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DATE: December 5, 2022

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Nancy Sands, Management Analyst

SUBJECT: Resolution to Approve the 2023 Downtown Petaluma Business Improvement District Annual Report and Related Budget; Declaring the Intention to Levy the 2023 Annual Assessment; and Setting a Public Hearing on the Proposed 2023 Annual Assessment; and Finding This Action is Not a “Project” Pursuant to CEQA Guidelines Section 15378(b)(5)

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached Resolution approving the 2023 Downtown Petaluma Business Improvement District Annual Report and related budget, declaring the intention to levy the 2023 annual assessment for the district, and setting the public hearing on the proposed 2023 annual assessment.

### **BACKGROUND**

In November 2000, the Petaluma City Council adopted Ordinance 2104 N.C.S., establishing the Downtown Business Improvement District (BID). In the Ordinance, codified in Chapter 6.04 of the Petaluma Municipal Code (PMC), a Board of Directors (Board) is established to administer the affairs of the DBID. The Petaluma Downtown Association (PDA) Board serves as the BID Board.

Under PMC section 6.04.100, the Board must present the City Council with an Annual Report and related budget information for review and approval prior to the City Council adopting a Resolution of Intention to levy an annual assessment. The City Council cannot adopt, modify, or otherwise amend the proposed budget of the BID in a manner that is inconsistent in any way with the budget as agreed to and presented by the Board except in the case of a written majority protest from business owners which will pay fifty percent or more of the assessments proposed to be levied.

Section 6.04.050 of the Petaluma Municipal Code lists the types of improvements and activities that may be funded by the levy of assessments on businesses within the BID. Fundable improvements include, but are not limited to, the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more; including

benches, trash receptacles, decorations, façade improvements; and permanent landscaping. The activities that may be funded include but are not limited to the promotion of public events which benefit businesses in the area and which take place on or in public places within the area; the furnishing of music in any public place in the area; and activities which benefit businesses located and operating in the area; including but not limited to, commercial shopping and promotional programs.

The fiscal year for the BID begins on January 1st. The types of improvements and activities included in the 2023 proposed budget for funding by the levy of assessments on businesses in the BID are as follows:

<b>Percentage</b>	<b>Activity Type</b>	<b>Dollar Amount</b>
27%	Security	\$20,250.00
23%	Marketing	\$17,250.00
30%	Beautification	\$22,500.00
20%	Administration	\$15,000.00
	Total	\$75,000

A detailed listing of the activities included in these categories is provided in Attachment 1 – Exhibit A (Annual Report). The BID Analysis included in Attachment 3 shows historical collections, percentage allocations, and billing totals.

## **DISCUSSION**

Pursuant to PMC Section 6.04.100, the BID Board must annually present a budget for City Council review and approval prior to the beginning of each fiscal year. The purpose of this process is to comply with the California Streets and Highways Code Section 36500 et seq. (“the Act”) provisions regarding public notice and hearing prior to establishing the benefit assessments for the following fiscal year. It is recommended that the public hearing be held on December 19, 2022. At that time the City Council will be asked to consider public comment and input on the proposed budget and the BID annual assessment.

Mungle & Associates performed the BID billing and collection services for 2022 and will carry out these same services in 2023. The services include printing and mailing the BID notices and attachments, processing and depositing all payments, and preparing and submitting reports to PDA staff for periodic review. Mungle & Associates will mail up to three (3) notices and make a reminder call approximately 15 days after the deadline to pay. A draft version of the notice for transmission to approximately 650 businesses in the district boundary is provided in Attachment 4. Mail for the BID will be sent to Mungle & Associates’ office and processed for deposit into a BID bank account. Mungle & Associates also will provide year-round delinquent account collection services for prior BID calendar years, including 2022.

## **PUBLIC OUTREACH**

This item was noticed with the Monday, December 5, 2022, Regular City Council/PCDSA Meeting agenda, in accordance with Government Code §§ 36533, 66534, and 54954.2(a) and was placed on the tentative agenda at the November 21, 2022, City Council meeting.

This item was announced at the November 15, 2022, BID Advisory Board meeting and is included on the Petaluma Downtown Association's website.

BID members will be notified of the ~~January 24~~ December 19, 2022, public hearing in the following ways:

1. Notice of the date and time of the public hearing will be published in the *Argus Courier* at least seven days before the public hearing in accordance with Streets and Highways Code Section 36534. (December 9, 2022, edition) See Attachment 2.
2. In early December 2022, BID members will be mailed by USPS a packet containing a letter with information about the public hearing and annual summary newsletter.
3. The item will be noticed with the Monday, December 19, 2022, Regular City Council/PCDSA Meeting agenda.

### **COUNCIL GOAL ALIGNMENT**

This item aligns with the following Council goals and priorities:

#### **Economy that Prospers**

- Objective # 111 - Business Attraction and Retention: Incentivize, support, and incubate small, start-up businesses

#### **Spaces & Places**

- Objective # 125 - Safe & Vibrant Neighborhoods: Develop and implement a Downtown maintenance and beautification plan in partnership with the Petaluma Downtown Association
- Objective #134 – Inspirational Spaces/Public Art: Continue to look for opportunities for smaller, community oriented public art projects.

Objective #137 - Inspirational Spaces/Public Art: Explore opportunities for more murals and art installations citywide.

### **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

The BID and the City are working together to raise awareness about climate issues and make BID events and activities are more climate-friendly/sustainable. The BID is an important channel in communicating City climate events and policies to Downtown businesses. In the calendar year 2022, the BID's climate action/sustainability efforts included:

- Promoting the City's first Ciclovia event to BID members
- Creating event signage from reusable/recyclable materials rather than from balloons or other climate-negative materials
- Reducing the use of paper in BID mailings by referring BID members to the BID web page for BID information

- Working with Recology to place recycling and compost waste bins at BID events
- Supporting City efforts to install multi-stream waste receptacles in the downtown

## **ENVIRONMENTAL REVIEW**

Environmental review for this item was already completed during the initial creation of the DBID. Additionally, administration of assessment districts does not constitute a project under the California Environmental Quality Act (CEQA) because it involves continuing administrative or maintenance activities and organizational or administrative activities that will not result in direct or indirect physical changes in the environment. [14 Cal. Code Regs. § 15378(b)(2) & (5).

If the proposed action did constitute a project under CEQA the proposed action is statutorily exempt under CEQA Guidelines Section 15273(a) (Rates, Tolls, Fares, and Charges) and categorically exempt under CEQA Guidelines Sections 15301 (Existing Facilities) and 15305 (Minor Alterations to Land) as the resulting funds will be used to maintain downtown.

## **FINANCIAL IMPACTS**

The 2023 DBID Annual Report proposes no changes in the boundaries, method of assessment, or rate of assessment related to the DBID.

Over the past ten years, the DBID has received the following from assessments:

<b>YEAR</b>	<b>AMOUNT</b>
2011	\$52,850
2012	\$5,000
2013	\$83,319
2014	\$35,241
2015	\$61,940 (includes collections from 2012, 2013, and 2014)
2016	\$71,544 (includes collections from 2014 and 2015)
2017	\$64,795 (includes collections from 2015 and 2016)
2018	\$67,458 (includes collections from 2017)
2019	\$74,000 (includes collections from 2018)
2020	\$67,101
2021	\$69,293
2022	\$63,512

Mungle & Associates' fee for calendar year 2023 billing and collection services will be an estimated \$6,600, for 650 businesses billed at \$10.15 per business billed. Calendar year 2022 and 2023 collection services are included in the rate per business billed. Collections on overdue accounts will be billed on an hourly basis not to exceed 25% of the collected amount. Fees will be invoiced to the PDA and paid for by the PDA.

## **ALTERNATIVES**

If this resolution is not approved, the BID would not be able to collect its assessments.

## **ATTACHMENTS**

1. Resolution Approving 2023 Annual Report and 2023 Budget and Declaring Intention to Levy Annual Assessment
  - a. BID Annual Report, Budget, and Map for 2023 Fiscal Year
  - b. Ordinance 2104 N.C.S. with Exhibit A to Ordinance
2. Draft Public Notice for December 9, 2022, edition of *Argus Courier* with Annual Report, Budget, and Map for 2022 Fiscal Year.
  - a. Copy of 2022 BID Public Hearing notice published in Argus Courier in January 2022
3. Letter of Correspondence to Council from Petaluma Downtown Association with 2011-2022 BID analysis; 2022 BID Funds Received and Expenditures July 1, 2021 - June 30, 2022; 2022 BID Funds Received Analysis; and 2023 BID Proposed Budget
4. Letter and newsletter from BID Director to BID members, which will be sent in early December
5. Draft BID Invoice and Letter to Business Owners with Boundary Map