

CONSENT CALENDAR
October 30, 2012

To: Honorable Mayor and Members of the City Council

From: () Christine Daniel, City Manager

Submitted by: Michael J. Caplan, Economic Development Manager

Subject: Renewal of the Solano Avenue Business Improvement District for 2013

RECOMMENDATION

Adopt a Resolution:

- 1. Approving a report and preliminary budget on proposed improvements in the District for 2013:
- 2. Declaring the Council's intent to levy an assessment to finance improvements in the District for 2013; and
- 3. Directing the City Clerk to schedule a public hearing on the renewal of the assessment for December 11, 2012.

FISCAL IMPACTS OF RECOMMENDATION

Projected revenue of approximately \$35,000 will be collected in Solano Avenue BID Fund (revenue budget code 474-8703-370-5001) and will be expended from budget code 474-8703-465-3510 for 2013. The FY 2013 Adopted Budget contains budget amounts of \$35,000 in both the revenue and expenditure codes. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Solano Avenue Business Improvement District Advisory Board (hereafter "Solano BID Advisory Board" or "the Advisory Board"). To the extent that the work of the Solano BID enhances the 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

Since January, the Solano Avenue BID Advisory Board has worked with Parks and Public Works staff to plan and implement a tree planting program. It also held a design workshop on other possible Solano Avenue improvements conducted by landscape architect John Roberts. The work plan and budget for 2013 propose to pay for a contractor to water the newly-planted trees, support other possible physical improvements to Solano such as tree grates and pedestrian lights, and any planning process that is necessary to qualify for grants for physical improvements. At its meeting of October 9, the Advisory Board approved the Annual Report (Attachment A and Budget for 2013 (Attachment A1) and recommended that the City Council renew the assessment to fund the possible services and improvements discussed therein (Accornero-Sutro, approved unanimously.)

BACKGROUND

Established by Ordinance (Chapter 7.97of the Berkeley Municipal Code (BMC)) on December 16, 2003, the Solano Avenue BID supported membership in the Solano Avenue Association (SAA) for Berkeley Solano Avenue businesses plus some supplementary services such as sidewalk cleaning, sidewalk planters, and promotional banners. From 2004-2007, the Council levied assessments to support the BID and the services it provided. However, because of a persistent controversy within the merchant community about the merits of belonging to the SAA, participating in the Solano Stroll, and the benefits of the sidewalk cleaning and other services supported by the BID, in 2007 the Solano BID Advisory Board recommended to the City Council that it not renew the assessment for calendar year 2008. Accordingly, the Council did not levy assessments from 2008-2011, although the Solano BID Ordinance remained in force as Chapter 7.97 of the BMC.

In 2011, however, a number of Solano merchants met with the Council member who represents the district that includes Solano Avenue to discuss the possibility of reviving the Solano Avenue BID with a different program than before: streetscape improvements including, in the first instance, support of a tree planting program. Two public meetings and several mailings to the merchant community showed that the proposal enjoyed majority, in not unanimous, support in the Berkeley Solano merchant community.

Accordingly, Council members appointed a new Solano BID Advisory Board to consider whether to recommend revival of the Solano BID to support part of the cost of a proposed tree planting program on Solano Avenue. Meeting for the first time on January 28, 2012, the new Advisory Board recommended that the Council revive the BID and levy an assessment to finance costs for a tree planting program on Solano Avenue that could not be funded from the City budget. Existing funding from CalTrans to the City of Berkeley can pay for the cost of the tree planting itself, including the trees, sidewalk cuts and labor for planting. However, the City Forester requires that newlyplanted trees be watered for three years by a landscaping contractor to ensure that they receive enough water during the crucial early growth period. The CalTrans grant cannot be used to pay for this so the Solano BID agreed to cover this expense. The initial budget for the Solano BID approved by the City Council at the recommendation of the Advisory Board contained an allocation of \$24,000 to cover this cost for three years. Since the Council levied the assessment on May 1, 2012, it was for only 7/12 of the 2012 calendar year and the amount levied was reduced accordingly. The total amount raised for 2012 is expected to be approximately \$15,000. (Collections were not complete at the time this report was being drafted.)

In addition to working with City staff to plan the tree planting program, on July 18, 2012, the Advisory Board held a workshop conducted by landscape architect John Roberts on other possible streetscape improvements on Solano. Roberts outlined preliminary plans for pedestrian lights, widened sidewalks with green space at some locations, and improved crosswalks. The workshop was attended by 25 neighborhood residents in addition to Advisory Board members.

Trees on Solano are tentatively scheduled to be planted in October and November, the best time for planting to occur.

The Advisory Board continues to be interested in the possibility of installing tree grates for the 34 trees that are proposed to be planted. The grates would almost certainly have to be retrofitted to existing tree wells since the planting will already have occurred. The Advisory Board is also interested in the possibility of installing pedestrian lights on Solano Avenue either by retrofitting existing street lamps with an additional light fixture oriented to illuminate the sidewalk, or by installing separate pedestrian lamp poles. The modest revenues from the Solano Avenue BID will not be sufficient to cover major physical improvements that cost hundreds of thousands of dollars. Therefore, the Advisory Board is interested in partnering with the City of Berkeley to apply for grants for streetscape improvements. In order to apply for some grants, commissioners understand that it may be necessary to have a City-approved streetscape improvement plan. Therefore, the budget for 2013 also makes allowance for a possible streetscape improvement plan as well as possible physical improvements themselves. The draft budget for 2013 is very general, pending completion of the tree planting program and further discussions in the Advisory Board.

The initial Annual Report and draft Budget approved by the City Council on March 6, 2012 and confirmed on May 1, 2012 when it levied the assessment for the balance of 2012, contained a proposed expenditure of \$45,000 for relocation of electrical conduit budgeted over multiple years, 2013-2016. This expense has proven to be unnecessary because test holes showed that the 34 tree wells of adequate size and at appropriate locations could be dug without the need to relocate conduit. The initial budget also contained a \$10,000 allocation for congregate signage in case tree foliage obscured existing storefront signage. Erection of congregate signage may eventually be desirable or necessary, but it is not included in the budget for 2013 because the street trees will not have grown to a size where they will block the visibility of storefronts. This budget only contains allowance for possible expenditures that the Advisory Board could decide to implement in 2013, based on discussions that are already underway.

The Advisory Board therefore recommends that the City Council renew the Solano BID assessment for calendar year 2013 to finance possible Solano Avenue improvements outlined in the attached Annual Report and proposed Budget for 2013.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew the Solano 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

The Advisory Board has discussed and is continuing to discuss various possible streetscape improvements, particularly if it is possible to apply for grant funding to pay for most of the cost. It also keeps in mind the need to maintain a general consensus in the merchant community about the desirability of the improvements.

CONTACT

Dave Fogarty, Office of Economic Development, 981-7534

Attachments:

1: Resolution

Exhibit A: Report of the Solano BID Advisory Board

Exhibit A1: Proposed Budget Exhibit A2: Map of the Solano BID

Exhibit A3: Assessment Rates

RESOLUTION NO. -N.S.

APPROVING THE REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2013; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2013; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR DECEMBER 11, 2012 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2013

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 2013 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 assesses; 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:

<u>Section 1.</u> The City Council hereby approves the Solano Avenue Business Improvement District Annual Report for the year 2013 (Exhibit A) as submitted to the City Clerk by the Solano Avenue Business Improvement District Advisory Board.

<u>Section 2.</u> 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.

<u>Section 3.</u> The boundaries of the District are set forth in Exhibit A2 to the 2013 Annual Report which is attached hereto and incorporated herein by reference.

<u>Section 4.</u> The improvements and activities proposed for the District are as described in the Report (Exhibit A) and Budget (Exhibit A1) 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.

<u>Section 5.</u> The City Council intends to levy assessments on businesses located within the boundaries of the District shown Exhibit A2 and according to the business classifications and rates set forth in Exhibit A3 which is attached hereto and incorporated herein by reference.

<u>Section 6.</u> A public hearing shall be held before the City Council on the 11th day of December, 2012 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 levving 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 the time fixed for the hearing 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 subscripting 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.

<u>Section 7</u>. 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 of the Solano Avenue Business Improvement District
A1: Proposed Budget for 2013
A2: Map of the Solano BID
A3: Assessment Rates

Exhibit A

Annual Report for the Solano Avenue Business Improvement District for 2013

In 2012 the Advisory Board has been concerned above all with working with the City Arborist, Dan Gallagher, to plan the planting of up to 39 new trees on Solano Avenue. (The exact number may not be known until the location of utilities is determined.) A CalTrans grant to the City of Berkeley will cover the cost of purchasing the trees, cutting the tree wells and planting the trees. The Solano BID would need to cover the cost of any enhancements such as tree grates and also bear the cost of watering the trees for up to three years. It now appears that the location of electrical conduit running between streetlights will prevent the tree wells from being a standard dimension, which would require any grates to be specially-designed and raise the cost. While we do not completely rule out purchasing grates after trees have been planted and retrofitting them to the non-standard tree wells, costs considerations make this unlikely. The Board has also discussed other ways of covering the tree wells, such as decomposed granite, and would consider these alternatives if the pedestrian experience with uncovered tree wells is unfavorable.

We have solicited bids for a contractor to water the trees for up to three years and expect to have selected one by the end of the 2012 calendar year.

In addition to the immediate issue of the tree planting, the Advisory Board discussed a longer range vision for the Solano streetscape presented by landscape architect John Roberts. Mr. Roberts conducted a workshop on July 18 that was attended by 25 neighborhood residents as well as the Advisory Board. Mr. Roberts' drawings showed proposed locations for pedestrian lights, wider sidewalks, parklets and crosswalk improvements. Consultation with City staff and further public process will be necessary before we can recommend the improvements to the Planning Commission as a streetscape plan for Solano. We are very interested in the possibility of applying to regional agencies for funding for streetscape improvements. If a streetscape plan is a requirement for a grant application, we may be willing to pay for part or all of the cost of a landscape designer to finish the work Mr. Roberts has begun.

Proposed Improvements and Services for 2013

We have budgeted for a contractor to water the trees for up to three years and expect to have selected the actual contractor by the time the Council reviews our work plan and budget for 2013. The Board is very concerned with the pedestrian experience and merchant experience with the newly-planted trees. We will continue to discuss the possible need for some permeable cover for the tree wells such as decomposed granite and would consider paying for a contractor to install it, if necessary. We have begun evaluating the possibility of retrofitting existing Solano streetlamps with pedestrian-oriented fixtures. Finally, we are open to the possibility to paying a landscape architect to conclude the work Mr. Roberts has begun for a formal streetscape improvements plan for Solano Avenue. Other than the selection of a contract for tree watering, which is underway, no decision has been made to actually allocate money for these services and improvements.

Carryover of Funds

No funds levied in 2012 have actually been spent and will be carried over to 2013. Since 2012 collections are still underway, the exact total to be carried over is not clear but is expected to be approximately \$15,000.

Boundaries

The boundaries of the District remain the same as those established in B.M.C. Chapter 7.97.030 and in the map appended as Exhibit A.2, except that we recommend that addresses numbered as 1859 Solano but located in an alleyway be assessed at the Zone B rate. They do not enjoy the visibility and foot traffic to justify the higher zone A rate.

<u>Assessments</u>

Assessment rates remain as established in B.M.C. Table 7.97.050 and appended as Exhibit A.3. The Advisory Board does not propose any changes in the classifications or rates.

DRAFT SOLANO AVENUE BID BUDGET FOR 2013

Income: Carryover from 2012: \$15,000

New Revenue 2013: \$35,000

<u>Total</u> \$50,000

Expenses: Contract for tree watering: \$12,000

Other possible expenses mentioned in Annual Report: \$42,000

<u>Total</u> \$50,000



Exhibit A3

Table 7.97.050 BERKELEY SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT ANNUAL ASSESSMENT FORMULA

Annual Assessments

Type of Business

		Zone A	Zone B
a. Retailers and	1-5 employees	\$200	\$125
Restaurants:	6-9 employees	\$300	\$175
	10+ employees	\$400	\$225
b. Service Businesses:		\$175	\$100
c. Professional Businesses:		\$150	\$100
d. Financial Institutions		\$500	\$500