



Office of the Mayor

REVISED
CONSENT CALENDAR
July 30, 2024

To: Members of the City Council

From: Mayor Jesse Arreguín (Author) and Councilmember Ben Bartlett (Co-Sponsor)

Subject: Referral to City Manager: Ashby BART Area Enhanced Infrastructure Finance District (EIFD) Analysis

RECOMMENDATION

Refer to the City Manager and City Attorney to return to Council with an analysis and recommended actions to initiate an Enhanced Infrastructure Finance District (EIFD)¹ encompassing the Ashby BART station area, and consider:

1. Earmarked provisions of an EIFD to finance specific infrastructure and community development investments in an effort to actualize improvements to a Southern Plaza and greater Adeline Corridor adjacent to the West Lot, including benefits supporting impacted communities;
2. A preliminary analysis, including additional, non-contiguous EIFD catchment areas that extend beyond the BART development sites and could be included in the EIFD to provide further funding for the project;² and
3. A financial analysis³ that evaluates the funding potential for associated infrastructure and public works improvements of an EIFD, including the total amount of tax revenue that could be generated through the EIFD, as well as other available funding sources (e.g., transfer taxes). This analysis will also look at potential impacts to the City's General Fund and outstanding bond payment projections. These improvements may include, but are not limited to a Black Arts and Cultural District and associated facilities, and Berkeley Flea Market facilities.

¹ EIFDs are established under California Government Code Section 53398.50 et seq. (EIFD Law).

² Three public hearings are required to establish an EIFD. At the third public hearing, the proceedings terminate if there is a majority protest of the landowners and residents over 18 years old in the boundaries of the proposed EIFD. If there is a protest of between 25% and 50% of such landowners and residents, then the EIFD must be approved by a majority of voters at an election of such landowners and residents. If there is a protest of less than 25% of such residents and landowners, then the EIFD can proceed.

³ The plan will describe the governance structure of the EIFD (which is governed by a legislative body known as a Public Financing Authority) and will include, at a minimum, some members of the City Council and some members of the public. If another public agency allocates property tax increment to the EIFD, then that public agency would also be represented on the Public Financing Authority. The Public Financing Authority implements an "infrastructure financing plan" that must be approved by the City Council prior to the third public hearing described in the preceding footnote.

Refer to the November 2024 AAO1 process up to \$100,000 for a) engaging a consultant to collaborate with the City Attorney, Planning and Finance Departments to prepare an EIFD Financial Plan, b) to initiate and conduct a community engagement process, and c) to establish an ad-hoc steering committee to guide this work consisting of residents, community-based organizations, the Planning Department, the Office of Economic Development, Civic Arts, and leaders involved in Equitable Black Berkeley work and the development of the Black Arts and Cultural District.

BACKGROUND

In connection with the Ashby BART Transit Oriented Development (TOD), Planning established a draft Framework for Community Benefits to be included in part of the negotiations with BART and the City. Per the draft framework, the community benefits were to include a minimum of 35% of new housing units to be developed as affordable or Below Market Rate (BMR), with a goal of building 50% affordable housing units.⁴ A number of community benefit proposals in the draft framework include the potential of forming an Enhanced Infrastructure Finance District (EIFD) to capture the City's share of any property tax increment over a 40-year period⁵, derived mostly from market rate units, to be invested in infrastructure improvements and community placemaking elements.⁶ What has yet to be determined is the boundaries of the district, percentage and specific allocation of funds that would be captured, eligible and approved expenditures that could be funded by the EIFD.

On February 13 2024, Council passed an item to establish the Black Arts and Cultural District⁷ in South Berkeley. Eligibility of investments towards arts and capital investments to bring this type of special economic zone to fruition is a worthwhile consideration. In addition, the Mayor's Office has outlined the need for placemaking investments in connection with the Equitable Black Berkeley (EBB) Initiative's Right to Remain and Right to Own as part of its Harm Repair Model supporting the ability of legacy families from South Berkeley to thrive.⁸ EIFD investments could go towards capital improvements for the East Plaza⁹, a community hub and town hall envisioned to have multiple economic engine opportunities, such as:

- The permanent site for the Berkeley Flea Market;

⁴ See [Council Worksession on July 18, 2023](#). A final draft framework has yet to be approved by Council.

⁵ A different timeframe may be considered if deemed justifiable.

⁶ Under the EIFD Law, the City (and potentially other taxing entities) would allocate to the EIFD all or a portion of the 1% ad valorem tax revenue generated by increases of assessed values in the EIFD after its formation; unlike community facilities districts, which levy a new special tax on property, EIFDs do not involve the creation of new taxes. Because EIFDs leverage 1% ad valorem property tax revenue, they do not receive revenues from properties that are exempt from paying the 1% ad valorem property tax.

⁷ See Council Meeting Agenda Item 14: [Establishing a Black Arts and Culture District in the Adeline Corridor](#). See [Adopted Resolution No. 71,208-N.S.](#)

⁸ A Right to Stay approach would reduce the displacement of Black residents from Berkeley by investing in business and community development, and creating protections for low-income residents. One avenue of keeping Black residents in Berkeley is to invest in cultural placemaking, which can include art installations, investments in local art venue capital improvements, infrastructure investments for public safety, and other investments for community building and social cohesion.

⁹ Also referred to as the South Plaza.

- Semi-permanent and permanent kiosks for emerging and established vendors, where they can have stable residence and ground floor retail opportunities to serve local residents and visitors to the area; and
- A business incubator for burgeoning Berkeley Flea Market vendors and other emerging small businesses, where entrepreneurs can take advantage of technical assistance, shared cost and resource savings, and business investments that can lead to the graduation of vendors into more permanent locations.

While EIFD's do not include a housing requirement (except to replace housing removed or destroyed by a project funded by an EIFD), expenditures can support the preservation and production of affordable housing. Researchers note EIFD funding have a potential to be used to directly subsidize acquisition, construction or rehabilitation of rent-restricted units within mixed-income development, and can be used towards infrastructure costs and development fees.¹⁰

Many cities have explored pursuing an EIFD and integrating aspects of an EIFD into their development. The City and County of San Francisco established an EIFD for the Potrero Power Station project.¹¹ San Francisco has adopted a policy that governs the establishment of EIFDs to provide funding for a project, and one of the policy requirements is the establishment of a long-term maintenance commitment for the project, i.e., "an identified source of funding for ongoing maintenance and operations. This commitment could be in the form of a General Fund appropriation or through public-private financing mechanisms, such as a Master HOA or a Community Benefit District agreeing to maintain a public park, or through formation of a supplemental property tax assessment district."¹² The Port of San Francisco is cited as having a successful infrastructure financing district similar to an EIFD in its capital plan, which includes the Pier 70 and Mission Rock redevelopments, which bring commercial and residential improvements to the area.¹³ The City of Sacramento has three EIFDs (Aggie Square, Sacramento Stadium Area, and Railyards, bringing similar investments to commercial, housing, and public facilities.¹⁴

The Planning Department enlisted the help of Century Urban to complete a scope of work that consisted of:

1. Developing estimates of future property tax assessments in the area covered by the EIFD (using the same development scenarios as air rights economic analysis) and projections of tax increment revenues;
2. Evaluating other sources of EIFD funding such as property tax in-lieu of Vehicle License Fee (VLF);

¹⁰ See Turner Center for Housing's Report "[Enhanced Infrastructure Financing Districts: West Sacramento](#)".

¹¹ See SF.gov: <https://www.sf.gov/departments/eifd-public-financing-authority-no-1>

¹² See SF Capital Plan 2024, Appendix D: Methodology and Assumptions: <https://onesanfrancisco.org/index.php/cap-plan-2024/appendix-d>

¹³ See SF Building Trades Council's Article "[How Cities Strike Deals With Developers to Improve Surrounding Neighborhoods](#)".

¹⁴ See City of Sacramento's Website: [Enhanced Infrastructure Financing Districts](#).

3. Analyzing potential for EIFD to fund ongoing public space maintenance costs.¹⁵
4. Drafting a memo identifying and describing the specific steps to be undertaken by the City of Berkeley in order to complete EIFD formation; and
5. Attending ad hoc meetings and prepared ad hoc presentations as may be requested by the City of Berkeley.

Any new analysis completed should build off of the existing work of Century Urban, adding to its analysis and conferring with City staff on how to best integrate these two pieces of analysis together.

FINANCIAL IMPLICATIONS

\$100,000 from the City's General Fund, to be made available using AAO1 funding.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report. The report and plan produced may include elements that enhance the environmental conditions and experiences of residents in South Berkeley.

CONTACT

Mayor Jesse Arreguín	(510) 981-7100
Anthony Rodriguez, Senior Legislative Assistant	(510) 981-7102

Attachment:

1. Council Worksession agenda for July 18, 2024 on Ashby BART Station Transit-Oriented Development (TOD)

¹⁵ Current law allows an EIFD to finance maintenance of capital facilities only if they were "financed in whole or in part" by the EIFD. See California Gov. Code §53398.52((a)(1)(D)(i).