



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: May 1, 2023

Approved

Date

5/10/23

COUNCIL DISTRICT: 3

**SUBJECT: SET A PUBLIC HEARING ON THE LEVY OF THE PROPOSED
DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ASSESSMENTS**

RECOMMENDATION

- (a) Preliminarily approve the 2023-2024 Annual Report and Budget as filed by the Downtown Business Improvement District Advisory Board, or as modified by City Council.
- (b) Adopt a resolution of intention to levy the annual assessment for Fiscal Year 2023-2024, and set Tuesday, June 6, 2023 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

SUMMARY AND OUTCOME

Approval of this action results in a resolution of intention to levy the assessments for the upcoming fiscal year of the Downtown Business Improvement District (BID), exempt businesses from the Downtown BID assessments if they qualify for a financial hardship exemption under the City's General Business Tax Ordinance, and sets the time and date for the public hearing.

BACKGROUND

The Downtown BID was established by City Council in 1988 pursuant to the California Parking and Business Improvement Area Law to promote the economic revitalization and physical maintenance of the Downtown Business District. The Downtown BID service area is shown in the attached **Exhibit 1**. In 1989, City Council appointed the San José 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 California Parking and Business Improvement Area Law, the Advisory Board must come before City Council on an annual basis to present a report. The report proposes a budget for the upcoming fiscal year 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. City Council must then: 1) review the report and preliminarily approve it as proposed or as changed by City Council; 2) adopt a resolution of intention to levy the assessments for the upcoming fiscal year; and 3) set a date and time for the public hearing on the BID-related actions. Absent a majority protest at the public hearing, at the conclusion of the public hearing, City Council may approve the budget for fiscal year 2023-2024 as filed or as modified by City Council, and levy the BID assessments for fiscal year 2023-2024.

As part of its annual budget report, the Advisory Board recommends 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 San José Municipal Code.

In order to qualify for a financial hardship exemption, 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 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).

ANALYSIS

The Advisory Board prepared an Annual Report and Budget, attached as **Exhibits 2 and 3**, respectively, for City Council's consideration as the proposed budget for the Downtown BID for fiscal year 2023-2024. As required by California Parking and Business Improvement Area Law, the Annual 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 2023-2024, an estimate of the cost of providing the improvements and activities, and a recommendation to suspend the collection of the Downtown BID assessment where a business qualifies for a financial hardship exemption under the City's General Business Tax Ordinance. The Advisory Board recommends no change in the method and basis for levying assessments (other than to recommend suspending the collection of the Downtown BID assessments in certain instances where financial hardship is sufficiently demonstrated).

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City Council may approve the Annual Report as filed or modify the Annual Report and approve it as modified. After approval of the Annual Report, City Council must adopt a resolution of intention to levy the annual assessment for the 2023-2024 fiscal year, suspend the BID assessments in certain instances as noted above, and fix a time and place for a public hearing to be held on the levy of the proposed assessment.

EVALUATION AND FOLLOW-UP

The Advisory Board will come before City Council next year to present a report that proposes a budget for the 2024-2025 fiscal year.

COST SUMMARY/IMPLICATIONS

Adoption of the proposed Downtown BID budget does not directly impact City revenue. The Downtown BID assessments are restricted for use exclusively by the Downtown BID. 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 2023-2024 Proposed Operating Budget, subject to City Council approval, includes projected assessment revenue and corresponding expenses totaling \$630,000, 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.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Clerk's Office, the City Manager's Budget Office, the Finance Department, and Planning, Building, and Code Enforcement. This memorandum was also coordinated with the San José Downtown Association.

PUBLIC OUTREACH

The budget for fiscal year 2023-2024 was reviewed and approved at the Advisory Board's meeting on April 13, 2023.

This memorandum will be posted on the City's Council Agenda website for the May 23, 2023 City Council meeting.

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COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

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

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

NANCI KLEIN

Director of Economic Development and
Cultural Affairs

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

ATTACHMENTS

Exhibits

Exhibit 1 – Downtown BID Map for FY 2023-2024

Exhibit 2 – Downtown BID Report for FY 2023-2024

Exhibit 3 - Downtown BID Budget for FY 2023-2024



Exhibit 1
Downtown BID Map for FY 2023-0224

DOWNTOWN SAN JOSE

BUSINESS
IMPROVEMENT
DISTRICT (BID)
July 2013

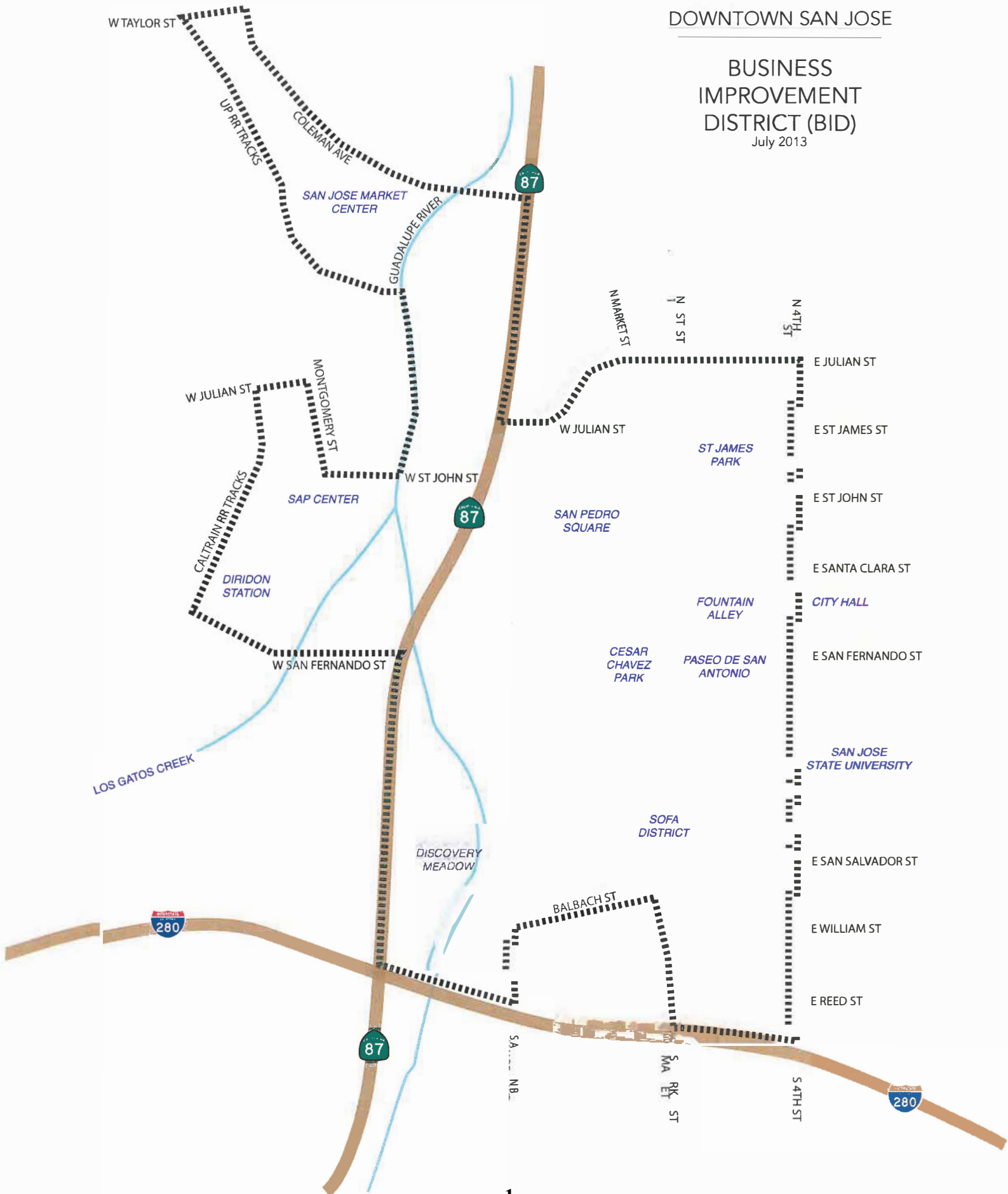


Exhibit 2
Downtown BID Report for FY 2023-2024

March 21, 2023

Downtown BID Report for FY 2023-2024

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 2023-24: See Exhibit 2
5. An estimate of the total cost of providing the improvements and activities for fiscal year 2023-24 is approximately \$3,425,500. Estimated BID funds of \$630,000 contribute to total program and staffing costs. Additional costs estimated at \$2,795,500 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.

Exhibit 2
Downtown BID Report for FY 2023-2024

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 \$630,000: Downtown Association revenue raised through programs and activities, project City of San Jose contract services, Property Based Improvement District, grants, and other sources (estimated): \$2,795,500.

Exhibit 3
Downtown BID Budget for FY 2023-2024

REVENUE	Amount
BID FY 2023-24 (Estimated)	630,000
<i>Total Revenue</i>	\$ 630,000
EXPENSE	
Operating / Administration	210,000
Downtown for the Holidays/Ice Rink	80,000
Farmers' Market	46,000
Music in the Park	5,000
Dine Downtown	26,000
Marketing and Advertising	76,000
Communications/Publicity	65,000
Parking Promotions	10,000
District Promotions (SoFA, San Pedro Square, Historic)	23,000
Membership & Partnership Services	41,000
Planning, Research & Advocacy	48,000
<i>Total Expenses</i>	630,000

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