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OFFICE OF THE CITY CLERK  
OAKLAND

# CITY OF OAKLAND

## AGENDA REPORT

~~2010~~ OCT 20 ~~PM 2:23~~ Office of the City Administrator

ATTN: Dan Lindheim

FROM: Community and Economic Development Agency

DATE: November 9, 2010

RE: **Resolution Of Intention To Levy An Annual Assessment For Fiscal Year 2011/12 For The Montclair Business Improvement District, Approving The Annual Report Of The Montclair Business Improvement District Advisory Board, And Scheduling A Public Hearing For December 7, 2010**

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### SUMMARY

Pursuant to Streets and Highways Code Section 36500 *et seq.* and the City of Oakland's Neighborhood Business Improvement District Program, a resolution of intention has been prepared to authorize the levy of an annual assessment for the Montclair Business Improvement District (BID) for the upcoming 2011/12 fiscal year, approving the annual report for the Montclair BID, and scheduling a public hearing for December 7, 2010.

State law requires that business-based BIDs receive City Council approval before levying the upcoming fiscal year's assessment. Therefore, City Council adoption of the resolution of intention, and scheduling of the related public hearing, is required to enable the Montclair BID to collect its FY 2011/12 assessment. Should the Council approve this resolution, final action regarding the proposed levy would take place at the public hearing, which must occur no less than 10 days and no more than 30 days after the adoption of the above resolution of intention.

### FISCAL IMPACTS

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

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, BID assessments will be held in a special trust fund established by the Finance and Management Agency on behalf of the Montclair BID. The trust fund number for the Montclair BID is: Miscellaneous Trusts Fund (7999)/NCR & SDS Org (88569)/Pass Thru Assessments Account (24224)/Undetermined Project (0000000).

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## **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 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 November 27, 2001 to establish the Montclair BID.

The BID model for economic development is also being used in the Rockridge (established 2000), Fruitvale (established 2001 and renewed in 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 and in other commercial neighborhoods throughout the country.

BIDs seek to create a stable cash flow and 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.

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## 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 of intention.

The 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, 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 district has no direct implications for disability and senior access. However, the district'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 of intention 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 of Intention). 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.

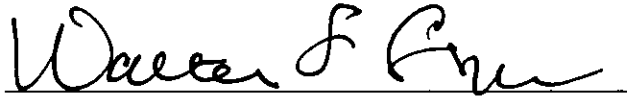
Additionally, because BIDs are self-initiated, self-funded, and self-administered entities, there are no anticipated fiscal impacts for the City associated with continuance of the Montclair BID. Consequently, the Montclair BID should be viewed as a positive self-help model for other neighborhood commercial areas. Accordingly, staff recommends that the City Council adopt the resolution of intention to levy an annual assessment for fiscal year 2011/12 for the Montclair Business Improvement District, approving the annual report for the Montclair Business Improvement District and scheduling a public hearing for December 7, 2010 during which City Council may take final action to enable the proposed levy.

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**ACTION REQUESTED OF THE CITY COUNCIL**

Staff request that the City Council adopt the resolution of intention to levy an annual assessment for Fiscal Year 2011/12 for the Montclair Business Improvement District, which includes the approval of the annual report of the Montclair Business Improvement District Advisory Board, and the scheduling of a Public Hearing for December 7, 2010.

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

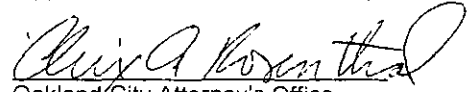
APPROVED AND FORWARDED TO THE  
CITY COUNCIL:

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

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 OF INTENTION TO LEVY AN ANNUAL ASSESSMENT  
FOR FISCAL YEAR 2011/12 FOR THE MONTCLAIR BUSINESS  
IMPROVEMENT DISTRICT, APPROVING THE ANNUAL REPORT OF  
THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT ADVISORY  
BOARD, AND SCHEDULING A PUBLIC HEARING FOR  
DECEMBER 7, 2010**

**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 new security, beautification, 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 Number 12378; and

**WHEREAS**, pursuant to Streets and Highways Code Section 36533, 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; and

**WHEREAS**, until disbursed, District assessments will be held in a special trust fund established by the Finance and Management Agency on behalf of the District in Miscellaneous Trusts Fund (7999)/NCR & SDS Org (88569)/Pass Thru Assessments Account (24224)/Undetermined Project (0000000); now therefore be it

**RESOLVED:** that the Council of the City of Oakland does 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. The Annual Assessment Report for the District is approved, and pursuant to Streets and Highways Code Section 36534, the City Council declares its intent to levy and collect the assessments for the 2011/12 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 2011/12 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 2011/12 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 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 2011/12.
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, \_\_\_\_\_, \_\_\_\_\_

**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



EXHIBIT A  
(To the Resolution to Levy the FY 2011/12 Montclair BID Assessment)



**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 Approved Budget	2010 Actual Y-T-D 9/30/10	2011 Projected Budget
<b>INCOME</b>			
BID Revenues	\$ 80,000.00	\$ 64,146.60	\$ 75,000.00
Associate Memberships	\$ -	\$ 150.00	\$ 1,000.00
Art Festivals	\$ 10,000.00	\$ 5,000.00	\$ 8,500.00
Garage Management	\$ 10,800.00	\$ 9,000.00	\$ 10,800.00
<b>Total</b>	<b>\$ 100,800.00</b>	<b>\$ 78,296.60</b>	<b>\$ 95,300.00</b>
<b>EXPENSES</b>			
<b>Beautification</b>			
Landscaping	\$ 10,000.00	\$ 5,700.00	\$ 10,000.00
Maintenance	\$ 17,000.00	\$ 12,240.00	\$ 17,000.00
Land Use	\$ -	\$ 1,354.93	\$ 3,000.00
Streetscape	\$ -	\$ -	\$ -
<i>Subtotal</i>	<i>\$ 27,000.00</i>	<i>\$ 19,294.93</i>	<i>\$ 30,000.00</i>
<b>Security</b>			
Safety	\$ 1,000.00	\$ -	\$ -
Security	\$ 12,000.00	\$ 9,000.00	\$ 12,000.00
<i>Subtotal</i>	<i>\$ 13,000.00</i>	<i>\$ 9,000.00</i>	<i>\$ 12,000.00</i>
<b>Organization</b>			
Accountant	\$ 500.00	\$ 400.00	\$ 500.00
Board	\$ -	\$ -	\$ -
Insurance	\$ 2,000.00	\$ 1,365.00	\$ 1,500.00
Meetings	\$ -	\$ -	\$ -
Postage	\$ 1,000.00	\$ 48.97	\$ 200.00
Rent	\$ 4,600.00	\$ 3,700.08	\$ 5,000.00
Staff	\$ 30,000.00	\$ 21,001.00	\$ 28,000.00
Supplies/Equipment	\$ 2,500.00	\$ 804.50	\$ 1,850.00
Taxes	\$ 50.00	\$ 80.00	\$ 50.00
Utilities	\$ 1,000.00	\$ 552.74	\$ 1,000.00
<i>Subtotal</i>	<i>\$ 41,650.00</i>	<i>\$ 27,952.29</i>	<i>\$ 38,100.00</i>
<b>City**</b>			
City Collection	\$ 2,750.00	\$ -	\$ 2,750.00
City Loan Payment	\$ 3,250.00	\$ 3,250.00	\$ 3,250.00
<i>Subtotal</i>	<i>\$ 6,000.00</i>	<i>\$ 3,250.00</i>	<i>\$ 6,000.00</i>
<b>Promotions</b>			
Advertising	\$ 1,500.00	\$ 250.00	\$ 500.00
Art Festivals	\$ 200.00	\$ -	\$ -
Banners	\$ 4,000.00	\$ 2,802.50	\$ 6,200.00
Directory	\$ 5,000.00	\$ 3,607.75	\$ 3,000.00
Farmer's Market	\$ -	\$ (400.00)	\$ -
Village Events **	\$ 3,000.00	\$ (5,921.53)	\$ 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>\$ 1,278.72</i>	<i>\$ 15,000.00</i>
<b>Total</b>	<b>\$ 96,850.00</b>	<b>\$ 60,775.94</b>	<b>\$ 95,100.00</b>
<b>Net</b>	<b>\$ 3,950.00</b>	<b>\$ 17,520.66</b>	<b>\$ 200.00</b>

\* These funds are deducted from our BID payments by the City and are shown here for information only.

\*\* Reataurant Walk, Fall Festival, Halloween Parade, Holiday Stroll