# "To Be Delivered" Material

For

## City of Sacramento

City Council
Housing Authority
Redevelopment Agency
Economic Development Commission
Sacramento City Financing Authority

## Agenda Packet

**Submitted:** November 9, 2007

## For the Meeting of: November 13, 2007 (afternoon)

The attached materials were not available at the time the Agenda Packet was prepared.

**Subject:** Resolution of Intent to Establish Sutter Business Improvement District

Approved By: Tom Zeidner

**Contact Information:**

Tom Zeidner, Sr. Project Manager– 916/808-1931

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# REPORT TO COUNCIL
# City of Sacramento

**915 I Street, Sacramento, CA 95814-2604**
**www. CityofSacramento.org**

**Consent**
**November 13, 2007**

Honorable Mayor and
Members of the City Council

**Title:** Sutter Business Improvement Area

**Location/Council District:** District 3

**Recommendation:** Adopt a **Resolution** indicating the City's intent to proceed with establishment of a new Sutter Business Improvement Area entailing the levy of assessments on food service businesses in the area bounded by 27th to 29th Streets, between J and P Streets.

**Contact:** Tom Zeidner, Sr. Economic Development Project Manager, 808-1931

**Presenters:** None

**Department:** Economic Development

**Division:** Citywide

**Organization No: 4453**

**Description/Analysis**

**Issue:** Staff has been in discussions with the ownership/management of several restaurants and nightclubs in an area known as the "Sutter District" (located generally between 27th and 29th Streets, from J to O Streets) concerning possible formation of a new business improvement area (BIA) in the area. The California Streets and Highways Code authorizes cities to establish BIAs for purposes of providing improvements and activities to benefit businesses located within such districts. Food and beverage businesses within the Sutter District are interested in forming a "Sutter Business Improvement District" (SBIA). The SBIA is proposed to be a benefit assessment district formed to address a need for additional security in the area and to coordinate marketing efforts promoting the Sutter District's identity and attributes as a destination.

If approved by the City Council, the SBIA proposes to levy and collect an annual assessment and occupancy charge from restaurants, bars, nightclubs, diners and other businesses selling prepared food within the boundaries of the SBIA. This structure contemplates collecting one and half percent (1.5%) of establishments' gross food sales (current interpretation of state law does not

allow for like assessment of alcohol sales). The occupancy charge would be set between $10,000 and $1,000 annually, based on business type and seating capacity. Smaller establishments will not be subject to the occupancy charge.

The intent of the SBIA in levying these assessments is to fund a budget of approximately $200,000 to pay for services within the Area. The proposed services are to include security, marketing and promotions, and support of the B Street Theater. Security, expected to account for 70% of the Area's budget initially, will focus on control of late-night crowds and their impacts on nearby residential areas.

The attached Resolution indicates the City intent to establish the SBIA, levy the assessments described above and conduct a both a public meeting and a public hearing at a later date to consider formal approval of the SBIA. Staff will be reporting back to the City Council with further details of the SBIA and its mission in connection with the public meeting and hearing.

**Policy Considerations:** The actions described in this report are consistent with the City planning efforts including the Economic Development Strategy which encourages the establishment of additional BIAs in commercial areas of the City.

**Environmental Considerations:** The requested actions are not a project as defined by CEQA as they do not involve activities that may cause a direct or indirect impact on the environment. Environmental review will be performed in conjunction with specific projects related to the actions described in this report.

**Rationale for Recommendation:** These actions are consistent with earlier-adopted City planning efforts, including the Economic Development Strategy.

**Financial Considerations:** The actions recommended in this report have no direct financial impact on the City. Staff will report back in connection with the above-referenced public hearing, at which time City expenses (and reimbursement of City expenses) in connection with collecting the SBIA's assessments will be discussed.

**Emerging Small Business Development (ESBD):** Not applicable.

Respectfully Submitted by : _____
James R. Rinehart
Citywide Development Manager

Approved by: _____
David L. Spaur, CEcD, EDFP
Economic Development Director

Recommendation Approved:

For Ray Kerridge
City Manager

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**Attachment 1**
**Resolution**

**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 AREA FOR FISCAL YEAR 2007-08, AND FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND A PUBLIC HEARING THEREON AND GIVING NOTICE THEREOF**

## BACKGROUND

A. The City Council of the City of Sacramento (City) is interested establishing the Sutter Business Improvement Area (SBIA) and levying an annual assessment on restaurant businesses, which include restaurants, bars, nightclubs, diners, and all other businesses that sell prepared food within the proposed SBIA.

B The Parking and Business Improvement Area Law of 1989, California Streets and Highways Code Section 36500 et seq., authorizes cities to establish business improvement areas for the purpose of providing improvements and activities that benefit those businesses.

C Restaurant businesses within the proposed SBIA have requested the City Council establish such an improvement area.

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

Section 1. The City Council declares its intention to establish the SBIA and to levy and collect annual assessments against restaurant businesses within the SBIA boundaries pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. (the Law), commencing in fiscal year 2007-08 (July 1, 2007 through June 30, 2008).

Section 2. The boundaries of the SBIA shall be the area bounded by 27th Street, 29th Street, J Street, and O Street, as shown on the map attached hereto as Exhibit A and incorporated herein by such attachment.

Section 3. The name of the business improvement area shall be the "Sutter Business Improvement Area."

Section 4. The City Council hereby declares that the types of improvements and activities to be funded by the levy of assessments against restaurant businesses within the SBIA 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 proposed improvements and activities shall be targeted at increasing restaurant business revenues.

Section 5. The proposed 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 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 100 and 200, $1,000 per year for those establishments with occupancy between 100 and 200 and who operate primarily as a restaurant only, $0 per year for those establishments with occupancy between 100 and 200 and who operate primarily as a diner and $0 per year for those establishments with occupancy under 100.

Section 6. New restaurant businesses within the boundaries of the SBIA shall not be exempt from the levy of assessment.

Section 7. Except where funds are otherwise available, an assessment will be levied annually against restaurant businesses to pay for the improvements and activities within the SBIA commencing in fiscal year 2007-08.

Section 8. Assessments will be collected in monthly installments or such other installments as determined by the City Council There may be charge for costs of collection of the assessments. The City Council may provide for the administration of the area's activities by entering into an agreement with an entity that in the opinion of the City Council will have the capability of representing the interests of the businesses in the area, whose general objectives will be consistent with the purposes of this chapter, 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 charges hereunder shall be used within the scope of the said authorized purposes.

Section 9. All of the assessments imposed pursuant to this chapter shall be reviewed by the City Council annually, based upon the annual report prepared by the advisory board appointed pursuant to Sections 36530 and 36533 of the Law.

Section 10. The City Council hereby sets December 18, 2007 as the date for a public meeting on the establishment of the SBIA and the levy of assessments and January 8, 2008 as the date for a public hearing on the establishment of the SBID and the levy of assessments. Both the public meeting and the public

hearing will be held at 6 PM, or as soon thereafter as practicable, in the City of Sacramento City Hall, Council Chambers, 915 I Street, Sacramento, California.

Section 11. At the public meeting and public hearing the testimony of all interested persons for or against the establishment of the SBIA, the extent of the SBIA, or the furnishing of specified types of improvements or activities will be heard. A protest may be made orally or in writing by any interested person.

Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made To count in the determination of a majority protest against the SBID, a protest must be in writing

Written protests must be received by the City Clerk, City of Sacramento before the close of the public hearing scheduled herein and may be delivered or mailed to the City Clerk, City of Sacramento, 915 I Street, Sacramento, California 95814. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

Each written protest shall contain a written description of the business in which the person signing the protest is interested sufficient to identify the business. If the person signing the protest is not shown on the official records of the City of Sacramento as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business.

A written protest which does not comply with this section shall not be counted in determining a majority protest.

Section 12. If, at the conclusion of the public hearing, written protests are received from the owners of businesses in the proposed SBIA which will pay fifty percent (50%) or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protest to less than that fifty percent (50%) (i e., there is a majority protest), no further proceedings to create the SBIA, as contained in this 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. If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the SBIA, those types of improvements or activities shall be eliminated.

Section 13. Further information regarding the proposed SBIA may be obtained from the City Clerk, City of Sacramento, 915 I Street, Sacramento, California 95814.

Section 14. The City Clerk is instructed to provide notice of the public meeting and public hearing in accordance with the Law.

Section 15. This resolution shall take effect immediately upon its adoption by the City

Council, and the City Clerk shall certify to the vote adopting this resolution.

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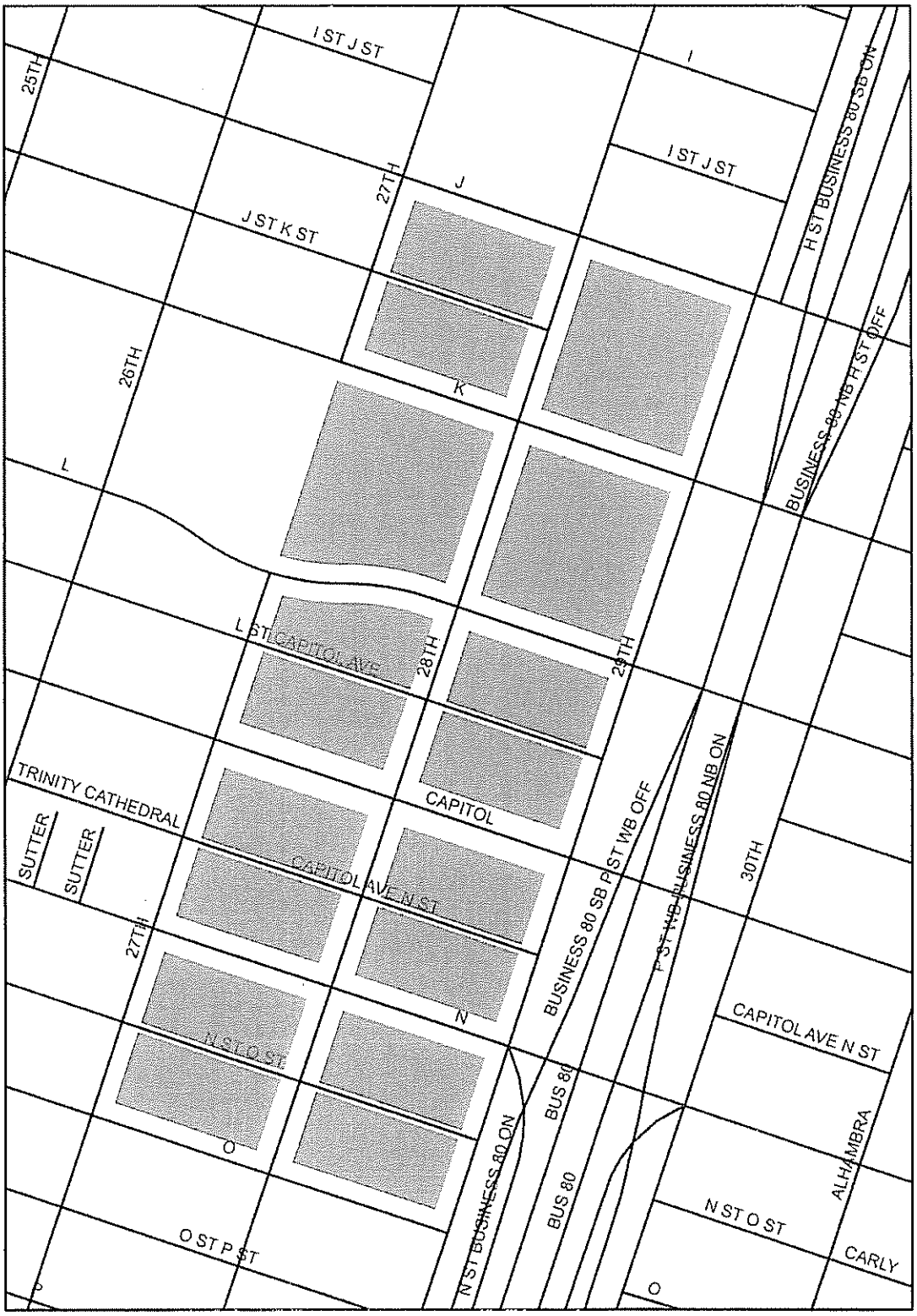
Exhibit A – map

Exhibit A

# Proposed Sutter Business Improvement District (SBID)