



Office of the City Manager

CONSENT CALENDAR
November 21, 2023

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Eleanor Hollander, Economic Development Manager
 Subject: Resolution of Intention - Expansion of the Elmwood BID for Calendar Year 2025

RECOMMENDATION

Adopt a Resolution declaring the City Council's intention to levy an assessment in the Elmwood Business Improvement District ("BID" or "District") for 2025 and directing the City Clerk to schedule a public hearing for January 16, 2024 regarding an expanded district boundary and assessment rates for 2025.

FISCAL IMPACTS OF RECOMMENDATION

Based on the expanded geographic District boundary, projected Business Improvement District (BID) revenue of approximately \$50,000 will be deposited into the Elmwood BID Fund, and expensed from budget code 782-21-208-251-0000-000-446-636110. The BID constitutes an independent funding source that must be targeted to commercial revitalization efforts that are recommended by the Advisory Board. The City of Berkeley operates a parking lot within the district and will thus be assessed \$2,000 annually, paid through the Off-Street Parking Fund.

CURRENT SITUATION AND ITS EFFECTS

On August 18, 2023, the Elmwood Business Association voted unanimously to support the expansion of the district boundary. On October 2, 2023, the Elmwood Business Improvement District Advisory Board voted on an expanded district boundary to be implemented in calendar year 2025 (M/S-Han/Hammond; Ayes: (3) Han, Berne, Hammond, Nays: 0, Absent: (1) Stepak. The Elmwood Business Improvement District Advisory Board also voted to increase the assessment rate by \$1,000 for Parking Lot Operators to \$2,000, and decrease the \$250 assessment rate for Hair, Nail and Skin Services (NAICS 81211) to \$200 annually which is reflected in Exhibits A1 and A2 (M/S-Han/Berne; Ayes: (3) Han, Berne, Hammond, Nays: 0, Absent: (1) Stepak.

BACKGROUND

The Elmwood Business Improvement District was established in 2013 via Resolution No. 66,345-N.S. to provide the Elmwood Business Association (EBA) with a sustainable, predictable source of funding for its activities to promote, maintain, and

beautify the Elmwood commercial district. The Elmwood Business Association has used the funds raised through the BID to implement a variety of activities such as place-based marketing materials, events, and capital improvements in the district.

Starting in March of 2019, the members of the both the EBA and the BID Advisory Board expressed interest in expanding the boundaries of the Elmwood BID to increase capacity and collaboration with unrepresented businesses on the northern and southern ends of the Berkeley's commercial areas along College Avenue. During the course of outreach with impacted merchants; collaboration with the neighboring Rockridge District Association in Oakland was explored and rich opportunities for streetscape improvements and partnerships were uncovered. The goal of expanding the District boundary is to support activities and programing and increase merchant and business owner collaboration in areas along College Avenue that have not previously benefited from BID support.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

By maintaining and enhancing the district, the Elmwood BID creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. 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

California Streets and Highway Code Section 36623 and Section 54954.6 of the California Government Code requires that the City Council approve modification to the Elmwood BID boundary and assessment rates by first passing a resolution stating Council's intention to approve a modification to the Elmwood BID boundary. Additionally, a public meeting is required and set for December 12, 2023 and a subsequent public hearing is set for January 16, 2024.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Kieron Slaughter, Office of Economic Development, (510) 981-2490

Attachments:

1: Resolution

Exhibit A1: Proposed Elmwood BID Boundary Map 2025

Exhibit A2: Proposed Elmwood BID Assessment Rates 2025

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

DECLARING COUNCIL'S INTENTION TO LEVY AN ASSESSMENT IN THE ELMWOOD BUSINESS IMPROVEMENT DISTRICT FOR 2025; AND DIRECTING THE CITY CLERK TO SCHEDULE A PUBLIC HEARING FOR JANUARY 16, 2024 REGARDING AN EXPANDED DISTRICT BOUNDARY AND ASSESSMENT RATES FOR 2025

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 November 19, 2013 the Berkeley City Council established such an area known as the Elmwood Business Improvement District (the "District"); and

WHEREAS, the City Council established the Elmwood Business Improvement District Advisory Board (Advisory Board) to act in compliance with State law to oversee the activities of the District; and

WHEREAS, on October 2, 2023 the Advisory Board voted to approve an expanded boundary map of the District, to update the assessment rates, and to submit the proposed rates and map to the City Council as required by the California Streets and Highways Code Section 36500; and

WHEREAS, the proposed district map is clear and complete and found to comply with the interests of Elmwood BID assessees; and

WHEREAS, the process for modifying the boundaries and assessments in Business Improvement Districts requires that cities adopt a Resolution of Intent that declares their intent to modify the boundary and the 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. 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 modify the district boundary map and levy an annual assessment for the parking and business improvement area known as the Elmwood Business Improvement District.

Section 2. The boundaries of the District are set forth in Exhibit A1 to the Resolution of Intent which is attached hereto and incorporated herein by reference.

Section 3. The improvements and activities proposed for the District will utilize funds designated for activities and improvements in the Elmwood area. Council explicitly intends that funds generated through this BID shall not be used to pay for activities routinely paid for by the City. The improvements and activities proposed for the District

are to promote, maintain and beautify the Elmwood Commercial District and include maintenance and capital improvements targeted for the area. Funds must be used for designated activities and improvements in the Elmwood BID commercial area. Funds generated through this BID shall not be used for activities routinely paid for by the City.

Any interested individual may contact Kieron Slaughter, Secretary to the Elmwood BID Advisory Board at (510) 981-2490 or at 2180 Milvia St., 5th Floor, Berkeley, CA 94704.

Section 4. 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. Any past due business license tax and related assessment fees will correspond to the rate currently in place. Any past due business license tax and related assessment fees not in the assessment boundary prior to January 1, 2025 will not be subject to the assessment.

Section 5. A public hearing shall be held before the City Council at 6:00 p.m. on January 16, 2024 at 1231 Addison Street, Berkeley, California. Following the hearing the Council will consider adoption of a resolution approving the District boundary map and levying an assessment as recommended by the Elmwood Business Improvement Advisory Board. At this hearing the Council will hear all interested persons for or against the expanded District boundary map or the levying of such an assessment. A public meeting will be held December 12, 2023 at 6:00 p.m. at 1231 Addison Street, Berkeley, California regarding the proposed expansion as required by Government Code Section 54954.6.

Protests may be made orally at the public hearing, or in writing by any interested person. Written protests shall be filed with or mailed to the City Clerk Department, 2180 Milvia Street, First Floor, Berkeley, California, 94704. Written protests must be received by the City Clerk at or before 3:00 pm on January 16, 2024. Written protests may also be filed in person at the public hearing, prior to the close of the hearing. Written protests will not be considered valid unless signed by the owner of a business located within the boundaries of the proposed District. This signature shall be accompanied by the name of the business owner (printed) and the date of the protest. Additionally, written protests shall contain a description of the business sufficient to identify the business, such as business name (printed), business address (printed), and City Business License Tax Registration number (or, if no Business License Number, Financial Institution name). Protests must also state if they are protesting against the furnishing of a specified type or types of improvements or activities within the District.

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.

Section 8. The City Clerk is directed to give notice of said hearings as provided in section 36623 of the Act and section 54954.6 of the Government Code, which requires that the agency shall give notice by mail to the record owner of each identified business and financial institution. The public hearing shall be held not less than 45 days after the adoption of this Resolution.

Exhibits

A1: Proposed Elmwood BID Boundary District Map - 2025

A2: Proposed Elmwood BID Assessment Rates – 2025

Exhibit A1: Proposed Elmwood Business Improvement District Boundary Map - 2025

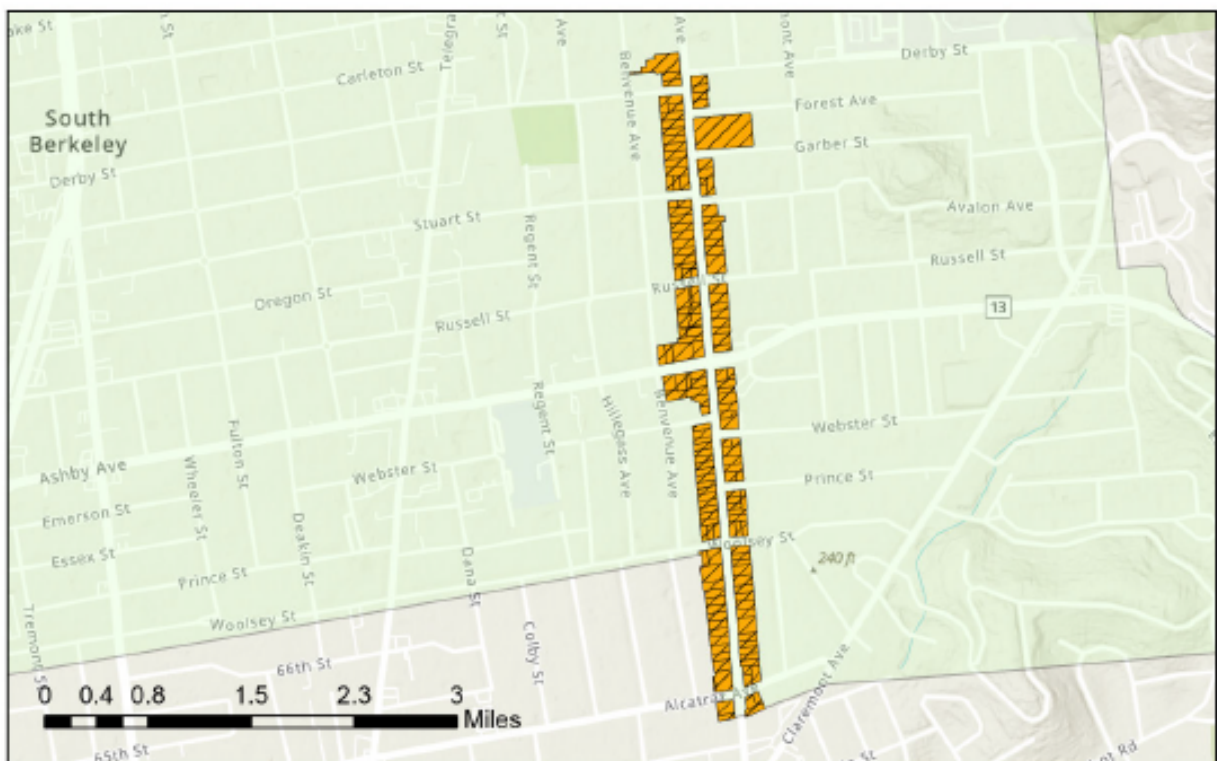


Exhibit A2: Elmwood Business Improvement District, Assessment Rates – 2025

Classifications	Rates
Retail including jewelers and groceries but not restaurants (Tax Codes R, M and G but without NAICS 722, Food Services and Drinking Places) <ul style="list-style-type: none"> • Gross receipts under \$350,000 • Gross receipts \$350,000-\$999,999 • Gross receipts \$1,000,000+ 	\$250.00 per year \$350.00 per year \$500.00 per year
Restaurants, including all businesses that prepare and serve food at the request of customers (NAICS 722)	\$500.00 per year
Professionals including offices of real estate brokers (Tax Code P) <ul style="list-style-type: none"> • Gross receipts under \$100,000 • Gross receipts over \$100,000 	\$300.00 per year \$400.00 per year
Entertainment and Recreation (Tax Code E)	\$450.00 per year
Business, Personal and Repair Services (Tax Code B) except Hair, Nail and Skin Cares Services (NAICS 81211)	\$200.00 per year
Hair, Nail and Skin Care Services (NAICS 81211)	\$200.00 per year
Parking lot operators	\$2,000.00 per year
Financial Institutions	\$2,500.00 per year

Any business that is classified as a nonprofit (Tax Code N) for business licenses purposes, shall nevertheless pay the assessment at the rate that corresponds to its North American Standard Industrial Classification if it is engaged in the sale of products or services. Any new business established within the District shall not be required to pay an assessment on application for its business license but only on renewal at the end of the year it was initiated. (Ord. 7317-NS § 3 (part), 2013)

