



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

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### RESOLUTION:

- 1) **DECLARING AN INTENTION TO FORM THE FRUITVALE COMMUNITY BENEFIT BUSINESS IMPROVEMENT DISTRICT 2021 ("FRUITVALE BID 2021"); AND**
- 2) **GRANTING PRELIMINARY APPROVAL OF THE FRUITVALE BID 2021 MANAGEMENT PLAN; AND**
- 3) **DIRECTING FILING OF THE PROPOSED FRUITVALE BID 2021 ASSESSMENT DISTRICT BOUNDARY DESCRIPTION WITH THE CITY CLERK; AND**
- 4) **DIRECTING DISTRIBUTION OF A BALLOT TO ALL AFFECTED PROPERTY OWNERS IN THE PROPOSED FRUITVALE BID 2021 TO DETERMINE WHETHER A MAJORITY PROTEST EXISTS; AND**
- 5) **SCHEDULING A PUBLIC HEARING FOR JULY 20, 2021.**

**WHEREAS**, the City Council of the City of Oakland enacted the City of Oakland Business Improvement Management District Ordinance (Oakland Municipal Code (O.M.C.), Chapter 4.48) (hereinafter "BIMD Ordinance") establishing the procedures for the formation of business improvement management districts; and

**WHEREAS**, the City Council approved a Neighborhood Business Improvement District ("NBID") Program pursuant to Oakland City 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**, business and property owners in the Oakland Fruitvale area have submitted a petition under the BIMD Ordinance (O.M.C, section 4.48.050.A) to form the Fruitvale Community Benefit Business Improvement District 2021 ("Proposed District") and seek qualification as a Business Improvement Management District ("BIMD") under Oakland's BIMD Ordinance; and

**WHEREAS**, the Fruitvale Property Business Improvement District of 2011 has provided enhanced services to the Fruitvale community; and

**WHEREAS**, the Preliminary Report of the City Administrator containing all information required by the BIMD Ordinance has been prepared and was filed with the Office of the City Clerk on May 19, 2021; and

**WHEREAS**, a Management Plan for the operation of the Proposed District (“District Plan”), which is attached hereto and incorporated herein as **Exhibit A**, has been prepared in accordance with the provisions of Article XIII of the California Constitution and the BIMD Ordinance, and has been placed on file with the Office of the City Clerk for proceedings in formation of the Proposed District; and

**WHEREAS**, the Proposed District consists of approximately 3 business street corridors consisting of 326 parcels owned by 259 property owners, including the City of Oakland, as specifically described in the Boundary Map found in Appendix 1 of the District Plan; and

**WHEREAS**, the District Plan contains a detailed engineer’s report prepared by a registered professional engineer recognized by the State of California (see Appendix 3 of the District Plan, Engineer’s Report); and

**WHEREAS**, the District Plan provides for enhanced cleaning, ambassador services, special benefit cleaning, marketing, hospitality, public right of way beautification, promotional activities, and improvements of particular benefit to the properties located within the Proposed District; and

**WHEREAS**, the proposed assessment to be levied against each property in the Proposed District is based on lot square footage, building square footage, linear frontage, and land use of each parcel located within the Proposed District, and the amount of the assessment proposed for each property is contained in the Engineer’s Report (see Appendix 3 of the District Plan, Engineer’s Report); and

**WHEREAS**, the total amount in assessments that will be collected for the Proposed District in the first year is Seven Hundred Thirteen Thousand Seven Hundred Sixty-Nine dollars and Sixty-One cents (\$713,769.61); and

**WHEREAS**, the District Plan provides that any increase in the amount of the assessment upon affected properties shall not exceed three percent (3%) per year starting July 1, 2022 for the duration of the Proposed District; and

**WHEREAS**, the Proposed District’s assessment shall be effective for a period of ten (10) years beginning July 1, 2021 through June 30, 2031 as provided for in the District Plan and related special benefit services will begin January 1, 2022 and end December 31, 2031; and

**WHEREAS**, the assessment shall be attached to the property and collected with the annual county property taxes, and in certain cases through a special municipal billing, and shall continue annually as provided for in the Fruitvale BID 2021 Plan for each year that the Proposed District is in existence unless modified by the City Council on the recommendation of the Advisory Board for the Proposed District;

**WHEREAS**, the Proposed District will terminate in 10 years at the end of 2031, as required by the BIMD Ordinance (O.M.C. section 4.48.080); now, therefore, be it

**RESOLVED:** That the City Council declares its intention to form a Fruitvale Business Improvement Management District pursuant to Chapter 4.48 of the Oakland Municipal Code; and be it

**FURTHER RESOLVED:** That the name of the Proposed District will be the Fruitvale Community Benefit Business Improvement District 2021; and be it

**FURTHER RESOLVED:** That the proposed assessments to be levied against each property in the Proposed District is based on lot square footage, building square footage, linear frontage, and land use of each parcel located within the Proposed District; and be it

**FURTHER RESOLVED:** That the total amount in assessments that will be collected for the Proposed District in the first year is Seven Hundred Thirteen Thousand Seven Hundred Sixty-Nine dollars and Sixty-One cents (\$713,769.61) and that the amount chargeable to each parcel shall be the amount shown in the Engineer's Report of the Fruitvale BID 2021 if the Proposed District is established; and be it

**FURTHER RESOVLED:** That any increase in the amount of the assessment upon affected properties shall not exceed three percent (3%) per year starting July 21, 2022 for the duration of the Proposed District; and be it

**FURTHER RESOLVED:** That the boundaries of the Proposed District shall be those set forth in the Boundary Map found in Appendix 1 of the District Plan; and be it

**FURTHER RESOLVED:** That a public hearing on formation of the Proposed District will be held on **July 20, 2021, at 1:00 p.m.** in the City Council Chambers in City Hall, located at 1 Frank H. Ogawa Plaza, Oakland California, or via teleconference as may be mandated by State or County emergency health orders; and be it

**FURTHER RESOLVED:** That, at any time prior to the date of the public hearing, any person affected by the proposed assessment, may submit a written protest describing his or her objections to formation of the Proposed District, the boundaries of the Proposed District, the proposed assessment, or the types of improvements and activities proposed to be funded by the assessments, or describing any other alleged irregularity or insufficiency in these proceedings; and be it

**FURTHER RESOLVED:** That any written protest shall be filed with the Office of the City Clerk and shall, in addition to describing all objections to and alleged defects in formation of the Proposed District, contain the following information:

1. A description of the property, by address or Assessor Parcel Number (APN), that will be affected by the proposed assessment,
2. The amount of the proposed assessment upon said property,
3. The full name of the owner of the property that will be subject to the assessment, and

4. The full name of the person submitting the written protest if different from the owner of the property, and his or her relationship to the owner of the property

; and be it

**FURTHER RESOLVED:** That written protests that do not comply with the requirements stated above will not be considered; and be it

**FURTHER RESOLVED:** That at the public hearing all written protest and the testimony of all interested persons for or against the establishment of the Proposed District, the proposed assessment, the boundaries of the Proposed District, or the furnishing of the specified types of improvements or activities will be heard; and be it

**FURTHER RESOLVED:** That at the conclusion of the public hearing all ballots cast in favor of and against the Proposed District shall be tabulated, and the results of the tabulation shall be reported to the City Council; and be it

**FURTHER RESOLVED:** That if a majority protest exists the proposed assessment will not be imposed; and be it

**FURTHER RESOLVED:** That, pursuant O.M.C. section 4.48.070(G), a majority protest exists if, upon the conclusion of the Public Hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted in proportion to the assessment upon the affected property; and be it

**FURTHER RESOLVED:** That if a majority protest does not exist, a resolution establishing the Fruitvale Business Improvement District 2021 and levying the assessment will be adopted by the City Council, at the conclusion of the public hearing; and be it

**FURTHER RESOLVED:** That the City Clerk is directed to mail by first-class mail a copy of this Resolution of Intention to form the Proposed District along with the ballot attached hereto as **Exhibit B** to each property owner in the proposed district, and to each local chamber of commerce and business organization known to be located within the Proposed District not less than forty-five (45) days before the scheduled public hearing; and be it

**FURTHER RESOLVED:** That the City Clerk is directed to publish this Resolution of Intention to form the Fruitvale Community Benefit Business Improvement District 2021 in a newspaper of general circulation in the City at least (7) seven days before the public hearing; and be it

**FURTHER RESOLVED:** That following adoption of this resolution of intention, 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).

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California