



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Nanci Klein

**SUBJECT:** SEE BELOW

**DATE:** May 31, 2022

Approved

Date

06/02/22

**COUNCIL DISTRICT: 3**

**SUBJECT: PUBLIC HEARING ON THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT BUDGET REPORT AND ASSESSMENTS FOR FISCAL YEAR 2022-2023**

## **RECOMMENDATION**

Conduct a Public Hearing and adopt a resolution to:

- (a) Approve the Downtown Business Improvement District budget report for Fiscal Year 2022-2023 as filed or modified by City Council;
- (b) Levy the Downtown Business Improvement District assessments for Fiscal Year 2022-2023; and
- (c) Suspend collection of the Downtown Business Improvement District assessments for businesses that qualify for a Business Tax financial hardship exemption under the City's General Business Tax Ordinance.

## **OUTCOME**

Approval of this action will result in the levy of assessments for the upcoming fiscal year of the Downtown Business Improvement District (BID) and will exempt businesses from the Downtown BID assessments if they qualify for a financial hardship exemption under the City of San José's (City) general business tax ordinance.

## **BACKGROUND**

The Downtown BID was established by City Council in 1988 pursuant to the California Parking and Business Improvement Area Law (BID Law) to promote the economic revitalization and physical maintenance of the Downtown Business District service area as shown in Attachment A. In 1989, City Council appointed the Downtown Association as the advisory board (Advisory

Board) for the BID, to advise City Council on the levy of assessments in the BID and the expenditure of revenues derived from the assessments for the benefit of the BID.

Pursuant to BID Law, an annual public hearing is required in order to approve the annual budget report and levy the annual BID assessments. On May 24, 2022, City Council set June 14, 2022 at 1:30 p.m. as the date and time for the public hearing on the proposed 2022-2023 assessments. On May 24, 2022, City Council preliminarily approved the 2022-2023 budget report as filed by the Advisory Board or as modified by the City Council and adopted a resolution of intention to levy the annual assessments for fiscal year 2022-2023 in the BID. The 2022-2023 Annual Report (report) and Budget submitted to the City Council on May 24, 2022 is attached to this memorandum as Attachment B and C, respectively.

As part of its annual budget report, the Advisory Board recommends that the Downtown BID assessments be suspended for those businesses that qualify for a financial hardship exemption under the City's general business tax as set forth in Section 4.76.345 (Financial hardship exemption for low generating small businesses) and Section 4.76.345.5 (Financial hardship exemption for small business owners with limited household incomes) of the San José Municipal Code.

In order to qualify, a business must be a sole proprietorship which means a business owned and operated by one person or owned and operated jointly by a husband and wife or domestic partners, without other principals or employees, where its gross receipts do not exceed the poverty level established by the Department of Health and Human Services for a single person (multiplied by two) for the calendar year in which the assessment is due, or a small business owner where the adjusted gross income of the small business owner and the small business owner's spouse or domestic partner, added together, do not exceed the poverty level established by the Department of Health and Human Services for a single person (multiplied by four). It is anticipated that the impact to City Finance's collection efforts of the Downtown BID will be negligible because of the small segment of downtown businesses likely to apply and be eligible for the financial hardship program.

## **ANALYSIS**

When a hearing is held under BID Law with regard to the levy of assessments of a BID, the City Council shall hear and consider all protests against the continued authorization of the BID, the extent of the area, the assessments, or the furnishing of specified types of improvements or activities. Protests may be made orally or in writing. Written protests must be filed with the City Clerk at or before the time fixed for the public hearing. BID Law requires that the proceedings shall terminate if protests are made in writing against the continued authorization of the BID by businesses or property owners in the proposed district that will pay a majority of the charges to be assessed. If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those improvements or activities shall be eliminated.

The Advisory Board has prepared a report and budget attached as Attachment B and C, respectively, for City Council's consideration as the proposed budget for the Downtown BID for fiscal year 2022-2023. As required by BID Law, the report has been filed with the City Clerk and contains, among other things, a list of the improvements and activities proposed to be provided in the BID in fiscal year 2022-2023, an estimate of the cost of providing the improvements and activities, and a recommendation to suspend the collection of the Downtown BID where a business qualifies for a financial hardship exemption under the City's general business tax ordinance. The Advisory Board has recommended no change to the BID boundaries shown in Attachment A.

During the course or upon the conclusion of the public hearing, City Council may order changes in any of the matters provided in the Advisory Board's report. At the conclusion of the public hearing, City Council may adopt a resolution confirming the report as originally filed or as modified by City Council. The adoption of the resolution constitutes the levy of the assessment for the fiscal year 2022-2023 and suspension of the BID assessments in certain instances as noted above.

### **CONCLUSION**

Approval of this action will result in the adoption of a resolution to levy the assessments for the upcoming fiscal year of the Downtown BID as set forth herein.

### **EVALUATION AND FOLLOW-UP**

The Advisory Board will come before City Council next year to present a report that proposes a budget for the 2023-2024 fiscal year.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

In accordance with the BID Law, the City Clerk has published the required legal notice with regard to the levy of assessments for fiscal year 2022-2023. The budget for fiscal year 2022-2023 was reviewed and approved at the Advisory Board's meeting on April 27, 2022.

This memorandum will be posted on the City’s website for the June 14, 2022 City Council meeting.

**COORDINATION**

This memorandum has been coordinated with the City Attorney’s Office, the Finance Department, Planning, Building and Code Enforcement, the City Manager’s Budget Office, the Downtown Business and Professional Association, and the City Clerk’s Office.

**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 City 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” and Initiative No. 10, “Continue to Position Downtown as Silicon Valley’s City Center.” A healthy BID will encourage the growth of the retail community and consequently result in additional sales tax revenue for the City.

**COST SUMMARY/IMPLICATIONS**

Adoption of the proposed Downtown BID budget does not directly impact City revenue. It is anticipated that a healthy Downtown BID will encourage the growth of the retail community, which indirectly generates business tax and sales tax revenue for the City.

The Downtown BID assessments are restricted for use exclusively by the Downtown BID and it is estimated at \$660,000 in 2022-2023. The 2022-2023 Proposed Operating Budget, subject to City Council approval, includes projected assessment revenue and corresponding expenses totaling \$800,000, as detailed in the Source and Use Statement for the Business Improvement District Fund (351). Subsequent actions will be brought forward as part of the regular budget process to align these budgeted amounts to the levels recommended in this memorandum.

HONORABLE MAYOR AND CITY COUNCIL

May 31, 2022

**Subject: Approval of 2022-2023 Budget Report – Downtown BID**

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**CEQA**

Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048.

/s/

NANCI KLEIN

Director of Economic Development and  
Cultural Affairs

For questions, please contact Sal Alvarez, Executive Analyst, at (408) 793-6943.

**Attachments:**

Attachment A – Downtown BID Map

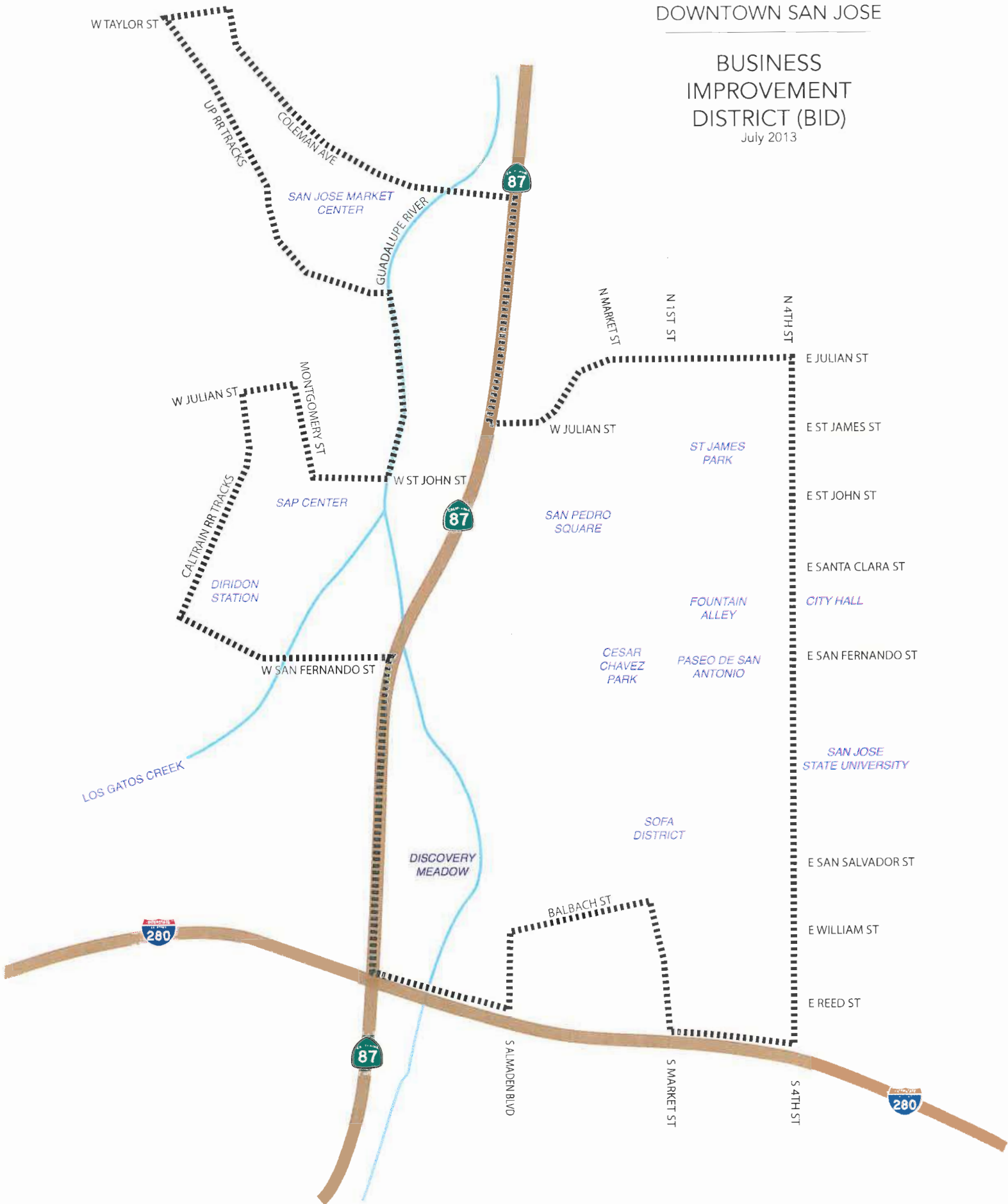
Attachment B – Downtown BID Report for FY 2022-2023

Attachment C – Downtown BID Budget for FY 2022-2023

DOWNTOWN SAN JOSE

BUSINESS  
IMPROVEMENT  
DISTRICT (BID)

July 2013



April 27, 2022

**Exhibit 1**

**Downtown BID Report for Fiscal Year 2022-23**

1. The boundaries of the Downtown BID are as follows: I-280 at Fourth Street west along Reed Street to west side of Market Street to south side of Balbach Street to east side of Almaden Boulevard to continue on West Reed Street to Highway 87, Highway 87 north to West San Fernando Street, south side of West San Fernando Street to CalTrain tracks, CalTrain tracks to West Julian Street, south side of West Julian Street east to Montgomery Street, west side of Montgomery Street south to south side of West St. John Street to the Guadalupe River, north along east side of the Guadalupe River to the western most set of Union Pacific Railroad tracks, north side of the Union Pacific Railroad tracks north to West Taylor Street, south side of West Taylor Street east to Coleman Avenue, southwest side of Coleman Avenue east to Highway 87, Highway 87 south to West Julian Street, both sides of West Julian Street east to First Street, south side of East Julian Street east to Fourth Street, both sides of Fourth Street south back to I-280. See Exhibit 3.
2. As of July 1, 2014, businesses that are exempt from paying the City’s Business Tax under Chapter 4.76 of the San Jose Municipal Code no longer pay the Downtown Business Improvement District assessment fee. If the business qualifies for the hardship exemption for the City of San Jose Business License Tax, the business will automatically qualify for the BID assessment fee waiver.
3. The Downtown BID will assess current year BID charges only when a business within the Downtown BID already in possession of a Business License and already assessed the Business License Tax is discovered to have not been assessed the BID in previous years.
4. Improvements and activities for FY 2022-23: See Exhibit 2
5. An estimate of the total cost of providing the improvements and activities for fiscal year 2022-23 is approximately \$2,525,600. Estimated BID funds of \$660,000 contribute to total program and staffing costs. Additional costs estimated at \$1,865,600 are paid through Downtown Association revenue raised through programs and activities, project City of San Jose contract services, Property Based Improvement District, grants, and other sources.
6. The current method and basis for levying the annual assessment are as follows:

CATEGORY	PROPOSED RATE
I. Retail	\$29.04 per FTE/\$264 min.
II. Non-Retail	\$19.35 per FTE/\$185 min.
III. Apartments & Hotels	\$7.92 per room/\$264 min.

(residential landlords of 1-2 units \$7.92 per room/\$150 min)  
(residential landlords of 3 or more units \$7.92 per room/\$264 min)

IV.	Parking Lots	see commercial landlord	
V.	Non-profits		\$100
VI.	Independent Contractors/Rolling Vendors		\$55
VII.	Commercial Landlords/Parking Lots		
	Less than 10,000 square feet		\$440
	10,001 to 50,000 square feet		\$990
	50,001 to 100,000 square feet		\$1,540
	More than 100,000 square feet		\$2,200

Maximum annual charge in all categories is \$6,000.

If any single business falls into more than one category, charges are assessed based upon the category producing the highest revenue for the BID.

7. Total Downtown Association program and staffing costs are funded by the following sources of revenue, in addition to assessment district revenue of \$660,000: Downtown Association revenue raised through programs and activities, project City of San Jose contract services, Property Based Improvement District, grants, and other sources (estimated): \$1,865,600.



Attachment C

Downtown Business Improvement District FY 2022-23 Budget

Exhibit 2

<b>REVENUE</b>	<b>Amount</b>
BID FY 2022-23 (Estimated)	660,000
<b>Total Revenue</b>	\$ 660,000
<b>EXPENSE</b>	
Operating / Administration	210,000
Downtown Lights	80,000
Farmers' Market	45,000
Music in the Park	15,000
Dine Downtown	25,000
Marketing and Advertising	76,000
Communications/Publicity	81,000
Parking Promotions	10,000
District Promotions (SoFA, San Pedro Square, Historic)	21,000
Downtown for the Holidays	10,000
Membership & Partnership Services	40,000
Planning, Research & Advocacy	47,000
<b>Total Expenses</b>	660,000

**Notes:**

1. Program budget are estimates. Additional or unused BID revenue will be applied to similar programs or carry forward into the next year.