



# City of San Leandro

Meeting Date: October 20, 2014

## Staff Report

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**File Number:** 14-461

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.H.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for a Resolution of the City Council of the City of San Leandro Declaring the City Council's Intention to Establish the West San Leandro Shuttle Business Improvement District (BID) and Setting a Public Hearing Relating Thereto for December 15, 2014

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### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council adopt the attached resolution declaring the City's intention to re-establish the West San Leandro Shuttle Business Improvement District (BID) and to set a Public Meeting for Monday, December 1, 2015 and a Public Hearing for Monday, December 15, 2014.

This action supersedes Resolution No. 2014-105 and revises the timeline for BID adoption, adding an additional public meeting on December 1, 2014 to ensure compliance with the California Government Code and to offer an additional opportunity for public input. The need to revise the timeline arose due to changed understanding, based on guidance from the City Attorney's Office, of the format and noticing requirements for the Public Meeting required prior to BID adoption under the California Government Code.

The upcoming steps in the BID process will be as follows:

- October 20, 2014: City Council adoption of the Resolution of Intention and establishment of the Public Hearing date;
- December 1, 2014: Public meeting on the BID authorization process held as part of the regularly scheduled City Council meeting; and first reading of the ordinance to re-authorize the BID (pass to print);
- December 15, 2014: Public hearing and final adoption of the BID ordinance
- January 14, 2015: Effective date of the BID ordinance (30 days after its adoption).

Protest ballots were mailed to all businesses within the BID on September 17, 2014. Any businesses wishing to protest the re-establishment of the BID will have until the date of the

public hearing to do so. An updated notice of the public meeting and public hearing will be mailed to all businesses on October 21, 2014.

The current BID, which partially funds the LINKS Shuttle, expired June 30, 2014. In anticipation of the need to re-authorize the BID, City staff and the San Leandro Transportation Management Organization (SLTMO) engaged in an extensive process of re-evaluating the service to determine what changes are needed to ensure that it best meets the needs of the West San Leandro industrial area. The proposal for re-authorization of the BID adjusts the BID rate and BID territory to match the plan for enhanced services that was previously presented to the City Council and the San Leandro business community.

The Resolution of Intention (ROI) would re-establish the BID at the rate of \$21 per employee, per year. If approved, each business within one-quarter mile of the LINKS Shuttle route would pay the fee as part of its annual Business License renewal process. Nonprofit entities and businesses with three or fewer employees would be exempt from the BID. The proposed duration of the BID is 15 years.

## **BACKGROUND**

Since 2001, LINKS has served San Leandro businesses by providing a free transportation link between places of employment and the Downtown San Leandro BART Station. LINKS is managed by the San Leandro Transportation Management Organization (SLTMO) through a board of local volunteers from the business community and City representatives. Funding for LINKS comes from grants, the City of San Leandro, and a BID that was formed by businesses within one-quarter mile of the shuttle route. The BID expired this year and must be re-authorized through a ballot of the participating businesses. To ensure no interruptions in the LINKS service, the re-authorization must be completed by the end of 2014.

## **Analysis**

### **Opportunity for Service Updates**

Thirteen years have passed since the original route was created and the timing is right to consider service enhancements during the upcoming BID renewal period. In 2014, several factors led the SLTMO to explore options for enhancing and updating the Service:

- *New growth and development in West San Leandro:* The opening of the Kaiser Permanente Medical Center, and general economic recovery warrant revising LINKS to ensure the service meets current and future needs.
- *Next Generation Workplace District:* Businesses within the industrial area ranked LINKS #1 out of 17 potential implementation initiatives under the Next Generation Workplace District Study, an innovative and ambitious plan to support development of San Leandro's industrial areas.
- *Reductions in AC Transit service to West San Leandro:* LINKS plays a critical role in filling the transportation gaps left by AC Transit service cuts.
- *Increasing Transit Ridership:* Younger workers are driving less, preferring transit and biking. Successful repositioning of the industrial area requires transportation opportunities that appeal to the next generations of workers.

After extensive outreach to businesses and in-depth work with transportation experts, City staff and the SLTMO propose to divide the LINKS route into two distinct loops. The north and south loops will shorten headways to 15 minutes and reduce the round trip to about 30 minutes. The result will be a much quicker trip to and from the BART station. Proposed service enhancements include new service to Marina Boulevard, more frequent service with shorter headways, and reduced time required for a round-trip ride. The SLTMO is also working on other enhancements to assist riders including updated signage, benches and bus shelters and offering Wi-Fi and NextBus access.

Re-authorization of the BID will also help businesses in the BID area to comply with new Bay Area Air Quality Management District (BAAQMD) requirements. Beginning in 2014, the new Commuter Benefits Program requires all employers with 50 or more full-time employees to provide commuter benefits to their employees. To comply with the Program, employers must select one of four commuter benefit options and register with BAAQMD. BAAQMD has confirmed that participation in the LINKS shuttle BID satisfies Option 3 (“Employer Provided Transit”) under the new BAAQMD program. Staff believes that the LINKS BID offers these companies an easy, cost-effective option for complying with this new regulation.

### **Proposed BID Assessment**

The proposed BID assessment has been simplified from past years. The proposed BID is a simple fee of \$21 per employee, per year and the current base fee will no longer exist. If approved, the BID will include businesses within one-quarter mile of the proposed LINKS route. Businesses within one-half mile of the San Leandro Downtown BART station will be excluded from the BID (see the attached map.) The proposed assessment would also exclude businesses with three or fewer employees, landlords, non-profit businesses and home based business.

There are slightly more than 600 businesses within the BID service area that would be subject to the BID assessment. As before, the assessment would be collected along with the City’s Business License tax. Annual assessments may be increased in an amount up to the increase, if any, of the Bay Area Cost of Living Index. The proposed term of the BID is fifteen years.

Following is a sample of the proposed BID fees:

<b>Number of Employees</b>	<b>Current</b>	<b>Proposed</b>
5	\$0	\$105
10	\$143	\$210
50	\$608	\$1,050

### **Funding for LINKS**

Funding for LINKS comes from grants, the City of San Leandro and the Business Improvement District. The re-established BID would cover approximately 50% of the total operating budget. LINKS currently has a Federal Lifeline Grant aimed at improving transportation accessibility and job access to low-income residents and a Bay Area Air Quality Management District Transportation Fund for Clean Air grant targeted at reducing vehicle emissions. Earlier in 2014, the City Council approved a commitment of \$50,000 for Fiscal

Year 2014-15 to support LINKS.

### **Resolution of Intention**

Staff and the SLTMO request that the City Council continue the process of re-establishing the BID by adopting a Resolution of Intention (ROI). By adopting the ROI, the City Council declares its intention to re-establish the BID and sets a Public Meeting for December 1, 2014 and a Public Hearing for December 15, 2014. The ROI also defines the boundaries of the proposed BID and specifies the amount to be levied on businesses within the BID's boundaries. Approval of the ROI does not obligate the City Council to approve the formation of the BID.

This agenda item will set a public meeting date as required by law, update the public hearing date, require that those businesses within the assessment area be notified of the intention to re-establish the BID, and provide a written protest process for business owners in the proposed BID area. Protest votes are weighted by the number of employees according to the City's Business License records. For example, a protest vote from the owner of a company with 20 employees will count as 20 votes against the BID. If, at the conclusion of the public hearing, there are written protests by business owners amounting to more than fifty percent (50%) of the total assessment, the BID will fail and cannot be formed; thus the current BID will lapse. Furthermore, no other attempt may be made to form the BID in the stated area for a period of one year. In the event that re-establishment of the BID fails, the original BID area will sunset. Also, should the protest vote be 50% or less, the City Council may vote to form, or may vote to not form the BID at the conclusion of the public hearing.

Following the City Council's adoption of the ROI to re-establish the BID, a new packet of information will be sent to all businesses in the proposed BID area. This packet will include the following information:

- Notice of the December 1, 2014 Public Meeting
- Notice of the December 15, 2014 Public Hearing
- Map showing the shuttle route and the boundaries of the proposed BID
- Copy of the ROI, as required by law
- Information on how to register a protest vote.

A self-addressed protest card was mailed on September 17, 2014 as a convenience to those business owners that choose to register a protest. All protest ballots received to-date will count, as will all protests received prior to the close of the public hearing.

### **Previous Actions**

- Resolution No. 2003-185 was adopted by the City Council on September 2, 2003 approving a Resolution of Intention to form the West San Leandro Shuttle Business Improvement District.
- Ordinance No. 2004-013, adopted June 21, 2004, amending Title 2 of the San Leandro Municipal Code to add a new Chapter 15 establishing the West San Leandro Business Improvement District.
- Ordinance No. 2005-017, adopted October 3, 2005, amending Title 2 of the San Leandro

Municipal Code to add a new Chapter 15 re-establishing the West San Leandro Business Improvement District and to sunset June 30, 2009.

- Motion, December 15, 2008, accepting the SLTMO and the BID Advisory Board's recommendation to direct staff to prepare a Resolution of Intention to re-establish the BID at current rates for a five-year term.
- Resolution No. 2009-014 declaring the City Council's intention to establish the West San Leandro Shuttle Business Improvement District (BID) and setting a Public Hearing for March 16, 2009.
- Ordinance No. 2009-002 amending Title 2 of the San Leandro Municipal Code to delete Chapter 15 and to add a new Chapter 15 establishing the West San Leandro Shuttle Business Improvement District.

### **Summary of Public Outreach Efforts**

Staff and the SLTMO have engaged in extensive outreach in anticipation of the BID re-authorization process to alert businesses to the upcoming ballot process and the proposed enhancements to the LINKS shuttle service more generally. Outreach efforts have included:

- One on one meetings with interested businesses.
- A letter detailing how LINKS relates to the new BAAQMD Commuter Benefits Program, mailed to all businesses with 50+ employees on August 18, 2014.
- Information brochure mailed to all impacted businesses on August 28, 2014
- Community meeting held on September 10, 2014.
- A redesign and update of the LINKS website.

### **Legal Analysis**

The associated resolution has been reviewed and approved as to form by the City Attorney.

### **ATTACHMENT**

#### **Attachment to Resolution**

- Proposed LINKS BID Area Map

**PREPARED BY:** Jeff Kay, Business Development Manager, Community Development Department



# City of San Leandro

Meeting Date: October 20, 2014

## Resolution - Council

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**File Number:** 14-460 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** RESOLUTION of the City Council of the City of San Leandro Declaring the City Council's Intention to Establish the West San Leandro Shuttle Business Improvement District (BID) and Setting a Public Hearing Relating Thereto for December 15, 2014 (continues the process to re-establish the BID which would levy an annual \$21 per employee assessment on the approximately 600 businesses in the BID to fund approximately 50% of an enhanced LINKS shuttle service)

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WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Sections 36500 et seq.) authorizes cities to establish a business improvement area for the purpose of improving the economic activity within the area; and

WHEREAS, cities may fund these improvements through assessments on businesses for certain purposes; and

WHEREAS, the City Council adopted Ordinance No. 2004-013 on June 21, 2004, amending Title 2 of the San Leandro Municipal Code to add a new Chapter 15 establishing the West San Leandro Business Improvement District (BID) and setting an assessment to be levied on businesses within the BID; and

WHEREAS, the City Council adopted Ordinance No. 2005-017, on October 3, 2005, amending Title 2 of the San Leandro Municipal Code to add a new Chapter 15 re-establishing the West San Leandro Business Improvement District and to sunset June 30, 2009.

WHEREAS, the City Council adopted Ordinance No. 2009-002 on April 6, 2009 re-establishing the West San Leandro Shuttle Business Improvement District (BID), and setting an assessment to be levied on businesses within the BID; and

WHEREAS, Ordinance No. 2009-002 included a term for the BID assessment to sunset after five years and expire on June 30, 2014; and

WHEREAS, the BID funds approximately fifty percent of West San Leandro Shuttle Service, known as the LINKS Shuttle, administration and operational costs; and

WHEREAS, the City has submitted protest ballots to business owners within the BID, and will hold a public hearing on December 15, 2014.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

Pursuant to Chapter 2 of Part 6 of Division 18 of the California Streets and Highways Code, and San Leandro Municipal Code Section 2.15.090, the City Council declares its intention to form the West San Leandro Shuttle Business Improvement District (BID), and to adopt an assessment to be imposed on qualified businesses within the BID.

The boundaries of the territory to be included in the BID are set forth in the Map, included in Exhibit A, attached hereto and incorporated herein by reference. The proposed area includes all businesses within the boundaries of the BID. There shall be no separate benefit zones within the BID. A true and correct copy of the Map is on file with the City Clerk of the City of San Leandro.

The types of activities proposed to be funded by the levy of assessments on businesses in the BID include the LINKS shuttle service for transportation between businesses within the BID and the Downtown San Leandro BART station and related activities such as administration and financial reporting.

Except where funds are otherwise available, the City Council intends to levy an annual assessment on businesses in the BID to pay for a portion of the activities in the BID. Businesses that have received a home occupation permit from the City to exclusively conduct business from one's residence, businesses with three employees or fewer, and nonprofit businesses falling under Internal Revenue Code Section 501(c)(3) are exempt from the proposed assessment and shall not be assessed. Further, businesses for which state or federal law prohibits the City from imposing an assessment upon will likewise not be assessed.

New businesses shall not be exempt from assessment in their first year pursuant to Section 36531 of the California Streets and Highways Code.

The method and the basis for levying the annual assessment on businesses in the BID is a fee of \$21.00 per employee per year per business. Annually, the assessment may be increased in an amount up to the increase, if any, of the Cost of Living Index for San Francisco-Oakland-San Jose, All Urban Consumers. The assessment shall remain in effect for fifteen (15) years, and expire December 31, 2029.

The City of San Leandro may contract with the San Leandro Transportation Management Organization to provide the services specified above.

The City Clerk of the City of San Leandro is directed to give notice of the public meeting and public hearing as provided in Section 54954.6 of the Government Code and Sections 36523 and 36523.5 of the Streets and Highways Code.

A public meeting on the establishment of the proposed BID shall be conducted on Monday, December 1, 2014 at 7:00 p.m., or as soon thereafter as the matter may be heard, before the City Council of the City of San Leandro, in the City Council Chambers, City Hall, 835 East 14th Street, San Leandro, California. At this meeting, the City Council will allow public testimony regarding the BID activities and assessment.

A public hearing on the establishment of the proposed BID shall be conducted on Monday, December 15, 2014 at 7:00 p.m., or as soon thereafter as the matter may be heard, before the City Council of the City of San Leandro, in the City Council Chambers, City Hall, 835 East 14th Street, San Leandro, California. At this hearing, the City Council will hear testimony regarding the proposed area, including testimony from all interested persons for or against the BID, the extent of the BID, and the furnishing of specific types of activities. The City Council may waive any irregularity in the form or content of any written protest, and at the public hearing may correct minor defects in the proceedings. All written protests submitted by affected business owners and received prior to the conclusion of this public hearing shall be tabulated to determine whether a majority protest exists.

A protest against the BID, or any aspect of it, may be made orally or in writing. An oral protest shall be made at the said public hearing. To count in the majority protest against the BID, a protest must be in writing. A written protest may be withdrawn from 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 and its address. If the person signing the protest is not shown on the official records of the City of San Leandro 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. Any written protest to the regularity or evidence of the proceeding shall be in writing and clearly state the irregularity or defect to which the objection is made. A written protest that does not meet these requirements shall not be counted in determining a majority protest. Written protests should be mailed to the City Clerk of the City of San Leandro, 835 East 14th Street, San Leandro, California, 94577.

If, at the conclusion of the hearing, there are of record written protests by the owners of the businesses within the BID that will pay fifty percent (50%) or more of the total assessments of the entire BID, no further proceeding to create the BID shall occur.

Further information regarding the proposed West San Leandro Shuttle Business Improvement District may be obtained from The Office of Business Development located at 835 East 14th Street, San Leandro.

The City Clerk is further instructed to provide notice of the public hearing as follows: Mail a complete copy of this Resolution of Intention to each business owner in the BID within seven (7) days of the adoption of this resolution by the City Council.

This Resolution is effective upon its adoption.

Resolution No. 2014-105, which previously scheduled a public hearing on this matter for November 3, 2014 is hereby rescinded.



# Proposed LINKS Route and BID Area

