

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: May 23, 2023

Approved

Date

5/24/23

COUNCIL DISTRICT: 3

SUBJECT: PUBLIC HEARING ON THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT REPORT AND BUDGET AND ASSESSMENTS FOR FISCAL YEAR 2023-2024

RECOMMENDATION

Conduct a public hearing and adopt a resolution:

- (a) Approving the Downtown Business Improvement District Report and Budget for Fiscal Year 2023-2024 as filed or modified by City Council, and levying the Downtown Business Improvement District assessments for Fiscal Year 2023-2024.
- (b) Approve an uncodified ordinance approving the Downtown Business Improvement District Report and Budget for Fiscal Year 2023-2024 as filed or modified by City Council, and levy the Downtown Business Improvement District assessments for Fiscal Year 2023-2024, specified in the resolution.

SUMMARY AND OUTCOME

Approval of this action will result in the levy of assessments for the upcoming fiscal year of the Downtown Business Improvement District (BID).

BACKGROUND

The 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 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 BID Law, an annual public hearing is required in order to approve the annual Report and Budget and levy the annual BID assessments. On May 23, 2023, City Council set June 6, 2023 at 1:30 p.m. as the date and time for the public hearing on the proposed Fiscal Year (FY) 2023-2024 assessments. Also on May 23, 2023, City Council preliminarily approved the FY 2023-2024 Report and Budget as filed by the Advisory Board and adopted a resolution of intention to levy the annual assessments for FY 2023-2024 in the BID.

ANALYSIS

When a hearing is held under the BID Law with regard to the levy of assessments of a BID, 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 also 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 types of improvement or activity within the area, those improvements or activities shall be eliminated.

The Advisory Board prepared a Report and Budget, **Attachments B and C**, respectively, for City Council's consideration as the proposed budget for the Downtown BID for FY 2023-2024. As required by BID Law, the Report and Budget have 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 FY 2023-2024, 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 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 and Budget. At the conclusion of the public hearing, City Council may adopt a resolution confirming the Report and Budget as originally filed or as modified by City Council. The adoption of the resolution constitutes the levy of the assessment for the FY 2023-2024.

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EVALUATION AND FOLLOW-UP

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

COST SUMMARY/IMPLICATIONS

Adoption of the proposed Downtown BID annual Report and 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 downtown retail community, which indirectly generates business tax and sales tax revenue for the City. The FY 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. 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, the City Clerk's Office, 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

In accordance with the BID Law, the City Clerk has published the required legal notice with regard to the levy of assessments for FY 2022-2023. The Downtown BID Report and Budget for FY 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 June 6, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

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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 or salvador.alvarez@sanjoseca.gov.

Attachments:

Attachment A – Downtown BID Map for FY 2023-2024

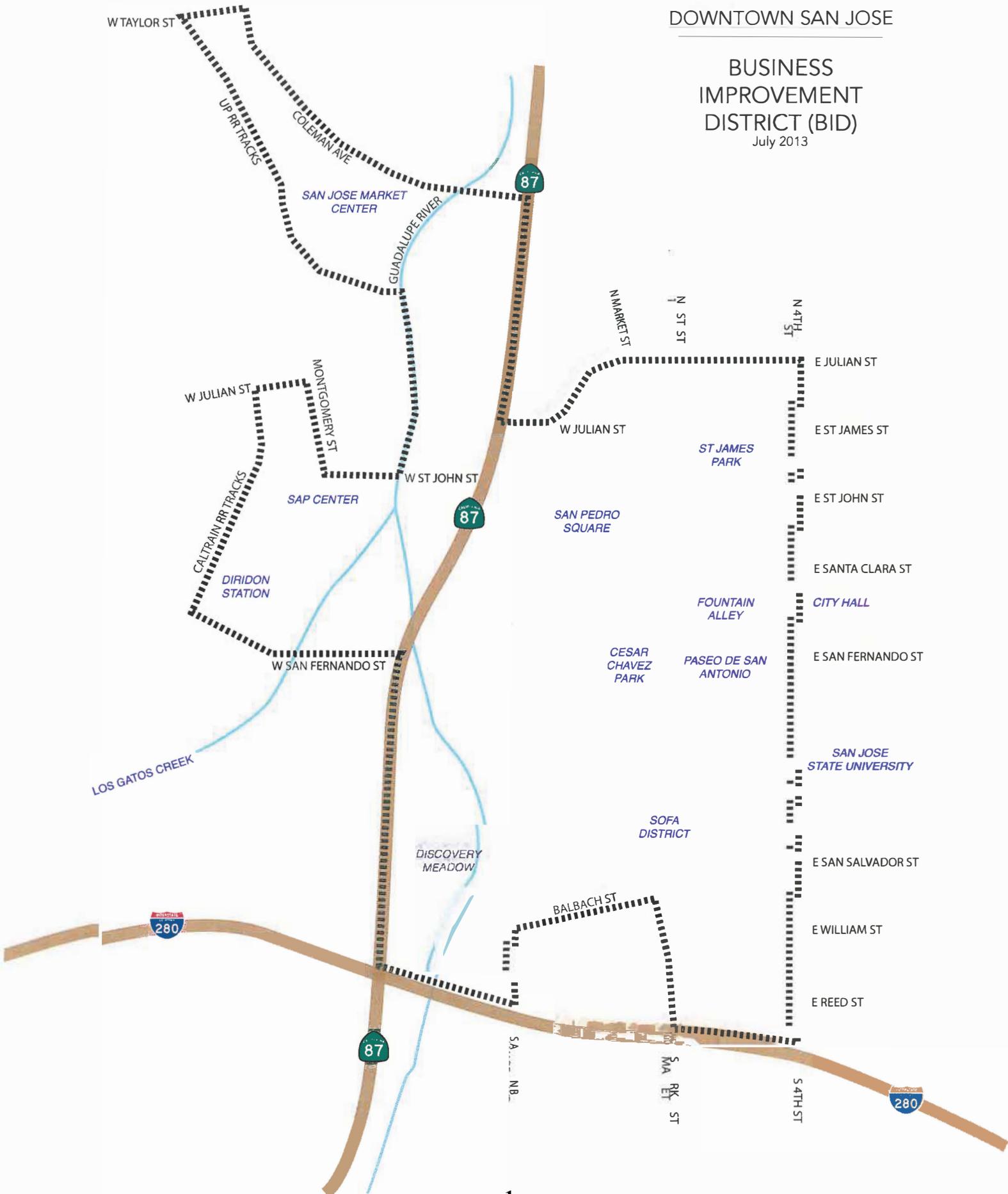
Attachment B – Downtown BID Report for FY 2023-2024

Attachment C – Downtown BID Budget for FY 2023-2024

Attachment A
Downtown BID Map for FY 2023-2024

DOWNTOWN SAN JOSE

BUSINESS
IMPROVEMENT
DISTRICT (BID)
July 2013



Attachment B
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.

Attachment B
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.

**Attachment C
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.