

OAKLAND CITY COUNCIL

RESOLUTION NO. 83500 C.M.S.

RESOLUTION ESTABLISHING THE FRUITVALE PROPERTY BUSINESS IMPROVEMENT DISTRICT OF 2011, APPROVING THE MANAGEMENT PLAN, DIRECTING FILING OF THE PROPOSED ASSESSMENT DISTRICT BOUNDARY DESCRIPTION, MAKING A DETERMINATION WITH REGARD TO THE MAJORITY PROTEST PROCEDURE FOR APPROVAL OF THE PROPOSED ASSESSMENTS; AND APPROVING THE ASSESSMENTS FOR THE DISTRICT

WHEREAS, the City Council of the City of Oakland enacted the City of Oakland Business Improvement District Ordinance (Chapter 4.48, Ordinance 12190, 1999) establishing the procedures for the formation of Business Improvement Districts; 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 and property owners in the City to assist in the formation of such districts; and

WHEREAS, the property owners in the Fruitvale district have duly petitioned to form the Fruitvale Property Business Improvement District of 2011 (“District”) under the City of Oakland Business Improvement District Ordinance (the “BIMD Ordinance”) to form the District and have proposed the Management Plan for the operation of the District (“Plan”) (Exhibit A); and

WHEREAS, the Plan contains a detailed engineer’s report prepared by a registered professional engineer recognized by the State of California; and

WHEREAS, the Plan was prepared in accordance with the provisions Article XIII of the California Constitution, and has been filed with the City Clerk for proceedings in formation of this district; and

WHEREAS, the Plan, incorporated by this reference, provides for cleaning, marketing and promotional activities and improvements of particular benefit to the properties located within the District(as more specifically identified in the Plan attached hereto); and

WHEREAS, the Plan was prepared in accord with the provisions of the BIMD Ordinance 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, the Plan dated April 18, 2011, is substantially identical to the Plan dated February 25, 2011, which was attached to the petitions of support for formation of the proposed district and any variation between the Plan dated February 25 and the Plan dated April 18 consists only of non-substantive changes in formatting for cleaner presentation and minor grammar and syntax edits, with no change to the meaning or substance of the Plan's content; and

WHEREAS, the District includes three (3) City-owned properties on which assessments are to be levied (APN 025-0722-026-00, APN 033-2130-035-02, APN 033-2135-026-02); and

WHEREAS, the projected assessment for the three (3) City-owned properties will be in an amount not to exceed \$141,598.90 to be paid over the maximum ten year life of the district; and

WHEREAS, funds to pay the FY 11-12 assessments on affected City owned property located in the proposed business improvement district have been budgeted to the General Purpose Fund (1010), NCR& SDS organization (88569), Taxes and Assessments account (53511), Business Improvement District (BID)-NCR Project (C138410), Neighborhood Commercial Revitalization program (NB30); and

WHEREAS, the City Council of the City of Oakland adopted a Resolution of Intention (Resolution No. 83360 C.M.S.) to form the Fruitvale Property Business Improvement District of 2011 on May 17, 2011; now therefore be it

RESOLVED: that the City Council of the City of Oakland finds that the Management Plan for the District satisfies all the requirements of the BIMD Ordinance, the laws of the State of California and the California Constitution with regard to the formation of Business Improvement Districts, and does hereby find and determine as follows:

1. A Business Improvement District is hereby established pursuant to the BIMD Ordinance with the boundaries as specified in the Plan on file in the office of the City Clerk, a copy of which is attached hereto as Exhibit A.
2. A copy of the preliminary report of the City Clerk is on file in the office of the City Clerk relating to the formation of the District.
3. The Plan for the District, is approved and the assessments for the first year shall be as provided for in the Plan (Exhibit A) and in the assessment roll contained in the appendix to the Plan (Exhibit A) and are incorporated herein by this reference.
4. The name of the District shall be the Fruitvale Property Business Improvement District of 2011.
5. The types of the improvements and activities proposed to be funded and acquired by the levy of assessments on property in the District and the time period for which the proposed improvements are to be made shall be those specified in the Plan on file in the office of the City Clerk and attached hereto (Exhibit A).
6. The improvements and activities to be provided in the District will be funded by the levy of assessments. An assessment will be levied annually to pay for all improvements and activities

within the area. The revenue from the levy of 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 the Resolution of Intention as modified by the City Council at the hearing concerning the establishment of the district as specified in this Resolution.

7. The boundaries of the District and of each separate benefit zone within the district shall be those delineated in the description contained in the Plan which is on file in the office of the City Clerk and a copy of which is attached hereto (Exhibit A).
8. The proposed method and basis of levying the assessments to be levied against each property in the District is based on the gross lot size of each parcel located within the District and upon the benefit zone in which the property is located as more specifically stated in the Plan on file in the office of the City Clerk and attached hereto and incorporated herein by this reference (Exhibit A).
9. The assessments for the entire District total \$324,713 for the first year of the District, and the amount chargeable to each parcel shall be as shown in the Plan on file in the office of the City Clerk and on the appendix to Exhibit A attached hereto.
10. The District shall be in existence for a period of ten (10) years during which a maximum 5% increase per year in the amount of the assessment on each property shall be allowable as provided for in the Plan.
11. The assessment shall be attached to the property and collected with the annual county property taxes, and in certain cases, as specified in the Plan, through a special municipal billing.
12. The City Council of the City of Oakland adopted a Resolution of Intention to form the Fruitvale Property Business Improvement District of 2011 on May 17, 2011, Resolution No. 83360 C.M.S. The title of the Resolution of Intention is **RESOLUTION OF INTENTION TO FORM THE FRUITVALE PROPERTY BUSINESS IMPROVEMENT DISTRICT OF 2011, GRANTING PRELIMINARY APPROVAL OF THE MANAGEMENT PLAN, DIRECTING FILING OF THE PROPOSED ASSESSMENT DISTRICT BOUNDARY DESCRIPTION, SUBMITTING A PROPOSED ASSESSMENT TO THE AFFECTED PROPERTY OWNERS FOR MAJORITY PROTEST PROCEDURE APPROVAL; AND SCHEDULING A PUBLIC HEARING FOR JULY 19, 2011.**
13. A Public Hearing was held at 6:30 p.m. on July 19, 2011, at City Hall, One Frank H. Ogawa Plaza, Oakland California in the City Council Chambers, to hear all public comments, protests, count the returned ballots as to the formation of the District, appoint the Advisory Board for the District, and take final action as to the formation of the District. At the hearing the testimony of all interested persons for or against the establishment of the District, the boundaries of the District, or the furnishing of the specified types of improvements or activities was heard. 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 the Oakland Business Improvement District Ordinance (Chapter 4.48, Ordinance 12190, 1999).
14. The City Council finds, determines and declares that the District and each parcel therein is benefited by the improvements, maintenance, and activities funded by the assessment to be levied, including all expenses incurred incidentally thereto, upon the lots and parcels of real

property in proportion to the estimated benefits to be received as specified in the Management District Plan and engineer's report included therein.

15. The City Clerk shall record a notice and map describing the assessment district pursuant to California Streets and Highways Code Division 4.5 (commencing with Section 3100).
16. Properties in the District shall be subject to any amendments to the Oakland Business Improvement District Ordinance (Chapter 4.48, Ordinance 12190, 1999).
17. The City Administrator is hereby authorized to enter into annual contracts with any nonprofit corporation comprised of the assessees themselves designated by affected property owners to conduct or contract for the cleaning, marketing and promotions, or other activities and improvements for the District, or at the request of the owners through the Advisory Board to conduct or contract for such services and improvements as provided for in the BIMD Ordinance.
18. The Fruitvale Property Business Improvement District Advisory Board shall serve as the Advisory Board for the District until further notice by the Oakland City Council as provided for in the BIMD Ordinance. The Advisory Board shall have at least one member who is a business licensee within the District who is not also a property owner within the District.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 19 2011,

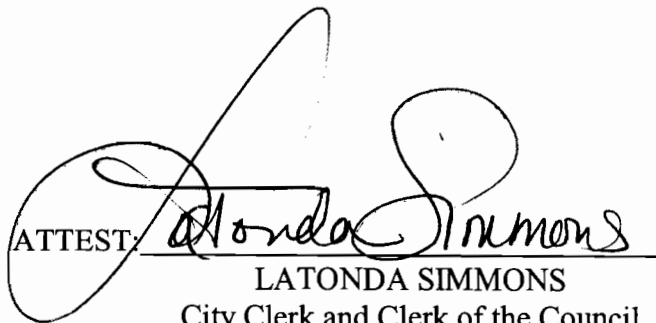
PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

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