

**NOTICE OF RESCHEDULED PUBLIC HEARING- BERKELEY CITY COUNCIL  
DOWNTOWN BERKELEY BUSINESS IMPROVEMENT DISTRICT**

The Department of the City Manager is proposing to confirm the 2008 Annual Report of the Downtown Business Improvement District (BID) and levy an annual assessment for the Downtown BID for calendar year 2008.

The hearing, previously scheduled for December 18, 2007 will be held on, **January 15, 2007** 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.ci.berkeley.ca.us](http://www.ci.berkeley.ca.us) as of **January 10, 2008**.

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 and inclusion in the agenda packet. Comments received no later than Monday, January 7, 2007 will be included in Council agenda packets. Comments received thereafter will be submitted to Council as supplemental communications at the meeting. For further information regarding comments, call Pamyla Means, MMC, City Clerk, 981-6900. FAX: (510) 981-6901. TDD: (510) 981-6903.

For further information, please contact David Fogarty at 981-7534.

RESOLUTION NO. 63,889-N.S.

DOWNTOWN BERKELEY BUSINESS IMPROVEMENT DISTRICT 2008 ANNUAL REPORT AND ASSESSMENT

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 October 8, 1996, the Berkeley City Council established such an area known as the Downtown Berkeley Business Improvement District (the "District"); and

WHEREAS, the City Council at that time also established a Downtown Berkeley 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 2008 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 Downtown assesses; and

WHEREAS, the projected expenditure of \$250,000 in BID revenues, is as included in the FY 2008 Adopted Budget (budget code 476-8703-465.35-10) and an additional \$30,168 in unspent fund balance will be added as part of the Second Amendment to the FY 2008 Appropriations Ordinance raising the total contract amount to \$280,168; 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 Downtown Berkeley Business Improvement District Annual Report for the year 2008 (Exhibit A) as submitted to the City Clerk by the Downtown Berkeley 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 Downtown Berkeley Business Improvement District.

Section 3. There is no change in the boundaries of the District for 2008.

Section 4. The improvements and activities proposed for the District shall be funded by the levy of assessments on businesses within the District boundaries and may include the following:

- a. Public improvements, i.e., the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more.
- b. Promotion of public events which benefit businesses in the District and which take place on or in public places within the District, including an annual festival.
- c. Furnishing of music in any public place in the area.
- d. Promotion of tourism within the area.
- e. Activities that benefit businesses located and operating in the area.
- f. Mainstreet program efforts including commercial district revitalization, promotion, urban design, economic restructuring and a strong representative downtown organization.
- g. Representation of Downtown commercial interests working with City staff and elected officials to develop plans for the improvement of the physical character and economic vitality of the area.

Council intends that these funds be used principally for promotion and marketing activities for the Downtown area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City, particularly constructing, cleaning or maintaining public improvements or streetscapes, police-related or any other services targeted to public safety.

Section 5. The City Council intends to levy assessments on businesses located within the boundaries of the District in the amounts and on the business classifications set forth in Exhibit A3, which is attached hereto and incorporated herein by reference. The projected levied assessments for the year 2008 total \$250,000 (budget code 476-8703-465.35-10).

Section 6. A public hearing shall be held before the City Council on the 15<sup>th</sup> day of January 2008 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 Downtown Berkeley 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 Downtown Berkeley 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 submitting 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 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 causing the Resolution of Intention to be published once in a newspaper of general circulation in the City of Berkeley not less than seven days before the public hearing.