




Office of the City Manager

PUBLIC HEARING
November 18, 2014

To: Honorable Mayor and Members of the City Council
 From:  Christine Daniel, City Manager
 Submitted by: Michael J. Caplan, Economic Development Manager
 Subject: Public Hearing and Levying of Assessments in the Solano Avenue Business Improvement District for 2015

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, “the District”, “the Solano BID” or “the BID”) for 2015 and, if no majority protest exists, levy annual assessments in the District for calendar year 2015 to finance services and improvements and authorize a fiscal agency contract with Livable Berkeley for receipt and expenditure of District funds.

FISCAL IMPACTS OF RECOMMENDATION

Projected revenue of approximately \$35,000 will be collected in the Solano Avenue BID fund (revenue budget code 474-8703-370-5001) and disbursed from budget code 474-8703-465-3510. (The FY 2015 Adopted Budget contains budget amounts of \$35,000 in both revenue and expenditure code).

Collection of Solano BID assessment revenues requires a small amount of staff time from the Finance Department, but since billing is done with the City business license renewal and assessment collections are integrated with business license collections, the workload impact is marginal. Economic Development staff administers the regular meetings of the Solano BID Advisory Board (hereafter, “the Advisory Board”) and prepares the annual BID renewal. The work with the Solano BID constitutes the main way Economic Development staff engages with and assists the Solano business district and, in that sense, it is an integral part of its regular workload.

The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts recommended by the Advisory Board. BID revenues finance the regular, weekly watering of 48 newly-planted trees on the Berkeley portion of Solano Avenue and promote and market the same area through sponsorship of events and decorations in public areas. To the degree that these activities bring increased business to the area, they also benefit the City through increased business based revenues.

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 2015. The renewal process was initiated on October 28, 2014, when Council approved by Resolution No. 66,835-N.S. (Exhibit A to Attachment 1) the Annual report and budget for 2015 sent to it by the Advisory Board and set the public hearing date for November 18. (The Annual Report with a budget is part of Exhibit A to Attachment 1.) The City Clerk noticed businesses in the Solano Avenue BID area by publishing Resolution No. 66,835-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 2015 and levy assessments.

BACKGROUND

Since the revival of the Solano Avenue BID in May, 2012, the Solano Avenue BID Advisory Board has used revenues to finance two programs: 1) a tree watering contract to ensure the growth 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 on Solano. The BID plans to continue these activities in 2015, as described in the Annual Report submitted to the Council on October 28, 2014 and attached below. Although the BID spends the bulk of its funds on 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, bulb out, or a parklet 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 Advisory Board also hopes to keep the evening Art Walk program afloat and is considering hold three such events in 2015.

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

ENVIRONMENTAL SUSTAINABILITY

The tree-watering program financed by Solano BID revenues has multiple environmental benefits. Newly-planted street trees reduce greenhouse gas emissions by sequestering carbon dioxide. Trees also help to mitigate storm water runoff. The BID Advisory Board is working with the watering contractor to ensure that water and fuel are used as efficiently as possible during the process of watering the trees. Environmental considerations were also incorporated into the Solano BID program to sponsor activities and improvements intended to market and promote the Solano Avenue business district. The BID Advisory Board also continues to explore opportunities to make Solano Avenue more pedestrian-friendly, which has both economic and environmental benefits.

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

None.

CONTACT PERSON

Amy Thomas, Chair, Solano Avenue BID Advisory Board, 528-3254
Eleanor Hollander, Secretary to the Solano BID Advisory Board, 981-7536

Attachments

1: Resolution

Exhibit A: Resolution No. 66,835-N.S., with incorporated Annual Report, map of
the District and Assessment table

2: Public Hearing Notice

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

CONFIRMING THE YEAR 2015 ANNUAL REPORT FOR THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE SOLANO AVENUE BID FOR 2014, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH LIVABLE BERKELEY 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 2015, 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 28, 2014, the City Council by Resolution No. 66,835-N.S. (attached as Exhibit A) approved the Annual Report and proposed budget of the Solano Avenue BID for 2015 and declared its intent to levy an assessment in the District to finance the proposed activities for the balance of calendar year 2015; and

WHEREAS, Resolution No. 66,835-N.S. also scheduled a public hearing for November 18, 2014, 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 2015.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with Livable Berkeley 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. 66,835-N.S., including the 2015 Annual Report, map of the District and Assessment Table

RESOLUTION NO. 66,835–N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2015; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2015; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR NOVEMBER 18, 2014 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2015

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 2015 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 2015 (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 2015 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 18, 2014 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 18, 2014 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.

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The foregoing Resolution was adopted by the Berkeley City Council on October 28, 2014 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: Maio.



Tom Bates, Mayor

Attest: 

Mark Numainville, CMC, City Clerk

EXHIBIT A

Annual Report for the Solano Avenue Business Improvement District for 2015

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.

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. The annual report for 2014, approved by council on November 19, 2013, covered the first full year when the above outlined programs were operational. This report for 2015, updates the second full year of progress on the revived Solano BID.

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 requested that the BID to finance a tree watering contract for 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" \$31,616 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. 2015 marks the third year of the tree watering contract, at the end of which the trees will be mature enough to not require additional water services beyond what nature itself will offer.

Marketing and promotion of Solano

Marketing and promotion of Solano Avenue constitutes the second priority of the Solano BID. In 2014, the Advisory Board decided that its focus would be to finance three Art Walk events or activities that promote Solano in the spring, summer and winter seasons. A Board member, Tom Taylor, is serving as liaison with the organizers of the Art Walk and will manage disbursement of funds.

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 holiday lights on 26 city street lamp poles in October and remove them in January. In the fall of 2013, the Advisory Board selected a "shooting star" light design, and purchased the decorations. The lights are powered from stores, not from the city street lamp poles themselves. Now that the light displays have been purchased, and are stored by the vendor during the off season, the cost for installing and removing the shooting stars will be approximately \$11,055 per year. 2014 marks year two of a three year contract.

The Solano BID has two existing multi-year contracts that will conclude on December 31, 2014. They include a not-to-exceed \$31,616.00 in expenditures for tree watering with the Downtown Berkeley Association¹ and a not-to-exceed \$37,000.00 available for marketing and promotion² with the BID's fiscal agent, Livable Berkeley. For 2015, 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 marketing effort is proposed for a series of three Art Walk dates in 2015. The multi-year contracts will be extended accordingly.

FINANCIAL STATUS OF THE SOLANO BID, SEPTEMBER 2014

| | | |
|---|---|---------------|
| Total Solano BID Revenue, as of 6/30/2014: | = | \$50,286.00 |
| Less cost of tree watering projected through yearend | = | (\$9,901.26) |
| Less fiscal agent fee to Livable Berkeley (5%) ³ | = | (\$1,850.00) |
| Less funds allocated for promotion & music Art Walk(s) | = | (\$3,000.00) |
| Less funds allocated for storage of 26 "shooting star" Star" lights + installation + removal | = | (\$11,055.00) |
| Unallocated as of 9/23/2014 | = | \$24,479.74 |

¹ \$31,616.00 is the "not-to exceed" amount of the contract (3/1/13 though 12/31/14) with the Downtown Berkeley Association for tree watering. Actual expenditures may be somewhat less.

² \$37,000 is the total "not to exceed" fiscal agent contract with Livable Berkeley for the time period 3/31/13 to 12/31/2014. The full amount of this money has been with Livable Berkeley since 10/2013.

³ \$1,850 is the "not-to-exceed" amount of the fiscal agent fee (5%) for the total contract amount (\$37,000) for the time period 3/31/13 to 12/31/2014.

BUDGET FOR THE SOLANO BID FOR 2015 (Calendar Year)

| | | |
|---|---|--------------------|
| Estimated new revenue | = | \$35,000.00 |
| <u>Carryover from 2014 (estimated)</u> | = | <u>\$24,479.74</u> |
| Total available for expenditure in 2015 | = | \$59,479.74 |

PROPOSED EXPENDITURES FOR 2015 (Calendar Year)

| | | |
|--|---|--------------------|
| Tree watering contract | = | \$17,000.00 |
| Installation and removal of holiday lights | = | \$11,055.00 |
| <u>Other marketing expenditure</u> | = | <u>\$ 5,000.00</u> |
| Total projected expenditure | = | \$33,055.00 |

Recommendations

The Advisory Board recommends that the Council approve the Annual Report and Budget for 2015.

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 2015 are those stated in the Report. The cost for providing them is stated in the Budget for 2015.

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

The estimate for surplus revenues to be carried over from 2014 is as stated in the Budget for 2015.

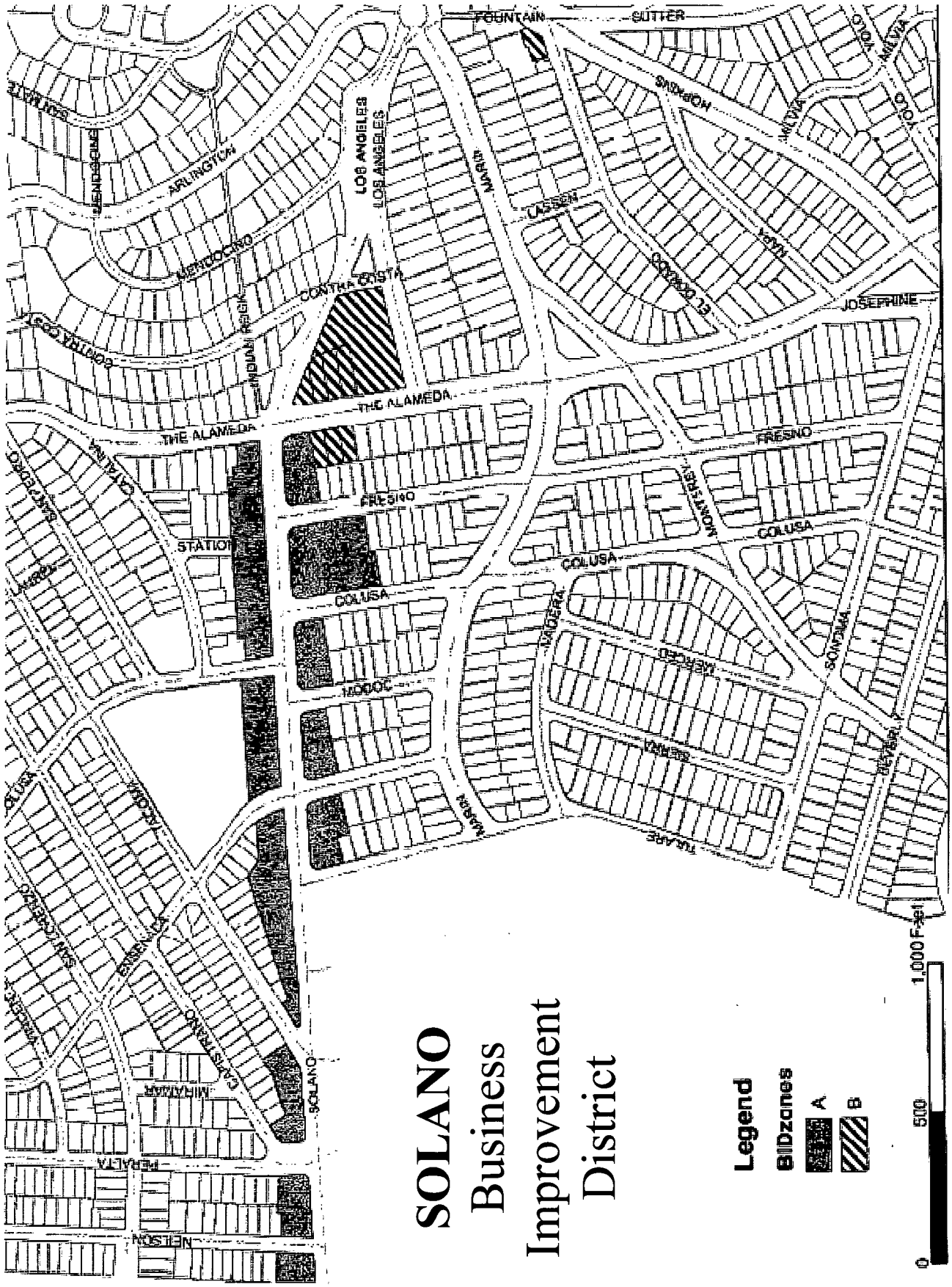


Exhibit A2

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 2015**

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 2015 and levy an assessment for the balance of 2015.

The hearing will be held on November 18, 2014 at 7:00 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 **November 6, 2014**.

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, Economic Development Project Coordinator, at 510-981-7536.

Published: Resolution of Intention No. 66,835-N.S. November 7, 2014 – The 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 November 6, 2014.

Mark Numainville, City Clerk

