

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE DECLARING ITS INTENT TO LEVY
ASSESSMENTS FOR FISCAL YEAR 2023-2024 IN THE
DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, AND
SETTING THE DATE AND TIME FOR THE PUBLIC
HEARING**

WHEREAS, the Council of the City of San José established the Downtown Business Improvement District (“Business Improvement District” or “BID”) pursuant to the California Parking and Business Improvement Area Law (California Streets and Highway Code Section 36500 et seq.) (“Parking and Business Improvement Area Law of 1989”) by Ordinance No. 22960, dated October 20, 1988; and

WHEREAS, the Council previously appointed the San Jose Downtown Association as the Advisory Board for the Business Improvement District, and the Advisory Board has submitted a proposed Budget Report for Fiscal Year 2023-2024 (“Report”) to advise the Council on the levy of assessments in the BID and the expenditure of revenues derived from the assessments for the benefit of the BID; and

WHEREAS, pursuant to the Parking and Business Improvement Area Law of 1989, a public hearing must be held on the proposed levy of assessments for each fiscal year;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Council hereby declares its intention to levy and collect assessments within the Downtown Business Improvement District, located in the downtown neighborhood of San José, California, for Fiscal Year 2023-2024.

2. The proposed improvements and activities to be funded by the Business Improvement District in Fiscal Year 2023-2024 are, in general, operating/administration, Downtown for the Holidays/Ice Rink, Farmers' Market, Music in the Park, Dine Downtown, marketing and advertising, communications/publicity, parking promotions, district promotions (SoFA, San Pedro Square, Historic), membership and partnership services, and planning, research and advocacy.
3. No changes are proposed in the boundaries of the Business Improvement District or the method and basis of levying the assessments in the Business Improvement District as established for Fiscal Year 2022-2023. The Advisory Board did include a clarification of the existing Apartments/Hotels category for residential landlords leasing 1 and 2 units. These landlords of 1 and 2 units will pay \$150 while residential landlords of 3 or more units will continue to pay \$264.
4. The Advisory Board is recommending that the 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 Municipal Code. In order to qualify, the 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 U.S. Department of Health and Human Services for a single person (multiplied by 2) 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 4).

5. All interested parties should refer to the Report on file with the City Clerk of the City of San José, City Hall, 200 East Santa Clara Street, San José, California, which can also be found online at <http://www.sanjoseca.gov>, that contains a detailed description of the improvements and activities to be provided for Fiscal Year 2023-2024, the boundaries of the Business Improvement District, and the proposed assessments to be levied upon the businesses within the Business Improvement District for Fiscal Year 2023-2024.
6. NOTICE IS HEREBY GIVEN that June 6, 2023, at the hour of 1:30 p.m. or as soon thereafter as the matter may be heard, in the City Council Chambers of the City of San José, 200 East Santa Clara Street, San José, California, is fixed as the time and place for a public hearing on the levy of the proposed assessments for Fiscal Year 2023-2024. This meeting may also be held by teleconference using Zoom conference call that is open to the public and enables public comment. Members of the public may telephone in, view, listen, and participate by following the instructions listed on the agenda. City Council agendas and instructions for this meeting will be posted 10 days prior to the meeting at <https://sanjose.legistar.com/Calendar.aspx>.
7. At the aforesaid public hearing, the testimony of any and all interested persons for or against the levying of assessments for Fiscal Year 2023-2024 or the furnishing of specified types of improvements or activities in Fiscal Year 2023-2024 in the Business Improvement District shall be heard and considered by the City Council. Protests against the levying of assessments for Fiscal Year 2023-2024, the extent of the area of the Business Improvement District, or the furnishing of specified types of improvements or activities may be made orally or

in writing by any interested person. Each written protest must be filed with the City Clerk, either by mail to City Clerk, City Hall, 200 East Santa Clara Street, San José, California, or by e-mail to city.clerk@sanjoseca.gov, at or before the time fixed for the public hearing. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

8. As provided in Section 36525 of the Parking and Business Improvement Area Law of 1989, if written protests against the levying of assessments for Fiscal Year 2023-2024 are received from the owners of businesses in the Business Improvement District which would pay fifty percent (50%) or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protest to less than fifty percent (50%), then no further proceedings to levy the proposed assessment may be taken by the City Council for a period of one year. If the majority protest is against the furnishing of a specified type or types of improvement or activity within the Business Improvement District, then those types of improvements or activities shall be eliminated. In order to be counted in determining a majority protest, a written protest must contain a description of the business of the person submitting the protest sufficient to identify the business as a business within the proposed Business Improvement District.

9. The City Clerk is hereby directed to give notice of the above-mentioned public hearing pursuant to Section 36534 of the California Streets and Highway Code, by publication.

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ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk