



Solano BID Advisory Board

CONSENT CALENDAR

October 15, 2013

To: Honorable Mayor and Members of the City Council
 From: Solano Avenue Business Improvement District Advisory Board
 Submitted by: Amy Thomas, Chair, Solano Avenue BID Advisory Board
 Subject: Renewal of the Solano Avenue BID for Calendar Year 2014

RECOMMENDATION

Adopt a Resolution approving the Solano Avenue Business Improvement District Advisory Board's (hereafter "Solano BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the Annual Report and preliminary budget on proposed improvements in the District for calendar year 2014; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2014; and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for November 19, 2013.

FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$32,000 will be deposited into the Solano Avenue BID Fund, revenue budget code 474-8703-370-5001 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 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

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 September 3, 2013, the Solano BID Advisory Board voted to recommend that the City Council approve the Annual Report and budget for 2014 and adopt a Resolution of Intention to renew the assessment for that year (M/S-Accornero/Snidow, Ayes: Abdolhosseini, Accornero, Snidow, Suto, Taylor, and Thomas; Noes: None). The Resolution of Intention also sets a public hearing date for November 19, 2013 where affected Solano businesses can express support or opposition to renewal of the BID for

2014. 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 2014. If no majority protest is received the Council may renew the assessment.

BACKGROUND

Since its revival in May 2012, the Solano Avenue BID Advisory Board has used Solano BID revenues to finance two programs: 1) a tree watering contract to ensure the health of 48 newly-planted street trees on Solano; and 2) sponsorship of events that attract customers to the district and improvements that enhance the pedestrian experience.

After extensive consultations by the City Arborist with the Advisory Board, in November, 2012, the Parks and Waterfront Department planted 35 street trees on Solano Avenue. The Arborist requested that the Solano BID commit to paying a contractor to water the trees once a week during the dry season, March-October, for three years before he would agree to devote the proceeds of a State tree planting grant to Solano Avenue. The Advisory Board agreed to this proposal and eventually selected the Downtown Berkeley Association as its tree watering contractor. In August, 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. These trees have been added to the watering contract for a total of 48. 2014 will represent the second year of the watering program. After the third year, the street trees should be able to survive year around on rainwater.

The second BID program has been to sponsor activities and improvements intended to market and promote the Solano Avenue business district. In 2013, the Advisory Board decided that it would target funds at one activity in the autumn and one in the winter holiday season. It allocated a modest amount of money to market an "Art Walk" on October 12 and hire musicians to play during the event. For the winter, it is paying a contractor to erect holiday lights on 26 City street light poles. Much of the initial expenditure will purchase the decorative lights that will be used again in future years.

The Advisory Board expects to continue both the watering program and holiday lights in 2014. Although it has relatively little funds left after paying for these two programs, it has discussed what it can do to partner with the City of Berkeley to obtain funds to install pedestrian lighting on Solano Avenue. It has also discussed how it could assist arts organizations that want to reopen the vacant Oaks Theater as a performance venue.

The BID contracts directly with the Downtown Berkeley Association for the tree watering program. Other expenditures are made through a fiscal agency contract with Livable Berkeley.

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

As noted, the Advisory Board has discussed various priorities for the use of its funds and will continue to do so, though maintaining the tree watering and holiday lighting programs it is already committed to implement. It continues to discuss how it can obtain grant funding for major streetscape improvements such as pedestrian lights.
Amy Thomas, Chair, Solano Avenue BID Advisory Board, 528-3254

CONTACT PERSON

Dave Fogarty, Secretary to the Solano BID Advisory Board, 981-7534

Attachments:

1: Resolution

- Exhibit A: Annual Report and proposed budget for 2014
- Exhibit A1: Map of the Solano BID
- Exhibit A2: Assessment Rates

RESOLUTION NO. -N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2014; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2014; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR NOVEMBER 19, 2013 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2014

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 2014 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 2014 (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 2014 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 November 19, 2013 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 November 19, 2013 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 and budget of the Solano Avenue Business Improvement District for 2014

A1: Map of the Solano BID

A2: Assessment Rates

EXHIBIT A

Annual Report for the Solano Avenue Business Improvement District for 2014

The first version of the Solano BID operated from 2002-2007 but was plagued with controversy 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 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.

The Annual report for 2013, approved by Council on October 25, 2012, reported on planning for the tree planting program and the marketing of upper Solano. This report for 2014 covers the first full year when these programs have been operational.

Tree watering program

Based on an Advisory Board decision at its November 7, 2012 meeting, starting in March, 2013, the Solano BID financed a tree watering program for street trees that City staff had planted in November 2012. The City forester, Dan Gallagher, wanted the BID to finance a tree watering contract for up to three years as a condition for planting new trees on Solano. The Advisory Board solicited bids from landscape contractors who were prepared to conduct the tree watering program and received three responses. The Advisory Board evaluated the responses and selected the proposal from the Downtown Berkeley Association. A crew from the Downtown Berkeley Association conducts the weekly watering under a “not-to-exceed” \$15,000 contract. The contract covers the “dry” season of the year, March 15-October 15, although it allows “on demand” watering outside this time frame if the “rainy” season proves to be dry. The watering contract covers 35 trees that staff planted in November, 2012, and in August 2013 it was expanded to cover 13 additional trees planted by the City of Albany on the north side of the 1500-1600 blocks of Solano. In these two blocks, the sidewalk is in Albany although the stores are in Berkeley.

The street trees appear to be healthy and growing, with the watering contract a major factor in ensuring that this will continue. By most accounts, the street trees constitute a significant improvement to the Solano streetscape.

Marketing and promotion of Solano

Marketing and promotion of Solano Avenue constitutes the second priority of the Solano BID. At its July 2 meeting, the Advisory Board decided that its focus would be to finance one event or activity that promoted Solano in the fall and one in the winter. At its August 20 meeting, the Advisory Board allocated \$1,000 for promotion of an October 12 Art Walk on Solano and \$1,000

to hire musicians for the same event. A Board member, Tom Taylor, is serving as liaison with the organizers of the Art Walk and will manage disbursement of funds.

At its August 20 meeting, Commissioner Jeff Accornero agreed to research alternatives for a holiday light display. On September 3, he reported back on a potential contract with a company that would erect holiday lights on 26 city street lamp poles in October and remove them in January. The Advisory Board selected a design, "shooting star", and voted to allocate \$26,606.72 to the contract. The lights will be powered from stores, not from the city street lamp poles themselves. Once the lights are purchased, the cost for installing and removing them will be approximately \$11,055 per year.

For 2014, the Advisory Board is committed to continuing the tree watering program and the holiday lighting program. The commitment to continued support of the Art Walk is less certain.

FINANCIAL STATUS OF THE SOLANO BID, SEPTEMBER 2013

Total Solano BID Revenue, 2013 plus carryover from 2012: ¹	=	\$52,888.19
Expenditures for tree watering contract: ²	=	\$15,000.00
Total available for Marketing & Promotion	=	\$37,888.19
Less fiscal agent fee to Livable Berkeley (5%)	=	\$1,894.41
Less funds allocated for promotion & musicians, Oct 12.	=	\$2,000.00
Less funds allocated for purchase of 26 "shooting star" Star" lights + installation + removal	=	<u>\$26,606.72</u>
Unallocated as of 9/10/2013	=	\$7,387.06

BUDGET FOR THE SOLANO BID FOR 2014

Estimated new revenue	=	\$32,000.00
<u>Carryover from 2013 (estimated)</u>	=	<u>\$ 7,387.06</u>
Total available for expenditure in 2014	=	\$39,387.06

PROPOSED EXPENDITURES FOR 2014

Tree watering contract	=	\$16,000.00
Installation and removal of holiday lights	=	\$11,055.00
<u>Other marketing expenditure</u>	=	<u>\$ 5,000.00</u>
Total projected expenditure	=	\$32,055.00

¹ Since the Solano BID was not re-established until May 1, 2012, the Finance Department billed for 7 months of that year. The billing for 2013 was for the entire calendar year and was sent out with the business license renewal mailing. Staff believes that revenue for a normal year should be approximately \$32,000.

² \$15,000 is the "not-to exceed" amount of the contract. Actual expenditures may be somewhat less.

Recommendations

The Advisory Board recommends that the Council approve the Annual Report and Budget for 2014.

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 2014 are those stated in the Report. The cost for providing them is stated in the Budget for 2014.

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

The estimate for surplus revenues to be carried over from 2013 is as stated in the Budget for 2014.

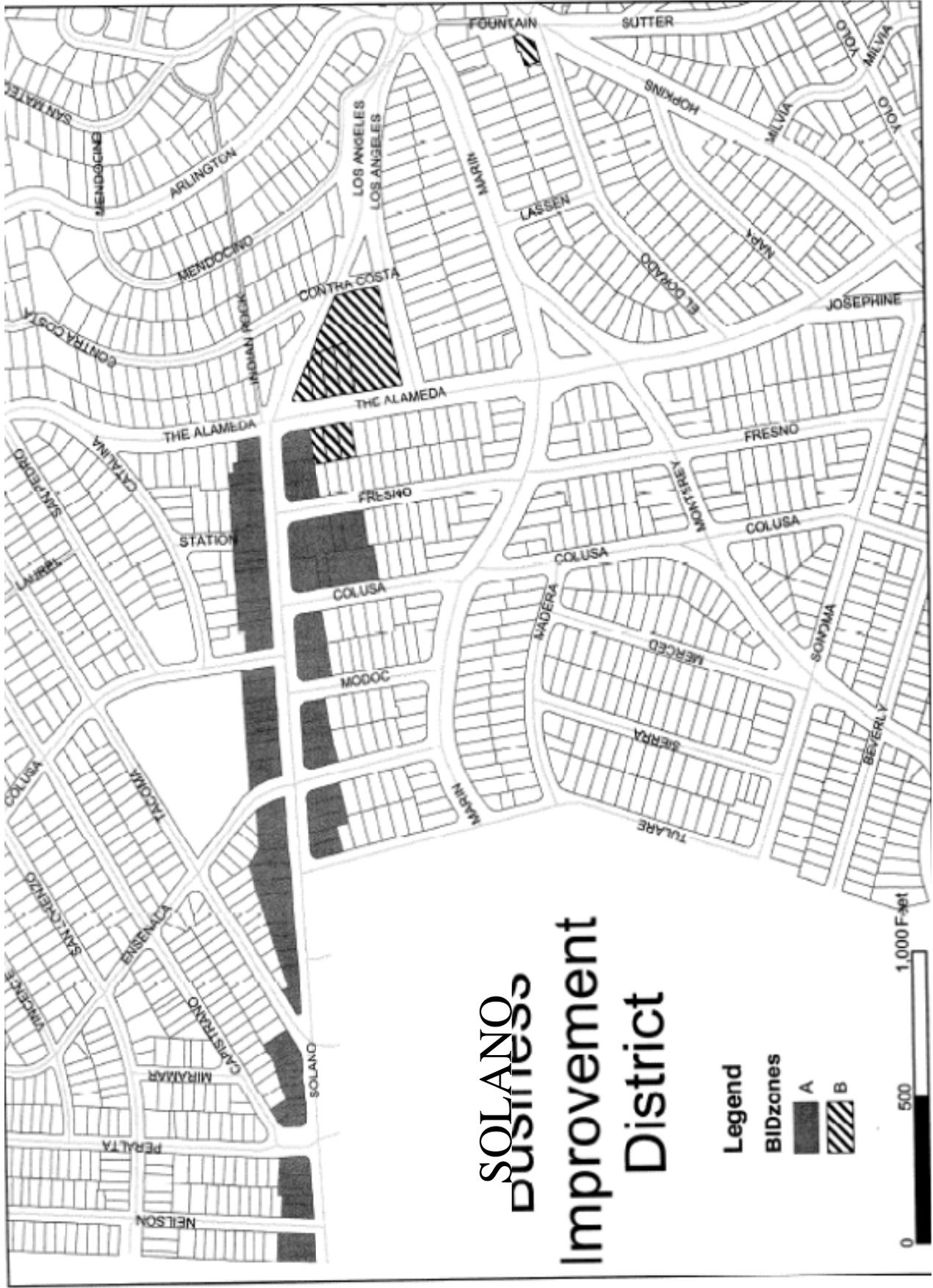


Table 7.97.040
BERKELEY SOLANO AVENUE BUSINESS IMPROVEMENT
DISTRICT ANNUAL ASSESSMENT FORMULA

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