



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 FRUITVALE COMMUNITY BENEFIT BUSINESS IMPROVEMENT DISTRICT 2021 (“FRUITVALE BID 2021”), APPROVING THE FRUITVALE BID 2021 MANAGEMENT PLAN, APPROVING THE ASSESSMENTS FOR FRUITVALE BID 2021, DIRECTING RECORDING OF THE PROPOSED ASSESSMENT DISTRICT BOUNDARY DESCRIPTION, ESTABLISHING THE FRUITVALE COMMUNITY BENEFIT BUSINESS IMPROVEMENT DISTRICT 2021, AND APPOINTING THE ADVISORY BOARD FOR THE FRUITVALE BID 2021**

**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 Downtown district have duly petitioned to form the Fruitvale Community Benefit Business Improvement District 2021 (“Fruitvale BID 2021”) under the BIMD Ordinance and have proposed the Management Plan for the operation of the District (“Fruitvale BID Plan as Amended July 20, 2021”) (*Exhibit A*); and

**WHEREAS**, the Fruitvale BID 2021 Plan as Amended July 20, 2021 contains a detailed engineer’s report prepared by a registered professional engineer recognized by the State of California; and

**WHEREAS**, the Fruitvale BID 2021 Plan as Amended July 20, 2021 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 Fruitvale BID 2021 Plan as Amended July 20, 2021 was prepared in accord with the provisions of the BIMD Ordinance overseeing the formation of the Fruitvale

BID 2021 as referenced above, and has been filed with the City Clerk for proceedings in formation of this District; and

**WHEREAS**, the Fruitvale BID 2021 Plan as Amended July 20, 2021, incorporated by this reference, provides for cleaning, security, marketing and promotional activities, and improvements of particular benefit to the properties located within the Fruitvale BID 2021 (as more specifically identified in the Fruitvale BID 2021 Plan as Amended July 20, 2021 attached hereto); and

**WHEREAS**, the Fruitvale BID 2021 includes the following eight (8) City-owned properties upon which approximately \$14,839.95 of fiscal year 2021-2022 assessments are to be levied: 3050 International Boulevard APN 025-0719-007-01; 1637 Fruitvale Avenue APN 025-0722-026-00; 3614 Foothill Boulevard APN 032-2084-050-00; 3600 Foothill Boulevard, APN 032-2084-051-00; 3566 Foothill Boulevard APN 032-2115-037-01; 3550 Foothill Boulevard APN 032-2115-038-01; 3510 International Boulevard APN 033-2130-035-02; Foothill Boulevard & Bridge Avenue APN 033-2135-026-02; and

**WHEREAS**, the City Council of the City of Oakland adopted on June 1, 2021 a Resolution of Intention to form the Fruitvale Community Benefit Business Improvement District 2021 (Resolution No. 88667 C.M.S.) with the title of the Resolution of Intention as follows:

**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.**

; and

**WHEREAS**, Notice was given to all interested parties that a Public Hearing would be held at 1:00 p.m. on July 20, 2021, at City Hall, One Frank H. Ogawa Plaza, Oakland California, or via teleconference as required by State or County emergency health orders, in the City Council Chambers, to hear all public comments, protests, count the returned ballots as to the formation of the Fruitvale BID 2021, appoint the Advisory Board for the Fruitvale BID 2021, and take final action as to the formation of the Fruitvale BID 2021; 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 Fruitvale BID 2021; and

**WHEREAS,** On or before June 5, 2021, the following documents were mailed to each affected property owner in the proposed Fruitvale BID 2021 and to each local Chamber of Commerce and business organization known to be located within the proposed boundaries of Fruitvale BID 2021: 1) the Resolution of Intention to form the Fruitvale BID 2021; 2) notice of the public hearing to take place at 1:00 p.m. on July 20, 2021 or as soon thereafter as the matter can be heard; 3) a ballot to vote on formation of the Fruitvale BID 2021; 4) and instructions on procedures for completion and return of ballots; and

**WHEREAS,** At the July 20, 2021 hearing the testimony of all interested persons for or against the establishment of the Fruitvale BID 2021, the boundaries of the Fruitvale BID 2021, 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 of the City of Oakland finds that the Management Plan for the Fruitvale Community Benefit Business Improvement District 2021 as Amended July 20, 2021 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 with regard to the formation of Business Improvement Districts; and be it

**FURTHER RESOLVED:** That the Plan for the Fruitvale BID 2021, is approved and the assessments for the first year shall be as provided for in the Fruitvale BID 2021 Plan as Amended July 20, 2021 (*Exhibit A*) and in the assessment roll contained in Appendix 2 of *Exhibit A as Amended July 20, 2021* to the Fruitvale BID 2021 Plan as Amended July 20, 2021 (*Exhibit A*) and are incorporated herein by this reference; and be it

**FURTHER RESOLVED:** That the Fruitvale Business Improvement District 2021 is hereby established pursuant to Chapter 4.48 of the Oakland Municipal Code with the boundaries as specified in the Fruitvale BID 2021 Plan as Amended July 20, 2021 on file in the office of the City Clerk, a copy of which is attached hereto as *Exhibit A*; and be it

**FURTHER RESOLVED:** That the name of the Business Improvement District shall be the Fruitvale Community Benefit Business Improvement District 2021; 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 Fruitvale BID 2021 and the time period for which the proposed improvements are to be made are those specified in Sections IV and V of the Fruitvale BID 2021 Plan as Amended July 20, 2021 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 Fruitvale BID 2021 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 Fruitvale BID 2021 shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the Fruitvale BID 2021 Plan as Amended July 20, 2021, 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 Fruitvale BID 2021 and of each separate benefit zone within the district are delineated in Section IV of the Fruitvale BID 2021 Plan as Amended July 20, 2021, 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 Fruitvale BID 2021 is based on lot square footage, building square footage, linear frontage, and land use of each parcel located within the Fruitvale BID 2021, and the assessments proposed for each property are contained in Appendix 2 of *Exhibit A* as Amended July 20, 2021 to the Fruitvale BID 2021 Plan as Amended July 20, 2021; and be it

**FURTHER RESOLVED:** That the assessments for the entire Fruitvale BID 2021 equal Seven Hundred Thirteen Thousand Seven Hundred Sixty-Nine dollars and Sixty-One cents (\$713,769.61) for the first year of the Fruitvale Community Benefit Business Improvement District 2021 and the amount chargeable to each parcel are as shown in Appendix 2 of *Exhibit A* as Amended July 20, 2021 to the Fruitvale BID 2021 Plan as Amended July 20, 2021, on file in the office of the City Clerk and attached hereto as *Exhibit A*; and be it

**FURTHER RESOLVED:** That the Fruitvale BID 2021 shall be in existence for a period of ten (10) years during which a maximum three percent (3%) 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 Fruitvale BID 2021 Plan as Amended July 20, 2021; and be it

**FURTHER RESOLVED:** The assessment shall be attached to the property and collected with the annual county property taxes, and in certain cases, as specified in the Fruitvale BID 2021 Plan as Amended July 20, 2021, through a special municipal billing; and be it

**FURTHER RESOLVED:** That the City Council finds, determines and declares that the Fruitvale BID 2021 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 Fruitvale BID 2021 Plan as Amended July 20, 2021, and the engineer's report as Amended July 20, 2021 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 Fruitvale BID 2021 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 assesses themselves and designated by affected property owners to conduct or contract for the cleaning, security, marketing and promotions, or other activities and improvements for the Fruitvale BID 2021 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 Fruitvale BID 2021 until further notice by the Oakland 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 Fruitvale BID 2021 shall also have at least one member who is a business licensee within the Fruitvale BID 2021 who is not also a property owner within the Fruitvale BID 2021.

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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