

COUNCIL AGENDA: 06-16-09
ITEM: 4.2 (b)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Paul Krutko

SUBJECT: See below

DATE: May 26, 2009

Approved

Deanna Fajee

Date

5/26/09

COUNCIL DISTRICT: 3
SNI AREA: St. James Square;
University; Josefa/Auzerais;
Burbank/DelMonte

SUBJECT: ADOPTION OF A RESOLUTION TO APPROVE THE 2009-2010 BUDGET REPORT AND TO LEVY DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ASSESSMENTS FOR FISCAL YEAR 2009-0910

RECOMMENDATION

Adoption of a resolution to approve the Downtown Business Improvement District budget report for fiscal year 2009-10, as filed or as modified by the Council, and to levy the Downtown BID assessments for 2009-10.

OUTCOME

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

BACKGROUND

The Downtown Business Improvement District ("BID") was established by the 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. The Council appointed the San Jose Downtown Association as the Advisory Board ("Advisory Board") for the BID, to advise the Council on the levy of assessments in the BID and the expenditure of revenues derived from the assessments.

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 June 2, 2009, the Council set June 16, 2009 at 1:30 p.m. as the date and time for the public hearing on the proposed 2009-10 assessments. On June 2, 2009, the Council preliminarily approved the 2009-10 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 2009-10 for the BID. The 2009-10 budget report submitted to the Council on June 2, 2009 is attached to this memo as Exhibit 1.

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 budget report (the “report”) attached as Exhibit 1, for the Council’s consideration as the budget for the Downtown BID for Fiscal Year 2009-10. 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 2009-10 and an estimate of the cost of providing the improvements and activities. The Advisory Board has recommended no change to the BID boundaries or to the method and basis for levying assessments. Therefore, the proposed assessments in the BID for Fiscal Year 2009-10, described in the report, are the same as the assessments for Fiscal Year 2008-09.

During the course or upon the conclusion of the public hearing the City Council may order changes in any of the matters provided in the Advisory Board’s report. At the conclusion of the public hearing the City Council may adopt a resolution confirming the report as originally filed or as modified by the Council. The adoption of the resolution constitutes the levy of the assessment for the fiscal year 2009-10.

EVALUATION AND FOLLOW-UP

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

PUBLIC OUTREACH/INTEREST

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 2009-10. The budget for Fiscal Year 2009-2010 was reviewed and approved at Advisory Board's May 8, 2009 meeting.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

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

FISCAL/POLICY ALIGNMENT

This action is consistent with the Economic Development Strategy approved by the Council, specifically Initiative No. 5, "Support Start up and Growth of Local Businesses, in Tech as well as Non-Tech fields" and Initiative No. 13, "Develop Retail to Full Potential, Maximizing Revenue Impact and Neighborhood Livability." A healthy Business Improvement District will encourage growth of the retail community and consequently result in additional sales tax revenue for the City.

COST SUMMARY/IMPLICATIONS

Adoption of the proposed BID budget does not impact City revenue. BID assessments are restricted for use exclusively by the BID. It is anticipated that a healthy Business Improvement District will encourage growth of the retail community and consequently result in additional business tax and sales tax revenue for the City.

Honorable Mayor and City Council

May 26, 2009

Subject: Approval of 2009/10 Budget Report – Downtown BID

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CEQA

CEQA: Exempt, File No.PP08-048



PAUL KRUTKO
Chief Development Officer

For questions, please contact Lee Wilcox at (408) 535-8172

Attachment



Downtown BID Report for Fiscal Year 2009-10

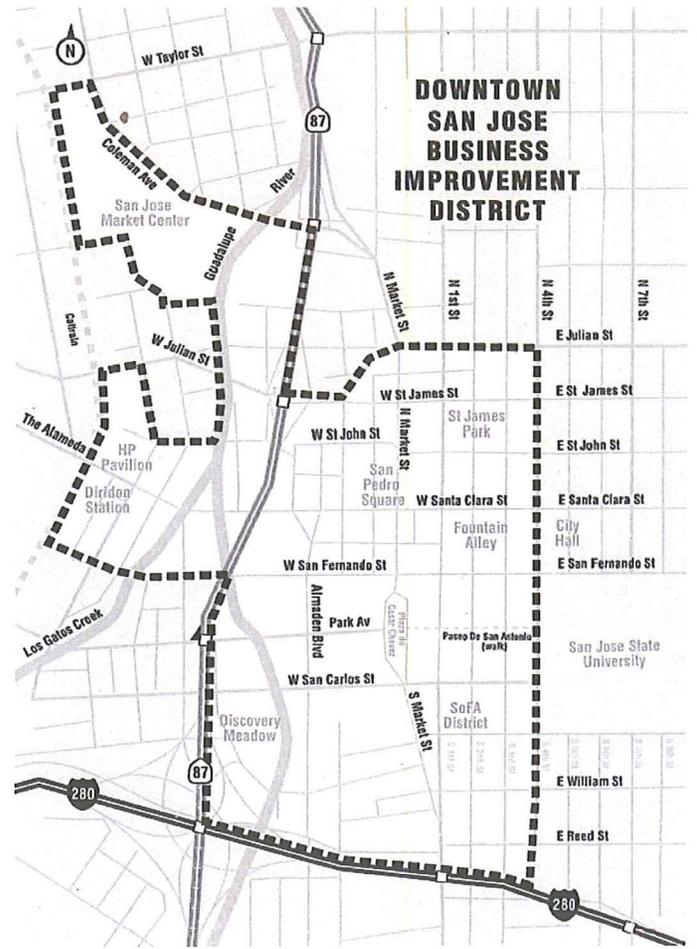
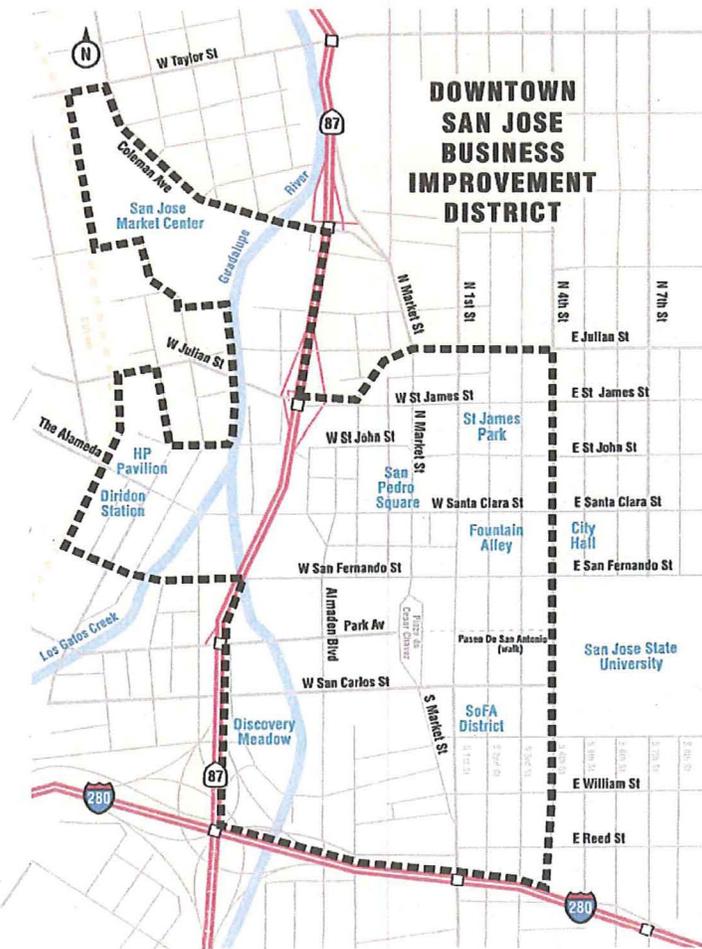
1. The boundaries of the Downtown BID are as follows: I-280, Highway 87 to West San Fernando Street, south side of West San Fernando Street to CalTrain tracks, CalTrain tracks to West Julian Street, south side of West Julian Street to Montgomery Street, west side of Montgomery Street to the Guadalupe River, east side of the Guadalupe River to the western most set of Union Pacific Railroad tracks, northeast side of the Union Pacific Railroad tracks to West Taylor Street, south side of West Taylor Street to Coleman Avenue, southwest side of Coleman Avenue to Highway 87, Highway 87 to West Julian Street, both sides of West Julian Street to First Street, south side of East Julian Street to Fourth Street, both sides of Fourth Street to East Saint John Street, north side of East San Fernando Street to Fourth Street, both sides of Fourth Street back to I-280. See Exhibit 3.
2. Improvements and activities for FY 2009-10: See Exhibit 2
3. An estimate of the total cost of providing the improvements and activities for fiscal year 2009-10 is approximately \$3,526,000. Estimated BID funds of \$620,000 contribute to total program and staffing costs. Additional costs estimated at \$2,906,000 are paid through Downtown Association revenue raised by programs and activities, projected Redevelopment Agency contract services, and other sources.
4. The current method and basis for levying the annual assessment are as follows:

CATEGORY	PROPOSED RATE
I. Retail	\$26.40 per FTE/\$240 min.
II. Non-Retail	\$15.60 per FTE/\$150 min.
III. Apartments & Hotels	\$ 7.20 per room/\$240 min.
IV. Parking Lots	\$300
V. Non-profits	Exempt
VI. Independent Contractors	\$50
VII. Commercial Landlords	
Less than 10,000 square feet	\$400
10,001 to 50,000 square feet	\$900
50,001 to 100,000 square feet	\$1,400
More than 100,000 square feet	\$2,000

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.

5. It is estimated that there will be a surplus of \$20,000 in the BID fund, carry over from current fiscal year 2008-09.



**Exhibit 3
Downtown
Business Improvement District
FY 2009-10 Budget**

REVENUE	Amount (in \$)
BID FY 2008-09 (Carry-over)	20,000
BID FY 2009-10 (Estimated)	600,000
Total Revenue	\$ 620,000
EXPENSE	
Operating / Administration	243,000
Music in the Park	40,000
Ice Rink	100,000
Farmers' Market	30,000
Music in the Other Park	30,000
Communications/Publicity	40,000
Marketing and Advertising	45,000
Parking Promotion	15,000
DASH Shuttle	5,000
District Promotions (FAD, SPS, SoFA)	10,000
Public Space Programming	10,000
Holiday Promotions/lighting	20,000
Membership	5,000
Advocacy, Research & Planning	20,000
Other Programs	7,000
Total Expenses	\$ 620,000

Notes:

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