



Office of the City Manager

PUBLIC HEARING
October 31, 2017

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Economic Development Manager
Subject: Renewal of the Solano Avenue BID for 2018

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, "Solano BID Advisory Board" or "the BID") for 2017-18 and, if no majority protest exists, levy annual assessments in the District for calendar year 2018 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$35,000 will be deposited into the Solano Avenue BID Fund, revenue budget code 474-8703-370-5002 and expensed from budget code 474-8703-465-3510.

The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Solano BID Advisory Board. To the extent that the work of the Solano BID enhances the economic development of Solano Avenue 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.) that authorized the establishment of the Solano Avenue BID, the City Council must hold a public hearing before levying assessments for 2018. The renewal process was initiated on October 3, 2017, when Council approved by Resolution No. 68,179-N.S. (See Attachment 1, Exhibit A) the Annual report and budget for 2017-18 sent to it by the Advisory Board and set the public hearing date for October 31. (The Annual Report with a budget is part of Attachment 1, Exhibit A). The City Clerk noticed businesses in the Solano Avenue BID area by publishing Resolution No. 68,179--N.S. in a newspaper of general circulation. If no majority protest is received at the public hearing, at its conclusion the City Council may confirm the Annual report and budget for 2018 and levy assessments.

BACKGROUND

Since its revival in May 2012, the Solano BID Advisory Board has used Solano BID revenues to finance three programs: 1) a tree watering contract to ensure the health of 48 young street trees on Solano; 2) installing a program of 40 hanging planter baskets on light poles; and 3) sponsorship of events that attract customers to the district and improvements that enhance the pedestrian experience.

In November of 2012, the Parks and Waterfront Department planted 35 street trees on Solano Avenue, and in August of 2013 the City of Albany forester planted an additional 13 trees on two blocks on the north side of Solano where the sidewalk is in Albany but the stores are in Berkeley (for a total of 48 trees). For optimal tree health, the City of Berkeley arborist requested that the Solano BID commit to watering the new trees for three years. In November 2015, the watering program ended, and the street trees are now flourishing year round on rainwater alone. In 2016, the Solano BID selected the Downtown Berkeley Association (DBA) to continue a district wide landscaping program, adding 40 hanging baskets of succulent plants throughout the district in July 2016. The DBA is contracted to water and maintain the baskets through the end of calendar year 2018.

The third BID program has been to sponsor activities and improvements intended to market and promote the Solano Avenue business district in conjunction with Buy Local Berkeley and other partners. In the wintertime, the BID pays a contractor to erect holiday lights and decorations on City street light poles. The season starting in 2016 marked the start of a new three year contract for district holiday decor. Much of the initial expenditure went to purchase decorative garlands in multiple colors that are to be used throughout the term of the contract. The installation company charges a fee of \$1,500 to store the decorations from season to season.

The Advisory Board expects to continue the holiday decoration program in 2018, and will continue its hanging flower basket maintenance and watering activities until the newly planted succulents are fully established. Although the BID will spend the bulk of its funds on the holiday décor program, it has discussed using some unallocated funds to establish a mini-grant landscaping program for merchants to clean tree wells, or leveraging the organization in partnership with the City of Berkeley to obtain funds to install pedestrian lighting, and support the parklet construction on Solano Avenue. The BID will continue to support local marketing and “shop local” campaigns, i.e. the “Buy Local Berkeley” program as requested.

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the Solano BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District is adjacent to the popular surrounding residential North Berkeley neighborhoods and is served by AC Transit lines and has upgraded bike parking and shelters which provide easy accessibility for both residents and visitors coming to and from this retail destination. The environmental enhancements such as the added street trees, hanging planters, and holiday decorations contribute to making

Solano a more pleasant walking destination. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices and decreasing vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Solano BID by conducting a public hearing on the proposed renewed assessment for the coming year.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CONTACT PERSON

Eleanor Hollander, Economic Development Project Coordinator, 981-7536

Attachments

1: Resolution

Exhibit A: Resolution No. 68,179--N.S., with incorporated Annual Report, Budget, District Map, and Assessment table

2: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

CONFIRMING THE ANNUAL REPORT AND BUDGET FOR THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE SOLANO AVENUE BID FOR 2018, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH A SUITABLE NON-PROFIT TO SERVE AS FISCAL AGENT FOR RECEIPT AND EXPENDITURE OF SOLANO AVENUE BID FUNDS

WHEREAS, the Solano Avenue Business Improvement District (BID) Advisory Board recommended an Annual Report to the Berkeley City Council that outlined the activities of the District proposed for the year 2018, including a budget for said activities, as required by California Streets and Highways Code Section 36533 and Berkeley Municipal Code Section 7.97.080; and

WHEREAS, on October 3, 2017, the City Council by Resolution No. 68,179-N.S (attached as Exhibit A) approved the Annual Report and proposed budget of the Solano Avenue BID for 2018 and declared its intent to levy an assessment in the District to finance the proposed activities for the balance of calendar year 2018; and

WHEREAS, Resolution No. 68,179-N.S. also scheduled a public hearing for October 31, 2017, to consider levying said assessment and gave notice that interested parties could attend and be heard on the issue, for and against; and

WHEREAS, the City Clerk has notified potential assessees of the public hearing by publishing the Resolution of Intention in a newspaper of general circulation; and

WHEREAS, the public hearing has now been held and there has not been protests by business owners who collectively pay 50 percent or more of the assessment proposed to be levied.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that protests are over-ruled and the Annual Report of the Solano Avenue BID is confirmed, thereby levying an annual assessment for the Solano Avenue BID for calendar year 2018.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with a suitable non-profit to receive and spend funds for purposes approved in the Annual Report and Budget and as directed by the Solano Avenue BID Advisory Board.

Exhibit A: Resolution No. 68,179-N.S., including the 2018 Annual Report and Budget, District Map, and Assessment Table

RESOLUTION NO. 68,179-N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2018; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2018; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR OCTOBER 31, 2017 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2018

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 December 9, 2003 the Berkeley City Council established such an area known as the Solano Avenue Business Improvement District (the "District"); and

WHEREAS, the City Council established a Solano Avenue 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 2018 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 Solano Avenue 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 Solano Avenue Business Improvement District Annual Report for the year 2018 (Exhibit A) as submitted to the City Clerk by the Solano Avenue 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 Solano Avenue Business Improvement District.

Section 3. The boundaries of the District are set forth in Exhibit A1 to the 2017-18 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 Solano Avenue 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 October 31, 2017 in the Council Chambers, 2134 Martin Luther King, Jr. Way, Berkeley, California. Following the hearing the Council will consider adoption of a resolution levying an assessment as recommended by the Solano Avenue 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 Solano Avenue 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, at or before 3 pm on October 31, 2017 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 seven days prior to the public hearing.

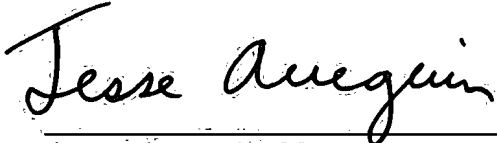
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The foregoing Resolution was adopted by the Berkeley City Council on October 3, 2017 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 

Mark Numainville, City Clerk

EXHIBIT A

Report for the Solano Avenue Business Improvement District for 2017-2018

Background

The first version of the Solano BID operated from 2002-2007 and ended because some merchants did not see the value of financing the Solano Avenue Association through a mandatory BID assessment when membership in the organization was voluntary in Albany. In 2011, several meetings of merchants expressed support for reviving the Solano BID if it would focus on a different program than before: physical improvements to the street, such as a tree planting program, plus marketing and promotion of businesses on upper Solano the portion of the Avenue that lies in Berkeley. In January, 2012, the Council appointed the Solano BID Advisory Board to make recommendations on these potential programs and on May 1, 2012, it re-established the Solano BID to finance them. This Annual report and budget for 2018 updates the fifth full year of operational programs and progress on the revived Solano BID.

Landscape and Tree watering program

Starting in March, 2013, the Solano BID financed a tree watering program for young street trees along upper Solano. In 2016, per the City of Berkeley arborist, the trees were mature enough to not require additional water services. In early 2016, the board voted to enhance Solano's landscape by installing a program of 41 hanging planter baskets on light poles distributed throughout the district; utilizing the Downtown Berkeley Association's services. The Association is under contract to water and maintain the baskets through the end of calendar year 2018. In 2017 the Solano BID contracted with Peralta Services Corporation to clean, weed, and level the tree wells through the district. This work was performed in April and October.

Marketing and promotion of Solano

Marketing and promotion of Solano Avenue constitutes the second priority of the Solano BID. To promote the avenue during the holiday season, a holiday light display program was established by the Solano BID. A vendor, the Christmas Light Pros of SF, is contracted to mount decorations on city street lamp poles in October and remove them in January. In 2016 and 2017 the BID contracted to deploy decorative unlit multi-colored garlands that cover more poles and provide coordination opportunities with Albany.

The Solano BID has one existing contract; that will conclude on December 31, 2018. This is a not-to-exceed \$33,669.00 in expenditures for hanging flower basket maintenance and watering with the Downtown Berkeley Association¹. For the remainder of 2017, the Advisory Board is committed to continuing the holiday decoration program (through the removal of the decorations in January 2018) and will continue with the hanging flower basket maintenance and watering program in its third (final) year.

¹ \$33,669.00 is the "not-to exceed" amount of the contract (2/9/16 through 12/31/18) with the Downtown Berkeley Association for hanging flower basket maintenance and watering. Actual expenditures may be somewhat less. (Payment schedule states: \$26,000 for year 1, 2016, \$4,057 for year 2, 2017, and \$3,612 for year 3, 2018).

In 2017, the Advisory Board may again decide to participate in the citywide seasonal marketing campaign administrated by Buy Local Berkeley, and support the construction of a parklet on upper Solano. In 2018, the group will explore the feasibility of 'mini-grants' to merchants for public realm landscaping improvements and mini-event programs (e.g. planter boxes and Art Walks) that promote Solano Avenue year round. The details of the mini-grant program and ongoing landscaping improvements have yet to be determined by the board. It is presumed that provided a successful demonstration of holiday decorations with garlands this winter season (2017-18), a multi-year holiday decoration contract will be extended accordingly.

FINANCIAL STATUS OF THE SOLANO BID, AUGUST 2017

Solano BID Revenue, as of 6/30/2017	=	\$25,108.21
Less cost of flower basket watering thru Dec '17	=	(\$4,057.00)
Less fiscal agent fee to Livable Berkeley (5%) ²	=	(\$1,255.00)
Less funds for Buy Local Berkeley holiday promotion '17	=	(\$250.00)
Less funds for Parklet/Tree Well Landscaping	=	(\$1,000.00)
Less funds allocated for purchase of 48 decorative holiday garlands		
+ Installation + Removal + Storage (10/17 - 1/18)	=	(\$17,350.00)
Unallocated as of 8/15/2017	=	\$1,196.21

BUDGET FOR THE SOLANO BID FOR 2018 (Calendar Year)

Estimated new revenue	=	\$25,000.00
<u>Carryover from 2017 (estimated)</u>	=	<u>\$1,196.21</u>
Total available for expenditure in 2018	=	\$26,196.21
<i>PROPOSED EXPENDITURES FOR 2018 (Calendar Year)</i>		
Landscaping installation/mini grant program	=	\$2,000.00
Watering and Maintenance for 41 hanging flower baskets	=	\$3,612.00
Installation, removal and storage of holiday decor 2018-19 season	=	\$18,000.00
<u>Other marketing expenditure (Art Walk/Holiday Campaign etc.)</u>	=	<u>\$ 1,000.00</u>
Total projected expenditure	=	\$24,612.00

Recommendations

The Advisory Board recommends that the Council approve the Annual Report and Budget for 2018.

The Advisory Board recommends that the Council make no changes in the boundaries of the Solano Business Improvement District or in the two Benefit Zones, A & B.

The recommended improvements and activities for 2018 are those stated in the Report. The cost for providing them is stated in the Budget for 2018.

The method and basis for the assessment is as stated in Exhibit A2.

The estimate for surplus revenues to be carried over from 2017 is as stated in the Budget for 2018.

² \$1,255.00 is the anticipated the "not-to-exceed" amount of the fiscal agent fee (5%) of the total contract amount for the time period 1/1/17 to 12/31/2017.

SOLANO Business Improvement District

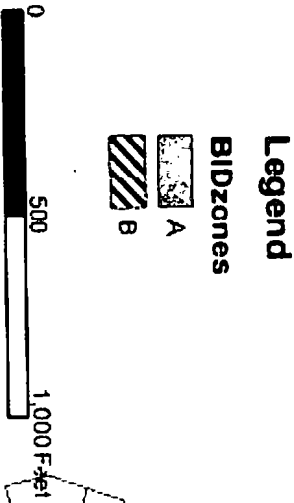


Table 7.97.040

Berkeley Solano Avenue Business Improvement District Annual Assessment Formula

Type of Business	Annual Assessments	
	Zone A	Zone B
a. Retailers and Restaurants	1-5 employees \$200	\$125
	6-9 employees \$300	\$175
	10+ employees \$400	\$225
b. Service Businesses	\$175	\$100
c. Professional Services	\$100	\$65
d. Financial Institutions	\$500	\$500

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**RENEWAL OF THE SOLANO AVENUE BUSINESS IMPROVEMENT
DISTRICT AND LEVYING OF ASSESSMENT FOR 2018**

The Solano Avenue Business Improvement District (BID) Advisory Board is proposing that the Berkeley City Council confirm the Annual Report of the Solano Avenue BID for 2018 and levy an assessment for the balance of 2018.

The hearing will be held on October 31, 2017 at 6:00 p.m. in the City Council chambers, 2134 Martin Luther King, Jr. Way.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **October 19, 2017**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers. Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

For further information, please contact Eleanor Hollander, Community Development Project Coordinator, at 510-981-7536.

Published: Resolution of Intention No. 68,179-N.S. October 20, 2017 – Berkeley Voice
As required by Streets and Highways Code Section 36534.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on October 19, 2017.

Mark Numainville, City Clerk