

RESOLUTION NO. 2022-0203

Adopted by the Sacramento City Council

June 21, 2022

Resolution Renewing Central Midtown Restaurant Business Improvement District No. 2022-02, Confirming and Levying Assessment, and Approving District Budget and Assessment for FY 2022/23

BACKGROUND

- A. The Central Midtown Restaurant Business Improvement District No. 2022-02 (District), boundaries of which are depicted in Exhibit B, was established under the Property and Business Improvement District Law of 1994 (California Streets & Highways Code section 36600 et seq.) (referred to as the “PBID Law”) by the City Council on June 20, 2017 with an initial term from July 1, 2017 through June 30, 2022 (Resolution No. 2017-0255).
- B. The business owners within the boundaries of the District have submitted petitions to the City to renew the District for a ten-year term running from July 1, 2022 through June 30, 2032. Included with the petitions was a summary of the Management District Plan (MDP) that describes the proposed assessment to be levied on businesses within the District to pay for the activities and improvements specified in the MDP. Accordingly, renewal of the District by the City Council is sought in accordance with Streets and Highways Code sections 36630 and 36660.
- C. During the public hearing on June 14, 2022, Council: (1) heard all protests against the proposed assessment from restaurant business owners within the District; and (2) accepted testimony from all interested persons, whether or not they own restaurant businesses within the District.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Background statements above are true and correct.
- Section 2. The proposed activities and improvements for the District, which constitute a specific benefit and all of which are intended to make the District safer, cleaner, and increase the commercial activity for restaurants in the District, include the following: (1) Lighting and Safety: targeted public safety programs and lighting improvements above the level provided by the City; (2) Placemaking, Arts, and Events: pilot projects and capital improvements, arts support, and event programming; (3) Advocacy and Administration: marketing and advertising services designed to increase patronage for restaurants

within the District, and standard administration activities including maintaining a prudent fiscal reserve. All activities and improvements are defined within the MDP, attached hereto and incorporated herein as Exhibit A. The MDP is also on file with the Infrastructure Finance Division of the Department of Finance, designated by the City Clerk to be repository of documents associated with special districts.

- Section 3. The total amount of the proposed assessments for the first year of the District's renewal term is approximately \$200,000. Exhibit C, attached hereto and incorporated herein, includes a breakdown of the assessment per restaurant business.
- Section 4. The assessments for the renewed District will be levied on restaurant businesses within the District.
- Section 5. Bonds will not be issued for the District.
- Section 6. A description of the exterior boundaries of the proposed District is contained in Exhibit B attached hereto and incorporated herein.
- Section 7. The business owners who signed the petitions will pay more than 50% of the proposed assessments. Accordingly, on April 26, 2022, City Council adopted Resolution No. 2022-0116 entitled "Resolution of Intention to form the Central Midtown Restaurant Business Improvement District No. 2022-02" (Resolution of Intention).
- Section 8. On April 27, 2022, the City Clerk mailed to each restaurant owner within the District's boundaries a notice concerning the public meeting and public hearing on the renewal of the District and the proposed assessments, pursuant to Streets and Highways Code section 36623 and Government Code section 54954.6. Each notice included the information about the assessment and the majority protest procedure. A public meeting on renewal of the District was held by Zoom videoconference on May 17, 2022, and a public hearing on renewal of the District was held by Zoom videoconference on June 14, 2022.
- Section 9. During the public hearing on June 14, 2021, the City Council heard and received all objections and protests to the renewal of the District and the proposed assessment. The Clerk's Certificate of Results for the Business Owner Majority Protest Proceeding indicates that the protests received and not withdrawn prior to the close of the public hearing did not amount to a majority protest. The protest for each business is weighted according to the proportional financial obligation of each business. The weight of the total compliant protests received and not withdrawn represents less than 50% of the total assessment proposed to be levied in the District. Therefore, a majority protest against the proposed assessment does not exist.

- Section 10. Properties within the District will be subject to any amendments to the PBID Law.
- Section 11. The activities and improvements to be conferred on restaurant businesses in the District will be funded by the levy of the assessments. Revenue from the levy of assessments shall not be used to fund services outside of the District, except for marketing or signage pointing to the District.
- Section 12. The restaurants within the boundaries of the District will be benefited by the activities and improvements to be funded by the proposed assessments and restaurants within the District will receive a specific benefit.
- Section 13. The Resolution of Intention stated the City Council's finding that the MDP satisfied all requirements of Streets and Highways Code section 36622. The City Council hereby approves the MDP on the proposal to levy an annual assessment on restaurant businesses within the District. The MDP is attached hereto as Exhibit A and by this reference made a part of this resolution.
- Section 14. The City Council hereby renews the District for a ten-year term beginning July 1, 2022, with an expiration date of June 30, 2032, for the territory generally described in Exhibit B, attached hereto and by this reference made a part of this resolution, and as shown in the MDP.
- Section 15. The City Council hereby confirms the assessment methodology specified in the MDP and the City Council levies the assessments detailed in the MDP on restaurant businesses within the District to fund the activities and improvements described in the MDP. In accordance with Streets and Highways Code section 36631 and the MDP, the assessment to fund the activities and improvements for the District will be collected monthly by the City from the restaurant businesses.
- Section 16. The City Council hereby approves the FY 2022/23 annual budget and restaurant business assessments for the District as set forth in Exhibit C attached hereto and incorporated herein.
- Section 17. The City Manager or City Manager's designee is hereby directed to take all necessary actions to complete the renewal of the District and levy the assessments.
- Section 18. Exhibits A, B, and C are part of this resolution.

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Exhibit A - Management District Plan

Exhibit B - District Map

Exhibit C - District Budget and Business Assessment

Adopted by the City of Sacramento City Council on June 21, 2022, by the following vote:

Ayes: Members Ashby, Guerra, Harris, Jennings, Loloee, Schenirer, Valenzuela, Vang

Noes: None

Abstain: None

Absent: Mayor Steinberg

Attest:



08/01/2022

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.



CENTRAL MIDTOWN RESTAURANT BUSINESS IMPROVEMENT DISTRICT

Management District Plan

March 22, 2022

Prepared pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq.



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Prepared by
Midtown Association

I. OVERVIEW

The Central Midtown Restaurant Business Improvement District (CMRBID) is an assessment district that provides specific benefits to businesses within the central Midtown area. The original formation of the CMRBID was approved by City Council on June 20, 2017, and the original term expires June 30, 2022. The Midtown Sacramento PBID Corporation doing business as the Midtown Association, is spearheading renewal of the CMRBID for a ten-year term that will run through June 30, 2032. This Management District Plan (“Plan”) will govern the CMRBID for the ten-year renewal term.

Location: The CMRBID includes all restaurant businesses located within the portion of Midtown Sacramento bound generally by Jazz Alley to the north, 24th Street to the east, Kayak Alley to the south, and the Union Pacific Railroad to the west, as shown on the map in section IV.

Services: The CMRBID is designed to provide specific benefits directly to payers by increasing restaurant food sales and revenue therefrom. Lighting and safety; placemaking, arts, and events; and advocacy and related administration programs will be provided to increase restaurant food sales and market assessed businesses in the CMRBID.

Budget: The ten (10) year budget is projected at approximately \$200,000 annually, or \$2,000,000 total, through June 30, 2032. This budget is expected to fluctuate as businesses open and close and food sales change, but is not expected to significantly change over the life of the CMRBID renewal term.

Cost: The annual assessment rate shall be 1.5 percent of gross food sales revenue including takeout and to-go sales plus a fixed amount based on occupancy. Based on the benefit received, the assessment shall not be collected on: gross alcoholic beverage sales; and gross retail sales (such as coffee mugs, t-shirts, etc.). The fixed assessment amount (based on occupancy) is in addition to the gross food sales assessment and is shown in the table below:

Occupancy Threshold	Annual Occupancy Assessment
Under 49 customers	\$500
50-99 customers	\$1,000
100-199 customers	\$2,500
200+ customers	\$5,000

Businesses have the opportunity to protest any new or increased assessment pursuant to the provisions of California Streets & Highways Code section 36623.

Collection: The City of Sacramento (“City”) will be responsible for collecting the gross food sales revenue assessment and the prorated amount of the occupancy assessment on a monthly basis (including any delinquencies, penalties and interest) from each restaurant business located in the CMRBID.

Duration: The proposed CMRBID renewal will have a ten (10) year life, beginning July 1, 2022 through June 30, 2032.

Management: The Midtown Association will serve as the CMRBID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan, and must provide annual reports to the City Council.

II. BACKGROUND

BIDs utilize the efficiencies of private sector operation in the market-based promotion of business districts. BIDs allow business owners to organize their efforts to increase sales and promotional efforts. Business owners within the District fund a BID, and those funds are used to provide services that the businesses desire and benefit the businesses within the District.

Business Improvement District services may include, but are not limited to:

- Marketing of the District
- Business Promotion Activities
- Infrastructure Improvements

In California, BIDs are formed pursuant to the Property and Business Improvement District Law of 1994 found in California Streets and Highways Code section 36600 et seq. (PBID Law). This law allows for the creation of special benefit assessment districts to raise funds within a specific geographic area. *The key difference between BIDs and other special benefit assessment districts is that funds raised are managed by the private non-profit corporation governing the district.*

There are many benefits to Business Improvement Districts:

- Funds cannot be diverted for other government programs;
- Services are customized to fit the needs of each district;
- They allow for a wide range of services, including those listed above;
- Business Improvement Districts are ***designed, created and governed by those who will pay*** the assessment (with consent from the City Council when required under the PBID Law); and
- They provide a stable funding source for business promotion.

The PBID Law is provided in Appendix 1 of this document.

III. ACCOMPLISHMENTS

During its first five-year term, the CMRBID successfully provided many services to restaurants within the District. The CMRBID services supplemented both City services and the Midtown Sacramento PBID services that helped create an identity and add vibrancy in the District. Midtown has become the destination neighborhood in Sacramento for arts, dining, culture, and activities. The renewed CMRBID will continue building upon previous successes and improving the efficiency and effectiveness of the services it provides. A summary of activities and accomplishments can be found below.

Category 1: Lighting & Safety

Lighting Enhancements: As part of the CMRBID program, the organization has looked to interject lighting at key intersections within the District to improve safety and comfortability for both employees and visitors. The pilot lighting project includes the investment of 6 custom fabricated chandelier lights that is lovingly known as the disco tree at 24th and K streets. The chandeliers have custom programmed LED sequenced light shows that repeat in the evening hours.

Power Washing: In the first term of the District, the lighting and safety program has been enhanced with the addition of direct business support with exterior patio power washing for participating restaurants. The monthly service maintains a clean and welcoming environment for guests in the District.

Safety & Security: The District has provided and will continue to provide safety services throughout the District to protect the assessed businesses. Additionally, in the first term the program has included supplemental funding for event security services for the This Midtown series, Oktoberfest, and others.

Category 2: Placemaking, Arts & Events

Pilot Projects & Capital Improvements: The District has seen the investment of two separate bollard installations with one being on 20th Street between J and K streets, as well as on K Street between 23rd and 24th streets. The bollard installation promotes easier traffic control for event closures, as well as add the potential of more long term street closures for park-like investments on 20th Street.

Arts: The District was able to add to the vibrancy and ambience of the area by bringing in various forms of art along the stretch of K Street. This includes the installation of murals on Tres Hermanas and on the block of 22nd and K streets. During the pandemic, musicians and performers were brought in to perform at 24th and K streets enhancing the visitor experience to nearby restaurants.

Event Programming and Support: CMRBID successfully hosted a series of events known as Third Thursdays, which shut down K Street between 23rd and 24th streets. The event brought new visitors to the District which spilled over to the restaurants in the area. The District also supported the programming of other events in the District including This Midtown hosted by Lowbrau, the Midtown Farmers' Market, Oktoberfest hosted by Biergarten, Cinco De Mayo hosted by Cantina Alley, and Banana Sundays hosted by Flamingo House.

Category 3: Advocacy & Administration

Al Fresco Dining: Early in the COVID-19 pandemic the District was able to pivot quickly to bring patrons out into the public right of way for open air dining in a safe manner. The District was able to leverage city funding to set up seven Al Fresco dining patios in a temporary manner, which have the potential to be turned into permanent patio set ups by mid-2022.

Pandemic Support & Relief: Throughout the COVID-19 pandemic, the District was able to support restaurants through providing education on various state and local public health orders, make connections to city and federal funding opportunities including local grants, CARES funding and PPP loans, as well as supporting the ease ABC restrictions to allow for a more robust takeout program for restaurants.

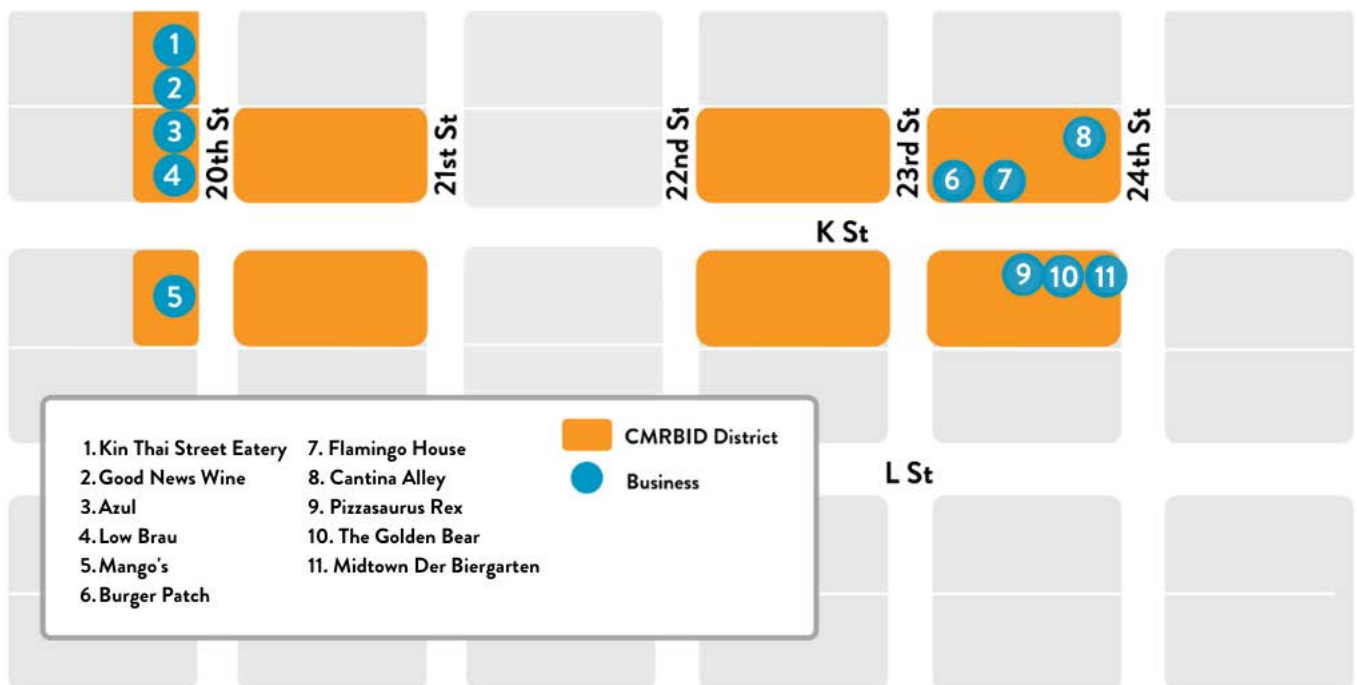
Nightlife & Entertainment Regulations: The District was able to support the evening operation of the businesses within CMRBID by advocating and supporting regulations that improved public safety and health issues within the boundaries. Advocacy included the development of an ordinance that regulates sidewalk vending, requests for additional code enforcement officers to the District in the evening hours, and coordination with the entertainment team of the Police Department.

IV. BOUNDARY

The CMRBID includes all restaurant businesses within the boundaries shown on the map below.

As used herein, restaurant business means: cafeteria, luncheonette, soda fountain, fast food service, restaurant, and other establishment where cooked or otherwise prepared food is sold to members of the general public for consumption. As used herein, restaurant business does not include coffee shops or any business that sells food and/or drinks incidentally to its main business purpose. As used herein, coffee shop means: a business that sells prepared coffee or tea based drinks as its main business purpose.

The boundary, as shown in the map below, currently includes 11 restaurant businesses. A listing of restaurant businesses within the CMRBID can be found in Appendix 2.



V. SERVICES

Assessment funds will be spent on specific benefits conferred or privileges granted directly to the payers that are not provided to those not charged, and which do not exceed the reasonable cost of conferring the benefits or granting the privileges. The privileges and services provided with the CMRBID funds are activities and improvements designed to increase restaurant food sales and revenue therefrom. A description of the proposed activities and improvements for the initial year of the renewal term is below; the same activities are proposed for subsequent years.

A. Lighting & Safety

The lighting and safety program will focus on safety services and amenities that make the CMRBID businesses safer and more welcoming for visitors. The program may include enhanced patio power washing, special police or security services for events and in the public space adjacent to assessed businesses, and ambient lighting on trees and ornamental poles.

B. Placemaking, Arts, & Events

The placemaking, arts, and events program will focus on attracting patrons to assessed businesses by supporting family/neighborhood friendly programming in public spaces such as streets, alleyways and parking lots. The program will focus on supporting arts and annual signature events and their supporting marketing and communications functions that are produced by BID stakeholders such as THIS is Midtown Concert Series, and Oktoberfest. Funds cannot be used to enhance events or promotions that take place exclusively inside businesses. Funds can be used for Districtwide promotion campaigns and focused communication strategy. Program costs may include special event insurance, street closure costs, entertainment fees, advertising, and placemaking projects such as CMRBID welcome signage, banners and public art installations adjacent to assessed businesses. Assessment funds will not be used to rebate businesses for their specific marketing efforts or event planning costs.

C. Advocacy & Administration

In order to provide the lighting and safety and placemaking, arts, and events services, the Midtown Association will incur various administrative costs, such as staffing, rent, advocacy, insurance, legal, and accounting fees. Advocacy programs will utilize dedicated staff time to provide unified attention, communication, and responsiveness throughout the CMRBID on regulations and policies affecting assessed restaurant businesses.

D. Collections/Contingency/Reserve

In order to ensure effective provision of services, a contingency will be established to account for uncollected assessments or unanticipated program costs. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the Midtown Association. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of the reserve fund shall be set by the Midtown Association. The reserve fund may be spent on programs described in this Plan in any proportion deemed appropriate by the Midtown Association. This category includes the cost of City administrative fees, not to exceed \$10,000 per year, for collection and disbursement of the assessment.

VI. BUDGET

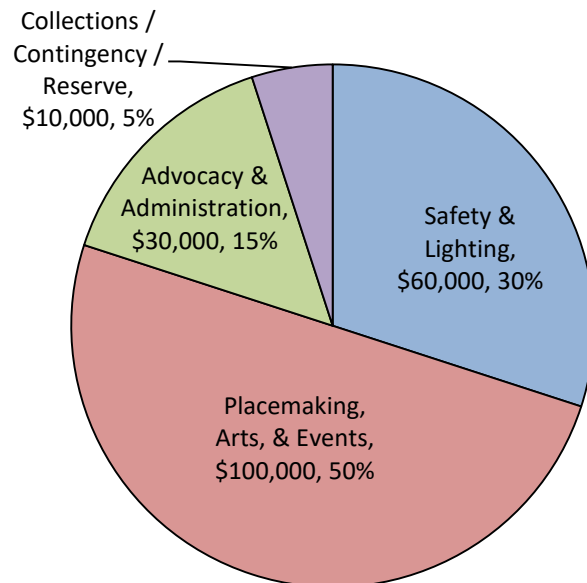
A. Total Annual Budget

The total ten (10) year budget is projected at approximately \$200,000 annually, or \$2,000,000 through June 30, 2032. This budget is expected to fluctuate as businesses open and close and food sales change, but is not expected to significantly change over the life of the CMRBID.

B. Budget Allocations

The budget allocations for the initial renewal year are shown below. Although actual annual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain consistent. However, the Midtown Association shall have the authority to adjust categorical allocations by up to fifteen percent (15%) of the total budget each year. In the event of a legal challenge against the CMRBID, CMRBID funds may be used for the costs of defending the CMRBID, the City and the Midtown Association related to the CMRBID, except to the extent such claims result from fraud or willful misconduct by such parties.

The initial annual budget of \$200,000 will be allocated as follows:



C. GAAP Compliance

Each budget category includes all costs related to providing that activity or improvement, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the safety and lighting budget includes the cost of staff time dedicated to overseeing and implementing the safety and lighting program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of employing an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the activities and improvements below will be determined by the Midtown Association on an as-needed basis.

VII. ASSESSMENT

A. Assessment

The annual assessment rate shall be 1.5 percent of gross food sales revenue including takeout and to-go sales plus a fixed amount based on occupancy. Based on the benefit received, the assessment shall not be collected on: gross alcoholic beverage sales; and gross retail sales (such as coffee mugs, t-shirts, etc.). The fixed assessment amount based on occupancy is in addition to the gross food sales assessment and is shown in the table below:

Occupancy Threshold	Annual Occupancy Assessment
Under 49 customers	\$500
50-99 customers	\$1,000
100-199 customers	\$2,500
200+ customers	\$5,000

The term “gross food sales revenue” as used herein means: the consideration charged, whether or not received, for prepared food items and non-alcoholic beverages to be consumed either on-site or through takeout or to-go, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

The assessment is levied upon and a direct obligation of the assessed restaurant business. However, the assessed restaurant business may, at its discretion, pass the assessment on to customers. The amount of assessment, if passed on to each customer, shall be disclosed in advance and separately stated from the amount charged and any other applicable taxes, and each customer shall receive a receipt for payment from the business. The assessment shall be disclosed as the “CMRBID Assessment.” The assessment is imposed solely upon, and is the sole obligation of, the assessed restaurant business even if it is passed on to customers.

Bonds shall not be issued.

B. Penalties and Interest

The City will be responsible for collection of assessments and any penalties or interest imposed on delinquent assessments pursuant to Streets and Highways Code section 36631. The City will retain any penalties or interest collected with unpaid assessments to cover City administrative costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency:* Any assessed business which fails to remit payment of assessments within fourteen (14) days of the due date shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency:* If an assessed business fails to remit any delinquent remittance within sixty (60) days, the City will take all appropriate legal remedies to recover the assessment owed. If the City determines that an assessed business is delinquent, the assessed business can be sent directly to collections without further review and the assessed business will be responsible for all late fees, interest, and collection fees.
3. *Fraud:* If it is determined that the nonpayment of any remittance due is because of fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated above.
4. *Interest:* In addition to penalties imposed, any assessed business which fails to remit any assessment shall pay simple interest at the rate of six percent (6%) per year or fraction thereof on

the amount of the assessment, exclusive of penalties, from the date on which the assessment first became delinquent until paid.

5. *Penalties Merged With Assessment:* Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the assessment required to be paid.

C. Time and Manner for Collecting Assessments

The Midtown Association shall be responsible for educating new and existing businesses in the CMRBID of its existence. The Midtown Association shall notify the City when a business closes, opens or changes ownership within the CMRBID. The CMRBID assessment will be renewed beginning July 1, 2022 and will continue for ten (10) years through June 30, 2032. The City will be responsible for collecting the gross food sales revenue assessment and the prorated amount of the occupancy assessment on a monthly basis (including any delinquencies, penalties and interest) from each restaurant business. The City shall take all reasonable efforts to collect the assessments from each restaurant business. The City shall forward the assessments collected to the Midtown Association.

VIII. CALIFORNIA CONSTITUTIONAL COMPLIANCE

The CMRBID is subject to certain provisions of the California Constitution. Although it levies an assessment, the CMRBID is not a property-based assessment subject to the requirements of Article XIII D of the California Constitution (“Proposition 218”).¹ Rather, the CMRBID assessment is a business-based assessment, and is subject to Article XIII C of the Constitution (“Proposition 26”). Pursuant to Proposition 26, all levies, charges, and exactions imposed by the City is a tax subject to voter approval unless they fit into one of seven exceptions. Two of these exceptions apply to the CMRBID, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services. Although Midtown Association will be providing the services under this Plan, such services are analyzed under Proposition 26 in terms of the costs the City would incur if providing the services because the City is the government entity collecting the assessment and the City has contracted with the Midtown Association for provision of services for the CMRBID.

A. Specific Benefit

The first applicable Proposition 26 exception applies to charges imposed for “a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”² The services in this Plan are designed to provide targeted benefits directly to assessed restaurant businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific restaurant businesses within the CMRBID. The activities described in this Plan are specifically targeted to increase gross food sales for assessed restaurant businesses within the boundaries of the CMRBID, and are narrowly tailored. CMRBID funds will be used exclusively to provide the specific benefit of increased gross food sales directly to the businesses assessed. Assessment funds shall not be used to feature non-assessed restaurant businesses in CMRBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by the CMRBID is for a specific benefit conferred directly to the payers that is not provided to those not charged. The specific benefit conferred directly to the payers is an increase in gross food sales and revenue therefrom. The specific benefit of an increase in gross food sales for assessed restaurant businesses will be directly provided only to restaurant businesses paying the CMRBID assessment, with lighting and safety and placemaking, arts, and events programs promoting only those restaurant businesses paying the assessment. The CMRBID programs will be designed to increase gross food sales at each assessed restaurant business. Because they are necessary to provide the CMRBID programs that specifically benefit the assessed restaurant businesses, the advocacy and administration and collection/contingency/reserve expenditures also provide the specific benefit of increased gross food sales to the assessed restaurant businesses.

Although the CMRBID, in providing specific benefits to payers, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that “[a] specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayer occurs incidentally and without cost to the payer as a consequence of providing the specific benefit to the payer.”³

¹ *Howard Jarvis Taxpayers Assn. v. the City of San Diego* (1999) 72 Cal App. 4th 230, 240.² Cal. Const. art XIII C § 1(e)(1)

² Cal. Const. art XIII C § 1(e)(1)

³ Government Code § 53758(a)

B. Specific Government Service

The second applicable Proposition 26 exception applies to charges imposed for “a specific government service or product provided directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”⁴ Services including landscaping, marketing, events, and promotions outlined within the Plan to be provided by the CMRBID are government services within the meaning of Proposition 26. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayer occurs incidentally and without cost to the payer as a consequence of providing the specific government service to the payer.”⁵

C. Reasonable Cost

CMRBID activities and services will be implemented carefully to ensure they do not exceed the reasonable cost that would be incurred by the City if the City were providing such activities or services. The full amount assessed will be used to provide the activities and services described herein. Funds will be managed by the Midtown Association, and reports submitted on an annual basis to the City. Only assessed restaurant businesses will directly benefit from other CMRBID-funded services. Non-assessed restaurant businesses will not directly receive these, nor any other, CMRBID-funded services and benefits.

The CMRBID-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed restaurant businesses receive incremental gross food revenue, that portion of the promotion or program generating that gross food revenue shall be paid with non-CMRBID funds. CMRBID funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incidental gross food sales for non-assessed businesses.

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

IX. GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Plan, has the right, pursuant to Streets and Highways Code § 36651, to identify the body that will implement the CMRBID (i.e. the Owners' Association as defined in Streets and Highways Code § 36612). The City Council has determined that the Midtown Sacramento PBID Corporation, doing business as the Midtown Association, will serve as the Owners' Association for the CMRBID.

B. Brown Act and California Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code § 54950 et seq.). Thus, meetings of the Midtown Association Board and certain committees wherein the CMRBID is discussed must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

C. Annual Report

The Midtown Association shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code § 36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement District or in any benefit zones or classification of businesses within the District.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

X. IMPLEMENTATION TIMELINE

For the CMRBID to meet the renewal date of July 1, 2022, the schedule of proceedings is as follows:

SCHEDULE OF PROCEEDINGS

CENTRAL MIDTOWN RESTAURANT BUSINESS IMPROVEMENT DISTRICT

March 2022	Petition Drive Kick-Off
March 2022	Signed Petitions Submitted to City
April 2022	Resolution of Intention – City Council
April 2022	Mail Notices of Public Meeting and Public Hearing
May 2022	Public Hearing (Minimum 45 Days after Noticing) – City Council
May 2022	Certification – City Council
July 2022	Collections for BID Assessments Begin in Renewed District

APPENDIX 1 – LAW

*** This document is current through the 2020 Supplement ***
(All 2019 legislation)

STREETS AND HIGHWAYS CODE

Division 18. Parking

Part 7. Property and Business Improvement District Law of 1994

CHAPTER 1. General Provisions [36600 - 36617]

ARTICLE 1. Declarations [36600 - 36604]

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

(a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow 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.

(d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.

(e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:

(1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.

(2) Job creation.

(3) Business attraction.

(4) Business retention.

(5) Economic growth.

(6) New investments.

(f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.

(g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.

(h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.

(1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.

(2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions [36606 - 36616]

36606. "Activities"

"Activities" means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. "Assessment"

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. "Business"

“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. "Property-based assessment"

"Property-based assessment" means any assessment made pursuant to this part upon real property.

36614.7. "Property-based district"

"Property-based district" means any district in which a city levies a property-based assessment.

36615. "Property owner"; "Business owner"; "Owner"

"Property owner" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. "Business owner" means any person recognized by the city as the owner of the business. "Owner" means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. "Special benefit"

"Special benefit" means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

36616. "Tenant"

"Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law [36617- 36617.]

36617. Alternate method of financing certain improvements and activities; Effect on other provision

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment [36620 - 36630]

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceeding; Petition of property or business owners in proposed district

(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
- (1) A map showing the boundaries of the district.
 - (2) Information specifying where the complete management district plan can be obtained.
 - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
 - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.
- (e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.
- (f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.
- (g) The time and manner of collecting the assessments.

- (h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.
- (i) The proposed time for implementation and completion of the management district plan.
- (j) Any proposed rules and regulations to be applicable to the district.
- (k)
 - (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.
 - (2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.
- (l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.
- (m) In a property-based district, the total amount of general benefits, if any.
- (n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.
- (o) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

- (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.
- (b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.
- (c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing

procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments [36631 - 36637]

36631. Time and manner of collection of assessment; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant

to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adopting of resolution of intention

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing [36640- 36640.]

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance [36650 - 36651]

36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal [36660- 36660.]

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

(a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment [36670 - 36671]

36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assesseees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – ASSESSED BUSINESSES

Business Name	Street Address
Kin Thai Street	1050 20th Street, Suite 180
Good News Wine	1050 20th Street, Suite 150
Azul	1050 20th Street, Suite 140
LowBrau	1050 20th Street, Suite 100
Mango's	1930 K Street
Burger Patch	2301 K Street, Suite 101
Flamingo House	2315 K Street
Cantina Alley	2320 Jazz Alley
Pizzasaurus Rex	2322 K Street
The Golden Bear	2326 K Street
Midtown Der Biergarten	2332 K Street

EXHIBIT B
Central Midtown Restaurant
Business Improvement District No. 2022-02

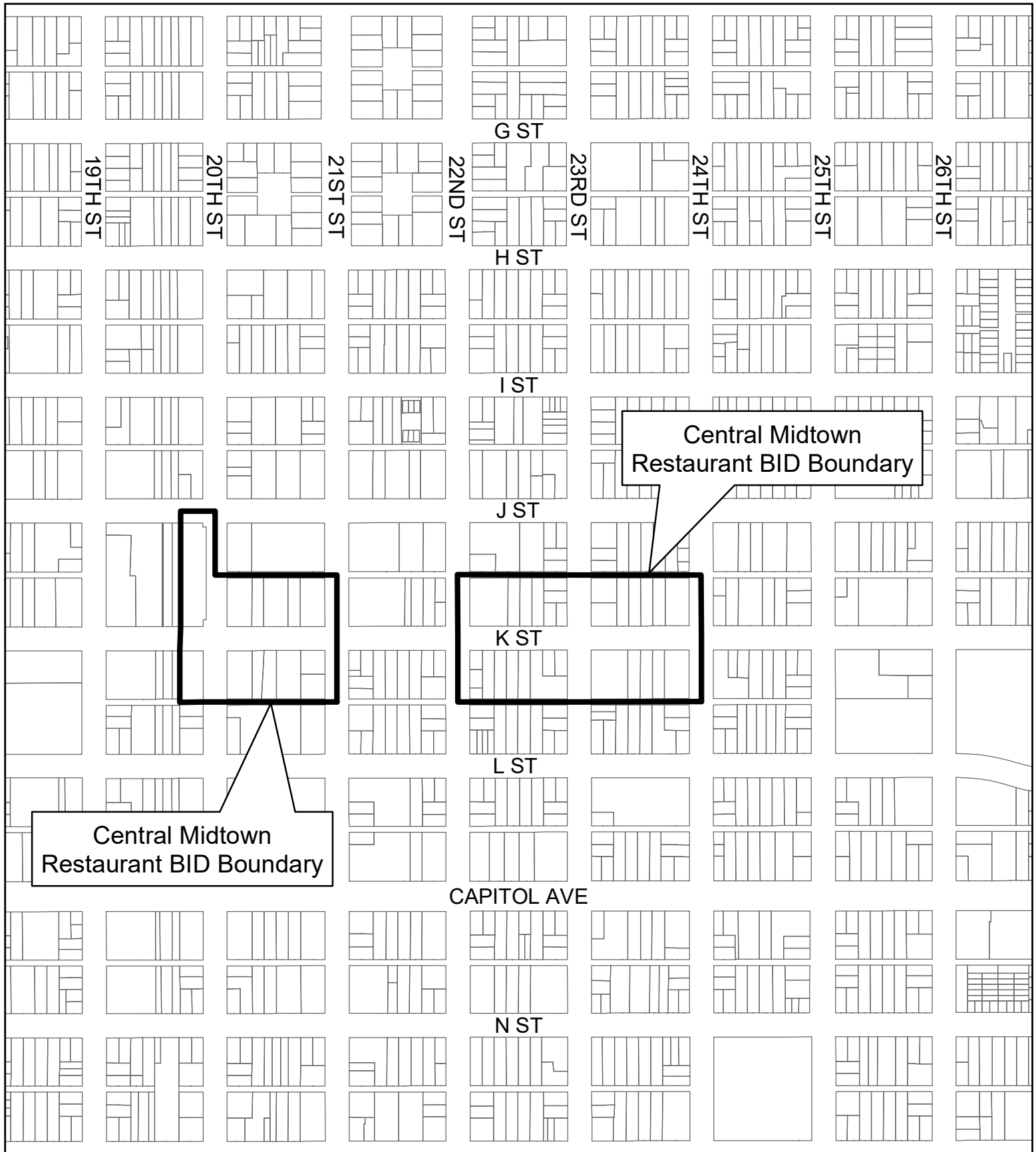


EXHIBIT C
CENTRAL MIDTOWN RESTAURANT (FUND 2251)
BUSINESS IMPROVEMENT DISTRICT No. 2022-02
FY2022/23 DISTRICT FUND BUDGET
& PROPOSED BUSINESS ASSESSMENT

Estimated Beginning Fund Balance	-
Total Assessed to Business Owners	200,000
Total Resources	<u>\$200,000</u>

BID Activities	
Estimated Disbursement	\$197,402

Administrative Costs	
Infrastructure Finance	
Administration	1,500
Accounting	
Administration	1,098
Total Expenditures	<u>\$200,000</u>

Estimated Ending Fund Balance	-
Year-Over-Year Change in Fund Balance	-

Business Assessment

Restaurant businesses shall be assessed a fixed amount based on the occupancy threshold for that business plus 1.5% of gross food sales, excluding gross alcoholic beverage sales and gross retail sales (i.e. coffee mugs, t-shirts, etc.), as described in further detail in Section VII of the Management District Plan attached as Exhibit A.

Occupancy Threshold	Annual Occupancy Assessment
Under 49 customers	\$500
50-99 customers	\$1,000
100-199 customers	\$2,500
200+ customers	\$5,000