



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** May 21, 2018

Approved

Date

5-31-18

**SUBJECT: ORDINANCE TO DISESTABLISH THE HOTEL BUSINESS IMPROVEMENT DISTRICT ORIGINALLY ESTABLISHED PURSUANT TO STREETS AND HIGHWAYS CODE SECTION 36500 et seq.**

## RECOMMENDATION

Approve an ordinance to disestablish the Hotel Business Improvement District, originally established under the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq.

## OUTCOME

Approval of this action will result in the disestablishment of the Hotel Business Improvement District (HBID) upon the July 1, 2018 effective date of the ordinance and discontinue the collection of the assessed levy under the Parking and Business Improvement Area Law of 1989 as of June 30, 2018.

## BACKGROUND

The existing HBID was formed in 2006 pursuant to Streets and Highways Code Section 36500 et seq, commonly referred to as the Parking and Business Improvement Area Law of 1989 ('89 Law). The '89 Law requires that the HBID be renewed annually. This relatively short one-year term only allows the district to plan in one-year increments. As a result of this uncertainty, Team San Jose (TSJ) believed it was hampered in its efforts to implement long-range and larger-scale marketing and visitor attraction programs. For this reason, the hotels and TSJ proposed to modernize the HBID by disestablishing the current HBID established under the '89 Law and re-establishing it as the San José Hotel Business Improvement District (SJHBID) pursuant to Streets and Highways Code Section 36600 et seq., otherwise known as the Property and Business Improvement District Law of 1994 ('94 Law).

**ANALYSIS**

On April 24, 2018, Council adopted a resolution of formation establishing the SJHBID and approved the budget authorizing the levy of assessments beginning Fiscal Year 2018-2019. Under the current HBID, the City of San Jose and San Jose Hotels, Inc., have entered into an agreement for the operation and administration of the HBID, As the parties have agreed, this current Agreement between the City and San Jose Hotels, Inc., will terminate upon the successful formation of the new SJHBID, which is scheduled to commence on July 1, 2018.

At the March 6, 2018, City Council meeting, City staff recommended that San Jose Hotels, Inc., be selected as the new “Owner’s Association” under the ’94 Law, and the City Manager was authorized to negotiate and execute a new agreement with San Jose Hotels, Inc., for the operation and administration of the new SJHBID, contingent upon formation of the new district.

On May 22, 2018, the Council adopted a resolution of intention to disestablish the HBID and set the time and date for the public hearing for the disestablishment of the HBID.

**EVALUATION AND FOLLOW-UP**

California Streets and Highways Code Section 36550(b) requires that the public hearing on the disestablishment be held not less than 20 or more than 30 days after the adoption of the Resolution of Intention.

The City Council’s resolution of intent that was adopted on May 22, 2018 authorized the City Council to conduct a public hearing on the proposed disestablishment on June 12, 2018. Table 1 below illustrates the Disestablishment Process that the City has followed.

Table 1 – DISESTABLISHMENT OF A BUSINESS IMPROVEMENT DISTRICT (BID)

Meeting #1 Resolution of Intention	Mail Resolution of Intention	Publish Resolution of Intention	Meeting #2 Public Hearing and 1 <sup>st</sup> Reading of Ordinance	Meeting #3 2 <sup>nd</sup> Reading of Ordinance	Publish Notice of Disestablishment
5/22/2018	5/29/18	6/5/2018	6/12/2018	6/26/2018	7/11/2018

Per California Streets and Highways Code Section 36551(b), notice of the disestablishment is to be published in a newspaper not later than 15 days after final adoption of the ordinance. According to §13 of the Agreement between City and San Jose Hotels, Inc., either party must give 90-days prior written notice to terminate the Agreement. Written notice to terminate the Agreement between the City and San Jose Hotels Inc., contingent upon the formation of the new SJHBID under the ’94 Law, was given by the City on March 30, 2018.

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Since the new '94 SJHBID, approved by the City Council on April 24, 2018, contains the same lodging businesses as the '89 Law HBID, staff and San Jose Hotels, Inc., propose transferring any remaining revenue to the new district, to be used for marketing and promotions efforts that benefit those businesses which paid the assessment.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the June 12, 2018 Council agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the Finance Department, the City Manager's Budget Office, the City Clerk's Office, Team San Jose, and the Hotel Business Improvement District.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

### **FISCAL/POLICY ALIGNMENT**

This action is consistent with the Economic Development Strategy approved by Council, specifically Initiative No. 1, "Encourage Companies and Sectors that Can Drive the San José/Silicon Valley Economy and Generate Revenue for City Services and Infrastructure."

### **COST SUMMARY/IMPLICATIONS**

It is not anticipated that approval of the proposed elimination of the '89 SJHBID will impact City revenue. The newly formed SJHBID under the '94 Law has rates and boundaries which are substantially the same as the '89 SJHBID. In addition, BID assessments are restricted for use exclusively by the BIDs.

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**CEQA**

Exempt, File No. PP08-048.

/s/

KIM WALESH

Deputy City Manager

Director of Economic Development

For questions please contact Sal Alvarez, Executive Analyst in the Office of Economic Development, at (408) 793-6943.