

**REPORT TO THE
CITY COUNCIL**
City of Salinas, California

DATE: July 21, 2015

FROM: Gary Petersen, Director of Public Works

BY: Don Reynolds, Project Manager

SUBJECT: **FORMATION OF THE DOWNTOWN SALINAS COMMUNITY BENEFIT DISTRICT**

RECOMMENDATION:

It is recommended that the City Council hold a public hearing and

1. consider oral and written testimony regarding the formation of the Downtown Salinas Community Benefit District,
2. tabulate all Assessment ballots returned to the City pursuant to the procedures set forth in Resolution 577, approved May 26, 2015, (the “Resolution of Intention” or “ROI”),
3. and if the ballot tabulation results in a weighted majority in support of forming the District, authorize the Mayor to sign the attached Resolution of Formation that establishes the Downtown Salinas Community Benefit District.

DISCUSSION:

Establishing a Community Benefit District (CBD) in the Downtown is consistent with four of the five Council goals: 1) economic diversity and prosperity; 2) safe livable community; 3) excellent infrastructure, and; 4) quality of life. It is also a top priority of the recently accepted Downtown Vibrancy Plan.

CBD’s are an increasingly important tool for business districts as they provide an independent financing mechanism to fund essential services and activities. CBD’s are replacing or augmenting the traditional Business Improvement Districts, and are being adopted in communities large and small throughout the State and the nation. In addition to allowing CBD’s to compete with regional shopping centers that provide similar services to their tenants, CBD’s provide:

- A unifying mechanism for all stakeholders to voluntarily work towards a common goal; that of sustaining a vibrant district.
- Support for business through recruitment, retention and promotion of the area.

- Clean-up program, enhanced landscaping and decorations, increased safety, and public space development and management. The activation of the downtown’s public spaces is particularly relevant to Salinas.
- Effective marketing and promotion, and organize area events.

With this objective in mind, the City budgeted \$80,000 in FY 20014-15, retained an expert consultant in New City America, and began working with the County and other downtown property owners to explore the possibility of forming a new kind of assessment district in Salinas based on property type rather than business type.

Leading the effort to form a Downtown Community Benefit District is the 25-member Steering Committee that has met nine-times between April 2014 and April 2015. The Committee has undertaken considerable analysis and outreach effort to make sure that that a Community Benefit District was feasible and to define the geographic area of those who support it. Based upon a survey that indicated a majority of property owners who agree to assess themselves to bring these benefits to Downtown, a District Management Plan and Engineer’s Report were drafted. At its April 21, 2015 meeting, the Steering Committee approved the Plan and Engineers Report.

The CBD’s proposed budget during its initial year is \$450,000, and must be used as follows:

60% (\$270,000 per year) is committed to clean-up programs, enhanced landscaping and decorations, and public space development and activation.

22% (\$100,000 per year) is committed to District identity and marketing,

14% (\$63,000 per year) for overhead and staff, and

4% (\$17,000 per year) for contingencies and non-payment.

These funds will provide enhanced services over and above baseline services provided by the City’s General Fund. Those interested in additional detail, can find the complete library of staff reports, the proposed Management Plan and Engineer’s Report at the City’s website: <http://www.ci.salinas.ca.us/services/CBD.cfm>.

Consistent with the formation process described in City Ordinance 2556, petitions to form the District were mailed to property owners following the Steering Committee’s approval April 21. Article 8 of Ordinance 2556 provides for the City Council to initiate the formation of a CBD upon the submission of a written petition, signed by property owners in the proposed district who will pay more than 30% of the of the assessment proposed to be levied, (this is \$130,000 of the value of the petitions). 43% of the petitions received support the formation of the new CBD.

Having exceeded the 30% threshold, the City Council took six distinct actions on May 26th to initiate the formation of the Salinas Downtown Community Benefit District:

- 1) Approved Resolution 577 (“ROI”) declaring its intention to form the Downtown Salinas Community Benefit District;
- 2) Approved its Management Plan (with the CBD budget) and Engineers Report;

- 3) Authorized the City Manager to sign the petition to assess the City properties within the proposed district, consistent with Government Code 53753 and Section 4 of Article XIID of the California Constitution;
- 4) Directed the City Clerk to mail ballots to proposed district property owners;
- 5) Authorized the City Manager to vote “yes” on behalf of the City to assess the City’s properties within the proposed District, and;
- 6) Set July 21, 2015 at 4 PM for a public hearing in the City Council Rotunda at 200 Lincoln Avenue to tabulate returned ballots, and determine if a weighted majority of property owners support the formation of the District.

As required by State law, the Property owners have no less than 45-days to respond to the attached Ballot Packet that was mailed June 3, 2015. The Ballot Packet’s cover letter clearly describes the process and includes the estimated amount of assessment applicable to each parcel. A Ballot is included that constitutes the “notice of public hearing.” It allows a property owner to vote in support, or against the formation of the District. The Ballot Packet also includes the Resolution of Intent and links to the Management Plan and Engineer’s Report. The City Clerk published the Notice of Intent in the Salinas Californian newspaper June 3, 2015.

PUBLIC HEARING:

Consistent with the State Constitution, the mail ballots have to be received by the City Clerk with a clearly indicated “yes” or “no” and be signed by the property owner at the close of the public testimony at the Public Hearing (at or nearly after 4PM, July 21, 2015). Ballots are weighted by the amount of assessment they represent. The public hearing provides property owners an opportunity to voice their opinions regarding the formation of the District and cast their votes for or against the District in a public forum. After the close of the public testimony ballots will no longer be received.

At the close of the public hearing, staff will ask the Mayor to recess the meeting and the City Clerk or her designee(s) will unseal and tally the ballots at her desk in the City Council Rotunda. Once completed, the City Clerk will request the Mayor to reconvene the meeting. Staff will present the final ballot count and the agenda item will commence.

If the weighted ballot count in support of the District is exceeded by the weight of those in opposition, the City Council cannot take action to form the District.

If the weighted ballot count in support of the assessment is not exceeded by the weighted ballot count in opposition to the assessment, the City Council may introduce the attached Resolution of Formation that forms the District benefiting the parcels. If the Council approves the Resolution of Formation, the District is formed.

NEXT STEPS:

If the Resolution of Formation is approved by the Council, the City would then notify the County Property Tax Assessor to levy the assessments on the next cycle of property tax bills consistent with the amounts listed in the District’s Management Plan and Engineer’s Report. If tax exempt parcels exist within the District (US Post Office) the City will have to bill them directly. The assessments will appear as a line item on the property tax bills. When the funds are collected (twice annually in December and June), the County will send a check to the City. Once a non-profit organization has

been established to govern the new District, the City will contract with that corporation to provide CBD services.

If the Resolution of Formation is approved, it is anticipated that the Steering Committee will begin work immediately to establish the non-profit corporation and appoint an Interim Board of Directors. An agreement with the Interim Board of Directors of the new non-profit management corporation will likely take 90-120 days to execute. In the meantime, staff will work closely with the Steering Committee to ensure the work of establishing and executing this new program proceeds effectively and efficiently. For this to happen, the Interim Board will also have to work closely with the Oldtown Salinas Association, to make sure the transition allows for open communication, that is responsive to all of the stakeholder's needs, and avoids unnecessary duplication of services or administrative functions. Staff will return, on a date to be determined, to the City Council for approval of the contract with the new non-profit management corporation for administration of the district as recommended by the Interim Board of Directors.

TRANSITION:

Due to the coincidental timing of the CBD formation process and the annual renewal of the OSA assessments, OSA finds itself in a cash-flow crunch. OSA spends approximately \$11,000 per month to manage the daily operations, the Saturday OSA Market Place, and pay for the landscape and security services. Since 2005, OSA has asked for private property owners to donate and pay for the landscape maintenance costs and this campaign did not occur this year due to the apparent conflict with the CBD formation process. Its current cash flow will last through July 31, but be insufficient to cover the period between August and October when if approved, the new OSA assessment revenues would begin to flow. It is in the best interest of all the stakeholders to continue these services during the transition.

The ROI and City Ordinance provide for the advancement of the City's CBD assessment in July to expedite the establishment of the new CBD. This amount is estimated to be \$89,000. Funds could be advanced to the Interim CBD Board and an arrangement between the Interim Board and OSA be established to help OSA fund their operations through October. In theory, when the OSA revenue stream flows again in October, OSA can repay the CBD for these costs. In any event, it is staff's recommendation that if the CBD is approved, that the City agree to advance its assessment payment to the Interim CBD Board in the interest in forming the new district quickly, and to prevent an interruption of the ongoing services being provided now in the Downtown.

ISSUE:

After receiving public testimony and the results of the balloting process from the City Clerk, if said weighted votes supporting the formation of the District exceed those votes opposing it, shall the City Council approve a resolution of formation and establish the new Downtown Salinas Community Benefit District? (Note: if the weighted votes in opposition exceed those in support, the City Council cannot take action to form the District.)

FISCAL IMPACT:

If the CBD is approved, the estimated annual assessment cost to the City is \$101,732.53. When One Main Street closes escrow and title to the National Steinbeck Center building and the land on which it sits transfer to CSUMB, this amount decreases by \$12,510.37 to \$89,222.16.

If the Resolution of Formation is approved, \$89,222.16 will have to be appropriated this fiscal year from the General Fund Reserve. Staff recommends the advancement of up to 100% of this amount to the Interim Board of Directors for the quick formation of the management organization, and to assist in the transition from the current service levels to the newly created CBD services.

If approved, the City has the ability to recover the formation costs estimated to be \$80,000.

TIME CONSIDERATIONS:

To become effective in FY 15-16, the process must be completed before the County Tax Assessor's July 31 deadline.

ALTERNATIVES/IMPLICATIONS

Regardless of the outcome of the assessment ballot process, the City Council may chose not to adopt the Resolution of Formation and to not form the CBD. If the weighted ballots in opposition to the assessment outweigh the ballots in support, then the City Council cannot adopt the Resolution of Formation and form the CBD.

CITY COUNCIL GOALS:

Establishing a Community Benefit District Downtown is consistent with four of the five Council goals: 1) economic diversity and prosperity; 2) safe livable community; 3) excellent infrastructure, and; 4) quality of life.

CONCLUSIONS:

The Community Benefit District takes the best attributes from other types of business and property assessment programs and combines them into one that can be tailored to the specific needs of Salinas. The survey and petition results from property owners provided in this and previous reports indicate that there is solid support from property owners willing to pay for these enhanced improvements, their surroundings and to improve the Downtown's image.

The results of the ballot process will in past determine whether or not the Downtown property owners are ready to take their neighborhood to higher, more vibrant quality of life. If supported by a majority of property owners, staff recommends that the City Council adopt the Resolution of Formation and initiate permanent, meaningful and sustainable change to Salinas' downtown, and advance its assessment payment now to expedite its formation.

Distribution:
City Council
City Manager
City Attorney
Department Directors
Steering Committee Members

Back-Up Pages:
Resolution of Formation
Ballot Packet

RESOLUTION NO. _____ (N.C.S.)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALINAS FORMING THE
DOWNTOWN SALINAS COMMUNITY BENEFIT DISTRICT (CBD) AND
LEVYING ASSESSMENT THEREWITH**

WHEREAS, on December 16, 2014, the City Council adopted Ordinance 2556, the City of Salinas's Community Benefit District Ordinance, that authorizes the City to establish a Community Benefit District ("CBD") for up to 20 years to enhance the security, safety, appearance, and economic viability within such districts; and

WHEREAS, the Ordinance authorizes the City to levy and collect assessments on real property within such districts for the purpose of providing improvements and promoting activities that specially benefit real property within such districts; and

WHEREAS, the Ordinance authorizes the City to use the procedures set forth in the Property and Business Improvement District Law of 1994 (Streets & Highways Code sections 36600 *et seq.*) (the "PBID Law") as modified by the Ordinance for purposes of forming an assessment district; and

WHEREAS, the Ordinance authorizes the City Council to initiate proceedings to form a Community Benefits District upon the submission of a written petition, signed by property owners in the proposed district who will pay more than thirty percent of the assessments proposed to be levied in connection with such district; and

WHEREAS, such petitions were signed by property owners and provided to the City Council at their meeting May 26, 2015, and upon review, 43% of the property owners support the district and this exceeds the 30% threshold required by City Ordinance 2556; and

WHEREAS, the "Downtown Salinas Community Benefit District 2015 Management District Plan" and "Downtown Salinas Community Benefit District Engineer's Report" both dated April 21, 2015, for the proposed Downtown Salinas CBD has been prepared and contains all of the information required by the Ordinance, including, but not limited to, a description of the boundaries of the proposed CBD, the special benefit improvements and activities and an assessment amount for every parcel within the District; and

WHEREAS, Articles XIIC and XIID of the California Constitution and Section 53753 of the California Government Code (Proposition 218 Omnibus Implementation Act) also impose certain procedural and substantive requirements relating to the notice, protests and hearing requirements pertaining to new or increased assessments; and

WHEREAS, on May 26th, 2015, the City Council adopted Resolution 577, a Resolution of Intent to Form the Salinas Downtown Community Benefit District, approved the Management District Plan and Engineer's Report, and among other things and consistent with the State Constitution and State government Code, directed the City Clerk to mail Ballot Packets to the proposed district property owners and set July 21 at 4 PM as the date and time for convening a public hearing in the City Council Rotunda at 200 Lincoln Avenue, for the purpose of receiving public testimony and tabulating the weighted votes; and

WHEREAS, as directed by the Resolution of Intent, on June 3, 2015, no less than 45-days prior to the public hearing, the City Clerk mailed to 231 record owners of affected parcels a ballot

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Packet including a notice of July 21, 2015 public hearing on the formation of the Community Benefit District, and a Ballot Packet consisting of the ballot with the proposed assessment amount, a copy of the Resolution of Intent and a link to the Management Report, Engineer's Report and other data describing the process, as required by Article XIII D, Section 4 of the California Constitution and Section 53753 of the Government Code; and

WHEREAS, as directed by the Resolution of Intent, the City Clerk published on June 3, 2015, the Notice of Public Hearing and the Resolution of Intent in the local Salinas Californian newspaper announcing the public hearing July 21 to discuss the proposed establishment of the Downtown Salinas Community Benefit District; and

WHEREAS, On July 21, 2015 at 4:00 PM or as soon thereafter as was practicable, in the City Council Rotunda, the City Council held a public hearing, at which it heard and considered oral and written testimony from all interested persons; and

WHEREAS, following the public input portion of the Public Hearing, all assessment ballots that had been returned to the City were tabulated pursuant to the procedures set forth in the Resolution of Intent; and

WHEREAS, based on the tabulation, the City Council determined that a majority protest, as defined by Article XIII D, Section 4(e) of the California Constitution and Section 53753 of the California Government Code does not exist with respect to the assessment proposed in connection with the Downtown Salinas CBD; and

WHEREAS, the property within the area of the CBD will be benefited by the improvements and activities funded by the assessments levied in connection with the CBD. The assessment against each parcel does not exceed the reasonable cost of the proportional special benefit conferred on that parcel.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALINAS AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. Pursuant to Article 4 of Chapter 21D of the Salinas City Code (Ordinance 2556) which incorporates provisions of Section 36621 of the PBID Law, the Downtown Salinas Community Benefit District (the "District") is hereby formed.

Section 3. The boundaries of the Downtown Salinas CBD as described in the Management Plan, and generally encompass all of downtown Salinas from Monterey Street west to Capital Street, and from the Train Station south to John and San Luis Streets.

Section 4. The proposed activities of the CBD as set forth in the Management Plan include sidewalk operations, marketing, district identity, beautification, security, maintenance, administration/corporate operations and an appropriate contingency/reserve. All proposed services and improvements will provide a special benefit to businesses and real property located within the District.

Section 5. The activities of the Downtown Salinas CBD will be funded by a total assessment levied and collected within the proposed Downtown Salinas CBD for fiscal year 2015-2016 of \$450,000. Section 7 of the Management Plan sets forth the proposed Downtown Salinas CBD annual

assessment amount by Assessor's Parcel Number. The amount to be levied and collected for subsequent years may be increased by an amount not to exceed five percent (5%) per year in accordance with increases in the Monterey County Consumer Price Index for all urban consumers from February to February.

Section 6. The initial duration of the Downtown Salinas CBD is 15-years.

Section 7. For a complete description of the CBD, its boundaries and activities, as well as a complete description of the assessment authorized in connection with the Downtown Salinas CBD, reference is made to the Downtown Salinas Management District Plan dated April 21, 2015, and the Downtown Salinas Community Benefit District Engineer's report also dated April 21, 2015, each of which are on file in the Office of the City Clerk, available for public inspection, available on the City's website, and incorporated herein by reference. The Management Plan and Engineer's Report are hereby finally approved. Properties in the Downtown Salinas CBD shall be subject to any amendments to the law.

Section 8. The adoption of this Resolution constitutes the levy of the assessment in each of the fiscal years referred to in the Management District Plan; however, each year's levy shall be conditioned on approval, by resolution, of an annual report pursuant Section 36650 of the PBID Law. The approval of such report is at the discretion of the Council.

Section 9. Consistent with Section 12 of the ROI and Article 10 of Chapter 21D in the Salinas Code, (Ordinance 2556), the City shall at its sole discretion, advance to the Downtown Salinas CBD as much as 100% of its assessment for FY 15-16, for the purpose of establishing the new District as soon as possible, and to prevent an interruption of the ongoing special benefit services (not funded by the City) that are being provided now in the Downtown.

Section 10. The City Clerk is hereby authorized and directed to record the notice of assessment required by Section 36627 of the PBID Law.

Section 11. This resolution shall take immediate effect.

PASSED AND ADOPTED this 21st day of July 2015 by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk