



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** May 29, 2012

Approved

Date

6/6/12

**COUNCIL DISTRICT: 3**

**SUBJECT: ADOPTION OF A RESOLUTION TO APPROVE THE 2012-2013 BUDGET REPORT AND TO LEVY DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ASSESSMENTS FOR FISCAL YEAR 2012-2013.**

## RECOMMENDATION

Adopt a resolution to approve the Downtown Business Improvement District budget report for fiscal year 2012-2013, as filed or as modified by the Council, and to levy the Downtown BID assessments for 2012-2013.

## 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 for the benefit of the BID.

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 5, 2012, the Council set June 19, 2012 at 1:30 p.m. as the date and time for the public hearing on the proposed 2012-2013 assessments. On June 5, 2012, the Council preliminarily approved the 2012-2013 budget report as filed by the

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Advisory Board or as modified by the City Council and adopted a resolution of intention to levy the annual assessments for fiscal year 2012-2013 for the BID. The 2012-2013 budget report submitted to the Council on June 5, 2012, 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 2012-2013. 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 2012-2013 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 2012-2013, described in the report, are the same as the assessments for Fiscal Year 2011-2012.

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 2012-2013.

### **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**

- 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)**

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 2012-2013. The budget for Fiscal Year 2012-2013 was reviewed and approved at Advisory Board's April 30, 2012 meeting.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, 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. 1, "Encourage Companies and Sectors that Can Drive the San Jose/Silicon Valley Economy and Generate Revenue for City Services and Infrastructure," Initiative No. 2, "Develop Retail to Full Potential, Maximizing Revenue Impact and Neighborhood Vitality," Initiative No. 4, "Nurture the Success of Local Small Business," and Initiative No. 10, "Continue to Position Downtown as Silicon Valley's City Center." 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.

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**CEQA**

CEQA: Exempt, File No.PP08-048.

/s/  
KIM WALESH  
Director of Economic Development  
Chief Strategist

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

Attachments



**Downtown BID Report for Fiscal Year 2012-13**

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 back to I-280. See Exhibit 3.
2. Improvements and activities for FY 2012-13: See Exhibit 2
3. An estimate of the total cost of providing the improvements and activities for fiscal year 2012-13 is approximately \$2,841,000. Estimated BID funds of \$710,000 contribute to total program and staffing costs. Additional costs estimated at \$2,131,000 are paid through Downtown Association revenue raised by programs and activities, projected City of San Jose contract services, and other sources.
4. The current method and basis for levying the annual assessment are as follows:

CATEGORY	PROPOSED RATE
I. Retail	\$29.04 per FTE/\$264 min.
II. Non-Retail	\$19.35 per FTE/\$185 min.
III. Apartments & Hotels	\$7.92 per room/\$264 min.
IV. Parking Lots	see commercial landlord
V. Non-profits	\$100
VI. Independent Contractors/Rolling Vendors	\$55
VI. 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.

5. It is estimated that there will be \$5,000 carryover in the BID fund from current fiscal year 2011-12.
6. Total Downtown Association program and staffing costs are funded by the following sources of revenue, in addition to assessment district revenue of \$710,000: Downtown Association program and activity, expected Office of Economic Development contract services and other revenue sources (estimated): \$2,132,000.

**Downtown  
Business Improvement District  
FY 2012-13 Budget**

**Exhibit 2**

<b>REVENUE</b>	<b>Amount</b>
BID FY 2012-13 (Estimated)	705,000
Carryover from FY 2011-12	5,000
<b>Total Revenue</b>	<b>\$ 710,000</b>
<b>EXPENSE</b>	
Operating / Administration	240,000
Live and Local campaign	15,000
HERcity events	15,000
Ice Rink	100,000
Farmers' Market	40,000
Dine Downtown	30,000
Marketing and Advertising	75,000
Communications/Publicity	60,000
Parking Promotions	10,000
District Promotions	30,000
Public Space Programming/Starlight Cinemas	15,000
Holiday Promotions/lighting	20,000
Membership Services	10,000
Planning, Retention & Recruitment	40,000
Other Programs	10,000
<b>Total Expenses</b>	<b>\$ 710,000</b>

**Notes:**

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

Exhibit #3

