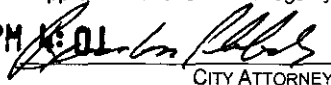


REVISED
11-15-01

FILED
OFFICE OF THE CITY CLERK
OAKLAND
Approved as to form and legality
01 NOV - 1 PM 12:01

CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

Ordinance No. 12378 C.M.S.

ORDINANCE ESTABLISHING THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT, GRANTING APPROVAL OF THE MANAGEMENT PLAN FOR THE DISTRICT, APPROVING THE ASSESSMENT DISTRICT BOUNDARY DESCRIPTION, AND APPROVING THE PROPOSED ASSESSMENT TO THE AFFECTED BUSINESSES

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 City Council approved a Neighborhood Business Improvement District ("NBID") Program pursuant to Oakland City Council Resolution No. 75323, dated November 9, 1999, to provide technical and financial assistance to stakeholder groups of business owners in the City to assist in the formation of such districts; and

WHEREAS, the business license holders in the Montclair business district have petitioned to form the Montclair Business Improvement District ("District") under said legislation to undertake the Management Plan for the District entitled, "Final Management District Plan for Montclair Business Improvement District, Approved by Weighted and Numerical Vote of Montclair Business Community – July 2001 and Presented by Marco Li Mandri, New City America on August 1, 2001", ("Plan") which is on file with the City Clerk and

WHEREAS, the Plan provides for new security, crime prevention, beautification, parking resolution, sidewalk sweeping, economic development, lighting, and marketing activities with the intent of creating a positive atmosphere in the District area (as more specifically identified in the Plan on file with the City Clerk); and

WHEREAS, the Plan was prepared in accord with the provisions of the law overseeing the formation of the District as referenced above, and has been filed with the City Clerk for proceedings in formation of this District; and

WHEREAS, pursuant to the requirements of the law the affected Montclair business license holders have voted through a ballot process administered by the City to form the proposed Montclair Business Improvement District ("District"); and

WHEREAS, the City Council finds that the conduct of the ballot process conformed with all requirements of the law and that the Management Plan for the District satisfies all the requirements of the law overseeing the formation of the District as referenced above;

Now therefore, the Council of the City of Oakland does ordain as follows:

Section 1. Title. This Ordinance may be referred to as the "The Montclair Business Improvement District Ordinance."

Section 2. Establishment of the District. A parking and business improvement area for the Montclair area is hereby established pursuant to Street and Highways Code section 36500 et seq with the boundaries as specified in the Plan on file with the City Clerk – Exhibit C to the Resolution of Intention. The name of the District shall be The Montclair Business Improvement District. The Plan for the District, is approved, and the assessments for the first year shall be as provided for in the Plan attached hereto and incorporated herein by this reference.

Section 3. Resolution of Intention. The Resolution of Intention to form the District was adopted on October 2, 2001, Resolution number 76737 C. M. S. The Title of the Resolution adopted is **RESOLUTION OF INTENTION TO FORM THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT, GRANTING PRELIMINARY APPROVAL OF THE MANAGEMENT PLAN FOR THE MONTCLAIR BUSINESS IMPROVEMENT DISTRICT, DIRECTING FILING OF THE PROPOSED ASSESSMENT DISTRICT BOUNDARY DESCRIPTION, SUBMITTING A PROPOSED ASSESSMENT TO THE AFFECTED BUSINESSES FOR MAJORITY PROTEST PROCEDURE APPROVAL; AND SCHEDULING A PUBLIC HEARING FOR OCTOBER 30, 2001.**

Section 4. Time and Place of Public Hearing. The Public Hearing on October 30, 2001 was continued to November 13, 2001, and was on that date held at City Hall, One Frank H. Ogawa Plaza, Oakland California in the City Council Chambers.

Section 5. Determination Regarding Protests. The City Council hereby finds and determines that the public convenience and necessity required the establishment of the Plan area described in the Plan and that all of the businesses lying within the area will be benefited by the expenditure of the funds raised by the assessments or charges proposed to be levied. The City Council considered the protests received at the Public Hearing regarding the establishment of the District, the extent of the Plan area, and the furnishing of the specified types of improvements or activities, and determined that pursuant to the law the protests were not sufficient to preclude formation of the District as provided for in the Plan, and on that basis proceeded to form the District as provided for in the District Plan and to make the assessments as provided for in the Plan. All protests, both written and oral, are overruled and denied and the City Council

finds that there is not a majority protest within the meaning of Section 36523 of the Street and Highways Code.

Section 6. Plan Area Boundaries and Zones. The boundaries of the District and the Zones shall be those specified in the Plan on file with the City Clerk (Exhibit C to the Resolution of Intention).

Section 7. Amendments to the Street and Highways Code. The businesses in the District created by this Ordinance shall be subject to any amendments to Street and Highways Code Section 36500 et seq..

Section 8. The Method and Basis of Levying Assessments. The method and basis for levying assessments shall be as specified in the Plan on file with the City Clerk (Exhibit C to the Resolution of Intention), and shall be assessed as provided for in the Plan and Resolution of Intention with regard to the Classifications of businesses as specified in the Plan. New businesses will not be exempt from the levy of the assessment.

Section 9. Use of Assessment Funds. The improvements and activities to be provided in the Plan area will be funded by the levy of the assessments approved pursuant to the Plan. The revenue from the levy of assessments within the Plan area shall not be used to provide improvements or activities outside the Plan area or for any purpose other than the purposes specified in the Resolution of Intention, as modified by the City Council at the Hearing concerning the establishment of the Plan area. The types of the improvements and activities to be funded by the levy of assessments on businesses in the area are those specified in the Plan.

Section 10. Finding of Benefit. The City Council hereby finds that the businesses and the property within the business and improvement area established by this Ordinance will be benefited by the improvements and activities funded by the assessments proposed to be levied.

Section 11. The Time and Manner of Collecting Assessments. 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 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. All of the assessments imposed pursuant to this Ordinance shall be reviewed by the City Council annually.

Introduced - November 13, 2001

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 27 2001, 20__

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, PRESIDENT DE LA FUENTE, MAYNE, NADEL, REID, SPEES, WAN- 8

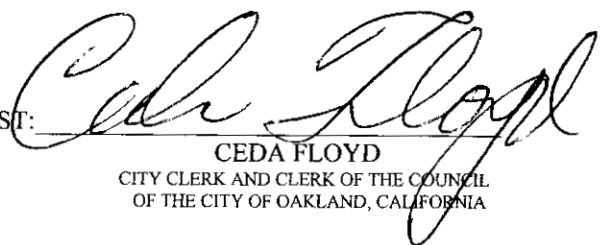
NOES- None

ABSENT- None

ABSTENTION- None

EXCUSED- None

RECUSED- None

ATTEST: 
CEDA FLOYD
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA