



Elmwood BID Advisory Board

CONSENT CALENDAR

October 27, 2020

To: Honorable Mayor and Members of the City Council  
 From: Elmwood Business Improvement District Advisory Board  
 Submitted by: Joseph Aguiar, Chair, Elmwood BID Advisory Board  
 Subject: Renewal of the Elmwood Avenue BID for Calendar Year 2021

RECOMMENDATION

Adopt a Resolution approving the Elmwood Business Improvement District Advisory Board's (hereafter "Elmwood BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the 2020 Annual Report and preliminary budget for proposed improvements in the District for calendar year 2021; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2021 and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for November 17, 2020.

FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$30,000 will be deposited into the Elmwood BID Fund, and expensed from budget code 782-21-208-251-0000-000-446-636110. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Advisory Board. The City of Berkeley operates a parking lot within the district and will thus be assessed \$1,000, paid through the Off-Street Parking Fund. To the extent that the work of the Elmwood BID enhances the development of the Elmwood and its business climate over the long term, the BID contributes towards improving City revenues through increased sales and property taxes.

CURRENT SITUATION AND ITS EFFECTS

Under the State of California Parking and Business Improvement Area law of 1989 (California Streets and Highways Code section 36500 et.seq.) the City Council must approve an Annual Report prepared by the BID Advisory Board with a proposed budget for the next year as a requirement to levy new assessments. Accordingly, at its meeting of August 21, 2020, the Elmwood BID Advisory Board voted to recommend that the City Council approve the Annual Report and budget for 2021 and adopt a Resolution of Intention to renew the assessment for that year (M/S-Aguiar/Hunka; Ayes: Aguiar, Hunka, Leyhe; Nays: none). The Resolution of Intention also sets a public hearing date for November 17, 2020 where affected Elmwood businesses can express support or opposition to renewal of the BID for 2021. If written and/or oral protests are received

from businesses proposed to pay a majority of the assessment, Council cannot vote to levy assessments for 2021. If no majority protest is received the Council may renew the assessment.

BACKGROUND

The Elmwood BID was established in November 2013 to provide the Elmwood Business Association with a sustainable, predictable source of funding for its activities to promote, maintain and beautify the Elmwood commercial district. The Elmwood Business Association has used the funds raised through the BID to implement a variety of activities such as marketing and branding, events, and capital improvements.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Elmwood BID by first passing a resolution stating Council's intention to levy an annual assessment and scheduling a public hearing on the proposed renewed assessment for the coming year.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Kieron Slaughter, Secretary to the Elmwood BID Advisory Board, 510-981-2490

Attachments:

1: Resolution

- Exhibit A: Elmwood BID Annual Report and proposed budget for 2021
- Exhibit A1: Map of the Elmwood BID
- Exhibit A2: Assessment Rates

RESOLUTION NO. -N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT FOR 2021; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2021; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR NOVEMBER 17, 2020 REGARDING LEVYING OF A RENEWED ASSESSMENT FOR 2021

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code section 36500 et seq.) authorizes cities to establish parking and business improvement areas for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on November 19, 2013 the Berkeley City Council established such an area known as the Elmwood Business Improvement District (the "District"); and

WHEREAS, the City Council established a Elmwood Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, the Advisory Board has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for 2021 as required by the California Streets and Highways Code Section 36533; and

WHEREAS, the Annual Report is clear and complete and found to comply with the interests of Elmwood BID assessees; and

WHEREAS, the annual process for levying assessments in Business Improvement Districts requires that cities adopt a Resolution of Intent that declares their intent to levy such an assessment and then set a date for a public hearing where interested parties may be heard on the issue.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. The City Council hereby approves the Elmwood Business Improvement District Annual Report for 2020-21 (Exhibit A) as submitted to the City Clerk by the Elmwood Business Improvement District Advisory Board.

Section 2. Pursuant to the provisions of Section 36500 et seq. of the California Streets and Highways Code (the "Act"), the City Council declares its intent to levy an annual assessment for the parking and business improvement area known as the Elmwood Business Improvement District.

Section 3. The boundaries of the District are set forth in Exhibit A1 to the 2020-21 Annual Report which is attached hereto and incorporated herein by reference.

Section 4. The improvements and activities proposed for the District are as described in the Report and budget (Exhibit A) and appended hereto.

Council intends that these funds be used for designated activities and improvements in the Elmwood commercial area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City.

Section 5. The City Council intends to levy assessments on businesses located within the boundaries of the District shown Exhibit A1 and according to the business classifications and rates set forth in Exhibit A2 which is attached hereto and incorporated herein by reference.

Section 6. A public hearing shall be held before the City Council on November 17, 2020, virtually on a publicly accessible Zoom conference call. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology. Following the hearing the Council will consider adoption of a resolution levying an assessment as recommended by the Elmwood Business Improvement Advisory Board. At this hearing the Council will hear all interested persons for or against the levying of such an assessment.

Formal protests against the levying of the District assessment must be made in writing. All written and oral protests should contain the following certification: "I certify that I am the owner of the business listed below, and that the business is located or operates within the boundaries of the Elmwood Business Improvement District." Protests should also contain the following information: business name (printed), business address (printed), City Business License Tax Registration number, name of protester (printed), signature of protester, date of protest and the reason(s) the protester is against the levying of the District assessment. Protests will not be considered valid unless signed and submitted by the owner of a business located within the boundaries of the proposed District. Written protests shall be filed with the City Clerk, First Floor, City Hall, at 2180 Milvia Street, Berkeley, California, 94704, prior to the close of the public hearing on November 17, 2020 and shall contain a description of the business sufficient to identify the business, and if the person so protesting is not listed on City records as the owner of the business, the protest shall be accompanied by written evidence that the person subscribing the protest is the owner of the business. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made. If written protests are received from the owners of businesses in the District which will pay fifty percent (50%) or more of the assessment proposed to be levied, no further proceedings to levy the assessment shall be taken for a period of one year from the date of the finding of a majority protest by the City Council. If the majority protest is only against the furnishing of a specified type or types of improvements or activities within the District, those types of improvements or activities shall be eliminated.

Section 7. The City Clerk is directed to give notice of said public hearing by publishing the Resolution of Intention in a newspaper of general circulation.

#### Exhibits

A: Annual Report for the Elmwood Business Improvement District for 2020-21

A1: Map of the Elmwood BID

A2: Assessment Rates

**EXHIBIT A**

Annual Report for the Elmwood Business Improvement District for 2020-21

August 11, 2020

To: Members of the Berkeley City Council  
From: The Elmwood Business Improvement District Advisory Board  
Re: 2021 Elmwood BID Renewal

We respectfully request that the Elmwood Business Improvement District be renewed for the 2021 fiscal year, without any changes to the assessment method or amount. The Elmwood BID was established in November 2013 to promote, maintain and beautify the Elmwood commercial district. Revenues of roughly \$32,000 per year provide a regular, predictable source of funding for the activities of the Elmwood Business Association (EBA). The Elmwood BID has allowed the EBA to expand its activities into areas such as maintenance and capital improvements.

The Elmwood Business Association is continuing to be the catalyst for Elmwood Business District's on-going vitality.

Here are some highlights of our projects:

- Permanent year-round lighting installation on district buildings
- Website: [www.shoptheelmwood.com](http://www.shoptheelmwood.com) serves as one of the district's main marketing tool – District Events, Introducing New Businesses, and on-going marketing updates
- Hired a landscaping contractor to maintain 70 tree wells – currently on a bi-monthly maintenance schedule
- Quarterly weeding and cleaning of Russell St. parking lot partnering with UC Berkeley
- On-going feasibility study of installation of security camera at Russell St. parking lot
- Maintaining a part-time Administrative Assistant to:
  - Post on social media
  - Manage merchant communications
  - Promote monthly happenings/specials among Elmwood Merchants
  - Updating the website to keep it current
- Sponsored the following events:
  - October 2019: 5<sup>th</sup> Elmwood Wine Walk in The Elmwood w/ 28 merchants participating
  - October 2019: The Elmwood Trick or Treating
  - December 2019: Tap Dancing Christmas Trees, 27<sup>th</sup> Annual Christmas Caroling in the Elmwood, Pet Photos with Santa
- Held a Merchant Social in conjunction with our Annual Meeting
- Members of the board active in other Berkeley commercial and residential neighborhoods to promote harmony and cooperation
- Planned Elmwood District Shopping Guide/Map

Below for your review is a summary of our current financial position and our proposed budget for 2020-21

## 2020 - 21 Projected Expenditures

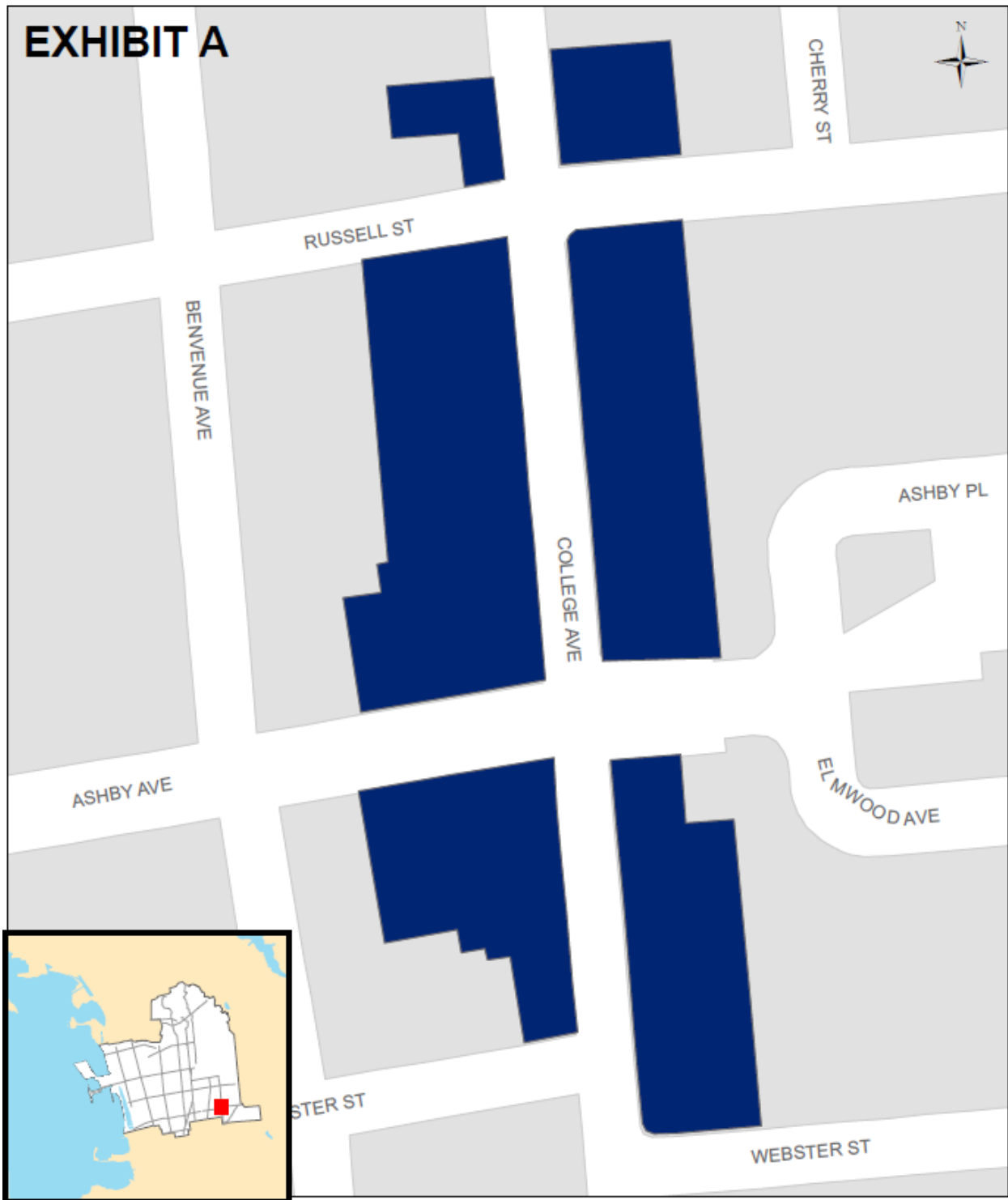
### Income Statement

#### Elmwood Business Association For the 12 months ended 30 June 2020

	Jun-20	Jun-19	YTD
<b>Revenue</b>			
Merchant Dues	31,482	30,000	-
Other Revenue	8,023	9,607	-
<b>Total Revenue</b>	<b>39,504</b>	<b>39,607</b>	-
<b>Gross Profit</b>	<b>39,504</b>	<b>39,607</b>	-
<b>Operating Income / (Loss)</b>	<b>39,504</b>	<b>39,607</b>	-
<b>Other Income and Expense</b>			
Advertising	-	(5)	-
Charitable Donation	(1,500)	(1,000)	-
Consulting & Accounting	(99)	(108)	(45)
Dues & Subscriptions	(3)	(405)	(3)
Events - Marketing	(4,005)	(5,620)	-
General Expenses	(134)	(246)	(134)
Holidays - Marketing	(1,204)	(12,151)	(335)
Insurance	(1,191)	(1,143)	-
Licenses & Permits	(30)	(80)	(30)
Marketing - General	(67)	(593)	(25)
Office Supplies	(136)	-	-
Printing & Stationery	(524)	(422)	(87)
Repairs and Maintenance	(430)	(3,675)	-
Security	(5,000)	(6,400)	-
Wages and Salaries	(9,000)	(9,000)	(4,500)
Web Site - Marketing	(693)	(611)	(645)
<b>Total Other Income and Expense</b>	<b>(24,015)</b>	<b>(41,459)</b>	<b>(5,804)</b>
<b>Net Income / (Loss) before Tax</b>	<b>15,489</b>	<b>(1,852)</b>	<b>(5,804)</b>
<b>Net Income</b>	<b>15,489</b>	<b>(1,852)</b>	<b>(5,804)</b>
<b>Total Comprehensive Income</b>	<b>15,489</b>	<b>(1,852)</b>	<b>(5,804)</b>

Thank you for your attention to this matter. We look forward to an equally productive year for the BID in 2021.

Exhibit A1: Elmwood Business Improvement District, Map



## Exhibit A2: Elmwood Business Improvement District, Assessment Rates

Classifications	Rates
Retail including jewelers and groceries but not restaurants (Tax Codes R, M and G but without NAICS 722, Food Services and Drinking Places) <ul style="list-style-type: none"> <li>• Gross receipts under \$350,000</li> <li>• Gross receipts \$350,000=\$999,000</li> <li>• Gross receipts \$1,000,000</li> </ul>	\$250.00 per year \$350.00 per year \$500.00 per year
Restaurants, including all businesses that prepare and serve food at the request of customers (NAICS 722)	\$500.00 per year
Professionals including offices of real estate brokers (Tax Code P) <ul style="list-style-type: none"> <li>• Gross receipts under \$100,000</li> <li>• Gross receipts over \$100,000</li> </ul>	\$300.00 per year \$400.00 per year
Entertainment and Recreation (Tax Code E)	\$450.00 per year
Business, Personal and Repair Services (Tax Code B) except Hair, Nail and Skin Cares Services (NAICS 81211)	\$200.00 per year
Hair, Nail and Skin Care Services (NAICS 81211)	\$250.00 per year
Parking lot operators	\$1,000.00 per year
Financial Institutions	\$2,500.00 per year

Any business that is classified as a nonprofit (Tax Code N) for business license purposes shall nevertheless pay the assessment at the rate that corresponds to its North American Standard Industrial Classification if it is engaged in the sale of products or services and occupies a space zoned for commercial purposes.