

8.1 Public Hearing on the Downtown Business Improvement District Report and Budget and Assessments for Fiscal Year 2024-2025.

Recommendation:

(a) Conduct a public hearing and adopt a resolution approving the Downtown Business Improvement District Report and Budget for Fiscal Year 2024-2025 as filed or modified by City Council, and levying the Downtown Business Improvement District assessments for Fiscal Year 2024- 2025.

(b) Approve an uncodified ordinance approving the Downtown Business Improvement District Report and Budget for Fiscal Year 2024-2025 as filed or modified by City Council, and levying the Downtown Business Improvement District assessments for Fiscal Year 2024- 2025, specified in the resolution.

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 21, 2024

Approved

Date

5/23/24

COUNCIL DISTRICT: 3

SUBJECT: PUBLIC HEARING ON THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT REPORT AND BUDGET AND ASSESSMENTS FOR FISCAL YEAR 2024-2025

RECOMMENDATION

- (a) Conduct a public hearing and adopt a resolution approving the Downtown Business Improvement District Report and Budget for Fiscal Year 2024-2025 as filed or modified by City Council, and levying the Downtown Business Improvement District assessments for Fiscal Year 2024-2025.
- (b) Approve an uncodified ordinance approving the Downtown Business Improvement District Report and Budget for Fiscal Year 2024-2025 as filed or modified by City Council, and levying the Downtown Business Improvement District assessments for Fiscal Year 2024-2025, specified in the resolution.

SUMMARY AND OUTCOME

Approval of this action will result in the levy of assessments for the upcoming fiscal year (FY) 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 21, 2024, City Council set June 4, 2024 at 1:30 p.m. as the date and time for the public hearing on the proposed FY 2024-2025 assessments. Also, on May 21, 2024, City Council preliminarily approved the FY 2024-2025 report and budget as filed by the Advisory Board and adopted a resolution of intention to levy the annual assessments for FY 2024-2025 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 the Downtown BID Report for Fiscal Year 2024-25 (Report) (**Attachment B**) and the Downtown Business Improvement District FY 2024-25 Budget (Budget) (**Attachment C**) for City Council's consideration as the proposed budget for the Downtown BID for FY 2024-2025. 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 2024-2025, 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 2024-2025.

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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 2025-2026.

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 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).

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 the Planning, Building, and Code Enforcement Department. This memorandum was also coordinated with the San José Downtown Association.

PUBLIC OUTREACH

In accordance with the BID Law, the City Clerk published the required legal notice with regard to the levy of assessments for FY 2024-2025. The Downtown BID Report and Budget for FY 2024-2025 were 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 June 4, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

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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 or salvador.alvarez@sanjoseca.gov.

ATTACHMENTS:

Attachment A – Downtown San Jose Business Improvement District (BID)

Attachment B – Downtown BID Report for Fiscal Year 2024-25

Attachment C – Downtown Business Improvement District FY 2024-25 Budget

Attachment B

April 22, 2024

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.

Attachment C

Downtown Business Improvement District FY 2024-25 Budget

REVENUE	Amount
BID FY 2024-25 (Estimated)	<u>680,000</u>
<i>Total Revenue</i>	<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>
<i>Total Expenses</i>	<u><u>680,000</u></u>

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT BUDGET REPORT FOR FISCAL YEAR 2024-2025, AS FILED OR MODIFIED BY THE CITY COUNCIL, AND LEVYING THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ASSESSMENTS FOR FISCAL YEAR 2024-2025

WHEREAS, the Council of the City of San José established the Downtown Business Improvement District (“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, under and pursuant to the Improvement Law, on May 21, 2024, the Council adopted Resolution No. RES2024-146, a resolution declaring the Council's intention to levy the assessments for Fiscal Year 2024-2025 in the BID; and

WHEREAS, said Resolution No. RES2024-146 was duly published, as provided by the Improvement Law; and

WHEREAS, as specified in Resolution No. RES2024-146, a public hearing concerning the levy of assessments for Fiscal Year 2024-2025 was held before the Council on June 4, 2024, at the meeting beginning at 1:30 p.m. in the Council Chambers of the City of San José, 200 East Santa Clara Street, San José, California; and

WHEREAS, ___ written protests against the levy of assessments or against any specified improvement or activity were filed with the City Clerk; and

WHEREAS, __ oral protests were made at the hearing against the levy of assessments or against any specified improvement or activity;

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

1. The Council hereby finds that there were __ written protests against the levy of assessments for Fiscal Year 2024-2025 and/or against any specified improvement or activity in the BID, and that there is no majority protest within the meaning of Section 36525 of the Improvement Law.
2. The Budget Report for Fiscal Year 2024-2025 filed with the City Clerk pursuant to Resolution No. RES2024-146 is hereby approved.
3. The Council hereby finds and determines that the businesses lying within the BID will be benefited by the expenditure of the funds raised by the assessments or charges proposed to be levied.
4. The levying of assessments in the BID for Fiscal Year 2024-2025 in accordance with this Resolution is hereby authorized.

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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

ORDINANCE NO.

**AN UNCODIFIED ORDINANCE OF THE CITY OF
SAN JOSE APPROVING THE DOWNTOWN BUSINESS
IMPROVEMENT DISTRICT BUDGET REPORT FOR
FISCAL YEAR 2024-2025, AS FILED OR MODIFIED BY
THE CITY COUNCIL, AND LEVYING THE DOWNTOWN
BUSINESS IMPROVEMENT DISTRICT ASSESSMENTS
FOR FISCAL YEAR 2024-2025 SPECIFIED IN THE
RESOLUTION**

WHEREAS, on June 4, 2024, the City Council adopted a resolution approving the Downtown Business Improvement District Budget Report for Fiscal Year 2024-2025, as filed or modified by the City Council, and levying the Downtown Business Improvement District Assessments for Fiscal Year 2024-2025; and

WHEREAS, on April 4, 2008, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. PP08-048;

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

SECTION 1. The City Council hereby adopts the findings and amounts of the Downtown Business Improvement District Assessments for Fiscal Year 2024-2025 specified in Resolution No. _____ adopted on June 4, 2024.

SECTION 2. The Downtown Business Improvement District Assessments specified in Resolution No. _____ and this Ordinance are assessments imposed upon a business in a tourism marketing district, a parking and business improvement area, or a property and business improvement district.

SECTION 3. The provisions of this Ordinance shall take effect retroactive to July 1, 2024.

PASSED FOR PUBLICATION of title this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk