,214.24	\$ 80,000.00
Art Festivals	\$ 10,000.00	\$ 8,200.00	\$ 10,250.00
Garage Management	\$ 10,800.00	\$ 6,300.00	\$ 10,800.00
<b>Total</b>	<b>\$ 120,700.00</b>	<b>\$ 91,714.24</b>	<b>\$ 101,050.00</b>
<b>EXPENSES</b>			
<b>Beautification</b>			
Landscaping	\$14,400.00	\$ 7,065.00	\$ 10,000.00
Maintenance	\$20,000.00	\$ 10,940.00	\$ 17,000.00
Streetscape	\$2,500.00	\$ -	\$ -
<i>Subtotal</i>	<i>\$36,900.00</i>	<i>\$ 18,005.00</i>	<i>\$ 27,000.00</i>
<b>Economic Restructuring</b>			
Safety	\$350.00	\$ -	\$ 1,000.00
Security	\$24,000.00	\$ 9,000.00	\$ 12,000.00
<i>Subtotal</i>	<i>\$24,350.00</i>	<i>\$ 9,000.00</i>	<i>\$ 13,000.00</i>
<b>Organization</b>			
Accountant	\$500.00	\$ 400.00	\$ 500.00
Board			\$ 250.00
Insurance	\$2,000.00	\$ 1,454.00	\$ 1,800.00
Meetings	\$500.00	\$ 550.00	\$ -
Postage	\$1,000.00	\$ 47.28	\$ 500.00
Rent	\$4,500.00	\$ 3,173.15	\$ 5,000.00
Staff	\$28,500.00	\$ 18,664.00	\$ 30,000.00
Supplies/Equipment	\$2,500.00	\$ 1,566.61	\$ 2,500.00
Taxes	\$100.00	\$ 10.00	\$ 50.00
Utilities	\$1,000.00	\$ 473.57	\$ 1,000.00
<i>Subtotal</i>	<i>\$40,600.00</i>	<i>\$ 26,338.61</i>	<i>\$ 41,600.00</i>
<b>Other</b>			
City Collection	\$2,500.00	\$ 2,201.14	\$ 2,000.00
City Loan Payment	\$3,200.00	\$ 3,200.00	\$ 3,200.00
<i>Subtotal</i>	<i>\$5,700.00</i>	<i>\$ 5,401.14</i>	<i>\$ 5,200.00</i>
<b>Promotions</b>			
Advertising	\$250.00	\$ 525.00	\$ 1,500.00
Art Festivals	\$200.00		\$ 700.00
Banners	\$5,000.00	\$ 3,200.00	\$ 4,000.00
Directory	\$2,500.00	\$ 360.00	\$ 5,000.00
Farmer's Market	\$1,200.00	\$ 800.00	\$ -
Holiday Stroll	\$1,500.00	\$ 283.64	\$ 750.00
Map Signage	\$500.00	\$ -	\$ 1,300.00
Web site	\$2,000.00	\$1,093.04	\$ 1,000.00
<i>Subtotal</i>	<i>\$13,150.00</i>	<i>\$ 6,261.68</i>	<i>\$ 14,250.00</i>
<b>Total</b>	<b>\$120,700.00</b>	<b>\$ 65,006.43</b>	<b>\$ 101,050.00</b>
<b>Net</b>	<b>\$ -</b>	<b>\$ 26,707.81</b>	<b>\$ -</b>