



Office of the City Manager

PUBLIC HEARING
November 29, 2022

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Eleanor Hollander, Economic Development Manager
 Subject: Renewal of the Solano Avenue BID for Calendar Year 2023

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, “Solano BID Advisory Board” or “the BID”) for 2022-2023 and, if no majority protest exists, levy annual assessments in the District for calendar year 2023 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

FISCAL IMPACTS OF RECOMMENDATION

Projected BID revenue of approximately \$25,000 will be deposited into the Solano Avenue BID Fund, revenue budget code 783-21-208-251-0000-000-000-412110 and expensed from budget code 783-21-208-251-0000-000-446-636110. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Solano BID Advisory Board. The work of the Solano BID enhances the economic development of Solano Avenue and its business climate over the long term, and therefore 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.) that authorized the establishment of the Solano Avenue BID, the City Council must hold a public hearing before levying assessments for 2023. The renewal process was initiated on November 3, 2022, when Council approved by Resolution No. 70,569-N.S. (See Attachment 1, Exhibit A) the Annual report and budget for 2022-23 sent to it by the Advisory Board and set the public hearing date for November 29, 2022. (The Annual Report with a budget is part of Attachment 1, Exhibit A). The City Clerk noticed businesses in the Solano Avenue BID area by publishing Resolution No. 70,569-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 2023 and levy assessments.

BACKGROUND

Since its revival in May 2012, the Solano BID Advisory Board has used Solano BID revenues to finance three programs: 1) a tree watering contract to ensure the health of 48 young street trees on Solano; 2) installing a program of 40 hanging planter baskets on light poles; and 3) sponsorship of events that attract customers to the district and improvements that enhance the pedestrian experience. In 2022, the BID program has focused on sponsoring activities and improvements intended to market and promote the Solano Avenue business district. In the wintertime, the BID in conjunction with the Solano Avenue Association (which represents both Albany and Berkeley businesses along Solano Avenue) pays a contractor to erect holiday lights and decorations on City street light poles. This will continue for the 2022-23 season. Although the BID will spend a good portion of its funds on the holiday décor program, in the remainder of 2022 it has initiated an expanded landscaping program to clean and level tree wells and water existing hanging flower baskets. BID expenditures are to be made through an established fiscal agency contract with Telegraph Property and Business Management Corporation (Telegraph PBMC).

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the Solano BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The environmental enhancements such as the added street trees, hanging planters, parklet, and holiday decorations contribute to making Solano a more pleasant walking destination. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation modes and decreasing carbon emissions.

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

No alternative actions were considered.

CONTACT PERSON

Eleanor Hollander, Secretary to the Solano BID Advisory Board, (510) 981-7536.

Attachments

1: Resolution

Exhibit A: Resolution No. 70,569-N.S., with incorporated Annual Report, Budget, District Map, and Assessment table

2: Public Hearing Notice

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

CONFIRMING THE ANNUAL REPORT AND BUDGET FOR THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT (BID), LEVYING AN ANNUAL ASSESSMENT FOR THE SOLANO AVENUE BID FOR 2023, AND AUTHORIZING A CONTRACT OR CONTRACT AMENDMENTS WITH A SUITABLE NON-PROFIT 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 2022, 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 November 3, 2022, the City Council by Resolution No. 70,569-N.S (attached as Exhibit A) approved the Annual Report and proposed budget of the Solano Avenue BID for 2022-23 and declared its intent to levy an assessment in the District to finance the proposed activities for the calendar year 2023; and

WHEREAS, Resolution No. 70,569-N.S. also scheduled a public hearing for November 29, 2022, 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 assessesees 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 2023.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter into a contract or contract amendments with a suitable non-profit 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. 70,569-N.S. (November 3, 2022), including the 2022-23 Annual Report and Budget, District Map, and Assessment Table

RESOLUTION NO. 70,569-N.S.

APPROVING THE ANNUAL REPORT AND PROPOSED BUDGET OF THE SOLANO AVENUE BUSINESS IMPROVEMENT DISTRICT FOR 2022-23; DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE DISTRICT FOR 2023; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR NOVEMBER 29, 2022 TO CONSIDER LEVYING A RENEWED ASSESSMENT FOR 2023.

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 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 2023 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 2022 and Budget for the year 2023 (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 2022-23 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 29, 2022 via accessible video teleconference. 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 29, 2022 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 seven days prior to the public hearing.

Exhibits

A: Report for the Solano Avenue Business Improvement District 2022-23

A1: Map of the Solano BID

A2: Assessment Rates

The foregoing Resolution was adopted by the Berkeley City Council on November 3, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Jesse Arreguin, Mayor

Attest:

Mark Numainville, City Clerk

Exhibit A:

Report for the Solano Avenue Business Improvement District for 2022 and Budget for 2023

Background

The first version of the Solano Business Improvement District (BID) operated from 2002-2007 with administration of the BID headed by the Solano Avenue Association. In 2012, the Council appointed the Solano BID Advisory Board to administer the Solano Avenue BID, to fund physical improvements to the street and dedicate marketing and promotion efforts towards the businesses on the portion of Solano Avenue that lies in Berkeley. This Annual report and budget updates the most recent year of operational programs of the Solano BID.

Landscape program

In 2013, the Solano BID financed a tree watering program for young street trees along upper Solano Avenue. In 2016, per the City of Berkeley arborist, the trees were mature enough to not require additional water services. In early 2016, the board voted to enhance Solano's landscape by installing a program of 41 hanging planter baskets on light poles distributed throughout the district; utilizing the Downtown Berkeley Association's (DBA) services. The DBA watered and maintained the baskets through the end of calendar year 2018. From 2019 to 2021, rainwater alone supported the baskets, and in 2022 the Solano BID entered into a contract with The Peralta Services Corporation to supplement other efforts to clean, weed, and level the tree wells through the district, and to develop an ongoing watering and maintenance system for the hanging flower baskets. Peralta's services began in July of 2022, and a schedule and cadence for this program will be implemented through the end of 2022. Expanded landscaping improvements (including porous pavement in tree wells and watering and maintenance of the hanging flower baskets) have yet to be determined by the board. It is presumed that provided a successful demonstration of landscaping maintenance this fall/winter season (2022-23), a multi-year contract could be extended accordingly in 2023.

In 2020, funds were approved and a selection process was conducted for a public realm plan study on Solano. The BID was supportive of the process and was deeply committed to involving both local merchants and local residents in the effort to re-imagine Solano Avenue in a way that brings more vitality to the Avenue in concert with the efforts of the City of Albany with the intention of strengthening the Solano Avenue 'brand' overall. The funding for this project was repurposed for the emergency response to the COVID-19 pandemic. The project was restored in the city's FY22 budget (adopted June 29, 2021) and has begun again with renewed effort in 2022. It is the intention to issue an RFP for the project in late 2022, or early 2023.

Marketing and promotion of Solano

Marketing and promotion of Solano Avenue constitutes the second priority of the Solano BID.

In 2022, the BID took on an ambitious coordinated district marketing program, allocating \$17,000 to the development of a banner campaign, and a \$15,000 to a marketing mailer with

both with the theme “North Berkeley In Bloom.” The Solano Stroll (produced by the SAA) is returned in person on September 11, 2022, which hopefully will be followed in short order by the unveiling of refreshed street banners (anticipated date, late fall 2022).

To promote the avenue during the holiday season, a holiday light display program was established by the Solano BID. In 2016 and 2017 the BID contracted with a vendor, the Christmas Light Pros of SF, to deploy decorative unlit multi-colored garlands. In 2018 and 2019, the board approved funding for a new vendor which, under direction of the Solano Avenue Association (SAA), covered more poles and provided greater decoration coordination opportunities with neighboring Albany, all at a lower cost than previous seasons. The intention for the holiday season in '22 -'23 is to use the same vendor from the '21-'22 season and reimburse the SAA after the lights are installed. This partnership underscores the leverage that the SAA organization has been able to provide to support BID efforts for the Berkeley portion of Solano Avenue.

In the remainder of 2022, the Advisory Board may again decide to participate in the development of virtual or otherwise safe holiday campaigns and activities (i.e. supporting the Solano Avenue Association in producing events ‘Santa on Solano’ event or similar). The details of the overall 2022 (and the future 2023) event and marketing program will be developed over the remainder of the year, with a possible coordinated launch party for the new Touchstone Oaks bouldering gym at the top of the Avenue once construction is complete.

Solano BID Administration

The Solano BID has one existing contract; a fiscal agent contract with the Telegraph Property and Business Management Corporation (Telegraph PBMC), who charges a 5% fee on new BID revenue annually (for example, the anticipated new Solano BID revenue for 2023 is \$25,000, so the fiscal agent for 2023 will be \$1,250).

FINANCIAL STATUS OF THE SOLANO BID, SEPTEMBER 2022

Solano BID Revenue, as of 9/15/2022	\$ 96,774.26
Less fiscal agent fee to Telegraph PBMC (5%) - of estimated new revenue	\$ (1,250.00)
Less funds allocated for Solano Ave Assn Events Contract (including 2022-23 holiday-related events)	\$ (20,000.00)
Less funds allocated for decorative holiday lights + Installation + Removal + Storage Nov '22 to Jan '23	\$ (7,500.00)
Less Funds for Banners (install, new brackets etc.)	\$ (20,000.00)
Unallocated as of 9/15/2022	\$ 48,024.26

BUDGET FOR THE SOLANO BID FOR 2023 (Calendar Year)

Estimated new revenue 2023	\$ 25,000.00
Carryover from 2022 (estimated)	\$ 48,024.26
Total available for expenditure in 2023	\$ 73,024.26

PROPOSED EXPENDITURES FOR 2023 (Calendar Year)

Landscaping installation/tree well porous pavement	\$ 15,000.00
Watering and Maintenance for hanging flower baskets	\$ 12,000.00
Installation, removal and storage of holiday decor 2023-24 season	\$ 11,000.00
Banners 2023 (future design and adtl' install)	\$ 17,000.00
Marketing expenditure (branding/business/event support contract with SAA)	\$ 15,000.00
Total projected expenditure 2023	\$ 70,000.00

Recommendations

The Advisory Board recommends that the Council approve the Annual Report and Budget for 2023.

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 2023 are those stated in the Report. The cost for providing them is stated in the Budget for 2023.

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

The estimate for surplus revenues to be carried over from 2022 is as stated in the Budget for 2023.

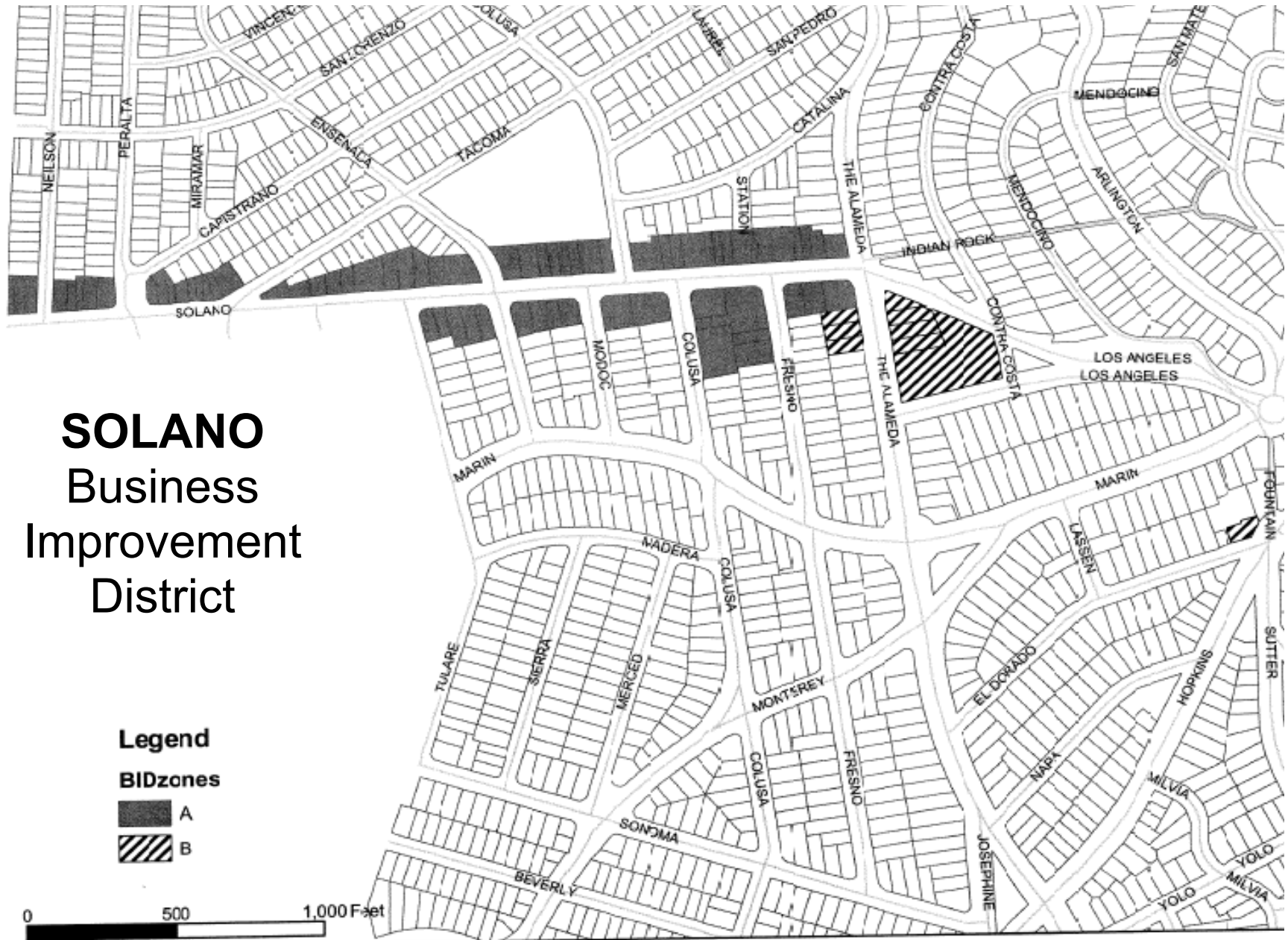


Exhibit A2

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 2023**

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 2022 and levy an assessment for 2023.

The hearing will be held on November 29, 2022 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at www.berkeleyca.gov as of **November 17, 2022**.

For further information, please contact Eleanor Hollander, Office of Economic Development, at (510) 981-7536.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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. 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.

Published: Resolution of Intention No. 70,569-N.S., November 18, 2022 – 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 the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 17, 2022.

Mark Numainville, City Clerk