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**Title:** Action on the Annual Report and Resolution of Intention for Levy of Annual Assessment for the Santa Clara Tourism Improvement District (TID)

**Sponsors:**

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**Attachments:** 1. TID Annual Report, 2. TID Fiscal Year 2018-19 Budget, 3. Resolution of Intention for Levy of Annual Assessment for the Santa Clara Tourism Improvement District, 4. Resolution No. 18-8568, 5. POST MEETING MATERIAL

Date	Ver.	Action By	Action	Result
7/16/2018	1	City Council and Authorities Concurrent	Approved	Pass

**REPORT TO COUNCIL**

**SUBJECT**

Action on the Annual Report and Resolution of Intention for Levy of Annual Assessment for the Santa Clara Tourism Improvement District (TID)

**BACKGROUND**

In 1989, the State Legislature passed the Parking and Business Improvement Area Law, which added Sections 36500, et seq., to the California Streets and Highways Code (“Code”). The Code was created to “promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent erosion of the business districts.” The Code had the further goal of promoting tourism. To achieve this goal, the Code allowed cities to fund property related improvements and activities through the levy of assessments upon the businesses which benefit from those improvements and activities.

Pursuant to the authority granted under the Code, on January 11, 2005, City Council adopted Ordinance No. 1797 (the “Ordinance”) amending the Santa Clara Municipal Code to add Article IX entitled “Santa Clara Tourism Improvement District” to Chapter 16.10 (“Local Improvements - Acquisition and Improvement Procedure”), establishing the Tourism Improvement District (“TID”) and its boundaries. The TID currently includes the following nine hotels near the Santa Clara Convention Center: Avatar Hotel, Biltmore Hotel & Suites, Embassy Suites, Hilton Santa Clara, Hyatt House, Hyatt Regency, Marriott Santa Clara, The Plaza Suites, and TownePlace Suites by Marriott. The Ordinance also established a District Advisory Board (the “Advisory Board”) to administer the affairs of the TID. The Advisory Board is constituted of representatives of businesses within the TID. All hotel properties located within the District boundaries collect a \$1.00 fee from hotel guests on each occupied hotel/motel room night.

Pursuant to Section 36533 of the Code and Santa Clara City Code (“SCCC”) 16.10.1220, the Advisory Board is required to file with the City Clerk and submit to the City Council by April 1<sup>st</sup> of each year an annual report that includes improvements and activities during the current fiscal year, the amount of any surplus or deficit to be carried over from a previous fiscal year, and a TID budget for the following fiscal year. After the approval of the Annual Report, the City Council must follow the resolution, notice, and hearing process outlined in Sections 36534-36535 to levy the annual assessment for the upcoming fiscal year.

## **DISCUSSION**

The TID has been in effect for thirteen years and was put into place to fund activities such as marketing campaigns to attract additional travelers, tourists, cultural groups, and conventions; print ads in travel publications; outdoor advertising campaign; and fund administrative costs of the program.

As mentioned previously, the City’s Ordinance requires that the TID Annual Report be submitted by April 1<sup>st</sup> of each year. The reason that the Annual Report is to be submitted by April 1<sup>st</sup> is to allow City staff a reasonable amount of time to comply with the two-step process for levying the assessment which includes the Resolution of Intention setting the date for the Public Hearing and the Public Hearing itself. The TID Annual Report is dated May 30<sup>th</sup> and was submitted to City staff on June 5, 2018. The City received a final signed copy of the report on July 9, 2018. Since the April 1<sup>st</sup> deadline was missed a revised timeline is being put into place and the TID levy has been suspended until corrective action is completed. Following approval of the Advisory Board Annual Report and adoption of the Resolution of Intention, a Public Hearing will be noticed for August 28, 2018 and if the levy is successfully approved at the August 28<sup>th</sup> meeting the levy will resume effective September 1, 2018.

In accordance with Sections 36524-36525 of the Code, the Public Hearing will allow businesses subject to the assessment to submit comments, voice concerns, and protest the assessment. The City Council can approve the continuation of the TID assessment at the Public Hearing; unless oral or written protests are received from the businesses located within the TID that pay 50% or more of the proposed assessments. In that event, the City Council cannot consider continuation of the TID assessment for a period of at least one year from the date of the finding of the majority written protest.

The above action is being adjusted to correct inadvertent errors with submitting timely required information to allow for the seamless continuation of levied assessments. Staff is in process of evaluating past year’s efforts to determine whether those were compliant with state and local laws and will report out separately at the appropriate time that findings are available.

As a separate and independent action taken by the City Council, the Council allowed the expiration of the CVB contract in support of tourism, marketing, and convention center bookings which give rise to questions whether the Chamber of Commerce (“Chamber”) will continue to support services funded and authorized by the TID Advisory Board. At the time of drafting this report, and after discussion with the TID Advisory Committee members, it is unknown whether the Chamber is inclined to continue services funded by TID. Additionally, the Chamber serves as fiscal agent for a reserve of approximately \$600,000 which would also need to be addressed based on the findings of the actions taken in the past, whether complete or incomplete. Given that there was no time to complete this research, any drawdowns from the Reserve should be deferred and if there is a finding that the funds were incorrectly collected, then a budget amendment should be developed which does not require

use of the Reserve until a legal determination has been made on how to proceed. While the Bylaws speak to the use of the Reserve if the TID is terminated, the Bylaws are silent on the Reserves in the event that they have not been correctly collected.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

### **FISCAL IMPACT**

If the TID assessment is successfully approved at the August 28<sup>th</sup> meeting the levy will resume effective September 1, 2018, the 2018/19 TID Budget has been revised to reflect ten months of revenue and expenses. The projected TID assessment for Fiscal Year 2018/19 is \$627,500. The total projected revenue for the TID is \$757,416, which includes the use of \$132,466 from Reserves. As mentioned previously, any drawdowns from the Reserve will need to be deferred until it is determined if the funds were incorrectly collected in previous years.

Of the projected revenue, \$3,000 is budgeted to cover the City’s administrative costs associated with collecting and disbursing the assessment. This cost will be included in the City’s upcoming User Fee Study to determine if the current reimbursement is sufficient to cover the City’s costs.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

1. Approve the Annual Report for the Santa Clara Tourism Improvement District;
2. Adopt a Resolution of Intention to levy and collect assessments with the Santa Clara Tourism Improvement District area for Fiscal Year 2018/19 at the current rate of \$1.00 fee from hotel guests on each occupied hotel/motel room night;
3. Set the date for the Public Hearing for August 28, 2018.

Reviewed by: Angela Kraetsch, Director of Finance

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. TID Annual Report
2. TID Fiscal Year 2018/19 Budget
3. Resolution of Intention for Levy of Annual Assessment for the Santa Clara Tourism Improvement District