

Selia Warren

Selia Warren (Jul 2, 2024 12:50 PDT)

CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION MAKING A DETERMINATION REGARDING ANY PROTESTS RECEIVED FOR THE TEMESCAL/TELEGRAPH BUSINESS IMPROVEMENT DISTRICT (TEMESCAL/TELEGRAPH BID), APPROVING THE TEMESCAL/TELEGRAPH BID MANAGEMENT DISTRICT PLAN, APPROVING THE ASSESSMENTS FOR THE TEMESCAL/TELEGRAPH BID, DIRECTING RECORDING OF THE PROPOSED ASSESSMENT DISTRICT BOUNDARY DESCRIPTION, AND APPOINTING THE ADVISORY BOARD FOR THE TEMESCAL/TELEGRAPH BID.**

**WHEREAS**, the City Council of the City of Oakland (City) enacted the Business Improvement Management District Ordinance (BIMD Ordinance) pursuant to Ordinance No. 12190 C.M.S. (1999), as codified in Chapter 4.48 of the Oakland Municipal Code, establishing the procedures for the formation of business improvement management districts; and

**WHEREAS**, the City Council approved a Neighborhood Business Improvement District Program pursuant to Council Resolution No. 75323 C.M.S., 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**, under the BIMD Ordinance, the relevant property owners have duly petitioned to form the Temescal/Telegraph Business Improvement District (Temescal/Telegraph BID) and have proposed the Temescal/Telegraph Business Improvement District Management District Plan for the operation of the District (District Plan) (*Exhibit A*); and

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

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

**WHEREAS**, the District Plan was prepared in accordance with the provisions of the BIMD Ordinance overseeing the formation of the Temescal/Telegraph BID as referenced above, and has been filled with the City Clerk for proceedings in formation of this District; and

**WHEREAS**, the District Plan, incorporated by this reference, provides for enhanced cleaning, marketing, security and promotional activities and improvements of particular benefit

to the properties located within the Temescal/Telegraph BID (as more specifically identified in the District Plan attached hereto); and

**WHEREAS**, the City Council of the City of Oakland adopted on May 21, 2024 a Resolution of Intention to form the Temescal/Telegraph BID (Resolution No. 90256 C.M.S.) with the title of the Resolution of Intention as follows:

**RESOLUTION:**

1. **DECLARING AN INTENTION TO FORM THE TEMESCAL/TELEGRAPH BUSINESS IMPROVEMENT DISTRICT (TEMESCAL/TELEGRAPH BID);**
2. **GRANTING PRELIMINARY APPROVAL OF THE TEMESCAL/TELEGRAPH BID MANAGEMENT PLAN;**
3. **DIRECTING FILING OF THE PROPOSED TEMESCAL/TELEGRAPH BID ASSESSMENT DISTRICT BOUNDARY DESCRIPTION WITH THE CITY CLERK**
4. **DIRECTING DISTRIBUTION OF A BALLOT TO ALL AFFECTED PROPERTY OWNERS IN THE PROPOSED TEMESCAL/TELEGRAPH BID TO DETERMINE WHETHER A MAJORITY PROTEST EXISTS; AND**
5. **SCHEDULING A PUBLIC HEARING FOR JULY 16, 2024**

; and

**WHEREAS**, Notice was given to all interested parties that a Public Hearing would be held at 3:30 p.m. on July 16, 2024, 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 Temescal/Telegraph BID, appoint the Advisory Board for the Temescal/Telegraph BID, and take final action as to the formation of the Temescal/Telegraph BID; and

**WHEREAS**, 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 Temescal/Telegraph BID; and

**WHEREAS**, On or before June 1, 2024, the following documents were mailed to each affected property owner in the proposed Temescal/Telegraph BID: 1) the Resolution of Intention to form the Temescal/Telegraph BID; 2) notice of the public hearing to take place at 3:30 p.m. on July 16, 2024 or as soon thereafter as the matter can be heard; 3) a ballot to vote on formation of the Temescal/Telegraph BID; 4) and instructions on procedures for completion and return of ballots; and while no Chambers of Commerce or business organizations were known to be located within the proposed boundaries of the Temescal/Telegraph BID, courtesy copies of the Resolution of Intention and public notice were mailed to all city-wide Chambers of Commerce; and

**WHEREAS**, At the July 16, 2024 hearing the testimony of all interested persons for or against the establishment of the Temescal/Telegraph BID, the boundaries of the Temescal/Telegraph BID, or the furnishing of the specified types of improvements or activities was heard; now, therefore, be it

**RESOLVED:** That the City Council finds that a majority protest does not exist within the meaning of Oakland Municipal Code section 4.48.070.G because the ballots submitted in favor of the assessment exceed the ballots submitted in opposition to the assessment; and be it

**FURTHER RESOLVED:** That the City Council finds that the District Plan has been prepared in compliance with Chapter 4.48 of the Oakland Municipal Code, the laws of the State of California and the California Constitution; and be it

**FURTHER RESOLVED:** That the District Plan is approved and the assessments for the first year shall be as provided for in the District Plan and in the assessment roll contained in Section 8 of the District Plan and are incorporated herein by this reference; and be it

**FURTHER RESOLVED:** That the Temescal/Telegraph BID is hereby established pursuant to Chapter 4.48 of the Oakland Municipal Code with the boundaries as specified in the District Plan on file in the office of the City Clerk, a copy of which is attached hereto (*Exhibit A*); and be it

**FURTHER RESOLVED:** That the name of the Business Improvement District shall be the Temescal/Telegraph BID; and be it

**FURTHER RESOLVED:** That the reasons for the assessments and the types of the improvements and activities proposed to be funded and acquired by the levy of assessments on properties within the Temescal/Telegraph BID and the time period for which the proposed improvements are to be made are those specified in Section 4 of the District Plan on file in the office of the City Clerk and attached hereto (*Exhibit A*); and be it

**FURTHER RESOLVED:** That the improvements and activities to be provided in the Temescal/Telegraph BID will be funded by the levy of annual assessments to pay for all improvements and activities within the area; and be it

**FURTHER RESOLVED:** That the revenue from the levy of assessments within the Temescal/Telegraph BID shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the District Plan, including modifications, if any, by the City Council at the hearing concerning the establishment of the district as specified in this Resolution; and be it

**FURTHER RESOLVED:** That the boundaries of the Temescal/Telegraph BID and of each separate benefit zone within the district are delineated in Section 2 of the District Plan, including a map outlining each affected lot, which is on file in the office of the City Clerk and a copy of which is attached hereto (*Exhibit A*); and be it

**FURTHER RESOLVED:** That the proposed method and basis of levying the assessments to be levied against each property in the Temescal/Telegraph BID is based on building square footage, parcel square footage, and linear street frontage of each parcel located within the Temescal/Telegraph BID, and the assessments proposed for each property are contained in Attachment B of the District Plan; and be it

**FURTHER RESOLVED:** That the assessments for the entire Temescal/Telegraph BID equal Eight Hundred Fifteen Thousand Nine Hundred Fifty-Eight dollars (\$815,958) for the first year of the Temescal/Telegraph BID and the amounts chargeable to each parcel are as shown in

Attachment B of the District Plan, on file in the office of the City Clerk and attached hereto as *Exhibit A*; and be it

**FURTHER RESOLVED:** That the assessments for the Temescal/Telegraph BID be booked into and disbursed from the Miscellaneous Trust Fund (7999), Treasury Operations Organization (08721), Pass Thru Assessments Account (24224), DP080 Administrative Project (1000007), Temescal BID Program (TBID); and be it

**FURTHER RESOLVED:** That the Temescal/Telegraph BID shall be in existence for a period of ten (10) years during which a maximum five percent (7%) increase per year, beginning in year two, in the amount of the assessment on each property shall be allowable with City Council approval, as provided for in the District Plan; and be it

**FURTHER RESOLVED:** The assessment shall be attached to the property and collected with the annual county property taxes; and be it

**FURTHER RESOLVED:** That the City Council finds, determines and declares that the Temescal/Telegraph BID 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 derived as specified in the District Plan, and the engineer's report included therein; and be it

**FURTHER RESOLVED:** That 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); and be it

**FURTHER RESOLVED:** That properties in the Temescal/Telegraph BID shall be subject to any amendments to Chapter 4.48 of the Oakland Municipal Code (Oakland Business Improvement District Ordinance); and be it

**FURTHER RESOLVED:** The City Administrator is hereby authorized to enter into a contract with any nonprofit corporation comprised of the assessees themselves and designated by affected property owners to conduct or contract for the safety, cleaning, marketing, economic development, government/community relations, administration and management of the Temescal/Telegraph BID as provided for in Chapter 4.48 of the Oakland Municipal Code (Oakland Business Improvement District Ordinance); and be it

**FURTHER RESOLVED:** That the Board of Directors for the above designated non-profit corporation shall serve as the Advisory Board for the Temescal/Telegraph BID until further notice by the City Council as provided for in Chapter 4.48 of the Oakland Municipal Code (Oakland Business Improvement District Ordinance); and be it

**FURTHER RESOLVED:** That the Advisory Board for the Temescal/Telegraph BID shall also have at least one member who is a business licensee within the Temescal/Telegraph BID who is not also a property owner within the Temescal/Telegraph BID.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

ASHA REED  
City Clerk and Clerk of the  
Council of the City of Oakland,  
California