



Office of the City Manager

CONSENT CALENDAR
May 6, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Eleanor Hollander, Economic Development Manager
Subject: Re-Establishment of the Berkeley Tourism Business Improvement District

RECOMMENDATION

1. Adopt a Resolution declaring the City Council's intention to renew the Berkeley Tourism Business Improvement District (BTBID) for ten (10) years starting July 1, 2025, and directing the City Manager to schedule a public meeting on June 3, 2025 and a public hearing on June 24, 2025 to renew the BTBID.
2. Adopt a Resolution declaring the City Council's intention to modify the existing BTBID to end on June 30, 2025, shortening the existing BTBID's term from ten (10) years to eight (8) years and directing the City Manager to schedule a public hearing on June 24, 2025 on modification of the BTBID Management District Plan (Plan).
3. Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Visit Berkeley, the BTBID's Owners' Association and the City of Berkeley's Convention and Visitor's Bureau, for an amount not to exceed total Tourism BID collections for the term of the renewed BTBID, beginning on July 1, 2025 and concluding on June 30, 2035.

SUMMARY

The Berkeley Tourism Business Improvement District or, BTBID, is a benefit assessment district created in 2012 and subsequently renewed in 2017, to fund marketing and sales promotion efforts for assessed lodging businesses in Berkeley with five rooms or more. Lodging business owners decided to pursue renewal of the BTBID in order to maintain a revenue source devoted to marketing the City of Berkeley (City) as a destination for tourism, meetings, and events. The City contracts with Visit Berkeley, the BTBID's Owners' Association, which also functions as the City's Convention and Visitor's Bureau to implement the activities funded by the BTBID. These activities are described fully in the BTBID Management District Plan and are incorporated as Attachment 5.

The BTBID is proposed to be renewed pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et. seq. If

renewed, the BTBID District would generate funding annually—approximately \$2,221,000 in FY 2026—for the promotion of travel and tourism specific to Berkeley.

Staff recommends that the City Council adopt the attached Resolution of Intention to Renew the BTBID, directing the City Manager to schedule a public meeting on June 3, 2025, and a public hearing on June 24, 2025, on the renewal and the levy of assessments on lodging businesses with five rooms or more within the boundaries of the City of Berkeley.

In addition, staff and the BTBID's Owners' Association seek to modify the existing BTBID to shorten the term by two years to conclude on June 30, 2025. The purpose of the modification is to align the BTBID's term with the renewal term, implementing the annual assessment rate of 3% of gross short-term sleeping room rental revenue. Staff recommends that the City Council adopt the attached Resolution of Intention to Modify the BTBID, directing the City Manager to schedule a public hearing on June 24, 2025 on the modification of the Plan.

Finally, staff recommends that council adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Visit Berkeley, the BTBID's Owners' Association and the City of Berkeley's Convention and Visitor's Bureau, for an amount not to exceed total Tourism BID collections for the term of the renewed BTBID, beginning on July 1, 2025, and concluding on June 30, 2035.

FISCAL IMPACTS OF RECOMMENDATION

The proposed renewed BTBID would place a three percent (3%) assessment on short-term sleeping room rental revenue on all lodging businesses, existing and in the future, with five (5) rooms or more, available for public occupancy within the boundaries of the City. Lodging businesses may include, but are not limited to, any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, or other similar structure or portion thereof.

The total BTBID annual assessment budget for the initial year of its ten (10) year operation is anticipated to be approximately \$2,221,000 in FY2026. If renewed, the BTBID would be in effect for ten (10) years and a similar assessment budget is expected to apply to subsequent years, though the total assessment amounts would vary each year based on the revenue generated by the lodging businesses.

The *Management District Plan* (Attachment 5) designates that the funds generated by the BTBID are to be used for marketing & sales promotions, cultural tourism programs, and other specific lodging business-serving activities. One percent (1%) of the funds would be retained annually by the City for its administrative services in collecting the assessments and contracting for the BTBID services. Because the BTBID programs are designed to bring more visitors to the City, the program should continue to result in an increase in transient occupancy tax (TOT) collections. There may also be an increase in travel-related sales tax revenues as a result of higher hotel occupancies.

These Resolutions will have minor administrative impact. The City Manager will be directed to mail notice of hearings and a copy of the Resolution of Intention to all lodging businesses within the proposed BTBID. If the proposed BTBID is renewed, the City will be responsible for collecting and forwarding assessment funds and will be reimbursed for the cost of this service. Annual assessment funds will be deposited into Tourism BID Fund 781-21-208-251-0000-000-000-412110 and expended from fund 781-21-208-251-0000-000-446-636110.

CURRENT SITUATION AND ITS EFFECTS

The BTBID is a benefit assessment district created in 2012 (Resolution No. 65,899–N.S.) and subsequently renewed in 2017 (Resolution No 67-926-N.S.) to provide marketing & sales promotions for assessed lodging businesses. The proposed renewed BTBID includes all lodging businesses, existing and in the future, with five (5) rooms or more, available for public occupancy within the boundaries of the City. The proposed renewed BTBID would place a three percent (3%) assessment on short-term sleeping room rental revenue on all lodging businesses. Lodging business owners decided to pursue renewal of the BTBID and increase the assessment from 1% to 3% in order to maintain a revenue source devoted to marketing the City as a destination for tourism, meetings, and events and to add a cultural resources component to their programming as outlined on page 8 of the *BTBID Management District Plan* (Attachment 5).

The current BTBID was renewed in 2017 for a ten (10) year term, beginning July 1, 2017, through June 30, 2027. Visit Berkeley, the BTBID's Owners' Association, has requested that the current BTBID term be modified to shorten the ten (10) year term to eight (8) years. The process to modify the current BTBID is set to be completed concurrently with the completion of BTBID renewal. That is, the proposed modified BTBID's term will expire on June 30, 2025, and the renewed BTBID will begin on July 1, 2025, with no break in service. The purpose of the modification is to align the BTBID's term with the renewed term, while simultaneously implementing the annual assessment rate of three percent (3%) of gross short-term sleeping room rental revenue.

The Tourism BID assessment would continue to be collected from the assessed businesses by the City concurrently with Transient Occupancy Tax, or TOT, which remains at 1%. The City would continue to contract with Visit Berkeley to act as the Owners' Association of the BTBID and provide services with the BTBID funds collected. The *BTBID Management District Plan* designates that the funds would be used for marketing & sales promotions and cultural tourism programs. The BTBID Management District Plan also calls for City oversight of Visit Berkeley's management of BTBID funds, including the yearly submission of an annual report and proposed budget for the following Fiscal Year, typically presented to City Council in late spring/early summer prior to the commencement of the fiscal year on July 1.

Renewal Process

The BTBID Owners' Association, Visit Berkeley, began the process of renewing the BTBID in January 2025 by circulating a petition of all eligible lodging establishments. In March 2025, the Berkeley City Clerk certified that the City has received written petitions

signed by lodging business owners in the proposed district who will pay more than fifty percent (50%) of the assessments proposed to be levied (Attachment 4) with the assistance of the City's Finance Department. This majority petition allows the City Council to initiate proceedings for district renewal. The Adoption of the attached Resolution is the first City Council action required to renew the BTBID.

Following the adoption of the Resolution of Intention to renew the district, the City Council must also schedule and hold a public meeting, where the City Council must allow public testimony regarding the proposed assessment. Finally, the City Council must schedule and hold a public hearing where any protests may be received. If at the time of the public hearing, written protests have not been received from businesses that will pay fifty percent or more of the proposed assessments, the City Council can adopt a resolution renewing the BTBID. Staff recommends that the City Council adopt the Resolution of Intention to renew the BTBID, directing the City Manager to schedule a public meeting for June 3, 2025, and the final public hearing for June 24, 2025.

District Modification Process

At the written request of the BTBID Owners' Association, the City Council may modify the existing *Management District Plan* after conducting one public hearing on the proposed modification. Visit Berkeley, the BTBID's Owners' Association, has submitted a letter to City Council requesting modification of the current BTBID's term to shorten the term from ten (10) years to eight (8) years (Attachment 2: Exhibit A). Submission of this written request allows the City Council to initiate proceedings to modify the current term of the BTBID.

The Property and Business Improvement District Law of 1994 requires the City to mail a copy of the Resolution of Intention to modify the BTBID to assessed lodging businesses within the BTBID. The resolution must be mailed at least ten (10) days before the public hearing on the modification. The Property and Business Improvement District Law of 1994 also requires the City to publish a copy of the Resolution of Intention to modify the BTBID in a newspaper of general circulation in the City. The resolution must be published once at least seven (7) days before the public hearing on the modification.

Staff recommends that the City Council adopt the attached Resolution of Intention to Modify the BTBID, directing the City Manager to schedule a public hearing on the proposed modification on June 24, 2025, concurrently with the public hearing to renew the district for ten years for a term of 2025-35. If the City Council, following the public hearing, decides to modify the current BTBID, the City Council can adopt a resolution of modifying the existing *Management District Plan* to conclude on June 24, 2025.

Contract for Distribution of Tourism BID Funds

Pending the modification of the existing term of the Tourism BID, and the successful renewal of the BTBID for 2025-35, staff recommends that council adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with Visit Berkeley, the BTBID's Owners' Association and the City of Berkeley's Convention and Visitor's Bureau, for an amount not to exceed total Tourism BID

collections for the term of the renewed BTBID, beginning on July 1, 2025 and concluding on June 30, 2035, so the city may “pass through” the collected assessments to the owners association smoothly.

BACKGROUND

A Tourism BID is a special purpose Business Improvement District (BID) focused on the hotel sector. Tourism BIDs are formed by a local city government at the request of hotels and motels which stand to benefit from joint marketing and promotion activities directed by a separate non-profit corporation. In California, more than 112 communities have established Tourism BIDs, many of which are located in the Bay Area. Tourism BID funds are customized to fit the needs of each destination and allow for a wide range of services including marketing & sales promotions and cultural tourism programs.

In Berkeley, the convention and visitor’s bureau, known as Visit Berkeley, established a Tourism BID in 2012 known as the BTBID for a term of five years and subsequently renewed the BTBID in 2017 for a term of ten years. This renewal of the BID continues the same scope of services going forward, contemplates an increase in collections from 1% to 3% of room rates, and provides an updated *Management District Plan* (Attachment 4) which details the proposed BID services for the renewed BTBID and also includes the proposed boundary of the BTBID, a budget, and a proposed means of governance. The BTBID will continue to include all lodging businesses existing and, in the future, with five (5) rooms or more, available for public occupancy within the boundaries of the City. The renewed BTBID will have a ten (10) year life. The assessment will be implemented beginning July 1, 2025. Once per year beginning on the anniversary of district renewal there is a 30-day period in which business owners paying more than fifty percent (50%) of the assessment may protest and begin proceedings to terminate the district.

The City will be responsible for collecting the assessment on a monthly basis from each assessed lodging business. The City shall forward the assessments to Visit Berkeley, which will have the responsibility of managing BTBID programs as provided in the *Management District Plan*. The City shall retain a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Renewal of the BTBID will continue a stable funding source for tourism promotion and visitor resources in Berkeley. Modification of the current BTBID’s term will allow the current BTBID’s term to end before the renewed BTBID is implemented. This effort will continue to build on Berkeley’s success as a visitor destination and will help to maintain and grow General Fund revenues generated by TOT and visitor-generated sales taxes.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Eleanor Hollander, Office of Economic Development, (510) 981-7536

Attachments:

1: Resolution: Resolution of the City Council of the City of Berkeley Declaring its Intention to Renew the Berkeley Tourism Business Improvement District and Fixing the Time and Place of a Public Meeting and a Public Hearing Thereon and Giving Notice Thereof

EXHIBIT A: District Boundaries

2: Resolution: Resolution of the City Council of the City of Berkeley Declaring its Intention to Modify the Berkeley Tourism Business Improvement District and Public Hearing Notices

EXHIBIT A: Letter from Visit Berkeley Requesting Modification of the Management District Plan for the Berkeley Tourism Business Improvement District

3: Resolution: Contract with Visit Berkeley to Implement the Berkeley Tourism Business Improvement District

4: Tourism BID Petition Certification, March 2025

5: Berkeley Tourism Business Improvement District *Management District Plan, 2025*

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY DECLARING ITS INTENTION TO RENEW THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT (BTBID) AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF

WHEREAS, the City of Berkeley (City) created the BTBID on September 18, 2012 by Resolution No. 65,899-N.S.; and

WHEREAS, the BTBID was subsequently renewed on April 25, 2017 by Resolution No. 67-926-N.S.; and

WHEREAS, the BTBID was renewed for a ten (10) year term which ends on June 30, 2027, and the BTBID Owner's Association, Visit Berkeley, has requested the City Council to modify the Management District Plan (Plan) of the BTBID so that the current BTBID term ends June 30, 2025; and

WHEREAS, the Property and Business Improvement District Law of 1994, Streets and Highways Code § 36600 et seq., authorizes the City to renew business improvement districts for the purposes of promoting tourism; and

WHEREAS, Visit Berkeley, lodging business owners, and representatives from the City have met to consider the renewal of the BTBID; and

WHEREAS, Visit Berkeley has drafted a Plan which sets forth the proposed boundary of the BTBID, a service plan and budget, and a proposed means of governance; and

WHEREAS, lodging business which will pay more than fifty percent (50%) of the assessment under the BTBID have petitioned the City Council to renew the BTBID.

NOW THEREFORE, BE IT RESOLVED BY THE BERKELEY CITY COUNCIL THAT:

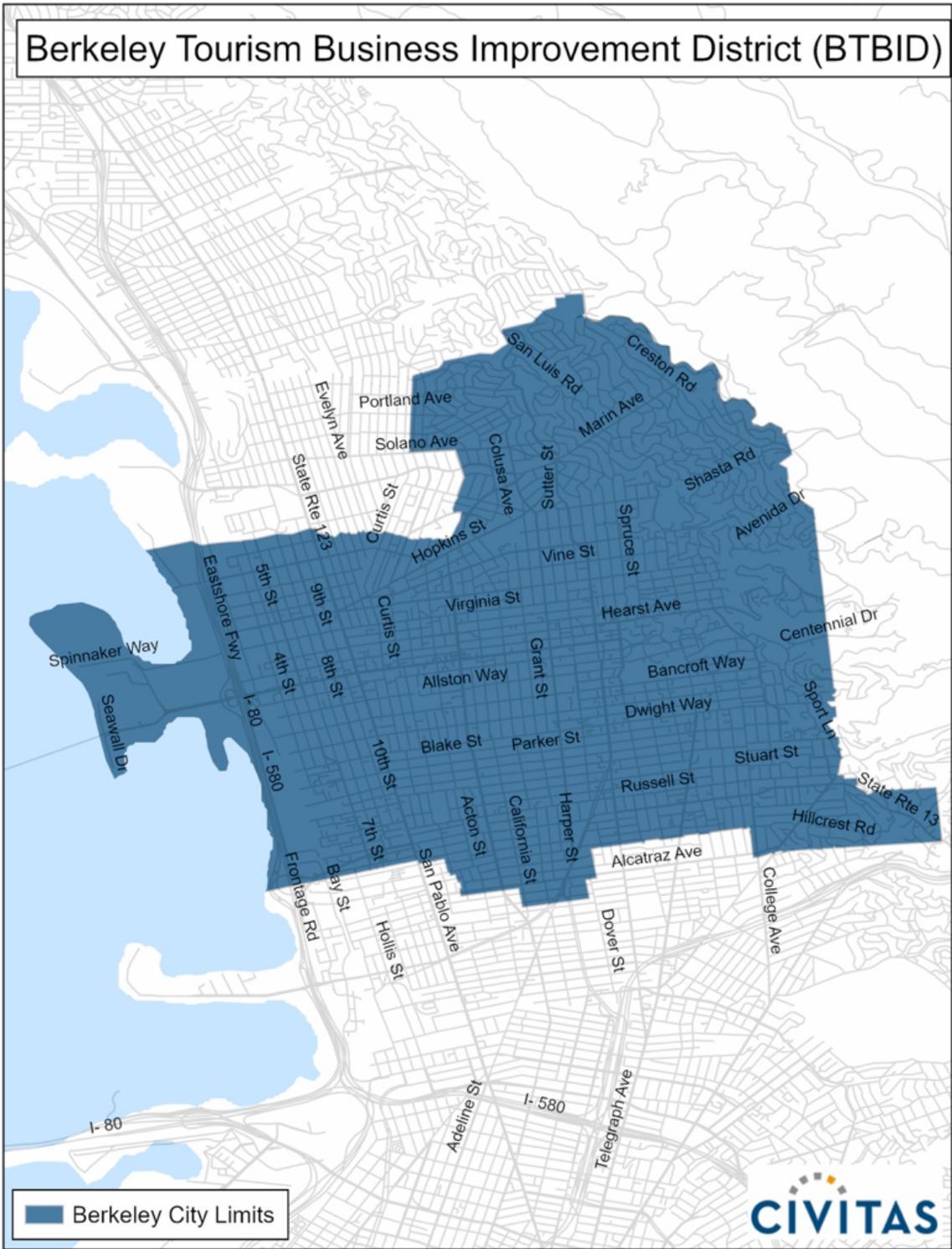
1. The recitals set forth herein are true and correct.
2. The City Council finds that lodging businesses that will pay more than fifty percent (50%) of the assessment proposed in the Plan have signed and submitted petitions in support of the renewal of the BTBID. The City Council accepts the petitions and adopts this Resolution of Intention to renew the BTBID and to levy an assessment on certain lodging businesses within the BTBID boundaries in accordance with the Property and Business Improvement District Law of 1994.
3. The City Council finds that the Plan satisfies all requirements of Streets and Highways Code § 36622.
4. The City Council declares its intention to renew the BTBID and to levy and collect assessments on lodging businesses within the BTBID boundaries pursuant to the Property and Business Improvement District Law of 1994.

5. The BTBID shall include all lodging businesses, existing and in the future, with five (5) rooms or more, available for public occupancy within the boundaries of the City, as shown in the map attached as Exhibit A.
6. The name of the district shall be Berkeley Tourism Business Improvement District
7. The annual assessment rate is three percent (3%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; and stays by any officer or employee of a government who is exempt by express provision of federal international treaty.
8. The assessments levied for the BTBID shall be applied toward marketing & sales promotions and cultural tourism programs to market assessed lodging businesses in the City as tourist, meeting, and event destinations, as described in the Plan. Funds remaining at the end of any year may be used in subsequent years in which BTBID assessments are levied as long as they are used consistent with the requirements of this resolution, the resolution of formation, and the Plan.
9. Subject to completion of the modification of the current BTBID term, the renewed BTBID will have a ten (10) year life, beginning July 1, 2025 or as soon as possible thereafter, and ending ten (10) years from its start date, unless renewed pursuant to Streets and Highways Code § 36660.
10. Bonds shall not be issued to fund the BTBID.
11. The time and place for the public meeting to hear testimony on renewing the BTBID and levying assessments are set for June 3, 2025, at 6:00 PM, or as soon thereafter as the matter may be heard, at the School District Board Room located at 1231 Addison Street, Berkeley, CA 94702.
12. The time and place for the public hearing to renew the BTBID and the levy of assessments are set for June 24, 2025, at 6:00 PM, or as soon thereafter as the matter may be heard, at the School District Board Room located at 1231 Addison Street, Berkeley, CA 94702. The City Manager is directed to provide written notice to the lodging businesses subject to assessment of the date and time of the meeting and hearing, and to provide that notice as required by Streets and Highways Code § 36623, no later than May 9, 2025.
13. At the public meeting and hearing the testimony of all interested persons for or against the renewal of the BTBID may be received. If at the conclusion of the public hearing, there are of record written protests by the owners of the lodging businesses within the proposed BTBID that will pay fifty percent (50%) or more of the estimated total assessment of the entire BTBID, no further proceedings to renew the BTBID shall occur for a period of one year.
14. The complete Plan is on file with the City Clerk and may be reviewed upon request.
15. This resolution shall take effect immediately upon its adoption by the City Council.

Exhibit

A: District Boundaries

EXHIBIT A
District Boundaries



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY DECLARING ITS INTENTION TO MODIFY THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, on April 25, 2017 the City Council of the City of Berkeley (City Council) adopted Resolution No. 67-926-N.S. declaring the results of the majority protest proceedings and renewing the Berkeley Tourism Business Improvement District (BTBID); and

WHEREAS, the Property and Business Improvement District Law of 1994, Streets and Highways Code §36600 et seq., allows cities to modify the Management District Plan (Plan) of a District at the request of the Owners' Association; and

WHEREAS, the BTBID Owners' Association, Visit Berkeley, has requested modification of the Plan.

NOW THEREFORE, BE IT RESOLVED BY THE BERKELEY CITY COUNCIL THAT:

1. The recitals set forth herein are true and correct.
2. The City Council declares its intention to modify the BTBID Plan.
3. The proposed modification of the BTBID Plan will reduce the term of the BTBID from ten (10) years to eight (8) years, with a modified ending date of June 30, 2025.
4. The time and place for a public hearing on modification of the BTBID Plan are set for 6:00 PM or as soon thereafter as the matter may be heard on June 24, 2025 at School District Board Room located at 1231 Addison Street, Berkeley, CA 94702.
5. This resolution shall take effect immediately upon its adoption by the City Council.

Exhibit

A: Letter from Visit Berkeley Requesting Modification of the Management District Plan of the Berkeley Tourism Business Improvement District

EXHIBIT A: Letter from Visit Berkeley Requesting Modification of the Management District Plan for the Berkeley Tourism Business Improvement District



March 28, 2025

Honorable Mayor & Councilmembers
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Re: Berkeley Tourism Business Improvement District

Honorable Mayor and Councilmembers:

As the Berkeley Tourism Businesses Improvement District (BTBID) Owners' Association, Visit Berkeley hereby requests modification of the BTBID Management District Plan enacted in 2012 and most recently renewed in 2017.

Specifically, we request the term of the BTBID be modified. The current term is set to end in two years, effective through October 31, 2027. We request shortening the BTBID's term so that it ends on June 30, 2025, to coincide with the City's Fiscal year and the beginning of our new BTBID set to start July 1, 2025.

We ask that you consider this item at your May 6, 2025, meeting. If you have any questions of comments, please contact me at 510-549-7040.

Thank you,

A handwritten signature in black ink, appearing to read "Jeffrey Church", is written over a faint, light blue watermark of the word "Berkeley".

Jeffrey Church, President & CEO

Visit Berkeley

Visit Berkeley Convention & Visitors Bureau and Film Office
2030 Addison St., #102, Berkeley, CA 94704 P: 510.549.7040

www.visitberkeley.com

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

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH *VISIT BERKELEY* THE OWNERS' ASSOCIATION OF THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT (BTBID), TO IMPLEMENT THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT FOR THE TERM OF THE RESTABLISHED TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, Visit Berkeley (VB) has proven to be an effective partner with the City of Berkeley in managing the existing Berkeley Tourism Business Improvement District (BTBID) and implementing hotel and tourism marketing and promotions; and

WHEREAS, Visit Berkeley is the single private sector organization that is taking comprehensive action to improve the economic vitality of the hotel sector across Berkeley, as reflected in Visit Berkeley's current stewardship of the established Berkeley Tourism Business Improvement District; and

WHEREAS, Visit Berkeley, the convention and visitor's bureau for the City of Berkeley, has declared its intention to renew the Berkeley Tourism Business Improvement District (BTBID) for ten (10) years starting July 1, 2025; and

WHEREAS, Visit Berkeley functions as the Owners' Association of the BTBID; and

WHEREAS, Visit Berkeley, in its capacity as the Owners' Association of the BTBID, has drafted a *Management District Plan* which sets forth the proposed boundary of the BTBID, a service plan and budget, and a proposed means of governance; and

WHEREAS, The BTBID Owners' Association, Visit Berkeley, is charged with managing funds and implementing programs in accordance with the *Management District Plan*, and must provide annual reports to the City; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a sole source contract and any amendments with Visit Berkeley for the purpose of implementation of the BTBID Management District Plan, for an amount not to exceed total Tourism BID collections for the term of the renewed BTBID, beginning on July 1, 2025 and concluding on June 30, 2035. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

**NOTICE OF PUBLIC MEETING AND PUBLIC HEARING
BERKELEY CITY COUNCIL**

**CONCERNING THE RENEWAL OF THE BERKELEY TOURISM
BUSINESS IMPROVEMENT DISTRICT AND LEVY OF AN
ASSESSMENT ON CERTAIN LODGING BUSINESSES WITHIN THE
DISTRICT**

NOTICE IS HEREBY GIVEN that on May 6, 2025, the City Council (the "Council") of the City of Berkeley (the "City") adopted a Resolution of Intention to renew the Berkeley Tourism Business Improvement District (the "BTBID") and to levy an assessment on certain lodging businesses within the BTBID as set forth in the attached Resolution of Intention.

NOTICE IS HEREBY FURTHER GIVEN that at 6:00 PM on June 3, 2025, at the School District Board Room located at 1231 Addison Street, Berkeley, CA 94702, a public meeting shall be held pursuant to Government Code section 54954.6 to allow public testimony regarding the renewal of the BTBID and the levy of assessments therein as set forth in the enclosed Resolution of Intention and pursuant to Government Code section 54954.6.

NOTICE IS HEREBY FURTHER GIVEN that at 6:00 PM on June 24, 2025, at School District Board Room located at 1231 Addison Street, Berkeley, CA 94702 has been set as the time and place for a public hearing at which time the City Council proposes to renew the BTBID and to levy the proposed assessment as set forth in the Resolution of Intention.

Location: The renewed BTBID includes all lodging businesses, existing and in the future, with five (5) rooms or more, available for public occupancy within the boundaries of the City.

Services: The BTBID is designed to provide specific benefits directly to payors by increasing awareness and demand for room night sales. Marketing & sales promotions and cultural tourism programs will increase demand for overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing demand for room night sales.

Budget: The total BTBID annual assessment budget for the initial year of its ten (10) year operation is anticipated to be approximately \$2,221,000. A similar assessment budget is expected to apply to subsequent years, but this assessment budget is expected to fluctuate as room sales do and as businesses open and close.

- Cost:** The existing annual assessment rate is one percent (1%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any officer or employee of a government who is exempt by express provision of federal international treaty; and stays at a bed and breakfast establishment as defined in Section 23F.04.010 of the Berkeley Municipal Code. The proposed annual assessment rate is three percent (3%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; and stays by any officer or employee of a government who is exempt by express provision of federal international treaty.
- Collection:** The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, interest, and overdue charges) from each assessed lodging business located in the boundaries of the BTBID. The City shall take all reasonable efforts to collect the assessments from each assessed lodging business.
- Duration:** The renewed BTBID will have a ten (10) year life, beginning July 1, 2025 or as soon as possible thereafter, and ending ten (10) years from its start date. After ten (10) years, the BTBID may be renewed pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq. if business owners support continuing the BTBID programs.
- Management:** Visit Berkeley shall continue to serve as the BTBID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs and must provide annual reports to the City Council.
- Protest:** Any owner of a lodging business within the proposed BTBID that will be subject to the assessment may protest the renewal of the BTBID. If written protests are received from the owners of lodging businesses in the proposed BTBID who represent 50 percent (50%) or more of the estimated annual assessments to be levied, the BTBID shall not be renewed, and the assessment shall not be imposed.

You may mail a written protest to:

Office of the City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

You may also appear at the public meeting or hearing and submit a written protest at that time.

Information: Should you desire additional information about this proposed BTBID or assessment contact:

Jeffrey Church, President & CEO
Visit Berkeley
2030 Addison Street, #102
Berkeley, CA 94704
(510) 549-7040

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of June 12, 2025.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov 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 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@berkeleyca.gov for further information.

Mailed: * [redacted] *

Notice provided pursuant to Government Code section 54954.6.

~~~~~  
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 June 12, 2025.

\_\_\_\_\_  
Mark Numainville, City Clerk

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY  
DECLARING ITS INTENTION TO MODIFY THE BERKELEY TOURISM  
BUSINESS IMPROVEMENT DISTRICT**

NOTICE IS HEREBY GIVEN that at 6:00 PM on June 24, 2025, at the School District Board Room located at 1231 Addison Street, Berkeley, CA 94702 has been set as the time and place for a public hearing at which time the Council proposes to modify the existing BTBID, to conclude service on June 30, 2025, as set forth in the Resolution of Intention.

**Location:** There is no proposed change to BTBID boundaries which include all lodging businesses with five (5) rooms or more, located within the boundaries of the City of Berkeley.

**Services:** The BTBID is designed to provide specific benefits directly to payors by increasing room night sales. Marketing and sales promotions will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.

**Budget:** The total BTBID annual budget for each full year of operation is anticipated to be approximately \$557,760. This budget is expected to fluctuate as room sales do, but is not expected to significantly change over the BTBID's term.

**Cost:** There is no change proposed to the annual assessment rate. The current assessment rate is one percent (1%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any officer or employee of a government who is exempt by express provision of federal international treaty; and stays at a bed and breakfast establishment as defined in Section 23F.04.010 of the Berkeley Municipal Code.

**Collection:** The City of Berkeley will continue to be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business with five (5) rooms or more, located in the boundaries of the BTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business.

**Duration:** The modified BTBID will have an eight (8) year life, with a modified ending date of June 30, 2025. The City of Berkeley created the BTBID on April 25, 2017 by Resolution No. 67-926-N.S.; for a ten (10) year term which

currently ends on June 30, 2027. The BTBID Owner's Association has requested the City Council to modify the Management District Plan of the BTBID so that the current BTBID term ends June 30, 2025. The process to modify the current BTBID is set to be completed concurrently with completion of BTBID renewal. That is, the proposed modified BTBID's term will expire on June 30, 2025, and the renewed district will begin on July 1, 2025 with no break in service. The purpose of the modification is to align the BTBID's term with the renewed BTBID, implementing the annual assessment rate of 3% of gross short-term sleeping room rental revenue.

**Management:** Visit Berkeley will continue to serve as the BTBID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with the Plan, and must provide annual reports to the City of Berkeley.

**Protest:** Any owner of a lodging business within the proposed BTBID that will be subject to the assessment may protest the modification of the BTBID. If written protests are received from the owners of lodging businesses in the existing BTBID who represent fifty percent (50%) or more of the estimated annual assessments to be levied, the BTBID shall not be modified.

You may mail a written protest to:

Office of the City Clerk  
City of Berkeley  
2180 Milvia Street, 1st Floor  
Berkeley, CA 94704

You may also appear at the public meeting or hearing and submit a written protest at that time.

**Information:** Should you desire additional information about the modified BTBID or assessment contact:

Jeffrey Church, President & CEO  
Visit Berkeley  
2030 Addison Street, #102  
Berkeley, CA 94704  
(510) 549-7040

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of June 12, 2025.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to [council@berkeleyca.gov](mailto:council@berkeleyca.gov) 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 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@berkeleyca.gov](mailto:clerk@berkeleyca.gov) for further information.

**Mailed:** \* [redacted] \*

**Notice provided pursuant to Government Code section 54954.6.**

Pursuant to Streets and Highways Code section 36636, notice for the public hearing that will result from the adoption of this Resolution shall be accomplished by mailing a copy of the Resolution to assessed business owners and publishing a copy of the Resolution in a newspaper of general circulation in the City.

“Notice of all other public hearings pursuant to this section shall comply with both of the following:

- (1) The Resolution of Intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
- (2) A complete copy of the Resolution of Intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.”

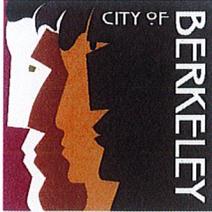
**Mailed:** \* [redacted] \*

**Published:** \* [redacted] \*

**Notice provided pursuant to Streets and Highways Code section 36636.**

~~~~~  
I hereby certify that the Notice for this Public Meeting and 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 June 12, 2025.

Mark Numainville, City Clerk



City Clerk Department

March 24, 2025

Memo to File

I hereby certify that 8 Valid Petitions to Establish the Berkeley Tourism Business Improvement District were delivered to the Finance Department by representatives of the Berkeley Tourism BID.

The petitions represent a weighted approval of greater than 50% of the total assessment as verified by the Berkeley Finance Department.

Mark Numainville
City Clerk

Date



**BERKELEY TOURISM BUSINESS
IMPROVEMENT DISTRICT
MANAGEMENT DISTRICT PLAN**

Prepared pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq.

March 5, 2025

CONTENTS

I. Overview.....3

II. Background.....4

III. Accomplishments.....5

IV. Boundary6

V. Assessment Budget And Services.....7

 A. Annual Service Plan7

 B. Annual Budget9

 C. California Constitutional Compliance.....9

 D. Assessment.....10

 E. Interest And Overdue Charges11

 F. Time And Manner For Collecting Assessments.....12

VI. Governance.....13

 A. Owners’ Association.....13

 B. Brown Act And California Public Records Act Compliance.....13

 C. Annual Report13

Appendix 1 – Law.....14

Appendix 2 – Assessed Businesses26



Prepared by
Civitas



I. OVERVIEW

Developed by Berkeley lodging businesses and Visit Berkeley (VB), the convention and visitors bureau for Berkeley, California the Berkeley Tourism Business Improvement District (BTBID) is an assessment district proposed to continue to provide specific benefits to payors by funding marketing and sales promotion efforts for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors. The BTBID was initially created in 2012 for a five (5) year term, and was subsequently renewed in 2017 for a ten (10) year term. VB and Berkeley lodging businesses now wish to renew the BTBID for an additional ten (10) year term.

Location: The renewed BTBID includes all lodging businesses, existing and in the future, with five (5) rooms or more, available for public occupancy within the boundaries of the City of Berkeley (City), as shown on the map in Section IV.

Services: The BTBID is designed to provide specific benefits directly to payors by increasing awareness and demand for room night sales. Marketing & sales promotions and cultural tourism programs will increase demand for overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing demand for room night sales.

Budget: The total BTBID annual assessment budget for the initial year of its ten (10) year operation is anticipated to be approximately \$2,221,000. A similar assessment budget is expected to apply to subsequent years, but this assessment budget is expected to fluctuate as room sales do and as businesses with five or more lodging rooms open and close.

Cost: The annual assessment rate is three percent (3%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; and stays by any officer or employee of a government who is exempt by express provision of federal international treaty.

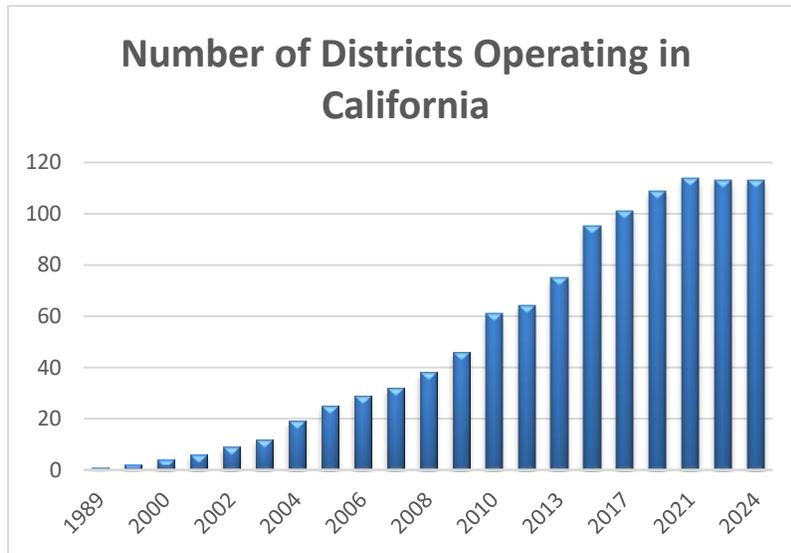
Collection: The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, interest, and overdue charges) from each assessed lodging business located in the boundaries of the BTBID. The City shall take all reasonable efforts to collect the assessments from each assessed lodging business.

Duration: The renewed BTBID will have a ten (10) year life, beginning July 1, 2025 or as soon as possible thereafter, and ending ten (10) years from its start date. After ten (10) years, the BTBID may be renewed pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq. (94 Law) if business owners support continuing the BTBID programs.

Management: VB shall continue to serve as the BTBID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Management District Plan (Plan), and must provide annual reports to the City Council.

II. BACKGROUND

TBIDs are an evolution of the traditional Business Improvement District. The first TBID was formed in West Hollywood, California in 1989. Since then, over 100 California destinations have followed suit. In recent years, other states have begun adopting the California model –Illinois, Minnesota, Massachusetts, Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TBID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. Additionally, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TBIDs without a state law.



California's TBIDs collectively raise over \$300 million annually for local destination marketing in 2024. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Berkeley lodging businesses continue to invest in stable, commerce-specific marketing programs.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow tourism business owners to

organize their efforts to increase commerce. Lodging business owners within the TBID pay an assessment and those funds are used to provide services that increase commerce.

In California, most TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. *The key difference between Tourism BID's and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to TBIDs:

- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.

III. ACCOMPLISHMENTS OF BERKELEY'S TOURSIM BID TO DATE

- Creation of Berkeley Restaurant Week, celebrating the culinary excellence the city has to offer.
- Implementation of *Berkeley Bucks*, the City of Berkeley's first e-gift card redeemable only in Berkeley to support local businesses, with a focus on shopping, dining, and accommodations.
- Utilized the Visit Berkeley website and team as a resource during the pandemic to support local businesses with a "What's Open?" page, hosting restaurant roundtables to phase in outdoor dining, and supported the City of Berkeley's "Berkeley Relief Fund" campaign to raise funds for those most impacted by the pandemic.
- Sponsorship and support of large-scale events such as the Bay Area Book Festival and Bioneers to increase overnight visitation.
- Sponsored California Hotel & Lodging Association (CHLA) Membership for All Lodging Properties
- Through CHLA, were able to deliver then-hard-to-source PPE (masks and hand sanitizer) to all hotel properties
- Provided Advanced Hotel Performance Metrics through Smith Travel Report (STR) / Kalibri Reports to Lodging Partners
- Invested in metrics-supported online travel agency (OTA) marketing campaigns to boost Berkeley hotel occupancy
- Developed a partnership with Placer AI, utilizing their platform on annual subscription basis to quantify the local economic impact of tourism through location-based data
- Hosted meeting planner familiarization tours for Berkeley hotel and event venues
- 1,500+ RFP's received and processed through CVENT & Direct Lead retrieval from various tradeshows
- Created the Visit Berkeley Partner Showcase, connecting UC Berkeley event planners with Berkeley Businesses and vendors (i.e. local caterers)
- Invested in a modern interactive website, VisitBerkeley.com, in 2019
- 503,609 visitors to VisitBerkeley.com in '24 (14% increase over 2023)
- 1,105,293 VisitBerkeley.com page views in '24 (10% increase over 2023)
- Invested in an independent, non-OTA, commission-free booking engine (Ripe Booking) for onsite hotel bookings in 2024

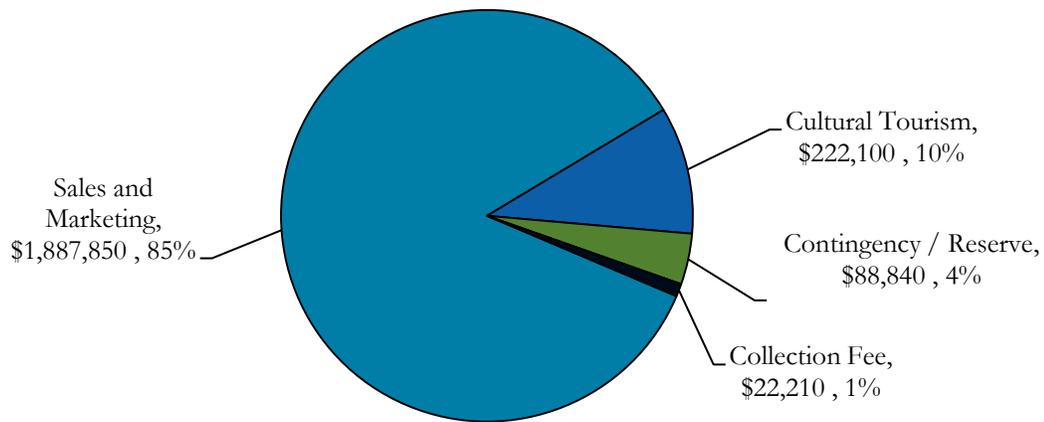
V. ASSESSMENT BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the City of conferring the benefits or granting the privileges. The privileges and services provided with the BTBID funds are sales & marketing and cultural tourism programs available only to assessed businesses.

A service plan assessment budget has been developed to deliver services that benefit the assessed businesses. A detailed annual assessment budget will be developed and approved by the VB Board. The chart below illustrates the initial annual assessment budget allocations. These activities and allocations will also apply in subsequent years. The total initial assessment budget is estimated to be \$2,221,000 in year one.

Initial Annual Assessment Budget - \$2,221,000



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the VB Board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the BTBID, any and all assessment funds may be used for the costs of defending the BTBID.

Each budget category includes all costs related to providing that service. For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories. The staffing levels necessary to provide the services below will be determined by VB on an as-needed basis.

Sales and Marketing

A sales and marketing program will promote assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Berkeley as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed businesses, and may include, but is not limited to, the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed businesses;
- Attendance of trade shows to promote assessed businesses;
- Sales blitzes for assessed businesses;
- Familiarization tours of assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists and group events to assessed businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses; and
- Development and maintenance of a website designed to promote assessed businesses.

Cultural Tourism

Cultural tourism programs are intended to drive travel to Berkeley by attracting visitors to experience cultural, historical, and artistic attractions to generate visitation to assessed businesses. By promoting Berkeley's rich heritage and unique cultural offerings, the Cultural Tourism program encourages higher visitation and longer stays to assessed businesses. The Cultural Tourism program may include, but is not limited to, the following activities:

- Creation of new arts, cultural and educational programs and activities to generate overnight visitation to assessed businesses;
- Organizing events including as festivals, performances, and exhibitions that celebrate Berkeley's unique heritage and arts, resulting in overnight visitation to assessed businesses;
- Promoting food-related experiences that highlight Berkeley's local cuisine, driving demand for overnight visitation to assessed businesses;
- Sustainability programs that offset impacts of tourist visitation within the destination;
- Enhancements to environmental experiences, which attract overnight visitors, and expose visitors to the value of the vital ecosystems;
- Services designed to improve the visitors experience such as, but not limited to, beautification of public spaces to drive overnight visitation to assessed businesses; and
- Infrastructure improvements that enhance the destination's competitive position to attract desirable special events year-round and attract overnight visitors.

Collection Fee

The City shall be paid a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration.

Contingency/Reserve

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, advocacy or renewal costs at the discretion of VB. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the VB Board of Directors. Contingency/Reserve funds may be spent on BTBID programs or administrative and renewal costs in such proportions as determined by VB. The reserve fund may be used for the costs of renewing the BTBID.

B. Annual Budget

The total ten (10) year assessment budget is projected at approximately \$2,221,000 annually, or \$22,210,000 through the ten (10) year term of the BTBID. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do, and as businesses open and close.

C. California Constitutional Compliance

The BTBID assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.¹ Rather, the BTBID assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the BTBID, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

1. Specific Benefit

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”² The services in this Plan are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the BTBID. The activities described in this Plan are specifically targeted to increase demand for room night sales for assessed lodging businesses within the boundaries of the BTBID, and are narrowly tailored. BTBID funds will be used exclusively to provide the specific benefit of increased demand for room night sales directly to the assessees. Assessment funds shall not be used to feature non-assessed lodging businesses in BTBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses. Nothing in this Plan limits the ability of the Owners’ Association to enter into private contracts with non-assessed lodging businesses for the provision of services to those businesses.

The assessment imposed by this BTBID is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in demand for room night sales. The specific benefit of an increase in demand for room night sales for assessed lodging businesses will be provided only to lodging businesses paying the district assessment, with marketing & sales and cultural tourism programs promoting lodging businesses paying the BTBID assessment. The marketing & sales and cultural tourism programs will be designed to increase room night sales at each assessed lodging businesses. Because they are

¹ *Jarvis v. the City of San Diego* 72 Cal App. 4th 230

² Cal. Const. art XIII C § 1(e)(1)

necessary to provide the marketing & sales and cultural tourism programs that specifically benefit the assessed lodging businesses, the administration and contingency services also provide the specific benefit of increased demand for room night sales to the assessed lodging businesses.

Although the BTBID, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”³

2. Specific Government Service

The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”⁴ The legislature has recognized that marketing and promotions services like those to be provided by the BTBID are government services within the meaning of Proposition 26⁵. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”⁶

3. Reasonable Cost

BTBID services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by the VB, and reports submitted on an annual basis to the City. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from BTBID-funded activities, be featured in advertising campaigns, and benefit from other BTBID-funded services. The assessed lodging business list was compiled from records provided by the jurisdiction and complies with the requirements of the 94 Law. Pursuant to Streets and Highways Code Section 36615, the City Council’s determination of ownership is final and conclusive, with no obligation to obtain other information. Non-assessed lodging businesses will not receive these, nor any other, BTBID-funded services and benefits.

The BTBID-funded programs are targeted directly to benefit assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-BTBID funds. BTBID funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incidental room nights for non-assessed businesses.

D. Assessment

The annual assessment rate is three percent (3%) of gross short term sleeping room rental revenue on lodging businesses with five (5) rooms or more. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; and stays by any officer or employee of a government who is exempt by express provision of federal international treaty.

³ Government Code § 53758(a)

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

⁶ Government Code § 53758(b)

The assessment was calculated based on the total cost of the activities to be provided for the benefit of the businesses within the BTBID, with costs allocated based on the proportional benefit conferred to each business. Activities funded by the BTBID, are specifically targeted to increase room nights at assessed businesses. All room night sales do not represent the same benefit to the payors. For example, a higher priced room night is of greater benefit than a lower priced room night because the assessee derives greater revenue. To account for this benefit differential and to make sure the benefits are proportional, an assessment formula based on a percentage of revenue has been selected. The proposed formula accurately reflects greater benefit to assessed businesses with higher priced room nights.

The term “gross room rental revenue” as used herein means: the consideration charged for the occupancy of space in a lodging business valued in money. Gross sleeping room rental revenue shall not include, and therefore the assessment shall not be charged upon, any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the BTBID assessment is identified separately it shall be disclosed as the “BTBID Assessment.” As an alternative, the disclosure may include the amount of the BTBID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the “Tourism Assessment.” The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for calculation of transient occupancy taxes.

Bonds shall not be issued.

E. Interest and Overdue Charges

The BTBID shall reimburse the City of Berkeley for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent BTBID assessment are sought to be recovered in the same collection action by the City, the BTBID shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency:* Any lodging business which fails to remit any assessment imposed within the time required shall pay an overdue charge of ten percent (10%) of the amount of the assessment.
2. *Continued Delinquency:* Any lodging business which fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency overdue charge of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) overdue charge first imposed.
3. *Fraud:* If the tax administrator determines that the nonpayment of any remittance due is due to fraud, an overdue charge of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the overdue charges stated in subsections 1 and 2 of this section.
4. *Interest:* In addition to the overdue charges imposed, any lodging business which fails to remit any assessment imposed shall pay interest at the rate of one percent (1%) per month or fraction

thereof on the amount of the assessment, exclusive of overdue charges, from the date on which the remittance first became delinquent until paid.

5. *Overdue Charges Merged With Assessment:* Every overdue charge imposed and such interest as accrues shall become a part of the assessment herein required to be paid.

F. Time and Manner for Collecting Assessments

The BTBID assessment will be implemented beginning July 1, 2025 or as soon as possible thereafter, and ending ten (10) years from its start date. The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, interest and overdue charges) from each assessed lodging business. The City shall take all reasonable efforts to collect the assessments from each assessed lodging business. The City shall forward the assessments collected to the Owners' Association.

VI. GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the BTBID as defined in Streets and Highways Code §36612. The Berkeley City Council has determined that VB will continue to serve as the Owners' Association for the BTBID for the term of the renewal (10 years).

B. Brown Act and California Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the VB Board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act.

C. Annual Report

VB shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

APPENDIX 1 – LAW

CURRENT THROUGH ALL LEGISLATION OF THE 2024 REGULAR AND SPECIAL SESSIONS

**STREETS AND HIGHWAYS CODE
DIVISION 18. PARKING
PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994**

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

- (a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
- (b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
- (c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.
- (d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.
- (e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:
 - (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
 - (2) Job creation.
 - (3) Business attraction.
 - (4) Business retention.
 - (5) Economic growth.
 - (6) New investments.
- (f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.
- (g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.
- (h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.
 - (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.
 - (2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those

special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. “Activities”

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. “Assessment”

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. “Business”

“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. “Property-based assessment”

“Property-based assessment” means any assessment made pursuant to this part upon real property.

36614.7. “Property-based district”

“Property-based district” means any district in which a city levies a property-based assessment.

36615. “Property owner”; “Business owner”; “Owner”

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. “Special benefit”

(a) “Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

(b) “Special benefit” also includes, for purposes of a property-based district, a particular and distinct benefit provided directly to each assessed parcel within the district. Merely because parcels throughout an assessment district share the same special benefits does not make the benefits general.

36616. “Tenant”

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law

36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
 - (1) A map showing the boundaries of the district.
 - (2) Information specifying where the complete management district plan can be obtained.
 - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
 - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the estimated cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities

and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against their property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years.

Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k)

(1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(3) In a property-based district, properties throughout the district may share the same special benefits. In a district with boundaries that define which parcels are to receive improvements, maintenance, or activities over and above those services provided by the city, the improvements, maintenance, or activities themselves may constitute a special benefit. The city may impose assessments that are less than the proportional special benefit conferred, but shall not impose assessments that exceed the reasonable costs of the proportional special benefit conferred. Because one or more parcels pay less than the special benefit conferred does not necessarily mean that other parcels are assessed more than the reasonable cost of their special benefit.

(l) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(m) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be

mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.
- (2) The number, date of adoption, and title of the resolution of intention.
- (3) The time and place where the public hearing was held concerning the establishment of the district.
- (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
- (5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.
- (6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the

district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments

36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

- (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.
- (b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.
- (c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in an action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36625. An appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention

- (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:
 - (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
 - (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.
- (b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

36638. Assessment as government imposed fee on Civ C § 1770 transaction [Operative July 1, 2024]

- (a) A business assessment pursuant to this part is a fee imposed by a government on the transaction for purposes of paragraph (29) of subdivision (a) of Section 1770 of the Civil Code.
- (b) This section shall become operative on July 1, 2024.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

- (a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.
- (b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.
- (c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners' association; Approval or modification by city council

- (a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.
- (b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:
 - (1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.
 - (2) The improvements, maintenance, and activities to be provided for that fiscal year.
 - (3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.
 - (4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.
 - (5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
 - (6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.
- (c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of

assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

- (a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
- (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

- (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:
 - (1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
 - (2) During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.
- (b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

- (a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.
- (b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – ASSESSED BUSINESSES

Assessed Berkeley Tourism BID Contributors, lodgings with 5 or more rooms, as of: March 2025

Business Name	Site Address	City, State	ZIP
Aiden by Best Western	1499 University Ave.	Berkeley, CA	94702
Bancroft Hotel	2680 Bancroft Way	Berkeley, CA	94704
Berkeley City Club	2315 Durant Ave.	Berkeley, CA	94704
Berkeley Travelodge (Sather Hotel by Wyndham Berkeley)	1820 University Ave.	Berkeley, CA	94703
Doubletree Berkeley Marina	200 Marina Blvd.	Berkeley, CA	94710
Downtown Berkeley Inn	2001 Bancroft Way	Berkeley, CA	94704
Graduate Berkeley	2600 Durant Ave.	Berkeley, CA	94704
Holiday Inn Express	1175 University Ave.	Berkeley, CA	94702
Hotel Shattuck Plaza	2086 Allston Way	Berkeley, CA	94704
Howard Johnson Hotel	1512 University Ave.	Berkeley, CA	94702
Marina Inn	975 University Ave.	Berkeley, CA	94710
Nash Hotel	2045 University Ave.	Berkeley, CA	94704
Prima Donna Hotels Inc., dba Sens Hotel & Bistro Berkeley	1540 Shattuck Ave.	Berkeley, CA	94709
Residence Inn	2121 Center St.	Berkeley, CA	94704
Rose Garden Inn	2740 Telegraph Ave.	Berkeley, CA	94705
University Inn	920 University Ave.	Berkeley, CA	94710
Urban Adamah	1151 Sixth St.	Berkeley, CA	94710
Vista Inn & Suites, dba Quality Inn	1761 University Ave.	Berkeley, CA	94703
YMCA of the East Bay	2001 Allston Way	Berkeley, CA	94704