

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

- (1) AMENDING AND SUPERSEDING RESOLUTION NO. 88574 C.M.S. WHICH, AMONG OTHER THINGS, CREATED THE AMERICAN RESCUE PLAN ACT (“ARPA”) FUND (FUND 2072), ACCEPTED AND APPROPRIATED THE ANTICIPATED AWARD OF ARPA FUNDS, AND AMENDED THE FISCAL YEAR (“FY”) 2020-21 MIDCYCLE BUDGET;**
- (2) CREATING THE AMERICAN RESCUE PLAN ACT (“ARPA”) FUND (FUND 2072) FROM WHICH NO EXPENDITURES SHALL BE MADE EXCEPT FOR THE PURPOSE AND IN THE MANNER SPECIFIED BY THE CITY COUNCIL FOLLOWING A PUBLIC PROCESS AND PUBLIC VOTE PURSUANT TO CHARTER SECTION 806;**
- (3) ACCEPTING AND APPROPRIATING THE ANTICIPATED AWARD OF ARPA FUNDS TO THE CITY OF OAKLAND (“CITY”) IN AN ESTIMATED AMOUNT OF ONE HUNDRED EIGHTY-EIGHT MILLION EIGHTY-ONE THOUSAND SEVEN HUNDRED DOLLARS (\$188,081,700) TO THE ARPA FUND (FUND 2072);**
- (4) AUTHORIZING THE CITY ADMINISTRATOR TO TAKE ANY AND ALL ACTIONS NECESSARY TO RECEIVE ARPA FUNDS AWARDED TO THE CITY;**
- (5) AMENDING RESOLUTION NO. 88174, WHICH ADOPTED THE FISCAL YEAR (“FY”) 2020-21 MIDCYCLE BUDGET ADJUSTMENTS, TO ALLOCATE ARPA FUNDS IN AN AMOUNT NOT TO EXCEED THIRTY-SIX MILLION SIX HUNDRED THIRTY THOUSAND DOLLARS (\$36,630,000), TEN MILLION DOLLARS (\$10,000,000) RECEIVED FROM THE OAKLAND-ALAMEDA COUNTY COLISEUM JOINT POWERS AUTHORITY, AND TWENTY-FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$25,500,000) IN GENERAL PURPOSE FUND LOCAL TAX REVENUES FORECASTED TO BE RECEIVED BY FISCAL YEAR-END, TO:**
 - (A) BALANCE THE FY 2020-21 BUDGET BY**
 - (i) CLOSING THE DEFICIT IN THE GENERAL PURPOSE FUND (FUND 1010);**

- (ii) CLOSING THE DEFICIT IN THE OFFICE OF PARKS AND RECREATION CULTURAL ADVISORY (“OPRCA”) SELF-SUSTAINING REVOLVING FUND (1820), THE MEASURE Z VIOLENCE PREVENTION AND SAFETY ACT OF 2014 FUND (2252), AND THE MEASURE C TRANSIENT OCCUPANCY TAX (“TOT”) SURCHARGE FUND (2419); AND
- (B) ALIGN THE GENERAL PURPOSE FUND (FUND 1010), THE OFFICE OF PARKS AND RECREATION CULTURAL ADVISORY (“OPRCA”) SELF-SUSTAINING REVOLVING FUND (1820), THE MEASURE Z VIOLENCE PREVENTION AND SAFETY ACT OF 2014 FUND (2252), AND THE MEASURE C TRANSIENT OCCUPANCY TAX (“TOT”) SURCHARGE FUND (2419) WITH REVENUE AND EXPENDITURES FORECASTED FOR SAID FUNDS IN THE SECOND QUARTER (“Q2”) REVENUE AND EXPENDITURE REPORT ATTACHED TO THIS RESOLUTION AS EXHIBIT 1;
- (C) RESTORE SERVICES AFFECTED BY FISCAL YEAR 2020-21 ADMINISTRATIVE REDUCTION ACTIONS AS SET FORTH IN EXHIBIT 2 TO THIS RESOLUTION;
- (D) FUND SERVICES THAT ARE NEEDED TO ADDRESS THE NEGATIVE HEALTH, SAFETY, WELFARE, AND FISCAL EFFECTS OF THE PANDEMIC AS SET FORTH IN EXHIBIT 2 TO THIS RESOLUTION; AND
- (E) MAKE SUCH ADDITIONAL OR ALTERNATIVE ADJUSTMENTS TO THE FY 2020-21 BUDGET AS MAY BE DETERMINED TO BE NECESSARY OR APPROPRIATE BY THE CITY COUNCIL;
- (6) AUTHORIZING, PURSUANT TO SECTION 1, PART D OF THE CITY OF OAKLAND CONSOLIDATED FISCAL POLICY (ORDINANCE NO. 13487 C.M.S.), THE USE OF ONE-TIME REVENUES FOR THE PURPOSES SPECIFIED IN EXHIBIT 2 TO THIS RESOLUTION AND/OR SUCH ADDITIONAL OR ALTERNATIVE ADJUSTMENTS TO THE FY 2020-21 BUDGET AS MAY BE DETERMINED BY THE COUNCIL;
- (7) ALLOCATING GAS TAX, ROAD MAINTENANCE AND REHABILITATION FUNDS (FUND 2232), MEASURE BB FUNDS (FUND 2218) AND COMPREHENSIVE CLEANUP FUNDS (FUND 1720) FROM FUND BALANCE IN THE ESTIMATED AMOUNT OF ONE MILLION SIX-HUNDRED SIXTY-NINE THOUSAND, NINE-HUNDRED NINETY-NINE DOLLARS (\$1,669,999.00) TO MEET VITAL COMMUNITY NEEDS AS SET FORTH IN EXHIBIT 2; AND/OR SUCH ADDITIONAL OR ALTERNATIVE ADJUSTMENTS TO THE FY 2020-21 BUDGET AS MAY BE DETERMINED BY THE COUNCIL;
- (8) CLARIFYING THAT ANY NEW FUNDS THAT HAVE NOT BEEN PREVIOUSLY BUDGETED, SHALL BE APPROPRIATED AND ALLOCATED THROUGH A PUBLIC PROCESS BY CITY COUNCIL WITH A PUBLIC VOTE PURSUANT TO CHARTER SECTION 806; AND

- (9) **DIRECTING THE CITY ADMINISTRATOR TO SEEK AND DEVELOP PROPOSED USES FOR FEDERAL, STATE, OR OTHER FUNDING AVAILABLE FOR THE ACQUISITION AND DEVELOPMENT OF NON-CONGREGATE SHELTER UNITS TO BE CONVERTED TO PERMANENT AFFORDABLE HOUSING, AND TO RETURN TO THE CITY COUNCIL TO AUTHORIZE EXPENDITURES FOR SUCH PURPOSE FOR SPECIFIC, IDENTIFIED PROPERTIES; AND**
- (10) **DIRECTING THE CITY ADMINISTRATOR TO PRESENT, AS PART OF THE FISCAL YEARS 2021-23 BIENNIAL BUDGET PROCESS, A RESOLUTION CREATING THE GENERAL PURPOSE FUND EMERGENCY RESERVE FUND AND FULLY FUND THE GENERAL PURPOSE FUND EMERGENCY RESERVE FUND IN ACCORDANCE WITH SECTION 2, PART A OF THE CONSOLIDATED FISCAL POLICY (ORDINANCE NO. 13487 C.M.S.)**

WHEREAS, Section 801 of the Charter of the City of Oakland requires that the Oakland City Council adopt by resolution a budget of proposed expenditures and appropriations necessary for the ensuing year; and

WHEREAS, the City Council has a longstanding policy of adopting a two-year budget and of making mid-cycle adjustments to the biennial budget; and

WHEREAS, on June 24, 2019, the Council adopted Resolution No. 87759 authorizing the biennial balanced budget for fiscal years 2019-2021 and appropriating funds to provide for the expenditures proposed by said budget; and

WHEREAS, on June 23, 2020, City Council passed Resolution No. 88174, which adopted the Fiscal Year (“FY”) 2020-21 mid-cycle budget adjustments to the City of Oakland’s Fiscal Year 2019-2021 Biennial Budget to balance the FY 2019-2021 budget; and

WHEREAS, the COVID-19 pandemic and related stay-at-home orders had a devastating impact on the local economy and as a result the City of Oakland (“City”) was facing a major budget deficit for FY 2020-21; and

WHEREAS, on March 11, 2021, President Biden signed into law the American Rescue Plan Act (ARPA) of 2021, which provides, among other things, additional funding for local governments to address the continued impact of the COVID-19 pandemic on the economy, public health, local governments, businesses and individuals; and

WHEREAS, in April 2021, it was anticipated that the City of Oakland would receive approximately \$192 million in ARPA funds that could be used to help close the City’s budget deficit, restore services and city staff positions that were cut or frozen in response to the economic downturn, and fund new services needed to address the negative impacts of the COVID-19 pandemic on the public; and

WHEREAS, in April 2021, the City Council knew the City would receive \$10 million from the Oakland-Alameda County Joint Powers Authority (“JPA”) that could be used to close the City’s budget deficit, restore services and city staff positions that were cut or frozen in response to the economic downturn, and to fund new services needed to address the negative

impacts of the COVID-19 pandemic on the public; and

WHEREAS, in April 2021, it was also anticipated that the City would receive local Real Estate Transfer Tax (RETT) revenue from a new large property sale that could be used to close the City's budget deficit, restore services and city staff positions that were cut or frozen in response to the economic downturn, and to fund new services needed to address the negative impact of the COVID-19 pandemic on the public; and

WHEREAS, in April 2021, the City Council determined that it would be prudent to re-balance the FY 2020-21 budget, restore services and positions affected by FY 2020-21 administrative reduction actions and fund services needed to address the negative health and safety impacts of the COVID-19 pandemic; and

WHEREAS, consistent with this determination, on April 12, 2021, the City Council adopted Resolution No. 88574 C.M.S., which, among other things, appropriated ARPA funds, the \$10 million from the JPA, and RETT revenue to 1) close the budget deficit in the General Purpose Fund and several other funds including reserve funds, 2) restore services and positions affected by the FY 2020-21 administrative reduction actions, and 3) fund services needed to address the negative health and safety impacts of the COVID-19 pandemic; and

WHEREAS, Resolution 88574 C.M.S. also created the American Rescue Plan Act Fund (Fund 2072) and included policy directives related to the City's Emergency Reserves and the use of federal, state, or other funding the City may receive in the future; and

WHEREAS, on May 17, 2021, after the City Council passed Resolution 88574 CM.S., the United States Department of the Treasury issued an Interim Final Rule RIN 1505-AC77, which clarified that ARPA Local Fiscal Recovery Funds may not be used to replenish reserve funds (e.g. rainy day funds) or for extraordinary payments to pension funds, tax reductions, federal match requirements, or the repayment of debt obligations or settlements; and

WHEREAS, after the City Council adopted Resolution 88574 CM.S., the City learned that it would receive an estimated One Hundred Eighty-Eight Million Eighty-One Thousand, Seven Hundred Dollars (\$188,081,700) in ARPA funds instead of approximately \$192 million as originally estimated; and

WHEREAS, the Director of Finance forecasts that the City will receive Twenty-Five Million Five Hundred Thousand Dollars (\$25,500,000) in General Purpose Fund local tax revenue that was not forecasted in the FY 2020-21 second quarter revenue projections; and

WHEREAS, the City Council wishes to amend Resolution 88574 C.M.S. to modify its appropriations in said Resolution in order to ensure that the City's expenditure of ARPA funds is in full compliance with Federal Rules and Regulations governing the use of ARPA funds; and

WHEREAS, the City Council wishes to maintain some of the actions it took by Resolution 88574 C.M.S. and its policy directives contained therein; now, therefore, be it

RESOLVED: That hereby amends and supersedes Resolution No. 88574 C.M.S. which the City Council passed on April 12, 2021; and be it

FURTHER RESOLVED: That the City Council hereby creates the American Rescue Plan Act fund (Fund 2072) and clarifies that no expenditures shall be made from Fund 2072 except for the purpose and in the manner specified by the City Council following a public process and public vote pursuant to charter section 806; and be it

FURTHER RESOLVED: That the City Administrator is authorized to accept, on behalf of the City of Oakland, the anticipated award of ARPA funds to the City of Oakland in an estimated amount of One Hundred Eighty-Eight Million Eighty-One Thousand, Seven Hundred Dollars (\$188,081,700); and be it

FURTHER RESOLVED, That the City Council hereby appropriates the anticipated award of ARPA funds in the estimated amount of One Hundred Eighty-Eight Million Eighty-One Thousand, Seven Hundred Dollars (\$188,081,700) to Fund 2072; and be it

FURTHER RESOLVED: That the City Administrator is authorized to take all actions necessary to receive ARPA funds awarded to the City; and be it

FURTHER RESOLVED: That Resolution No. 88174, which adopted the FY 2020-21 midcycle budget adjustments, hereby is amended to allocate ARPA funds in an amount not to exceed Thirty Million Six Hundred Thirty Thousand Dollars (\$30,630,000), Twenty-Five Million Five Hundred Thousand Dollars (\$25,500,000) of local tax revenue, and the Ten Million Dollars (\$10,000,000) received from the JPA to:

- (1) balance the FY 2020-21 budget as set forth in Exhibit 2 to this Resolution by
 - (a) closing the deficit in the GPF (fund 1010); and
 - (b) closing the deficit in the OPRCA self-sustaining revolving fund (Fund 1820), the Measure Z Violence Prevention and Safety Act of 2014 fund (Fund 2252), and the Measure C TOT surcharge fund (Fund 2419);
- (2) align the general purpose fund (Fund 1010), the OPRCA self-sustaining revolving fund (Fund 1820), the Measure Z Violence Prevention and Safety Act of 2014 fund (Fund 2252), and the Measure C TOT surcharge fund (Fund 2419) with revenue and expenditures forecasted for said funds in the Q2 revenue and expenditure report attached to this Resolution as Exhibit 1;
- (3) restore services affected by FY 2020-21 administrative reduction actions as set forth in Exhibit 2 to this Resolution;
- (4) fund services that are needed to address the negative health, safety, welfare, and fiscal effects of the pandemic as set forth in Exhibit 2 to this Resolution;
- (5) make such additional or alternative adjustments to the FY 2020-21 budget as may be determined to be necessary or appropriate by the City Council; and
- (6) allocate Gas Tax, Road Maintenance and Rehabilitation funds (Fund 2232), Measure BB funds (Fund 2218) and Comprehensive Cleanup funds (Fund 1720) from fund balance in the estimated amount of one million six-hundred sixty-nine thousand, nine-hundred ninety-nine dollars (\$1,669,999.00) to meet vital community needs as set

forth in Exhibit 2; and/or such additional or alternative adjustments to the FY 2020-21 budget as may be determined by the Council; and be it

FURTHER RESOLVED: That the Council directs the City Administrator to present, as part of the FY 2021-23 Biennial Budget process, a Resolution creating a General Purpose Fund Emergency Reserve Fund and to fully fund the General Purpose Fund emergency reserve in accordance with the Consolidated Fiscal Policy (Ordinance No. 13487 C.M.S.); and be it

FURTHER RESOLVED: That in accord with the Consolidated Fiscal Policy (Ordinance No. 13487 C.M.S.) and in light of the economic downturn resulting from the COVID-19 pandemic, the public health emergencies declared by the State of California and the City of Oakland and the stay at home-shelter in place orders and quarantines that have shuttered many, many businesses and government offices and much of the United States' economy, dramatically impacting revenue, it is incumbent upon the Council to receive regular and frequent updates on the City's revenues and expenditures and the Council accordingly hereby requests and directs the City Administrator to bring the following informational reports to the City Council:

- (1) A corrective action plan for each department projected to overspend its GPF budget for FY 2020-21 to the May 18, 2021 City Council meeting;
- (2) The Third Quarter Revenue and Expenditure Report to the June 1, 2021 City Council meeting with the following information:
 - (a) A progress report accounting in detail the implementation of the balancing measures the City Administrator has taken beginning in December 2020 and estimated savings;
 - (b) A list of all project carryforwards and encumbrances including project descriptions and project status regarding whether each project will be completed, and funds expended this FY 2020-21; and be it

FURTHER RESOLVED: That the Council hereby clarifies that any new funds that have not been previously budgeted, shall be appropriated and allocated through a public process by City Council with a public vote pursuant to Charter Section 806; and be it

FURTHER RESOLVED: That pursuant to Section 1, Part D of the City of Oakland Consolidated Fiscal Policy (Ordinance No. 13487 C.M.S.) the Council authorizes the use of one-time revenues for the purposes specified in Exhibit 2 to this Resolution and/or such additional or alternative adjustments to the FY 2020-21 budget as may be determined by the Council in light of the dramatic reduction in budget revenues resulting from the COVID-19 pandemic and the critical need to maintain, restore and authorize vital City services; and be it

FURTHER RESOLVED: That in accord with Section 1 Part D of the City of Oakland Consolidated Fiscal Policy (Ordinance No. 13487 C.M.S.) the City Council declares its commitment to resume compliance with such Section as soon as reasonably practicable and directs the City Administrator to identify the steps to return to using one-time funds pursuant to such Section; and be it

FURTHER RESOLVED: That City Council directs the City Administrator to seek and develop proposed uses for federal, state, or other funding available for the acquisition and development of non-congregate shelter units to be converted to permanent affordable housing, and to return to the City Council to authorize expenditures for such purpose for specific, identified properties; and be it

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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