



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen  
Hans F. Larsen

**SUBJECT:** SEE BELOW

**DATE:** 05-24-2010

Approved

Date

6/1/10

**COUNCIL DISTRICT:** 3

**SUBJECT: DOWNTOWN SAN JOSE PROPERTY-BASED IMPROVEMENT  
DISTRICT ANNUAL REPORT FOR FISCAL YEAR 2010-2011**

## RECOMMENDATION

Adoption of a resolution:

1. Approving the Downtown San José Property-Based Improvement District Annual Report for Fiscal Year 2010-2011 as filed or modified by Council;
2. Confirming the individual assessments as proposed or modified by Council, including the assessment on City owned property of approximately \$321,991 and the assessment on Redevelopment Agency property of approximately \$69,964;
3. Directing that the City baseline services contribution in the amount of \$357,811, and assessment payment be made;
4. Directing the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.

## OUTCOME

The desired outcome is the continued enhanced cleaning, ambassador, image enhancement services, and beautification projects funded through the levy of special assessments for Downtown San José.

## BACKGROUND

The City of San José established its first Property-Based Improvement District (PBID) in 2007 to fund specific enhanced services and improvements above those provided by the City from

generally available funds. Since the enhanced services directly benefit individual parcels within the district rather than the City as a whole, the costs are assessed to these same parcels.

The Downtown San José Property-Based Improvement District (Downtown PBID) was approved by property owners and adopted by Council on August 7, 2007 to raise funds for enhanced cleaning, ambassador and image enhancement services for the Downtown area. This district was formed in response to declining maintenance levels in the Downtown area at the request of numerous stakeholders. The voter approved assessment formula provides for an annual inflation adjustment at the rate of the Bay Area CPI for all urban consumers and/or other changes in program costs, but not to exceed 5%. The district has an initial term of five years and can be renewed for ten year term increments. Attachment A provides a map and boundary of the district.

### ANALYSIS

As required by Part 7 of Division 18 of the California Streets and Highways Code "Property and Business Improvement District Law of 1994" for reporting, and in accordance with the agreement between the City and the San José Downtown Property Owners' Association (POA), the POA has submitted the *San José Downtown Property-Based Improvement District Report* (Report) to the San José City Council, dated May 12, 2010 (Attachment B). This Assessment District Report which is the first of two reports for Fiscal Year 2010-2011 will be on file in the City Clerk's Office prior to the Council Meeting. A second report, the 2009-2010 Financial Report, will be submitted in October to the Council from the POA. This first report contains:

1. Property-Based Improvement District boundaries
2. FY 2010-2011 improvements and activities
3. Cost estimates for improvements and activities in FY 2010-2011
4. Method and basis for levying FY 2010-2011 assessment
5. Revenue to be carried over
6. Non-assessment revenue

The enhanced cleaning program includes sidewalk and street furniture cleaning and scrubbing, power washing and sweeping, portering and trash collection, and reporting/cleaning of graffiti. In addition, ambassadors patrol within the boundaries of the Downtown PBID daily offering assistance to employees, visitors and residents. Image enhancement projects include the installation and maintenance of flower pots, decorative lighting, directional way-finding signs and street furniture. The services have been well received and the overall condition of the area within the boundaries of the Downtown PBID is cleaner and better supported from a visitor and customer standpoint. For fiscal year 2010-2011, the Downtown PBID will continue to implement its beautification improvement plan enhancing the aesthetics of the downtown area.

The POA Board, at their May 11, 2010 board meeting, unanimously approved and requested that the City impose an assessment increase of 2.9% which is below the maximum 5% allowable in the PBID Management Plan/Engineers Report. The annual change in the applicable Consumer

Price Index (CPI) is 0.73% for the cleaning and ambassadorial program service agreements that the PBID has in place. The supplemental increase beyond the CPI will accommodate the increased maintenance costs of the PBID streetscape beautification elements due to plant failures and vandalism and the SoFA district improvements being coordinated by 1stACT and the Redevelopment Agency. In addition, the PBID board is committing resources to trim and maintain street trees within the PBID boundaries. Street trees are the responsibility of the adjacent property owner but the PBID desired to provide enhanced service in order to take advantage of volume pricing and to provide a consistent level of service for street trees within the district to improve the image of downtown.

The Administration has reviewed the POA board's proposal and concurs with the recommendation that assessments be increased 2.9% for fiscal year 2010-2011 in order to provide sufficient funding for the increased costs for the cleaning and ambassadorial services, maintenance of the beautification and enhancement projects and tree services within the PBID. The total maximum aggregate assessment for fiscal year 2010-2011 is anticipated to be approximately \$1,923,382. It is possible that less than this amount will be collected due to delinquencies, property transfers and other non-payments. The City will pursue any non-payments. The PBID budgeted revenue is reflected in Attachment B-5.

As a property owner within the district, the City's assessment will be approximately \$321,991 and the San José Redevelopment Agency's (RDA) assessment will be approximately \$69,964. The City's baseline cleaning contribution for services provided prior to the formation of the PBID would be adjusted by the applicable CPI annually with an estimated baseline funding contribution of \$357,811 in fiscal year 2010-2011. Funds are included in the City's and RDA Proposed 2010-2011 budgets for these purposes.

The assessment roll and diagram for fiscal year 2010-2011 will be on file with the City Clerk's Office prior to the Council meeting for public review.

Approval of the proposed resolution by the City Council will:

1. Approve the PBID annual report as filed or modified by Council;
2. Confirm the individual assessments as proposed or modified by Council;
3. Direct that the City baseline services contribution and assessment payment be made;
4. Direct the Director of Finance to deliver the assessment roll to the County for collection with the property taxes.

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

The attached annual report by the POA sets the budget and proposed assessments for fiscal year 2010-2011 consistent with the approved Management Plan/Engineer's Report. The current agreement between the City and the POA, and PBID law, also requires the POA to submit an Annual Financial Report, containing an independent Certified Public Accountant Review Report in October of each year. If the 2010-2011 Downtown PBID Annual Report is approved with the

2.9% increase, staff will bring forward appropriation and funding sources recommendations for Council approval at a later date as appropriate.

### **POLICY ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

Although the recommendation in this memorandum does not meet the \$1 million threshold under Criterion 1, this memorandum will be posted on the City's website for the Council Agenda. The Annual Report is filed in the City Clerk's Office for public review and will also be made available to the property owners within the district upon request. A notice of assessment and map of the district will be recorded with the County Recorder for public viewing and for title purposes. This will allow the district to be referenced in title searches to inform property owners of the district and the accompanying assessment. Staff is also available to respond to any public inquiries. Finally, the San José Downtown Property Owners' Board of Directors approved the proposed fiscal year 2010-2011 assessment increase and budget at its publicly noticed and held meeting on May 11, 2010 at 28 N. First Street.

### **COORDINATION**

This memorandum and related documents and resolutions were coordinated with the City Attorney's Office and the City Manager's Budget Office.

### **FISCAL/POLICY ALIGNMENT**

This action is consistent with the Council-approved Budget Principle in that it utilizes special assessments for enhanced services.

**COST IMPLICATIONS**

If the 2010-2011 Downtown PBID Annual Report is approved with the 2.9% increase, the City's assessment will be approximately \$321,991 and the San José Redevelopment Agency's assessment will be approximately \$69,964. The City's adjusted baseline cleaning services contribution will be \$357,811. Appropriation and funding sources adjustments, if necessary, will be brought forward for Council approval, if appropriate.

**BUDGET REFERENCE**

The Downtown Property and Business Improvement District Fund specified above will be appropriated in the 2010-2011 Proposed Operating Budget (pg. XI-26).

**CEQA**

Statutorily Exempt, File No. PP10-067

The Department of Planning, Building and Code Enforcement has determined that this project is statutorily exempt from CEQA procedures and policies. Article 18 of Title 14 of the California Public Resources Code specifies that CEQA does not apply to the establishment, modification, structure, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses.

/s/

/s/

KATY ALLEN  
Director, Public Works Department

HANS F. LARSEN  
Acting Director, Department of Transportation

For questions please contact Timm Borden, Deputy Director of Public Works at 535-8300 or Kevin O'Connor, Deputy Director of Transportation at 277-3028.

Attachments



**Downtown San Jose Property-Based Improvement District**  
**Annual Report for Fiscal Year 2010-11**  
**by the Downtown San Jose Property Owners' Association**  
**May 12, 2010**

1. Property-Based Improvement District

The Downtown San Jose Property-Based Improvement District (PBID), formed in August 2007, as a special benefit assessment district (District) that conveys special benefits to the properties located within the District boundaries. No changes are proposed to the District's boundaries, benefit zones, or classification of properties for fiscal year 2010-11. The PBID encompasses the core of the downtown area bounded approximately by Fourth Street and City Hall complex to the east, St. James and Devine streets to the north, Highway 87 and the HP Pavilion to the west and Market and First streets south to Reed Street.

2. Improvements and Activities to be provided in FY 2010-11

Having completed its second full year of providing enhanced services to the District, the PBID conducted its annual member survey in March 2010 to assess the progress over the past year. PBID members continue to strongly support all three facets of the program: cleaning, ambassador and beautification.

There are no planned changes for the Groundwerx enhanced cleaning program for 2010-11. The Groundwerx cleaning program continues to impress members as evidenced by its 91.6% approval rating in 2010. Since 2008, Groundwerx has made strides in a number of areas particularly graffiti removal, sidewalk sweeping and sidewalk cleaning/stain removal. Members also commented on the excellent job Groundwerx has done in maintaining the six VTA light rail platforms along the downtown transit mall.

The Groundwerx ambassador program received strong support from PBID members and registered a 71% approval rating. The overall ambassador services will continue to improve with an expanded emphasis on social services, specifically connecting the homeless population to available resources and deterring downtown nuisance crimes.

The PBID will accelerate the expansion of its beautification projects as a result of the positive feedback from assessees. The expansion of the beautification projects will also result in a corresponding increase in maintenance costs. Having maintained both the PBID and SoFA improvements for the past year, the PBID has learned that on going maintenance is costly due to a high rate of vandalism. Several planters have been damaged, plants have been destroyed and the PBID is the only resource to address these needs. The FY 2010-11 budget includes another beautification project. The exact scope and timing of that project has not been identified. This project will be consistent with other PBID beautification efforts and will likely bring many of those elements to different parts of downtown. The FY 2009-10 beautification project on First Street, between San Fernando and San Carlos streets received an 84.5% approval rating from members.

The Downtown San Jose Property Owners' Association (POA) Board of Directors recommends a total assessment increase of 2.9 percent for fiscal year 2010-11. The PBID/City of San Jose service agreement includes an annual increase in wages and assessment revenue must be adjusted to keep pace with projected service cost increases. Additional revenue will also be needed for the proposed inclusion of street tree maintenance into PBID services.

Being mindful of the City of San Jose's budget constraints, in FY 2009-10 the PBID assumed a greater role in the resolution of various downtown maintenance issues. The PBID replaced 30 transit mall sewer covers that were stolen or damaged by vagrants and repaired and restored 12 transit mall wooden benches.

Moving forward, the PBID anticipates doing more of these types of maintenance and image enhancements to assist the City of San Jose maintain the appropriate level and quality of service for the downtown core.

The table below reflects clean team and ambassador services for 2010-11, as well as the proposed service output in the District management plan (Management Plan).

Clean	Management Plan	Proposed FY 10-11
Maintenance F.T.E.	13 to 22	13 to 22
Average weekly coverage	5 to 7 days	7 days
Litter Removal/Vacuuming	Daily All Downtown	Daily All Downtown
Litter Removal/Pan & Broom	One to Two Shifts in Premium Area	Two Shifts in Premium Area
Machine Sweeping/Scrubbing	Daily All Downtown	Daily All Downtown
Transit Stop Maintenance	Yes	Yes
Steam Cleaning/Pressure Wash: Basic	Two to Four times per year	Two to Four times per year
Steam Cleaning/Pressure Wash: Premium	Four to Six times per year	Four to Six times per year
Graffiti Reporting/Cleaning	Daily as Needed	Daily as Needed
Light Landscape/Weeds	As Needed	As Needed
SWAT Patrol or "emergency cleaning"	As Needed	As Needed
<b>Safe (Information and Safety Ambassadors)</b>		
Ambassadors F.T.E.	9-12	9-12
Coverage in all areas	8 hours	8 hours
Coverage in Premium areas	12-16 hours	12-16 hours

PBID administrative costs account for 9.1% of revenue received, as approved by the POA Board of Directors and reflected in the Management Plan. Administrative costs include one full time Operations Manager, additional support staff from the San Jose Downtown Association, office supplies, postage, professional services, dues and other miscellaneous costs. An increase in administrative duties is anticipated for management of the expansion of image enhancement projects in FY 2010-11.

3. Estimate of Costs for Improvements and Activities in FY 2010-11

The estimated cost for improvements and activities for FY 2010-11 is \$2,388,401. This includes services similar to the ones provided in FY 2009-10, and other needs that have increased costs, with the addition of the downtown street tree maintenance in FY2010-11. The following is a breakdown of the increased service costs totaling \$337,572: 1) Projected clean team and ambassador service contract calls for an inflationary increase based on the CPI, prevailing wage and overall contract increase, which is projected to be \$47,572; 2) expansion of the beautification project \$147,000; 3) the increased cost for maintaining beautification areas and the SoFA project will be approximately \$53,000; 4) the cost of downtown street tree maintenance is estimated at \$90,000.

The table below summarizes the total estimated costs for providing the services to meet the needs of the District in FY 2010-11:

Improvements & Activities	Estimated costs
Cleaning	\$1,165,926
Information/Safety Ambassadors	\$443,580
Image Enhancements	\$565,000
Administration	\$213,895
<b>TOTAL</b>	<b>\$2,388,401</b>

PBID law allows assessment increase up to 5%, but given the current economic climate, the POA has elected to only increase assessments by 2.9%, despite adding tree maintenance services.

Revenue Source	Projected Revenue
Collections*	\$1,883,912
City of San Jose Baseline Funding	\$357,811
Other Contracts	\$53,045
<b>TOTAL</b>	<b>\$2,294,804</b>

\*The collections amount in the table above represents the full assessment revenue of \$1,923,930 less delinquencies, property transfers and non-payment.

The attached District budget provides detailed estimates of revenues and expenses as approved by the POA Board of Directors at its public meeting on May 11, 2010.

4. Method and Basis of Levying FY 2010-11 Assessments

The methodology for levying District assessments will remain the same for FY 2010-11. Service benefits are distributed to lot and building square footage through a "cost allocation" approach – the costs of specific services are allocated to the assessment variables that benefit most from services.

The sum of lot and building square footage are the primary assessment variables for cleaning, ambassadorial and beautification/image enhancement costs. Benefits from all District activities are designed to improve ease of use, image, occupancy, and sales and are distributed to all properties and those using and occupying those buildings. The inclusion of lot square footage in the calculation acknowledges the greater benefits of these services to the ground level of property. The table below reflects the 2.9% increase in assessments for FY 2010-11.

Area	Per square foot of Lot FY 2010-11	Per square foot of Building FY 2010-11
Basic Zone: Commercial, Enterprise Government	\$ 0.0495	\$ 0.0495
Premium Zone: Commercial, Enterprise Government	\$ 0.0855	\$ 0.0855
Basic Zone: Residential, Traditional Gov't, Other Non-Commercial (image enhancement assessment not included)	\$ 0.0360	\$ 0.0360
Premium Zone: Residential, Traditional Gov't, Other Non-Commercial (image enhancement assessment not included)	\$ 0.0720	\$ 0.0720

5. Amount of Surplus Revenue to be carried over from previous fiscal year

FY 2010-11 services costs are projected to increase by \$337,572, which is greater than the \$54,475 generated by an increase of 2.9%. The POA recommends an assessment increase of 2.9% and will use its \$319,183 carryover project fund balance, to cover the anticipated FY 2010-11 program costs.

6. Contributions from non-assessment revenue

The City of San Jose will contribute baseline service funding in the amount of approximately \$357,811 for FY 2010-11.

The downtown San Jose PBID anticipates renewing its agreement with the Santa Clara Valley Transit Authority (VTA) to maintain transit mall tracks and light rail station platforms. The contract with VTA is for \$53,045. Maintenance of the transit mall tracks and light rail platforms are not part of the PBID assessment services but an agreement was put in place between VTA and the PBID so that the PBID receives funding from VTA directly to clean those facilities.

San Jose Downtown Property Business Improvement District  
FY 2010-11 Budget

	A	B	C
1		FY-10-11	<i>Fiscal Year begins July 1</i>
2		Approved	
3		BUDGET	NOTES for 10-11 Budget
4			
5	<b>REVENUE</b>		
6			
7	Assessments		
8	Assessments - thru SCC	1,459,797	PBID property assessments **
9	less assessment charges SCC	(14,644)	Santa Clara County (1%)
10	Assessments - exempt thru SJ	449,677	Exempt property assessments ***
11	less assessment charges SJ	(10,000)	City of San Jose (per city management contract)
12			
13	<b>Net Assessments</b>	<b>1,883,912</b>	
14			
15	City baseline	357,811	per city baseline agreement (0.74% Feb. 2011)
16	Contracts	53,045	fee for service contract (VTA)
17	Grants		ashtrays
18	Miscellaneous	36	
19			
20	<b>TOTAL REVENUE</b>	<b>2,294,804</b>	
21			
22			
23	<b>EXPENSES</b>		
24			
25	<b>CLEAN TEAMS</b>		
26	Contract PBID	808,115	estimate SGI contract
27	Contract Baseline	357,811	
28	<b>Subtotal</b>	<b>1,165,926</b>	SGI - (3% CPI Feb. 11)
29			
30	<b>GREET (SAFETY AMBASSADOR) TEAMS</b>		
31	Contracts	443,580	estimate SGI contract
32	<b>Subtotal</b>	<b>443,580</b>	SGI - (3% CPI Feb. 11)
33			
34	<b>Total SGI Contract</b>	<b>1,609,506</b>	inclusive of baseline
35			
36	<b>IMAGE ENHANCEMENTS</b>		
37	Demonstration project		KKA plan demo 11/08, SoFA 6/09, 2nd project 12/09
38	Beautification projects	350,000	3rd project 8/10, other projects TBD
39	Maintenance	120,000	Demo, SoFA, Others TBD
40	Hwy 87	6,000	freeway clean-up with City, Caltrans and SJDA
41	Street Tree maintenance	90,000	scope of the tree maintenance TBD
42	<b>Subtotal</b>	<b>565,000</b>	
43			
44	<b>ADMINISTRATION</b>		
45	SJDA Management	208,827	Operations Manager, SJDA support staff, rent, dues/meetings
46	Insurance	9,000	directors and officers, general liability, crime package
47	Professional Services	18,000	CPA audit, payroll processing, legal
48	Marketing	6,000	website, brochure
49	Misc	4,240	postage, office supplies, utilities, telephone, Internet, copier
50	less 2% prepay contracts	(32,190)	discount applied to SGI payments
51	<b>Subtotal</b>	<b>213,895</b>	9.1% target in mgmt plan of total revenue
52			
53	<b>TOTAL EXPENSES</b>	<b>2,388,401</b>	
54			
55	<b>REVENUE NET OF EXPENSES</b>	<b>(93,400)</b>	
56			
57			
58	Beginning Fund Balance	319,183	
59			
60	Projected Ending Fund Balance	225,782	reserve/contingency
61			
62			
63	* Approved by Board 5/11/10		
64			
65	**County Assessment revenue for FY 10-11 includes 2.9% adjustment plus 1% projected district growth, assessments re		
66			
67	***Exempt Assessment revenue for FY 10-11 includes 2.9% adjustment and based on 97% collection		