

RESOLUTION NO. 65,923–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:

Section 1. 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.

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 A2 to the 2013 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 (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.

Section 5. 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.

Section 6. 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 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 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 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.

The foregoing Resolution was adopted by the Berkeley City Council on October 30, 2012 by unanimous vote