

Attachment 1 – Agreement for Service

**CITY OF PASADENA
AGREEMENT FOR SERVICES**

This agreement is made on _____, 2010, at Pasadena, California, between the City of Pasadena, a municipal corporation, 100 N. Garfield Avenue, Pasadena, California 91109, hereinafter referred to as the "CITY," and the Old Pasadena Management District, a non-profit corporation, hereinafter referred to as the "DISTRICT."

RECITALS:

WHEREAS, pursuant to its Resolution No. ____ (the "Resolution") the City Council of the CITY has established a property and business improvement district designated as the "Old Pasadena Management District" (the "OPMD"), under Section 36600, et seq. of the California Streets and Highway Code (the "Act"); and

WHEREAS, pursuant to the Resolution and the Act, assessments will be levied annually against the assessable parcels in the OPMD commencing with Calendar Year 2011 and continuing through 2015; and

WHEREAS, such assessments may be used only for the purposes set forth in the Resolution; and

WHEREAS, the CITY desires to use the assessments to contract for the administration of a program of improvements and activities in connection with the OPMD for Calendar Year 2011 through 2015; and

WHEREAS, the DISTRICT proposes to administer such program of improvements and activities for Calendar Year 2011 through 2015.

NOW, THEREFORE, the CITY and DISTRICT mutually agree as follows:

1. TERM OF AGREEMENT

- 1.1. The term of this Agreement shall be from January 1st, 2011 to and including December 31, 2015.
- 1.2. In the case of a default by the DISTRICT, the CITY may terminate this Agreement by giving written notice to the DISTRICT.
- 1.3. Upon termination or expiration of this Agreement, all unexpended moneys for the OPMD and all assets purchased with OPMD funds shall be returned to the CITY.

2. USE OF FUNDS

- 2.1. Funds received by the DISTRICT pursuant to this Agreement shall only be expended for the purposes stated in the Resolution and authorized by the Act. Such funds shall be expended in accordance with the Management District Plan and in accordance with each annual report prepared by the OPMD advisory board pursuant to Section 36633 of the Act and approved by the City Council.
- 2.2. In no event shall the DISTRICT use any of the City's contribution received pursuant to this Agreement to pay for the cost and expenses of renewing the OPMD or establishing a new property and business improvement district after the expiration of the five-year term of the OPMD.

3. DISTRICT RESPONSIBILITIES

- 3.1. The DISTRICT shall administer the OPMD work program and perform all of the services specified in the Management District Plan and each annual report of the advisory board prepared by the OPMD advisory board pursuant to Section 36633 of the Act and approved by the City Council, and in this regard shall cooperate with the City Manager of the CITY or such personnel as the City Manager designates.
- 3.2. Throughout the term of this Agreement, the DISTRICT shall submit to the CITY's Finance Director the following:
 - 3.2.1. Annual Report - By each May 1st, beginning May 1, 2011, the DISTRICT shall submit a report for the current Fiscal Year complying with Section 36633 of the Act.
 - 3.2.2. Financial Statements - By each May 1st, beginning May 1, 2011, the DISTRICT shall submit a statement of income and expenses of the DISTRICT in relation to the OPMD, reviewed by a Certified Public Accountant covering the previous Fiscal Year. Notwithstanding the termination date of this Agreement, the DISTRICT shall submit a statement of income and expenses of the DISTRICT in relation to the OPMD.
 - 3.2.3. Within 10 days of a request of the CITY's Finance Director, the DISTRICT shall provide such other financial information of the DISTRICT in relation to the OPMD as the CITY's Finance Director shall reasonably request.
- 3.3. The DISTRICT hereby agrees to comply with all State and City laws and regulations as they relate to the administration of the OPMD.

4. CITY RESPONSIBILITIES

- 4.1. The CITY shall submit to the County of Los Angeles each year an annual assessment roll for the OPMD for each year and shall disburse the OPMD assessment revenues received by the CITY from the County of Los Angeles to the DISTRICT in accordance with Section 5.1 hereof.
- 4.2. With respect to any public agencies for which the County of Los Angeles does not bill the annual OPMD assessments, the CITY shall hand bill such agencies for the OPMD assessments, provided that the CITY shall have no responsibility to enforce the collection of such assessments.
- 4.3. The CITY shall review all reports submitted by the DISTRICT.
- 4.4. The CITY shall make available to the DISTRICT such information in its possession, except for information which is determined to be confidential information by the City Attorney, which is necessary for implementation of the OPMD work program.
- 4.5. The CITY shall report to the DISTRICT on a regular basis as to the status of OPMD assessment revenues thus far collected so that the DISTRICT can adjust its budget and work program accordingly.

5. DISBURSEMENTS

- 5.1. Commencing with Calendar Year 2011 and continuing through Calendar Year 2015, the CITY shall annually remit to the DISTRICT the OPMD assessment revenues collected by the County of Los Angeles and paid to the CITY within 10 days of receipt of such revenues by the City from the County of Los Angeles.

6. AUDITS, ACCOUNTING AND AUDIT EXCEPTIONS

- 6.1. The DISTRICT's program, as it relates to the OPMD, will be audited in accordance with the CITY's policy and funding guidelines. For the purposes of audits or inspections, the CITY or its authorized representatives shall, upon 10 days' prior notice, have access to any and all books, documents, papers, records, property and premises of the DISTRICT.
- 6.2. The DISTRICT's staff will cooperate fully with authorized auditors when such auditors conduct audits and examinations of the DISTRICT's program, as it relates to the OPMD. If indications of misappropriation or misapplication of the funds governed by this Agreement cause the CITY to require a special audit, the cost of the audit shall be paid by the DISTRICT. Should it be subsequently determined that the special audit was not reasonably warranted, the cost of such unwarranted audit shall be restored to the DISTRICT. The right to audit, as provided by this Section,

shall be for a period of three (3) years from the date of submission of the financial report in question or any indication or notice to the CITY of any misappropriation or misapplication of funds by the DISTRICT, whichever is later.

- 6.3. The DISTRICT shall establish and maintain on a current basis an adequate accrual accounting system in accordance with generally accepted accounting principles and standards. The system shall detail all costs chargeable to the OPMD under this Agreement and shall substantiate all such costs, meeting acceptable standards for major public entities in Southern California and complying with any applicable Federal standards. The system shall meet the minimum fiscal and internal control requirements as reasonably determined by the CITY.

7. INSURANCE

District shall, at its own expense, procure and maintain policies of insurance of the types and in the amounts set forth below, for the duration of this agreement, including any extensions thereto. The policies shall state that they afford primary coverage.

7.1.1 General Liability with minimum limits of at least \$2,000,000 combined Premises/Operations and Personal Injury coverage is required. The City of Pasadena, its directors, commissioners, officers, employees, agents and volunteers must be endorsed on the policy as additional insured as respects liability arising out of the District's performance of this Agreement.

- A. If District employs other contractors as part of its performance under this agreement, Contractor's Protective Coverage is required. District may insure all subcontractors under its own policy or shall procure and furnish separate insurance for each subcontractor, meeting the requirements set forth herein.
- B. Blanket Contractual Coverage.
- C. Personal Injury and Advertising Coverage.

7.1.2 District shall comply with the applicable sections of the California Labor Code concerning workers' compensation for injuries on the job. Compliance is accomplished in one of the following manners:

- A. Provide copy of permissive self-insurance certificate approved by the State of California; or
- B. Provide a copy of permissive self-insurance certificate approved by the State of California; or

- C. To the extent that the District has employees, the District shall secure and maintain in force a policy of workers' compensation insurance with statutory limits and Employer's Liability Insurance with a minimal limit of \$1,000,000 per accident. The policy shall be endorsed to waive all rights of subrogation against City, its directors, commissioners, officers, employees, and volunteers for losses arising from performance of this Agreement; or
- D. Provide a signed statement certifying that no employees subject to the Labor Code's Workers' Compensation provision will be used in performance of this Contract.

7.1.3 DISTRICT shall procure and maintain at its own expense a policy covering its Directors & Officer Liability with minimal limits of \$1,000,000.

7.1.4 Each insurance policy included in this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) days' prior written notice to City, and that coverage is primary to any other coverage available to City.

7.1.5 Insurance shall be placed with insurers with a Best's rating of no less than B:VIII. Insurers shall be admitted in the State of California unless pre-approved in writing by City.

7.1.6 Prior to commencement of performance, District shall furnish City with a certificate of insurance for each policy. Each certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate(s) must be in a form approved by City. City may require complete, certified copies of any or all policies at any time.

7.2 Failure on the part of the DISTRICT to procure or maintain required insurance shall constitute a material breach of contract under which CITY may immediately terminate this agreement.

8. NOTICES

8.1. All notices, plans, or reports permitted or required under this Agreement shall be in writing, and shall be deemed made when personally delivered to the following persons as provided in this Agreement. Additionally, such notices shall be deemed made 48 hours after deposited in the U.S. Mail, first class postage prepaid and addressed to the respective parties at the

following address, or at such other address as the respective parties may provide in writing for this purpose:

CITY OF PASADENA
100 N. Garfield Avenue
Room No. 237
Pasadena, California 91109
Attention: City Manager

Old Pasadena Management District
Association President
65 North Raymond Avenue #260
Pasadena, CA 91103

9. CONFLICT OF INTEREST.

9.1. For the duration of this Agreement, neither the DISTRICT nor any of its employees may act as consultant or perform services of any kind for any other person or entity in regard to the OPMD without the prior written consent of the CITY. In addition, neither members of the Board of Directors of the DISTRICT, nor its Chief Executive Officer, may enter into any additional contracts in regard to the OPMD, nor vote on any OPMD matters, when such contract or matter would be of financial benefit to the member or director over and above the general financial benefit to all businesses in the OPMD.

10. NONDISCRIMINATION.

10.1. The DISTRICT represents and agrees that it does not and will not discriminate against any employee or applicant for employment because of political affiliation or opinion, age, ancestry, marital status, physical condition, pregnancy or pregnancy-related condition, race, religion, color, sex, sexual orientation, national origin or medical condition.

11. GENERAL PROVISIONS.

- 11.1. Assignment. Neither this Agreement, nor any interest herein, shall be assigned by any party without the prior written consent of the other party.
- 11.2. Independent Contractor. It is agreed and understood that the DISTRICT is a wholly independent contractor. This Agreement is not intended and shall not be construed to create the relationship of agent, employee, servant, partnership, joint venture or association as between the CITY and the DISTRICT. Neither the CITY nor its agents shall have control over the conduct of the DISTRICT except as set forth herein. The CITY shall have no liability or responsibility for payment of any wage or benefits to the DISTRICT's employees, for whom the DISTRICT shall bear sole responsibility and liability.
- 11.3. Default of Contractor. In the case of default by the DISTRICT in providing any service, or in performing this Agreement, the CITY may, in addition to all other remedies it may have, including but not limited to termination of the Agreement and/or filing of a suit at law or equity, obtain such services from other sources and deduct the cost thereof from any costs due or thereafter owing to the DISTRICT relating to such items or to otherwise claim and collect such costs.
- 11.4. Attorney's Fees. If a legal action or proceeding is brought by any party because of default under this Agreement, or to enforce a provision thereof, the prevailing party therein shall be entitled, in addition to any other relief, to recover reasonable attorney's fees and court costs from the losing party as determined by the court in which said action or proceeding is pending.
- 11.5. Indemnity. The DISTRICT shall indemnify and hold the CITY harmless and defend, with counsel acceptable to the CITY, the CITY and every officer, employee and agent of the CITY, from any and all claims, causes of action, damages to persons or property, penalties, obligations, liabilities or financial losses, including, without limitation, attorney's fees and court costs arising directly or indirectly from any or all negligent or other wrongful acts, errors or omissions of the DISTRICT, its agents, employees and subcontractors in the performance of this Agreement.
- 11.6. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement may only be modified in writing signed by both parties.
- 11.7. Governing Law. This Agreement shall be governed by the laws of the State of California.

11.8. Time of Essence. Time is of the essence of each and every provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2010

ATTEST:

CITY OF PASADENA

MARK JOMSKY
City Clerk

By: _____
MICHAEL J. BECK
City Manager

Old Pasadena Management District

By: _____

APPROVED AS TO FORM:

BRAD L. FULLER
Assistant City Attorney

Attachment 2 – Baseline Services Agreement

**CITY OF PASADENA
BASELINE SERVICES CONTRACT**

This agreement is affective as of _____, at Pasadena, California, between the City of Pasadena (the "CITY"), a municipal corporation, and the Old Pasadena Management District (the "DISTRICT"), a non-profit corporation.

RECITALS:

WHEREAS, pursuant to its Resolution No. ____ (the "Resolution") the City Council of the CITY has established a property and business improvement district designated as the "Old Pasadena Management District" (the "OPMD"), under Section 36600, et seq. of the California Streets and Highway Code (the "Act"); and

WHEREAS, pursuant to the Resolution and the Act, assessments will be levied annually against the assessable parcels in the OPMD commencing with Calendar Year 2011 and continuing through Fiscal Year 2015; and

WHEREAS, on July 14, 2008, the CITY entered into an agreement (the "Enhanced Services Agreement") with the DISTRICT under which the DISTRICT will administer a program of improvements and activities in connection with the OPMD for Fiscal Years 2007 through 2012 (the "Agreement for Services"); and

WHEREAS, the Agreement for Services will be partially funded from the SLAPBID assessments; and

WHEREAS, the CITY currently provides municipal services, including police and sanitation services, within the territorial limits of the SLAPBID; and

WHEREAS, the CITY and the DISTRICT intend for the Agreement for Services to supplement, rather than supplant, existing municipal services; and

WHEREAS, Section 36636 of the Act provides that the City Council may execute a baseline services contract establishing levels of City services that will continue after the SLAPBID has been formed; and

WHEREAS, the CITY and the DISTRICT wish to execute such an agreement.

NOW, THEREFORE, the CITY and DISTRICT mutually agree as follows:

1. TERM OF AGREEMENT

1.1 This Agreement shall be effective so long as the Enhanced Services Agreement is effective.

2. MAINTENANCE OF SERVICE LEVEL

- 2.1 The CITY and the DISTRICT agree that Attachment A to this agreement contains a complete representation of the services provided within the territorial limits of the SLAPBID prior to the formation of the SLAPBID.
- 2.2 During the term of this Agreement, and except as elsewhere provided in this Agreement, the CITY will continue to provide, within the territorial limits of the SLAPBID, each service listed in Attachment A at a level of service that is no less than that indicated in Attachment A.
- 2.3 Where Attachment A indicates that (1) the CITY will maintain or service infrastructure, fixtures, landscaping, or facilities or (2) a service will be provided "as required" or "on an as-needed basis," such service will be provided by the CITY according to CITY policies and procedures in effect at the time the service is needed. These policies and procedures may be changed from time to time at the sole discretion of the CITY. The CITY will not, based solely on the existence of services provided by the DISTRICT, adopt policies and procedures that provide a reduced level of service to the SLAPBID as compared with service levels provided to other areas of the CITY.

3. CITYWIDE REDUCTION IN SERVICE

- 3.1 The CITY and the DISTRICT agree that at any time during the term of this Agreement the CITY may, on a citywide basis, reduce the level of any service listed in Attachment A. If such a citywide reduction occurs, the CITY may reduce the levels of service provided within the territorial limits of the SLAPBID to an extent not disproportional to the citywide reductions.

4. WAIVER BY DISTRICT

- 4.1 Should the DISTRICT determine that any service indicated in Attachment A is no longer needed, the DISTRICT may, in writing, release the CITY from its obligation to provide such service.

5. INSURANCE.

District shall, at its own expense, procure and maintain policies of insurance of the types and in the amounts set forth below, for the duration of this agreement, including any extensions thereto. The policies shall state that they afford primary coverage.

- 5.1.1 General Liability with minimum limits of at least \$2,000,000 combined single limits written on a Comprehensive General Liability "occurrence" form. Premises/Operations and Personal Injury coverage is required. The City of Pasadena, its directors, commissioners, officers, employees, agents and volunteers must

be endorsed on the policy as additional insured as respects liability arising out of the District's performance of this Agreement.

A. If District employs other contractors as part of its performance under this agreement, Contractor's Protective Coverage is required. District may insure all subcontractors under its own policy or shall procure and furnish separate insurance for each subcontractor, meeting the requirements set forth herein.

B. Blanket Contractual Coverage.

C. Personal Injury and Advertising Coverage

5.1.2 District shall comply with the applicable sections of the California Labor Code concerning workers' compensation for injuries on the job. Compliance is accomplished in one of the following manners:

1. Provide copy of permissive self-insurance certificate approved by the State of California; or

2. To the extent that the District has employees, the District shall secure and maintain in force a policy of workers' compensation insurance with statutory limits and Employer's Liability Insurance with a minimal limit of \$1,000,000 per accident. The policy shall be endorsed to waive all rights of subrogation against City, its directors, commissioners, officers, employees, and volunteers for losses arising from performance of this Agreement; or

3. Provide a signed statement certifying that no employees subject to the Labor Code's Workers' Compensation provision will be used in performance of this Contract.

5.1.3 DISTRICT shall procure and maintain at its own expense a policy covering its Directors & Officer Liability with minimal limits of \$1,000,000.

5.1.4 Each insurance policy included in this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) days' prior written notice to City, and that coverage is primary to any other coverage available to City.

5.1.5 Insurance shall be placed with insurers with a Best's rating of no less than B:VIII. Insurers shall be admitted in the State of California unless pre-approved in writing by City.

5.1.6 Prior to commencement of performance, District shall furnish City with a certificate of insurance for each policy. Each certificate is to

be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate(s) must be in a form approved by City. City may require complete, certified copies of any or all policies at any time.

- 5.2 Failure on the part of the DISTRICT to procure or maintain required insurance shall constitute a material breach of contract under which CITY may immediately terminate this agreement.

6. NOTICES

- 6.1. All notices, plans, or reports permitted or required under this Agreement shall be in writing, and shall be deemed made when personally delivered to the following persons as provided in this Agreement. Additionally, such notices shall be deemed made 48 hours after deposited in the U.S. Mail, first class postage prepaid and addressed to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CITY OF PASADENA
100 N. Garfield Avenue
Room No. 237
Pasadena, California 91109
Attention: City Manager

Old Pasadena Management District
Association President
65 North Raymond Avenue #260
Pasadena, CA 91103

7. CONFLICT OF INTEREST.

- 7.1. For the duration of this Agreement, neither the DISTRICT nor any of its employees may act as consultant or perform services of any kind for any other person or entity in regard to the SLAPBID without the prior written consent of the CITY. In addition, neither members of the Board of Directors of the DISTRICT, nor its Chief Executive Officer, may enter into any additional contracts in regard to the SLAPBID, nor vote on any SLAPBID matters, when such contract or matter would be of financial benefit to the member or director over and above the general financial benefit to all businesses in the SLAPBID.

8. NONDISCRIMINATION.

- 8.1. The DISTRICT represents and agrees that it does not and will not discriminate against any employee or applicant for employment because of political affiliation or opinion, age, ancestry, marital status, physical

condition, pregnancy or pregnancy-related condition, race, religion, color, sex, sexual orientation, national origin or medical condition.

9. GENERAL PROVISIONS.

- 9.1. Assignment. Neither this Agreement, nor any interest herein, shall be assigned by any party without the prior written consent of the other party.
- 9.2. Independent Contractor. It is agreed and understood that the DISTRICT is a wholly independent contractor. This Agreement is not intended and shall not be construed to create the relationship of agent, employee, servant, partnership, joint venture or association as between the CITY and the DISTRICT. Neither the CITY nor its agents shall have control over the conduct of the DISTRICT except as set forth herein. The CITY shall have no liability or responsibility for payment of any wage or benefits to the DISTRICT's employees, for whom the DISTRICT shall bear sole responsibility and liability.
- 9.3. Default of Contractor. In the case of default by the DISTRICT in providing any service, or in performing this Agreement, the CITY may, in addition to all other remedies it may have, including but not limited to termination of the Agreement and/or filing of a suit at law or equity, obtain such services from other sources and deduct the cost thereof from any costs due or thereafter owing to the DISTRICT relating to such items or to otherwise claim and collect such costs.
- 9.4. Attorney's Fees. If a legal action or proceeding is brought by any party because of default under this Agreement, or to enforce a provision thereof, the prevailing party therein shall be entitled, in addition to any other relief, to recover reasonable attorney's fees and court costs from the losing party as determined by the court in which said action or proceeding is pending.
- 9.5. Indemnity. The DISTRICT shall indemnify and hold the CITY harmless and defend, with counsel acceptable to the CITY, the CITY and every officer, employee and agent of the CITY, from any and all claims, causes of action, damages to persons or property, penalties, obligations, liabilities or financial losses, including, without limitation, attorney's fees and court costs arising directly or indirectly from any or all negligent or other wrongful acts, errors or omissions of the DISTRICT, its agents, employees and subcontractors in the performance of this Agreement.
- 9.6. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement may only be modified in writing signed by both parties.
- 9.7. Governing Law. This Agreement shall be governed by the laws of the State of California.

9.8. Time of Essence. Time is of the essence of each and every provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2010.

CITY OF PASADENA

ATTEST:

MARK JOMSKY
CITY CLERK

By: _____
MICHAEL J. BECK, City Manager

Old Pasadena Management District

By: _____

APPROVED AS TO FORM:

BRAD L. FULLER
Assistant City Attorney

Attachment 3 – Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PASADENA ESTABLISHING THE OLD PASADENA MANAGEMENT DISTRICT PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT AND ADOPTING A BASELINE LEVEL OF SERVICES WITHIN SUCH DISTRICT

THE CITY COUNCIL OF THE CITY OF PASADENA DOES HEREBY ORDAIN AS FOLLOWS:

Section I. Findings.

A. Pursuant to Property and Business Improvement District Law of 1994, California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), the City Council adopted Resolution No. 9033, dated June 7, 2010, entitled "A RESOLUTION OF THE CITY OF PASADENA STATING ITS INTENTION TO FORM THE OLD PASADENA MANAGEMENT DISTRICT PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT AND TO LEVY AND COLLECT ASSESSMENTS WITHIN SUCH DISTRICT PURSUANT TO THE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994, PART 7 OF DIVISION 18 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE, AND APPOINTING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO" ("Resolution 9033"). Such resolution among other things, approved the Management District Plan on file in the office of the City Clerk.

B. The City caused notice of public hearing concerning the proposed establishment of the Old Pasadena Management District Property-based Business Improvement District and the proposed levy of assessments within such district to be duly mailed, as required by law, to the record owner of each parcel proposed to be assessed within the District.

C. A public hearing concerning the proposed establishment of the Old Pasadena Management District Property-based Business Improvement District and the proposed levy of assessments within such District was held on July 26, 2010, at the hour of 7:30 p.m. in Council Chambers, Room S249 or City Hall located at 100 North Garfield.

D. At the public hearing, the testimony of all interested persons for or against the establishment of the Old Pasadena Management District Property-based Business Improvement District, the levy of assessments within such District, and the type or types of improvements and activities to be funded with the revenues from the assessments was heard and considered, and a full, fair and complete hearing was held.

E. The City Council heard and considered all objections or protests to the proposed assessments and tabulated the assessments ballots submitted,

and not withdrawn, in support of or in opposition to the proposed assessments. The City Council hereby finds that a majority protest does not exist as defined by Section 4(e) of Article XIII D of the California Constitution and Section 53753 of the California Government Code. All objections or protests, both written and oral, are hereby duly overruled.

F. The public interest, convenience and necessity require the establishment of the proposed Old Pasadena Management District Property-based Business Improvement District

G. In the opinion of the City Council, the property within the Old Pasadena Management District Property-based Business Improvement District will be benefited by the improvement and activities to be funded by the assessments, and no assessment has been imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.

Section II. Establishment of District. Pursuant to the Act, a business improvement district designated as the Old Pasadena Management District Property-based Business Improvement District (the "District") is hereby created and established.

Section III. Description of District. The exterior boundaries of the proposed District include an approximately 21-block area bounded by Walnut Avenue on the north, Arroyo Parkway on the east, Del Mar Boulevard on the south, and Pasadena Avenue on the west.

Section IV. Amount of Assessment.

A. Except where funds are otherwise available, an assessment will be levied annually on properties in the District to pay for all the improvements and activities to be provided within the District, commencing with calendar year 2011, and ending with calendar year 2015. For purposes of levying and collecting assessments within the District, a fiscal year shall commence on each January 1st and end on the following December 31st.

B. The total amount of the proposed assessment to be levied and collected for calendar year 2011 shall be \$1,534,590. The amount of the assessment to be levied and collected in subsequent fiscal years may increase as a result of the increases in the assessment rates in accordance with increases in the Consumer Price Index, All Urban Consumers, for the Los Angeles-Riverside-Orange County metropolitan area, which increases shall not exceed 5 percent per year, or as a result of events other than an increased rate or revised methodology, such as a change in the density, intensity or nature of the use of land.

C. The method and basis of levying the assessment is set forth in the Management District Plan on file in the office of the City Clerk, and hereby finally approved.

Section V. Fund. There is created a special fund designated as the "Old Pasadena Management District Property-based Business Improvement District Fund" into which all revenue derived from assessments levied pursuant to the Resolution shall be placed, and such funds shall be used only for the purposes specific in this Resolution. This fund shall be subject to an annual independent audit of financial statements.

Section VI. Use of Revenues. The improvement and activities for the District include providing security, sanitation, street and sidewalk cleaning and other municipal services supplemental to those normally provided by the City as well as marketing, and other improvements and activities which benefit businesses and real property located in the District. The above revenue from the levy of the assessments within the District shall not be used to provide improvements or activities outside the District or for any purpose other than the purposes specified in Resolution No. 9033 and/or this Resolution of the City Council.

Section VII. Contract Services. The City may contract with a separate private agency to administer the activities described in Section 6 above. Any such agency that holds funds in trust for purposes related to the contract shall, at no expense to the City, provide an annual independent report of an audited financial statement by a certified public accountant of these funds. The report may be funded from assessment proceeds as apart of the general administration of the District. At all times the City shall reserve the right to review the accounting of these funds as well as the right to revoke any contract entered into with such a private agency.

Section VIII. Amendments. Property within the District established by this Resolution shall be subject to any amendments to the Act.

Section IX. Recordation of Notice and Diagram. The City Clerk is hereby authorized and directed to record a notice and an assessment diagram pursuant to Section 36627 of the California Streets and Highways Code following adoption of this Resolution.

Section X. Levy of Assessment. The adoption of this Resolution and the recordation of the notice and assessment diagram pursuant to Section 36627 of the California Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years referred to in the Management District Plan. Each year, the County Auditor of the County of Los Angeles shall enter on the County Assessment Roll opposite each lot or parcel of land the amount of the

assessment and such assessment shall then be collected at the same time and in the same manner as the County taxes are collected.

Section XI. Baseline Services. To ensure that assessment revenues from the District are used to enhance the current level of services provided by the City within the District, the City Council hereby establishes as the baseline levels of service throughout the duration of the District, those levels set forth in the Management District Plan, provided, however, that in the event of a significant downturn in citywide revenues, the City Council may reduce the level of municipal services citywide, including within the District.

Adopted at the regular meeting of the City Council on the 26th day of July, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MARK JOMSKY, CITY CLERK

Approved as to form:



Brad L. Fuller