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OFFICE OF THE CITY CLERK
OAKLAND

2010 OCT 28 PM 2:23

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 83042 C.M.S.

**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, NOV 9 2010 ..

PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

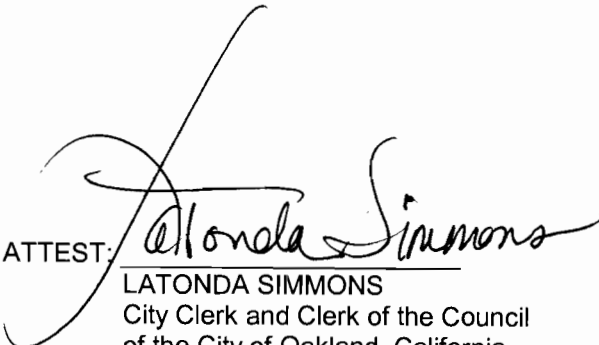
ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A
(To the Resolution to Levy the FY 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

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2010 MVA Annual Report

| | 2010 Approved Budget | 2010 Actual Y-T-D 9/30/10 | 2011 Projected 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 | \$ 5,000.00 | \$ 8,500.00 |
| Garage Management | \$ 10,800.00 | \$ 9,000.00 | \$ 10,800.00 |
| Total | \$ 100,800.00 | \$ 78,296.60 | \$ 95,300.00 |
| EXPENSES | | | |
| Beautification | | | |
| 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> |
| Security | | | |
| 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> |
| Organization | | | |
| 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> |
| City * | | | |
| 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> |
| Promotions | | | |
| 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> |
| Total | \$ 96,850.00 | \$ 60,775.94 | \$ 95,100.00 |
| Net | \$ 3,950.00 | \$ 17,520.66 | \$ 200.00 |

* 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