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Supplemental Material

For

City of Sacramento

Agenda Packet

Submitted: March 7, 2008

For the Meeting of: March 11, 2008 (afternoon)

☐ Additional Material

☒ Revised Material (revised recommendation language)

Subject: **Sutter Business Improvement Area**

Approved By: James R. Rinehart

Tom Ziedner, Sr. Project Manager, 808-1931

Please include this supplemental material in your agenda packet. This material will also be published to the City=s Intranet.
For additional information, contact the City Clerk Department at Interim City Hall, 730 I Street, Suite 211, Sacramento, CA 95814-2671 B (916) 808-7200.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SACRAMENTO TO ADD CHAPTER 3.106 TO TITLE 3, REVENUE AND FINANCE, OF THE SACRAMENTO CITY CODE, AND ESTABLISH THE SUTTER BUSINESS IMPROVEMENT AREA (SBIA) AND TO LEVY AN ASSESSMENT ON RESTAURANT BUSINESSES WITHIN SUCH AREA

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1: Chapter 3.106 is added to Title 3, Revenue and Finance, of the Sacramento City Code to read as follows:

Chapter 3.106 Sutter Business Improvement Area

3.106.010 Authority.

This chapter is adopted pursuant to the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code Section 36500 et seq. (the Law), and Resolution of Intention No. 2008-042 titled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SACRAMENTO DECLARING ITS INTENTION TO ESTABLISH THE SUTTER BUSINESS IMPROVEMENT AREA (SBIA), DECLARING ITS INTENTION TO LEVY AN ASSESSMENT ON RESTAURANT businesses WITHIN SUCH DISTRICT FOR FISCAL YEAR 2008-09, AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF." Such resolution was published and mailed as provided by law, and hearings thereon were held by the City Council at its regular meeting on March 11, 2008, for a public meeting, and March 25, 2008, for a public hearing, on the establishment of the SBIA and the levy of assessments. The City Council duly concluded the hearing on March 25, 2008, and determined that protests objecting to the formation of the area have not been made by a majority of the businesses within the area and that such protests are overruled and denied. The City Council finds that the business improvement area, in the opinion of the City Council, will be benefited by the expenditure of the funds raised by the charges proposed to be levied.

Section 3.106.020 Area established.

There is established a business improvement area that shall be known as the "Sutter Business Improvement Area" of the City of Sacramento, herein referred to as the "SBIA" for brevity and convenience. The boundaries of the SBIA shall be the area bounded by 27th Street, 29th Street, J Street, and P Street, as shown on the map on file with the City Clerk's office.

3.106.030 Authorized Uses.

The types of improvements and activities to be funded by the levy of assessments are additional security, maintenance and marketing programs to promote the Sutter Area as an attractive destination for dining and projects, programs, and activities that benefit restaurant businesses located and operating within the boundaries of the area. The improvements and activities shall be targeted at increasing restaurant business revenues.

3.106.040 Levy of charge in addition to business operations tax.

Except where funds are otherwise available, commencing with fiscal year 2008-2009 there is imposed a charge for the purposes authorized which charge is in addition to the ordinary business operations tax as it is imposed upon businesses conducting their activities within the area. Such additional charge is imposed at the rates set forth for the specified business classifications regardless of whether the business is taxed upon a flat rate or gross receipts or other basis under the provisions of this code.

3.106.050 Classification of businesses and charges imposed.

The assessment is to be levied on all restaurant businesses, which include restaurants, bars, nightclubs, diners, and all other businesses that sell prepared food within the proposed SBIA based upon one and a half percent (1.5%) of the gross prepared food sales plus a charge for occupancy. The occupancy charge shall be $10,000 per year for those establishments with occupancy greater than 200, $5,000 per year for those establishments with occupancy between 150 and 200, $1,000 per year for those establishments with occupancy between 90 and 149 and $0 per year for those establishments with occupancy under 90. Based on reduced benefit, any restaurant business whose seating occupancy is less than 49 shall not be assessed.

Section 3.106.060 Exemption and voluntary contribution.

New restaurant businesses within the boundaries of the SBIA shall not be exempt from the levy of assessment. Any business, person or institution located in the area, which is exempt from the payment of the ordinary business operations tax of the city by reason of the provisions of the laws of the United States or the city or by reason of the provisions of the United States or California Constitutions, is not to be charged under this proceeding but may make a voluntary contribution to the city. Such contributions shall be used for the purposes provided in this chapter.

Section 3.106.070 Administration.

The City of Sacramento shall be responsible for the collection and enforcement of assessments from restaurant businesses within the SBIA. An annual administrative fee of $5,000 will be paid to the City to offset the cost associated with the collection and enforcement of assessments. The annual administrative fee shall be increased based

upon changes in the U.S. Consumer Price Index for the San Francisco area. The City shall retain as its funds any additional collection fees, penalty fees, and interest collected associated with collections or actions due to nonpayment of assessments. Assessments shall be collected in such installments as determined by the City's Finance Director (Finance Director).

The City Council may provide for administration of the SBIA's activities by entering into an agreement with an entity, that in the opinion of the City Council will have the capacity of representing the interests of the restaurant businesses in the SBIA, whose general objectives will be consistent with the purposes of the SBIA, and who will provide the resources to effectively achieve those objectives. However, in such event, the City Council shall reserve onto itself sole discretion as to how the revenue derived from the assessments hereunder shall be used within the scope of the said authorized purposes.

Each restaurant business operator (Operator) in the SBIA shall make a report (Report) to the Finance Director on forms provided by the City, of the amount of assessment due for that reporting period. The Report and assessment become delinquent 14 days after they are due. The full amount of the assessment calculated shall be remitted to the Finance Director at the time the Report is filed. The Finance Director may establish shorter reporting or remitting periods for any Operator and may require additional information in any Report. Reports and payments are due immediately upon cessation of business by an Operator for any reason. Each Report shall contain a declaration under penalty of perjury, executed by the Operator or its authorized agent, that, to the best of the declarant's knowledge, the statements in the Report are true, correct, and complete.

Any Operator who fails to remit any assessment within 14 days of the due date shall pay a penalty of twenty percent (20%) of the amount of the assessment in addition to the amount of the assessment.

If an Operator fails to remit any delinquent remittance within sixty (60) days, the City may file a complaint against such Operator. In addition to penalties imposed, any Operator that fails to remit any assessment shall pay interest at the rate of five percent (5%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the assessment first became delinquent, until paid.

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to 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.

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.

Disputes regarding SBIA assessments must be made in writing to the City's Revenue Manager (Revenue Manager). The Revenue Manager shall investigate disputes so received and, based upon the findings of such investigation, render a response in writing. Appeal of any Revenue Manager's response pursuant to this

chapter shall be requested in writing to the Finance Director within 10 days of the date of the Revenue Manager's response.

All assessments imposed shall be reviewed by the City Council annually, based upon the annual report prepared by the Finance Director.

The City Council shall appoint an advisory board pursuant to Sections 36530 of the Law to, among other duties imposed by the Law, make recommendations to the City Council on the expenditure of revenues derived from any levy of assessments.

A special fund is created, known as the "Sutter business improvement area fund," and the charges imposed by this chapter shall be deposited in such fund.

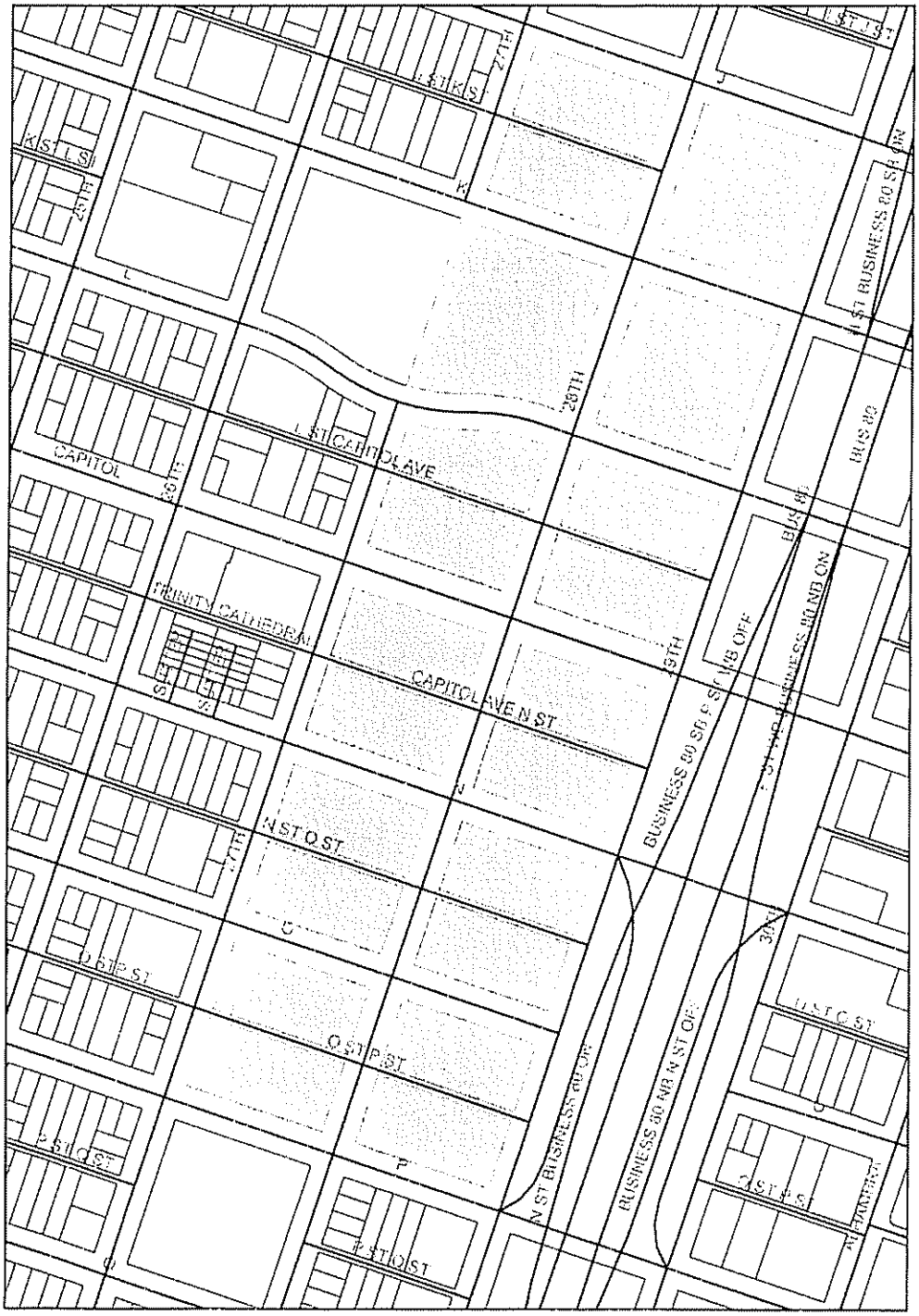
Section 3.106.080 Disestablishment of area.

The City Council may disestablish the SBIA after holding a public hearing on the disestablishment. The City Council shall adopt a resolution of intention to disestablish the area prior to the public hearing. The resolution must 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 SBIA.

Exhibit A – map

Exhibit A

Proposed Sutter Business Improvement District (SBID)



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