



## Agenda Report

20-92

Agenda Date: 3/17/2020

### REPORT TO COUNCIL

#### **SUBJECT**

Action on a Resolution of Intention to Establish the Santa Clara Tourism Improvement District under the Property and Business Improvement District Law of 1994 [Council Pillar: Promote and Enhance Economic and Housing Development]

#### **BACKGROUND**

The existing Santa Clara Tourism Improvement District (TID) was formed in 2005 pursuant to the Parking and Business Improvement Area Law of 1989 (1989 Law). On January 11, 2005, City Council approved Ordinance No. 1797 (the "Ordinance") amending the Santa Clara Municipal Code and establishing TID. The Ordinance established the boundaries of the TID, which currently includes eleven hotels near the Santa Clara Convention Center: AC Hotel Santa Clara, Avatar Hotel, Biltmore Hotel & Suites, Element Santa Clara, Embassy Suites, Hilton Santa Clara, Hyatt House, Hyatt Regency, Marriott Santa Clara, The Plaza Suites, and TownePlace Suites by Marriott.

In 1994, the State Legislature passed the Property and Business Improvement Law (1994 Law), adding Sections 36600, et seq., to the California Streets and Highways Code. The 1994 Law is based upon the belief that there is a particular local benefit to be derived from allowing business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements. The 1994 Law includes procedural differences for the District, as compared with the 1989 Law.

Lodging businesses in the Santa Clara Tourism Improvement District (TID) decided to pursue the formation of the District under the 1994 Law and on November 12, 2019, Council consented to the TID's request (RTC 19-920). On February 11, 2020, City staff returned to Council with additional information on the potential assessment rate and for the purposes of the preparing the necessary documents and Resolutions for future Council consideration as to the formation of the District, Council approved to change the TID assessment method from \$1.00 per occupied room night to 1.5% of gross short-term room rentals, with the future option to increase the assessment to no more than 2% (RTC 20-1394).

#### **DISCUSSION**

The first step in forming a District is for the lodging business within the proposed boundary of the District to petition the City to form a District. Upon the submission of the written petition signed by the business owners in the proposed District who will pay more than 50% of the assessment proposed to be levied, the City Council may initiate proceedings to form a District by adopting a Resolution of Intention. The Resolution of Intention declares the City's intention to form a District and sets a time and place for a public hearing to receive testimony regarding the formation of the District.

Of the 11 TID lodging businesses, eight (8) hotels (Avatar, Biltmore, Element, Embassy Suites, Hyatt

Regency, Hyatt House, Marriott, and The Plaza Suites) submitted petitions totaling 78.81% of the lodging businesses (Attachment A). These petitions request the City Council to initiate special assessment proceedings to form a District in accordance with the 1994 State Law. As provided in Exhibit A of the petitions, the following are the key provisions of the District which will be known as the Santa Clara Tourism Improvement District (SCTID):

- Location: The proposed Santa Clara Tourism Improvement District (SCTID) includes all lodging businesses with ten (10) rooms or more located within the District boundaries.
- Services: The SCTID is designed to provide specific benefits directly to payors by increasing room night sales. Convention sales, incentives, and services and marketing and communication programs will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.
- Budget: The total SCTID annual budget for the initial year is anticipated to be approximately \$2,812,500.
- Cost: The annual assessment rate is 1.5%. During the five (5) year term, the assessment rate may be increased by the Owners' Association's Board to a maximum of two percent (2%) of gross short-term room rental revenue.
- Collection: Each lodging business located in the boundaries of the SCTID shall be responsible for remitting the assessments to the City in accordance with the Management District Plan (MDP). The City will be responsible for collecting the assessment on a quarterly basis or at the close of any shorter reporting period as established by the Director of Finance (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the SCTID. The City shall take all reasonable efforts to collect the assessments from each lodging business.
- Duration: The proposed SCTID will have a five (5) year term, beginning July 1, 2020 through June 30, 2025. Once per year, beginning on the anniversary of SCTID formation, there is a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a City Council hearing on SCTID termination.
- Management: Silicon Valley/Santa Clara DMO, Inc. (DMO) will serve as the SCTID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with the MDP and must provide annual reports to the City Council.

As required by the 1994 Law, a newly established District must have a Management District Plan (MDP) which serves as the governing document for the District. The MDP, included as Attachment B, details the proposed boundary of the SCTID, a service plan and budget, and a proposed means of governance. The SCTID will include all lodging businesses, existing and in the future, available for public occupancy within the identified boundaries.

The 1994 State Law provides that the SCTID is operated through an owner's association. As proposed in the MDP, Silicon Valley/Santa Clara DMO, Inc. (DMO) will act as the owner's association of the District and enter into an agreement with the City. The DMO will manage funds and implement programs in accordance to the MDP and will be responsible for providing annual reports to the City Council at the end of each year of operation of the District.

The 1994 State Law considers the owners' association a legislative body and is therefore, subject to the Ralph M. Brown Act and the California Public Records Act. As such, all activities and meetings of the Silicon Valley/Santa Clara DMO Board of Directors, as it would relate to SCTID assessment funds

and activities, would be subject to the Brown Act and be subject to Public Records requests.

It is anticipated that the SCTID will generate \$2,812,500 annually and the proposed first year annual budget is outlined in Table 1. The City's consultant, Jones Lang LaSalle, will begin working with the DMO to develop a detailed line item budget for each program area.

**Table 1 - Initial Annual Budget**

Program	Description	Budget
Convention Sales, Incentives, and Services (50%)	Promote sales activity for the booking of Convention Center events and increased room night sales of attendees; Provide financial incentives to current and new clients.	\$1,406,250
Marketing and Communications (30%)	Promote SCTID lodging businesses through internet marketing efforts, attendance at trade shows, lead generation activities, production and distribution of tourist-related marketing collateral, etc.	\$843,750
Administration (15%)	For administrative staffing costs, office costs, policy development and other general administrative costs such as insurance, legal, and accounting fees.	\$421,875
Contingency/Reserve (3%)	Held in a reserve fund or could be utilized for other program, initiative, administration or renewal costs; at the discretion of the DMO.	\$84,375
City Collection Fee (2%)	Paid to the City to cover costs of collection and administration.	\$56,250
	<b>TOTAL</b>	<b>\$2,812,500</b>

The City would collect the assessment from the lodging businesses at the same time the City collects the Transient Occupancy Tax. As part of the SCTID and noted above, the City receives 2% of the SCTID collections to offset its administrative costs. The City would forward the assessment collected, less 2% to the DMO for programs and activities of the SCTID.

### **SCTID Formation Process**

The key target dates to form the new District is outline below. With this process, the current district will naturally expire June 30, 2020 and the new District and assessment would take into effect July 1, 2020.

#### **March 17, 2020 - Resolution of Intention Hearing**

Upon the submission of petitions from the lodging businesses, the City would adopt a Resolution expressing its intention to form a District. Petitions must be received from more than 50% of the affected lodging businesses proposed to be assessed. This action is what is currently being considered.

#### **March 18, 2020 - Notices**

The City will mail notices to the lodging businesses affected by the proposed District. If the City Council adopts the Resolution of Intention, the notices are scheduled to be mailed on March 18, 2020.

April 7, 2020 - Public Meeting

Council will conduct a public meeting to receive comments regarding the formation of the SCTID. No Council action is required.

May 5, 2020 - Public Hearing

At the public hearing, lodging businesses may protest the formation of the SCTID and if more than 50% of the lodging businesses protest the District's formation, the formation cannot move forward. If less than 50% of the lodging businesses protest, the Council may move forward and adopt a resolution which forms the District. Additionally, Council would take action to introduce a new ordinance amending the applicable chapters of the Santa Clara City Code.

May 19, 2020 - Public Hearing

Council will conduct a public hearing to obtain public testimony or comment before adopting a new ordinance.

Subsequent actions to amend Article IX. ("Santa Clara Tourism Improvement District") to Chapter 16.10 ("Local Improvements - Acquisition and Improvement Procedure") will be brought forth to Council for the new District to go into effect July 1, 2020.

**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**

The City currently holds the TID reserve fund. As of the FY 19/20 second quarter ending December 31, 2019, the balance is \$1.4M. Once the DMO has established its fiscal administrative function, the City will transfer the balance of TID reserve funds to the DMO.

The City will receive 2% of SCTID collections to cover its costs of administration. This amount is approximately \$56,250 based on the annual SCTID revenue estimate of \$2,812,500.

**COORDINATION**

This report has been coordinated with the City Attorney's Office and Finance Department.

**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.

**ALTERNATIVES**

1. Adopt a Resolution of Intention declaring the City's intent to establish the Santa Clara Tourism Improvement District (SCTID) for 5 years starting July 1, 2020.
2. Do not proceed with the formation of a new District.

3. Other action as directed by Council.

**RECOMMENDATION**

Alternative 1: Adopt a Resolution of Intention declaring the City's intent to establish the Santa Clara Tourism Improvement District (SCTID) for 5 years starting July 1, 2020.

Reviewed by: Ruth Mizobe Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Signed Petitions
2. SCTID Management District Plan
3. Resolution of Intention