

2.10 Actions Related to the Downtown Business Improvement District 2024-2025 Budget Report, 2024-2025 Annual Assessments, and Setting a Public Hearing on the Levy of Assessments.

Recommendation:

(a) Preliminarily approve the 2024-2025 Budget Annual Report 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 2024-2025, and set Tuesday, June 4, 2024 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact on the environment. Council District 3. (Economic Development and Cultural Affairs)



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: May 3, 2024

Approved

Date

5/6/24

COUNCIL DISTRICT: 3

**SUBJECT: ACTIONS RELATED TO THE DOWNTOWN BUSINESS
IMPROVEMENT DISTRICT 2024-2025 BUDGET REPORT, 2024-2025
ANNUAL ASSESSMENTS, AND SETTING A PUBLIC HEARING ON
THE LEVY OF ASSESSMENTS**

RECOMMENDATION

- (a) Preliminarily approve the 2024-2025 Budget Annual Report 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 2024-2025, and set Tuesday, June 4, 2024 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 set 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 (BID 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 BID 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 Budget Annual 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 2024-2025 as filed or as modified by City Council and levy the BID assessments for Fiscal Year 2024-2025.

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, 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 United States 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 United States Department of Health and Human Services for a single person (multiplied by four).

ANALYSIS

The Advisory Board prepared an Annual Report (Report) (**Exhibit 2**) and Budget (**Exhibit 3**) for City Council's consideration as the proposed budget for the Downtown BID for Fiscal Year 2024-2025. As required by BID Law, the Budget 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 2024-2025, 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.

HONORABLE MAYOR AND CITY COUNCIL

May 3, 2024

Subject: Actions Related to the Downtown Business Improvement District 2024-2025 Budget Report, 2024-2025 Annual Assessments, and Setting a Public Hearing on the Levy of Assessments

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City Council may approve the Budget Annual Report as filed or modify the Report and approve it as modified. After approval of the Budget Annual Report, City Council must adopt a resolution of intention to levy the annual assessment for the 2024-2025 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 2025-2026 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 2024-2025 Proposed Operating Budget, subject to City Council approval, includes projected assessment revenue and corresponding expenses totaling \$680,000, 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; the City Clerk's Office; the City Manager's Budget Office; the Finance Department; the Planning, Building, and Code Enforcement Department; and the San José Downtown Association.

PUBLIC OUTREACH

The budget for Fiscal Year 2024-2025 was reviewed and approved at the Advisory Board's meeting on May 2, 2024.

This memorandum will be posted on the City's Council Agenda website for the May 21, 2024 City Council meeting.

HONORABLE MAYOR AND CITY COUNCIL

May 3, 2024

Subject: Actions Related to the Downtown Business Improvement District 2024-2025 Budget Report, 2024-2025 Annual Assessments, and Setting a Public Hearing on the Levy of Assessments

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COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant impact on the environment.

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

Exhibit 1 – Downtown BID Map for FY 2024-2025

Exhibit 2 – Downtown BID Report for FY 2024-2025

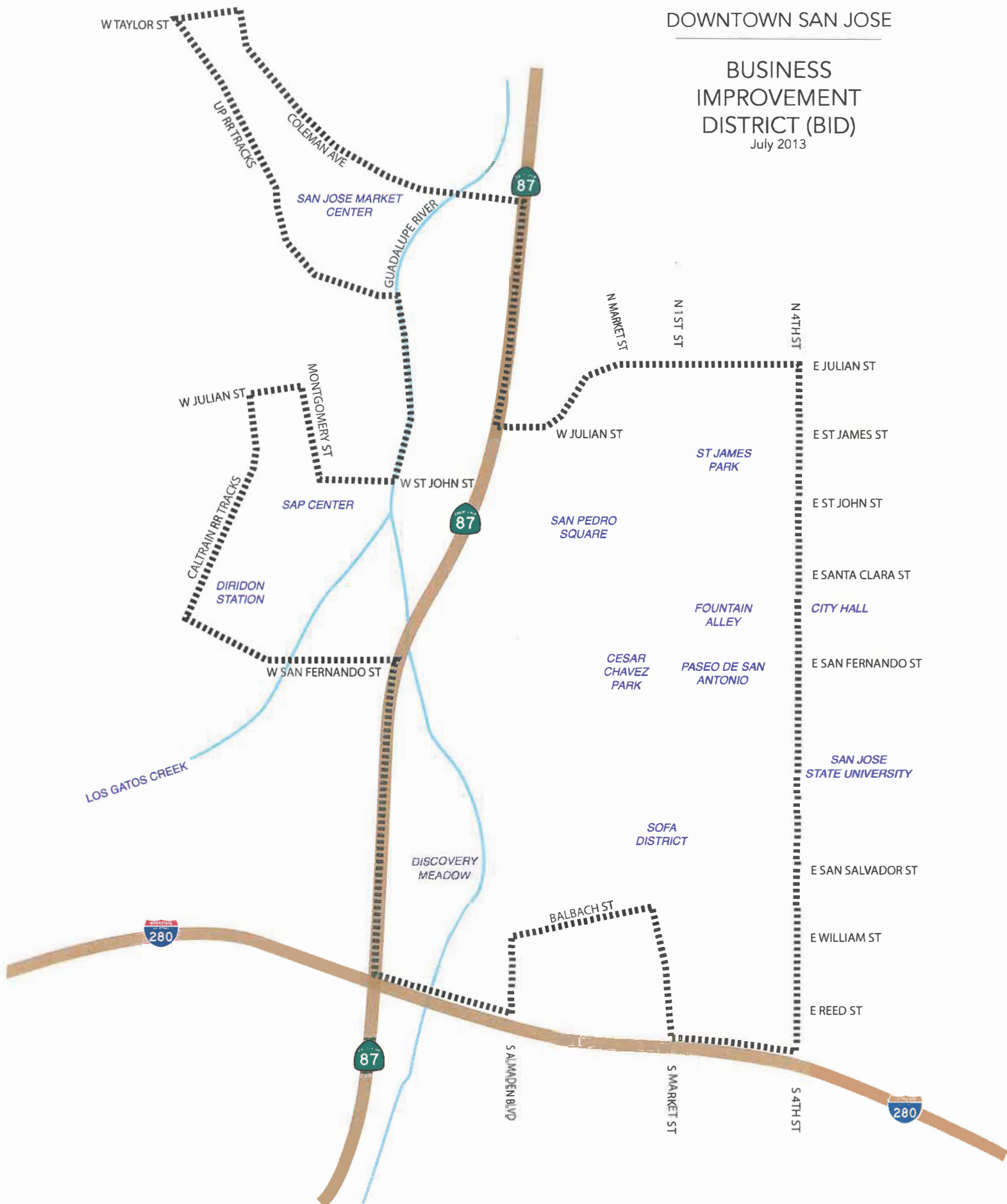
Exhibit 3 – Downtown BID FY 2024-2025 Budget



Exhibit 1

DOWNTOWN SAN JOSE

BUSINESS
IMPROVEMENT
DISTRICT (BID)



Downtown BID Report for Fiscal Year 2024-25

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 2024-25: See Exhibit 2
5. An estimate of the total cost of providing the improvements and activities for fiscal year 2022-23 is approximately \$3,793,738
. Estimated BID funds of \$680,000 contribute to total program and staffing costs. Additional costs estimated at \$3,113,738 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.

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 \$680,000: Downtown Association revenue raised through programs and activities, project City of San Jose contract services, Property Based Improvement District, grants, and other sources (estimated): \$3,113,738.

Exhibit 3

Downtown Business Improvement District FY 2024-25 Budget

REVENUE	Amount
BID FY 2024-25 (Estimated)	<u>680,000</u>
Total Revenue	<u>680,000</u>
EXPENSE	
Operating/Administration	205,000
Communications/Publicity	81,000
Planning, Research & Advocacy	50,000
Marketing and Advertising	76,000
Downtown for the Holidays	15,000
Parking Promotions	10,000
District Promotions (SoFA, San Pedro Square, Historic)	21,000
Farmers' Market	45,000
Dine Downtown	25,000
Music in the Park	15,000
Ice Rink/Roller Rink	30,000
Membership & Partnership Services	47,000
Downtown Lights	<u>60,000</u>
Total Expenses	<u>680,000</u>

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE DECLARING ITS INTENT TO LEVY
ASSESSMENTS FOR FISCAL YEAR 2024-2025 IN THE
DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, AND
SETTING THE DATE AND TIME FOR THE PUBLIC
HEARING**

WHEREAS, the Council of the City of San José established the Downtown Business Improvement District (“Business Improvement District” or “BID”) pursuant to the California Parking and Business Improvement Area Law (California Streets and Highways Code Section 36500 et seq.) (“Parking and Business Improvement Area Law of 1989”) by Ordinance No. 22960, dated October 20, 1988; and

WHEREAS, the Council previously appointed the San Jose Downtown Association as the Advisory Board for the Business Improvement District, and the Advisory Board has submitted a proposed Budget Report for Fiscal Year 2024-2025 (“Report”) 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; and

WHEREAS, pursuant to the Parking and Business Improvement Area Law of 1989, a public hearing must be held on the proposed levy of assessments for each fiscal year;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Council hereby declares its intention to levy and collect assessments within the Downtown Business Improvement District, located in the downtown neighborhood of San José, California, for Fiscal Year 2024-2025.

2. The proposed improvements and activities to be funded by the Business Improvement District in Fiscal Year 2024-2025 are, in general, operating/administration, communications/publicity, planning, research and advocacy, marketing and advertising, Downtown for the Holidays, parking promotions, district promotions (SoFA, San Pedro Square, Historic), Farmers' Market, Dine Downtown, Music in the Park, Ice Rink/Roller Rink, membership and partnership services, and Downtown Lights.
3. No changes are proposed in the boundaries of the Business Improvement District or the method and basis of levying the assessments in the Business Improvement District as established for Fiscal Year 2023-2024. The Advisory Board did include a clarification of the existing Apartments/Hotels category for residential landlords leasing 1 and 2 units. These landlords of 1 and 2 units will pay \$150 while residential landlords of 3 or more units will continue to pay \$264.
4. The Advisory Board is recommending 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 Municipal Code. In order to qualify, 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 U.S. Department of Health and Human Services for a single person (multiplied by 2) 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 4).

5. All interested parties should refer to the Report on file with the City Clerk of the City of San José, City Hall, 200 East Santa Clara Street, San José, California, which can also be found online at <http://www.sanjoseca.gov>, that contains a detailed description of the improvements and activities to be provided for Fiscal Year 2024-2025, the boundaries of the Business Improvement District, and the proposed assessments to be levied upon the businesses within the Business Improvement District for Fiscal Year 2024-2025.
6. NOTICE IS HEREBY GIVEN that June 4, 2024, at the hour of 1:30 p.m. or as soon thereafter as the matter may be heard, in the City Council Chambers of the City of San José, 200 East Santa Clara Street, San José, California, is fixed as the time and place for a public hearing on the levy of the proposed assessments for Fiscal Year 2024-2025.
7. At the aforesaid public hearing, the testimony of any and all interested persons for or against the levying of assessments for Fiscal Year 2024-2025 or the furnishing of specified types of improvements or activities in Fiscal Year 2024-2025 in the Business Improvement District shall be heard and considered by the City Council. Protests against the levying of assessments for Fiscal Year 2024-2025, the extent of the area of the Business Improvement District, or the furnishing of specified types of improvements or activities may be made orally or in writing by any interested person. Each written protest must be filed with the City Clerk, either by mail to City Clerk, City Hall, 200 East Santa Clara Street, San José, California, or by e-mail to city.clerk@sanjoseca.gov, at or before the time fixed for the public hearing. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

8. As provided in Section 36525 of the Parking and Business Improvement Area Law of 1989, if written protests against the levying of assessments for Fiscal Year 2024-2025 are received from the owners of businesses in the Business Improvement District which would pay fifty percent (50%) or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protest to less than fifty percent (50%), then no further proceedings to levy the proposed assessment may be taken by the City Council for a period of one year. If the majority protest is against the furnishing of a specified type or types of improvement or activity within the Business Improvement District, then those types of improvements or activities shall be eliminated. In order to be counted in determining a majority protest, a written protest must contain a description of the business of the person submitting the protest sufficient to identify the business as a business within the proposed Business Improvement District.

9. The City Clerk is hereby directed to give notice of the above-mentioned public hearing pursuant to Section 36534 of the California Streets and Highway Code, by publication.

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ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk