

CITY OF OAKLAND

AGENDA REPORT

2010 NOV 23 AM 11:47

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: December 7, 2010

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 2011/12**

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 2011/12 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 assessment. Therefore, City Council adoption of the attached resolution is required to enable the Montclair BID to collect its FY 2011/12 assessment. 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 December 7, 2010, for this matter.

If no majority protest exists, then the City Council may adopt the attached resolution. If, however, a majority protest exists, then the City Council cannot adopt the resolution to levy the FY 2011/12 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 (MBID) is a self-funded, self-administered entity. The MBID will pay all of its own operating costs and will be cost neutral to the City budget.

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If the levy is approved, the City will conduct a special billing to collect the assessment and will remit the amount collected (minus the City's costs of collection) to designated BID administrators.

Until disbursed, MBID assessments will be held in a special Miscellaneous Trust Fund (7999) and a Pass Thru Assessments Account (24224) within the NCR & SDS unit of the Community and Economic Development Agency.

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 Highways 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 9, 2010, which stated the City Council's intent to levy a FY 2011/12 assessment for the district, to approve the district's annual report, and to schedule a related public hearing for December 7, 2010.

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 special benefit 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, safety and security, marketing and promotions, special events, and related capital improvements. These types of enhanced and supplemental services are intended to support increased sales and business tax revenues as well as increased job opportunities and to improve the vitality of affected commercial neighborhoods.

KEY ISSUES AND IMPACTS

There is no anticipated adverse impact associated with the authorization to levy FY 2011/12 assessments for Montclair BID.

In terms of positive impacts, authorizing the continued collection of assessments for the district will provide the Montclair BID an on-going 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 country. Accordingly, reauthorization of assessments for the Montclair BID will enable the district to serve as an on-going effective self-help model for other Oakland business districts.

PROGRAM DESCRIPTION

The Montclair BID encompasses approximately 225 businesses located in and around the Montclair commercial area and estimates an annual budget of approximately \$95,300 of which \$75,000 represents projected assessments to be collected in FY 2011/12.

If Council approves the FY 2011/12 levy for the Montclair BID, assessments will be levied in accordance with the district management plan on file with the Office of the City Clerk and the attached Annual Report (*Exhibit A* to the Resolution of Intention) submitted by the Montclair District Association, the district's City Council-appointed advisory board. The annual report and district management plan set forth actions that will serve to attract business and improve the commercial climate within the district. Key aspects of these documents include, but are not limited to, enhanced cleaning including sidewalk cleaning and power washing, enhanced public safety including private security services, beautified physical appearance including the installation and maintenance of banners and planters, special events such as the Pacific Fine Arts Festival, Holiday Stroll, Restaurant Walk, Easter Egg Hunt, Halloween Parade, Family Fun Festival and farmers' markets and other organized economic development and marketing activities such as maintenance of a district website, business directory and maps as further outlined in *Exhibit A* to the attached resolution.

The annual report indicates no changes in the boundaries of the business improvement district or in any benefit zones in the area. There is 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.

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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, 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

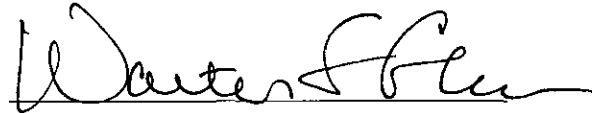
Adoption of the attached resolution will support continued operations in the Montclair BID and the delivery of related special benefit services outlined in the district's Annual Report (*Exhibit A* to the attached resolution). Such business improvement districts represent a proactive effort on the part of neighborhood business owners to improve the conditions and image of their area which assists in the economic revitalization and physical maintenance of the 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 should be viewed as a positive self-help model for other neighborhood commercial areas. Accordingly, staff recommends that the City Council adopt the attached resolution confirming the annual report of the Montclair BID advisory board and levying the annual assessment for fiscal year 2011/12 for the Montclair BID.


ACTION REQUESTED OF THE CITY COUNCIL

Staff request 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 2011/12.

Respectfully submitted,



Walter S. Cohen, Director
Community and Economic Development
Agency

Reviewed by: 

Gregory D. 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:



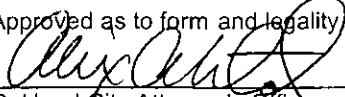
Office of the City Administrator

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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.

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 2011/12

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 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, 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 2011/2012; 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 7, 2010, 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 2011/2012 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).
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, _____, 20__

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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



Annual Report to the Oakland City Council Relating to the 2011-2012 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, 2011.
- 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 shown on the attached budget.

David Sarber
President, Montclair Village Association

2010 MVA Annual Report	2010	2010	2011			Revised
	2010	Actual	2011			
	Approved	Y-T-D	Projected			
	Budget	11/3/10	Budget			
INCOME						
BID Revenues	\$ 80,000.00	\$ 64,146.60	\$ 75,000.00			
Associate Memberships	\$ -	\$ 150.00	\$ 1,000.00			
Art Festivals	\$ 10,000.00	\$ 8,500.00	\$ 8,500.00			
Garage Management	\$ 10,800.00	\$ 9,900.00	\$ 10,800.00			
Total	\$ 100,800.00	\$ 82,696.60	\$ 95,300.00			
EXPENSES						
Beautification						
Landscaping	\$ 10,000.00	\$ 6,200.00	\$ 10,000.00			
Maintenance	\$ 17,000.00	\$ 13,140.00	\$ 17,000.00			
Land Use	\$ -	\$ 1,354.93	\$ 3,000.00			
Streetscape	\$ -	\$ -	\$ -			
<i>Subtotal</i>	<i>\$ 27,000.00</i>	<i>\$ 20,694.93</i>	<i>\$ 30,000.00</i>			
Security						
Safety	\$ 1,000.00	\$ -	\$ -			
Security	\$ 12,000.00	\$ 10,000.00	\$ 12,000.00			
<i>Subtotal</i>	<i>\$ 13,000.00</i>	<i>\$ 10,000.00</i>	<i>\$ 12,000.00</i>			
Organization						
Accountant	\$ 500.00	\$ 400.00	\$ 500.00			
Board	\$ -	\$ -	\$ -			
Insurance	\$ 2,000.00	\$ 1,365.00	\$ 1,500.00			
Meetings	\$ -	\$ -	\$ -			
Postage	\$ 1,000.00	\$ 70.60	\$ 200.00			
Rent	\$ 4,600.00	\$ 4,111.20	\$ 5,000.00			
Staff	\$ 30,000.00	\$ 23,334.00	\$ 28,000.00			
Supplies/Equipment	\$ 2,500.00	\$ 817.20	\$ 1,850.00			
Taxes	\$ 50.00	\$ 80.00	\$ 50.00			
Utilities	\$ 1,000.00	\$ 612.14	\$ 1,000.00			
<i>Subtotal</i>	<i>\$ 41,650.00</i>	<i>\$ 30,790.14</i>	<i>\$ 38,100.00</i>			
City *						
City Collection	\$ 2,750.00	\$ -	\$ 2,750.00			
City Loan Payment	\$ 3,250.00	\$ -	\$ 3,250.00			
<i>Subtotal</i>	<i>\$ 6,000.00</i>	<i>\$ -</i>	<i>\$ 6,000.00</i>			
Promotions						
Advertising	\$ 1,500.00	\$ 250.00	\$ 500.00			
Art Festivals	\$ 200.00	\$ -	\$ -			
Banners	\$ 4,000.00	\$ 2,077.50	\$ 6,200.00			
Directory	\$ 5,000.00	\$ 3,882.13	\$ 3,000.00			
Farmer's Market	\$ -	\$ (200.00)	\$ -			
Village Events **	\$ 3,000.00	\$ 521.30	\$ 3,000.00			
Map Signage	\$ 500.00	\$ 850.00	\$ 1,300.00			
Web site	\$ 1,000.00	\$ 90.00	\$ 1,000.00			
<i>Subtotal</i>	<i>\$ 15,200.00</i>	<i>\$ 7,470.93</i>	<i>\$ 15,000.00</i>			
Total	\$ 96,850.00	\$ 68,956.00	\$ 95,100.00			
Net	\$ 3,950.00	\$ 13,740.60	\$ 200.00			
* These funds are deducted from our BID payments by the City and are shown here for information only.						
** Restaurant Walk, Fall Festival, Halloween Parade, Holiday Stroll						