



Office of the City Manager

CONSENT CALENDAR  
March 29, 2016

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, Interim City Manager  
Submitted by: Michael Caplan, Manager, Office of Economic Development  
Subject: Re-Establishment and Expansion of the Downtown Berkeley Property and Business Improvement District

RECOMMENDATIONS

Adopt a Resolution declaring intent to establish the Downtown Berkeley Property and Business Improvement District (DPBID) for the ten-year period beginning July 1, 2016 and ending June 30, 2026, with operations to occur over the ten calendar year period beginning January 1, 2017 and ending December 31, 2026. Set a public hearing for May 31, 2016 on establishment of the District, and direct the City Clerk to conduct all necessary proceedings for establishment of the DPBID.

SUMMARY

The DPBID provides cleaning, hospitality and marketing services for Berkeley's premier commercial district. The term of the DPBID assessments are set to expire on June 30, 2016 with operations set to expire on December 31, 2016. This Council item is the first step in the process to re-establish and expand the DPBID. The new term for the District would be for ten years beginning July 1, 2016 and ending June 30, 2026. Operations would span the ten year period beginning January 1, 2017 and ending December 31, 2026. The newly established DPBID would add four blocks to the District. The City of Berkeley owns eleven parcels within in the DBPID boundaries and is required by state law to pay into the DPBID. The assessments on those parcels would total approximately \$120,355 annually and could raise by as much as 5% per year. The City would also pay the General Benefit portion of the DPBID costs, or roughly \$16,221. In total, the City would be required to pay \$136,575. The authorizing legislation requires Council to approve Resolution of Intent to Re-Establish the DBPID and set a Public Hearing at least 45 days later.

FISCAL IMPACTS OF RECOMMENDATION

Under the provisions of Proposition 218 in the California Constitution, government agencies must pay assessments on properties they own in property-based business improvement districts, just like private property owners, unless they receive no benefit. Payment is collected from private property owners through property tax bills near the end of the calendar year. Payments would be due from non-property tax-paying entities such as the City at roughly the same time.

The City's initial assessment payment in FY 2016-2017 is estimated to be \$120,355. This figure includes a 10% increase over the existing DPBID rates, the same increase that applies to all parcels in the assessment area. In future years, the DPBID board would have the authority to raise assessment rates up to 5% per year to keep pace with the consumer price index and other program costs. In line with existing practice, the Board would be primarily comprised of assessed property owners, including the City, who would themselves be subject to any increase in assessment levels.

In addition to assessments, the City will be asked to pay for the "general benefit" portion of the budget. General benefits represent that small portion of the overall benefits generated by a PBID which are found to accrue to the general public who are not assessed and do not participate in the economic or social activities of the district. State law now requires that the general benefits of an assessment district be quantified and that the cost of the activities that result in general benefit must be deducted from the amounts assessed against benefitted parcels. As a practical matter, the percentage of PBID budgets that can be linked to general benefit is typically quite small. Most California cities with new property-based business improvement districts are now choosing simply to contribute that portion of their local PBID budgets. The engineer's report commissioned for the reestablishment of the DPBID calculates that the general benefit for the district represents \$16,221 of the total budget. Together, assessments on City-owned property and the general benefit payment will total approximately \$136,575 in the first year.

If the DPBID is re-established and expanded, Alameda County will collect the DPBID assessments for the ten years of its operation. The initial total proposed assessment would be approximately \$1,518,122. Funds would be deposited and expended from the Downtown Property and Business Improvement District revenue fund, Fund 451. The City receives this revenue from Alameda County and disburses it to a private organization that manages services provided by the DPBID, the Downtown Berkeley Association (hereafter, the "DBA").

As described in the Management District Plan, the DPBID finances maintenance and marketing activities for the Downtown business district. It therefore indirectly enhances sales tax, business license tax and other business-related City revenue sources.

#### CURRENT SITUATION AND ITS EFFECTS

The current DPBID is set to expire on December 31, 2016. This Council item is the first step in the process to re-establish and expand the DPBID for the ten-year period beginning July 1, 2016 and ending June 30, 2026, with operations to span the ten year period beginning January 1, 2017 and ending December 31, 2026. The authorizing legislation (California Streets and Highways Code, §36600. et. seq.) requires Council to approve Resolution of Intent to Re-Establish the DBPID and set a Public Hearing on the issue at least 45 days later.

The District boundary encompasses the core of the Downtown area focused along the Shattuck and University Avenue corridors. The District is expanding to two additional areas:

- One block west along University Avenue between Martin Luther King Jr Way and Grant Street
- Three blocks south along Shattuck Avenue between Dwight Way and Carleton Street.

If there is no majority protest vote by the assessesees at the public hearing on May 31, 2016, and if Council approves it, the DPBID would finance improvements and activities that would enhance Downtown Berkeley's environment for property owners, residents, workers and visitors. These programs and activities include:

**Environmental Enhancements:**

- Maintenance Teams that sweep, scrub and pressure wash sidewalks, remove litter and graffiti, increase the frequency of trash removal and maintain landscaping throughout the District.
- Hospitality Ambassadors that provide visitor information, safety escorts, merchant outreach, city services liaison, event support, homeless services outreach and referrals, and work with local police and business and property owners to prevent crime and address quality of life issues.
- Beautification and placemaking improvements that make Downtown Berkeley more visually attractive, which may include: enhanced landscaping, holiday décor, way-finding signage, trash receptacles, streetscape, planters, urban design plans, bike racks, programming of BART Plaza and other public spaces, etc.

**Economic Enhancements:**

- Promote and support local business through providing liaison services with City staff, and attracting new businesses and investment that further the strategic goals of the Downtown.
- Advance Downtown Berkeley's evolution as a regional destination for arts, culture and entertainment.
- Marketing and communications to support DPBID activities and improvements and promote a positive image for Downtown Berkeley.
- Strategies to improve the parking and transit experience to support local businesses, residents, and arts/culture/civic destinations.
- Leadership through research and community education to represent the Downtown community with one clear voice.

## BACKGROUND

The enabling legislation for the DPBID is set to expire on December 31, 2016. To prepare for re-establishment, the DBA retained the services of Progressive Urban Management Associates (PUMA) to help them update their strategic plan. Outreach to the DPBID Board, stakeholder focus groups and responses to an online community improvement survey formed the basis for the proposed new DPBID Management Plan.

Due to high levels of pedestrian traffic in the core of the Downtown and the attendant need for higher levels of service there, the DPBID has two benefit zones. This two tiered system will continue under the newly expanded DPBID. A third benefit zone will also be established for a three blocks expansion area along the southern portion of Shattuck Avenue. This zone acknowledges that area's inclusion in the City's Adeline Corridor Planning Area.

In August, 2015, the DPBID Board launched a petition process to initiate the re-establishment and expansion of their PBID. As is required in the enabling legislation, DBA staff and DPBID Board members circulated a petition to all property owners within the boundaries of the proposed District. On January 29, 2016, the DBA presented City staff with petitions from property owners representing over 62.14% of the assessment value of the proposed DPBID. This percentage of is well above the 30% threshold for establishment of a District under BMC 7.94.030.

When City staff reviewed the petitions submitted by the DBA, they discovered that parcel APN 057- -2016-021-01 was inadvertently left off of the Engineer's Report released in September 2015. In addition, the report listed an incorrect assessment amount for APN 057- -2053-022-01. Together these discrepancies totaled \$4,147. As a result, the Engineer's report has been corrected and revised since its release in September. These changes mean that the total assessment equals \$1,518,122, as referenced above, and the City's General Benefit payment of \$16,170 increased by \$51 to \$16,221.

### **Majority Protest Process**

In 1996, California voters adopted Proposition 218. Among other things, Proposition 218 defines the process for establishing or adjusting property-based assessments. The City has determined that the formation of property-based business improvement districts like the DPBID is subject to Proposition 218 regulations. The process requires that a notice of the proposed assessment be sent to all property owners within the boundaries of the district and that a public hearing be conducted by the City Council no less than 45 days after the notice is sent. During the 45-day period and up until the close of the public hearing, a property owner may protest the assessment by submitting a written protest. If written protests against the proposed assessment, weighted according to the proportional financial obligation of the affected property, constitute a majority of weighted ballots cast, the City Council may not impose the assessment.

Staff recommends that the public hearing for the DPBID be scheduled for May 31, 2016.

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the DPBID, the DBA creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District encompasses the area surrounding the Downtown BART Station and several AC Transit lines that provide easy accessibility for visitors coming to and from this popular regional destination. The DPBID's ambassadors and environmental enhancements such as low water median plantings all contribute to making the Downtown a more pleasant 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.

RATIONALE FOR RECOMMENDATION

This private/public partnership will generate significant new resources for Downtown revitalization on an ongoing basis that has could have a positive transformational effect on the physical and economic health of the Downtown area. The City contribution will leverage substantial University and private sector dollars at a ratio of 11 to 1.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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Attachments:

- 1: Resolution of Intent
  - Exhibit A: Management District Plan
  - Exhibit B: Engineer's Report
- 2: Petition Verification Worksheet - Downtown Berkeley Property and Business Improvement District