

**AGREEMENT BETWEEN THE CITY OF SAN JOSE AND WILLOW
GLEN BUSINESS ASSOCIATION FOR THE MANAGEMENT AND
DELIVERY OF SERVICES IN THE WILLOW GLEN COMMUNITY
BENEFIT DISTRICT**

This Agreement ("Agreement") is made and entered into this ____ day of _____ 2010, between the CITY OF SAN JOSE, a municipal corporation (hereinafter "City"), and the WILLOW GLEN BUSINESS ASSOCIATION, a California non-profit corporation (hereinafter "Business Association").

RECITALS

WHEREAS, City Resolution No.74747, adopted on December 16, 2008, established and defined the Willow Glen Community Benefit District (hereinafter "District") under the provisions of Proposition 218 and Chapter 14.31 of Title 14 of the Municipal Code of the City, entitled Community Benefit and Improvement District Procedure, which incorporates and modifies the Property and Business Improvement District Law of 1994, Section 36600 et. Seq. of the California Streets and Highways Code (hereinafter "CBID Law"); and

WHEREAS, pursuant to CBID Law, a charge is levied on and collected from property owners in the District for the purpose of funding and providing services beyond what the City traditionally provides, specifically sidewalk operations, beautification, order and parking, district identity and streetscape improvements, and marketing and promotions (collectively "Assessed Services"), as specified in the Management District Plan for the creation of the District (hereinafter "Plan"), attached hereto as Exhibit A and incorporated herein; and

WHEREAS, the City finds that the Business Association is uniquely situated to manage and provide the Assessed Services; and

NOW THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. GRANT OF PERMISSION BY CITY

- A. The Business Association is hereby granted permission by the City to perform or cause to be performed, those services specified herein, on the streets, sidewalks, plazas, paseos and any other public right of way within the established boundaries of the District, subject to all of the restrictions and provisions provided herein.
- B. Nothing herein shall be construed to grant the Business Association a property interest in any public right of way.

SECTION 2. TERM OF AGREEMENT; DATE FOR SERVICES TO BEGIN.

The term of this AGREEMENT shall be from the date of execution to December 31, 2024, unless earlier terminated in accordance with Section 13 of this Agreement.

SECTION 3. BUSINESS ASSOCIATION RESPONSIBILITIES

- A. Governance: The Business Association shall administer the District in accordance with the provisions of CBID Law and Section H. of the Plan, entitled "PROPOSED RULES AND REGULATIONS TO BE APPLIED TO THE DISTRICT," including, but not limited to complying with disclosure and notification requirements of the Ralph M. Brown Act and the California Public Records Act.
- B. Services Provided: Using the charges levied on and collected from property owners in the District for the purpose of funding and providing the Assessed Services (hereinafter "Assessments"), the Business Association shall manage and provide the Assessed Services in the District at the service levels outlined in the Plan, categorized, for the purpose of this Agreement, with the following limitations:

1. Parking Management, Order & Safety: The employees or contractors of the Business Association conducting parking management, order or safety services will provide only those services as outlined in the Plan, except to the extent limited by this Agreement. Business Association shall obtain any licenses that are legally required for the services performed are obtained. The following services shall not be provided by the District.
 - (a) Enforcement of laws or ordinances;
 - (b) Detaining, holding or arresting persons suspected of committing a crime;
 - (c) Traffic management;
 - (d) Crowd control;
2. Uniforms: No uniform worn by any employee or contractor of the Business Association shall resemble, in any way, those utilized by the San Jose Police Department or the San Jose Fire Department or any other law enforcement agency. Equipment used to provide Assessed Services in the District shall carry no logos, stickers or labels that resemble those used by the San Jose Police Department, the San Jose Fire Department, or any other law enforcement agency.
3. Prohibited Equipment: No employee or contractor of the Business Association shall carry weapons, handcuffs or chemical agents while performing services for the District.
4. Beautification and Image Enhancement: Any of the following improvements proposed by the Business Association to be located in the public right of way, or on other City owned property, must be separately approved by the City, pursuant to all City procedures and in compliance with all local state and federal laws:
 - (a) Directional wayfinding and gateway signage;

- (b) Installation of street furniture, planter boxes, benches, kiosks, and lighting;
- (c) Design and installation of art;
- (d) Other public improvements in the right of way.

C. Annual Assessment District Report: On or before May 1 of each year, the Business Association shall submit to City, for consideration by the City Council, a report in compliance with Section 36650 of the California Streets and Highway Code (hereinafter "Annual Report") outlining among other things any proposed changes to the Plan, budget for next year's services and the proposed method and basis for levying the next year's assessment.

D. Annual Financial Report: On or before October 1 of each year, the Business Association shall submit to the City, for approval by the City Council, an Annual Financial Report that shall include all items described below unless otherwise specified by the Director of Public Works.

- A Status Report summarizing the Assessed Services provided to the District for the previous fiscal year;
- A Certification that all agreements entered into during the previous fiscal year between the Business Association and any other entity for the provision of Assessed Services provided on City owned property comply with Section 7 of this Agreement entitled, "Procurement of Goods and Services;"
- A list of all Business Association Board meetings held during the previous fiscal year;
- A Budget Report certifying that all District funds expended were expended in accordance with this Agreement and in compliance with all laws and regulations and detailing all expenditures of District funds for that year; and,
- An independent Certified Public Accountant's Review Report on the finances of the District for the preceding fiscal year, except that for fiscal

year 2021-2022, Owners' Association shall submit a full audit by an independent Certified Public Accountant.

E. Expenditure of Funds: The Business Association shall not spend any funds received from the City except as set forth in this Agreement, and any Annual Report and budget approved by the City Council.

F. Public Meetings: The Business Association shall conduct no less than two (2) public meetings each calendar year during the term of this Agreement to update its members on proposed or approved District activities and/or expenditures.

SECTION 4. INDEPENDENT CONTRACTOR.

It is understood and agreed that the Business Association, in the performance of the work and services agreed to be performed by the Business Association or any of its subcontractors, shall act as and be an independent contractor and not an agent or employee of City; and as independent contractors, the Business Association shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and the Business Association hereby expressly waive any claim they may have to any such rights.

SECTION 5. PROCUREMENT OF GOODS AND SERVICES.

A. The Business Association shall follow an open and fair competitive procurement process for the acquisition of goods and services in connection with the provision of Assessed Services, and shall substantially comply with Council Policy 0-35, titled, "PROCUREMENT AND CONTRACT PROCESS INTEGRITY AND CONFLICT OF INTEREST," attached hereto as Exhibit B, and as may be amended from time to time.

- B. The Business Association shall certify and document in the Annual Report to the City Council that the Business Association complied with all aforementioned City policies and regulations regarding the procurement of goods and services.

SECTION 6. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.

The Business Association agrees that, in the performance of this Agreement, the Business Association shall perform the obligations under the Agreement in conformance with City Council Policy 4-6, "Environmentally Preferable Procurement Policy." A description for environmentally preferable procurement and the Policy can be found on the City's website at the following link: <http://www.sanjoseca.gov/esd/natural-energy-resources/epp.htm>.

Environmental procurement policies and activities related to the completion of work will include, wherever practicable, but are not limited to:

- A. Use of recycled and/or recyclable products in daily operations. (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
- B. Use of Energy Star Compliant equipment.
- C. Vehicles and vehicle operations. (i.e. Alternative Fuel, Hybrid, etc.)
- D. Internal waste reduction and reuse protocol(s).
- E. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 7. COLLECTION OF ASSESSMENTS.

- A. City has authorized the County of Santa Clara (hereinafter "County") to collect the assessments authorized by the establishment of the District (hereinafter "Assessments") beginning in Fiscal Year 2009-2010. The County will be paid an administrative fee to cover its costs which will be equivalent to one percent (1%) of the District assessments collected on the tax roll. The County's administrative

fee will be deducted from the District Assessments the County will forward to City as set forth in subsection B.

- B. City will receive those District Assessments collected on the tax rolls, minus the County's administrative fee, from the County twice annually, on or about January 31 and May 31. The amount received will be based on the assessment formula detailed in the Plan, as amended from time to time by any Annual Report approved by City Council.
- C. For those assessments not on the County's tax rolls, the City shall be responsible for collection, only to the extent provided herein:
 - 1. By November 10 and March 10 each year, City shall mail invoices to all property owners that, to the City's knowledge, own parcels that are not on the County tax rolls notifying the owners that the assessments are due on December 10 and April 10 of each year.
 - 2. If any property owner does not pay the assessment before the delinquent date, the City shall send up to two (2) delinquent notices in an effort to collect those assessments. City may, in its sole discretion, pursue any collection further, including but not limited to filing a lawsuit, provided however, that the City will charge the Business Association for actual costs incurred in any additional collection efforts, including but not limited to attorneys fees. If the City elects not to pursue collection in any case, the Business Association may request authorization from the City Attorney for the Business Association to pursue the collection, which authorization may be withheld in the City's reasonable discretion.
 - 3. Any penalty or interest collected by City from delinquent assessments shall be forwarded to the Business Association.

D. City will charge an administrative fee for its efforts in support of placement and collection of the annual assessments and other services as described below:

1. City will provide annual services related to the adjustment of the District Assessments and creation of the ensuing lien list; management of District database which includes correlation of all needed data into appropriate documents that will be stored in a Council-required central location; format, proof and submission to County of assessment data; and billing of non tax roll properties,
2. City will coordinate with the Business Association to develop and present the annual assessment report for Council on District Assessments including the City's source and use documents.
3. City will respond to requests for information from property owners and title companies regarding District Assessments and services provided by the District and other legally required disclosure information.
4. It is estimated that the City's administrative charge will be \$5,000 annually. The amount may be reviewed annually as part of the Annual Report submitted by Business Association to City for approval by City Council. The administrative charge will be deducted in two installments from the Assessments the City will disburse to the Owners' Association as set forth in Section 8 below.

SECTION 8. **DISBURSEMENT OF DISTRICT FUNDS FOR PAYMENT OF ASSESSED SERVICES**

- A. Within 30 days of receipt from the County, City shall remit all assessments to the Business Association, less any administrative fees deducted pursuant to Section 8 above.

- B. Within 30 days of receipt of any Assessment from any property owner, City shall remit the amount received to the Business Association.

SECTION 9. REPORT ON APPROVED ASSESSMENTS.

On or before July 1 of each year the Business Association shall submit to the Director of Public Works of the City, a copy of the District Assessments approved by the City Council as specified in the Annual Report for that year, including the method and basis for levying the District Assessments and any approved exemptions. In addition, the Business Association shall annually verify property ownership of all parcels within the District boundaries and prepare an accurate list of property owners including building square footage, lot sizes and building units. On or before July 1 of each year the Business Association shall submit all appropriate information prepared on an Excel spread sheet electronically to City based on the City Council approved Annual Report.

SECTION 10. NO ASSIGNABILITY.

- A. The parties agree that the expertise and experience of the Business Association are material considerations for this Agreement. The Business Association shall not assign or transfer any interest in this Agreement, nor the performance of any of the Business Association's obligations hereunder, without the prior written consent of City, and any attempt by the Business Association to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.
- B. The parties further agree that the Business Association's responsibilities under this Agreement are established by CBID law.

SECTION 11. INSURANCE REQUIREMENTS.

The Business Association agrees to have and maintain the policies set forth in Exhibit C, entitled "INSURANCE," which is attached hereto and incorporated herein. All

policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Human Resources or the Director's authorized designee (hereinafter "Risk Manager") of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. The Business Association agrees to provide City with a copy of said policies, certificates and/or endorsements before work commences under this Agreement.

SECTION 12. **NONDISCRIMINATION.**

The Business Association shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

SECTION 13. **TERMINATION.**

- A. Upon one hundred and eighty (180) days prior written notice, any party may terminate this Agreement without cause.
- B. City may, by resolution of the City Council, disestablish the District pursuant to the CBID Law. This Agreement shall automatically terminate upon such disestablishment.
- C. Upon termination, all unexpended funds provided to the Business Association by City and all tangible assets owned by the Business Association and purchased with such funds shall be immediately returned to the City.

SECTION 14. **GOVERNING LAW.**

The parties agree that the law governing this Agreement shall be that of the State of California.

SECTION 15. **COMPLIANCE WITH LAWS.**

The Business Association shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments (hereinafter "Laws"), all as may be amended from time to time. In the event of a conflict between this Agreement and the Laws, or the Plan, the Laws and Plan shall control, except for the agreed upon limitation as otherwise specifically provided in subsections B. 1, 2, and 3 of Section 3 of this Agreement.

SECTION 16. **WAIVER.**

The parties agree that waiver by any party of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by any party of the performance of any work or services by another party shall not be deemed to be a waiver of any term or condition of this Agreement.

SECTION 17. **BOOKS AND RECORDS.**

- A. The Business Association shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to services performed under this Agreement for a minimum period of five (5) years after the termination of this Agreement.
- B. The Business Association shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of five (5) years after the service has been performed, or for any longer period required by law.
- C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to City, at any time

during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Business Association's address indicated for receipt of notices in this Agreement.

- D. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Business Association, City may, by written request by any of the above-named officers, require that custody of the records be given to City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by the Business Association, or their respective representatives or successors-in-interest.

SECTION 18. **CONFLICT OF INTEREST.**

The Business Association shall avoid all conflict of interest in performing services under this Agreement. The Business Association shall disclose any conflict of interest, or potential conflict of interest, which exists or arises at any time during the term of this Agreement. City shall have the right to treat any violation of this Section as a material breach of this Agreement, and shall have the right to terminate this Agreement immediately and pursue any and all legal or equitable remedies for such breach.

SECTION 19. **GIFTS.**

- A. The Business Association is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.
- B. The Business Association agrees not to offer any City officer or designated employee any gift prohibited by said Chapter.

- C. The offer or giving of any gift by the Business Association which is prohibited by Chapter 12.08 shall constitute a material breach of this Agreement. In addition to any other remedies City may have in law or equity, City may terminate this Agreement for such.

SECTION 20. DISQUALIFICATION OF FORMER EMPLOYEES.

The Business Association is familiar with the provisions relating to the disqualification of former officers and employees of City in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code, entitled "Revolving Door Ordinance". The Business Association shall not utilize either directly or indirectly any officer, employee, or agent of the Business Association to perform services under this Agreement, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 21. PROJECT COORDINATION AND COMMUNICATION.

- A. Except as expressly provided herein, the City Manager, or his or her designated representative, shall supervise and direct all actions to be performed by City pursuant to this Agreement.
- B. The Executive Director of the Business Association has been designated as the project manager to supervise and direct all actions to be performed pursuant to this Agreement and shall be the principal contact with the City regarding the District.
- C. Furthermore, the project manager for the Business Association shall also be the principal contact with the City and the public regarding all Assessed Services described in the Plan.

SECTION 22. **NOTICES.**

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid, addressed to the respective parties as follows:

To City: City of San José
 Department of Public
 200 E. Santa Clara St. , 3rd Floor Tower
 San Jose CA 95113-1905
 Attn: Thomas Borden

To Business Willow Glen Business Association
Association: 1202 Lincoln Ave., Suite 103
 San Jose, CA 95125
 Attn: Norma Ruiz

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 23. **VENUE.**

In the event that suit shall be brought by any party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, for the Northern District of California, San Jose, California.

SECTION 24. **PRIOR AGREEMENTS AND AMENDMENTS.**

This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may be modified only by a written amendment duly executed by the parties to this Agreement.

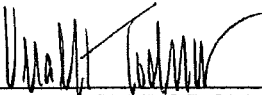
RD:VMT
XX/XX/09

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

"City"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

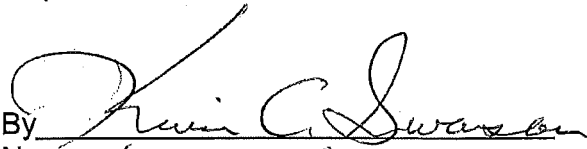


VERA M. I. TODOROV
Sr. Deputy City Attorney

By _____
LEE PRICE, MMC
City Clerk

"Business Association"

WILLOW GLEN BUSINESS
ASSOCIATION, a California non-profit
corporation

By 

Name: Kevin C. Swanson
Title: President

EXHIBIT A

WILLOW GLEN COMMUNITY BENEFIT IMPROVEMENT
DISTRICT MANAGEMENT DISTRICT PLAN
SAN JOSE, CALIFORNIA

Formed Under Section 14.31 of the Public Works and Improvement Code of the City of San Jose

SUBMITTED TO:

THE BUSINESS AND PROPERTY OWNERS OF THE
PROPOSED WILLOW GLEN CBID AND

THE CITY OF SAN JOSE

PREPARED BY:

NEW CITY AMERICA INC. AND THE WILLOW GLEN CBID STEERING COMMITTEE

REVISED PLAN (AFTER PUBLIC MEETINGS)

SEPTEMBER 3, 2008

WILLOW GLEN/SAN JOSE
COMMUNITY BENEFIT IMPROVEMENT DISTRICT
MANAGEMENT DISTRICT PLAN
SEPTEMBER 2008

TABLE OF CONTENTS

A.	EXECUTIVE SUMMARY	PAGE 3
B.	WILLOW GLEN COMMUNITY BENEFIT IMPROVEMENT DISTRICT BOUNDARIES	PAGE 9
C.	SERVICE PLAN AND BUDGET	PAGE 11
D.	ASSESSMENTS AND ASSESSMENT METHODOLOGY	PAGE 15
E.	TIME AND MANNER OF COLLECTING ASSESSMENTS	PAGE 25
F.	NUMBER OF YEARS ASSESSMENTS WILL BE LEVIED	PAGE 25
G.	TIMELINE FOR IMPLEMENTATION AND COMPLETION OF MANAGEMENT DISTRICT PLAN	PAGE 27
H.	PROPOSED RULES AND REGULATIONS TO BE APPLIED TO THE DISTRICT	PAGE 28
I.	LIST OF PARCELS AND ASSESSMENTS IN THE CBID	PAGE 30

SECTION A - EXECUTIVE SUMMARY OF WILLOW GLEN COMMUNITY BENEFIT IMPROVEMENT DISTRICT MANAGEMENT PLAN

Why a Community Benefit Improvement District (CBID) in Willow Glen?

Willow Glen business owners have been organized into the Willow Glen Business Improvement District (BID) since 1989. While the Willow Glen BID has done a very good job of keeping our district relatively clean and safe, we believe that we need to take this district to the next level in terms of economic impact and return on investment by building a Neighborhood Business District that meets the needs of a loyal, yet demographically transitioning residential and customer base. Property and business owners are now meeting and moving forward constructively to respond to the following issues:

- The need for creating a system of daily sidewalk sweeping and steam cleaning throughout Lincoln Avenue and its related district streets;
- The need for more trash receptacles that are better maintained than are currently in Willow Glen;
- The need for sidewalk repair, planter maintenance and tree trimming at higher standards than are currently being provided by the City;
- The need for improved streetscapes and coordinated design;
- The need to support parking coordination, signage and public/private partnerships;
- The need to improve the overall image of the Willow Glen Business District;
- Build Willow Glen's image as a great place to work, shop, eat, live and stroll.

These are issues that cannot be resolved by the City of San Jose or the WG Business Association, but rather must be handled at the community level and in partnership with the City, property and business owners, residents and district customers. This proposed WGCBD would be funded through an assessment levied on each and every parcel in the finalized and approved boundaries of the district. Participating property owners will determine the exact costs of funding the final list of special benefit services. All properties, public and private, commercial, residential and non-profit would be included in this new assessment district and will be required to participate financially upon approval.

New market rate, mixed-use buildings have yet to be built along Lincoln Avenue, but new developments are part of the future. The new 1,000 unit Sobrato residential development along Lincoln and Parkmoor (at the Light Rail Station) is a continuing sign of things to come and pressure will mount as new residential populations will have a need for enhanced services. As this and other new developments come on line, the business district must be ready to service this increase in population, because if the district is not prepared, this growth could cause a negative impact on the district or other more prepared business corridors or centers will find a way to service it.

Currently, the district is a six (6) day per week, sixty (60) hour per week district, with many businesses closing down on Sunday and in the evening hours. The Lincoln Avenue retail

corridor has much more potential as a neighborhood shopping district and regional attraction if the correct image is built and reinforced throughout the district.

The purpose of the WGCBID is to build upon Willow Glen's current assets and to create a sustainable revenue source for that purpose.

The special benefits funded by the proposed WGCBID would include, but not be limited to:

1. Regular sweeping and steam cleaning of sidewalks;
2. Systematic trash emptying, the addition of more receptacles and general maintenance on their appearance;
3. Implementation of a new sidewalk recycling program;
4. Management of on-street and off-street parking demand;
5. Investigating and supporting transit links between the rail station and the core of the WG Business District.
6. Providing enhanced landscaping and beautification;
7. Quick removal of graffiti;
8. Underwriting programs to increase retail commerce in the district;
9. Implementation of business attraction strategies;
10. Developing and maintaining dynamic public spaces to allow employees and visitors to enjoy the great ambiance of the area;
11. Branding the district through new programs, displays of logo and partnering with other groups for holiday events;
12. Taking advantage of the district's unique regional transportation connections;
13. Partnering with the Downtown PBID and other emerging CBDs to determine best practices and mutual contractors for cost efficiencies.

As a property owner in the Willow Glen Business District, we are certain you have come to recognize what a great community it is and what a tremendous future it has. Our great vehicular and pedestrian access, relatively new infrastructure and good commercial mix are a model for other business districts in San Jose. However, business could be better, the sidewalks could be cleaner, the streetscapes could more attractive, parking could be better managed, and our promotions and events could be more intense, all in an effort to strengthen our Willow Glen brand and ultimately raise the value of our properties.

In March 2008, the City Council adopted, and Mayor Chuck Reed signed, a new ordinance, Section 14.31 of the Public Works Improvement Code, facilitating the establishment of special assessment districts in San Jose, known locally as "*Community Benefit Improvement Districts*" (CBID).

The first step in the formation of a CBID is to determine whether neighborhood property owners support assessing themselves to fund services and improvements that benefit properties in the district over and above those provided by the City.

The Willow Glen CBD Steering Committee has coordinated a series of Willow Glen CBID Steering Committee meetings over the past 6 months among the property owners of

the area to discuss the feasibility of the CBID creation. The Willow Glen CBID Steering Committee had regular meetings and met on the following dates:

2007:

- October 9th;
- November 7th
- December 5th;

2008:

- January 8th;
- February 7th;
- February 26th;
- March 12th;
- July 17th;
- August 21st;

Location:	<u>Proposed Boundaries:</u> <ul style="list-style-type: none">➤ On the north, from the parcel at the southwest corner of the intersection of Lester Avenue and Lincoln Avenue, (parcel # 264-57-071 in a line running southeastward to include the parcel at the southeast corner of the intersection of Broadway and Lincoln Avenue. (parcel # 264-56-088)➤ On the south, along the north side of Minnesota Avenue, from parcel number 429-17-107, (the City Library) continuing eastward on the north side of Minnesota Avenue to parcel # 429-06-076, and then on the south side of Minnesota Avenue including the parcel 429-018-066 (Wamu Bank site).➤ On the east; along Lincoln Avenue from the parcel at the southeastern corner of the intersection of Lincoln Avenue and Minnesota Avenue (Washington Mutual Bank) running northward along the east side of Lincoln Avenue to the parcel at the southeastern corner of the intersection of Blewitt and Willow Street (parcel 429-06-073), running in a line northward to the parcel representing the last commercial property on the north side of Willow Street, (parcel # 264-56-078)➤ On the west, along Lincoln Avenue from the parcel at the northwestern corner of the intersection of Lincoln Avenue and Minnesota Avenue, running northward along the west side of Lincoln Avenue to the alley west of the intersection of Willow Street and Lincoln Avenue continuing northward to the parcel at the southwestern corner of the intersection of Lester Avenue and Lincoln Avenue, (parcel # 264-57-071).
Categories of Special Benefit Services:	<ol style="list-style-type: none">1. Sidewalk operations, beautification and order, and Parking; (SOBOP);2. District Identity and Streetscape Improvements (DISI/ Marketing and Promotions)3. Administration, (Personnel)4. Contingency/Reserve

Method of Financing:	Special assessments levied on properties within the district will account for 100% of the annual budget. Other funding for the district management corporation will come from sources such as donations, grants, fees for service, special event revenues and in-kind contributions.
Benefit Zones	<p>BENEFIT ZONES:</p> <p>Benefit Zones are based upon a frequency of special benefit services due to specific land use needs or types of service. Whereas the parcels between Willow and Minnesota are considered the heart of the district, it is anticipated that they will derive greater benefit from the special benefit services funded by the WGCBD. Therefore, it is suggested that the district be managed with two benefit zones with varying costs based upon land use and geography.</p> <p><u>Benefit Zone 1</u> will include all parcels on both sides of Lincoln Avenue from the intersection of Minnesota and Lincoln northward to the south side of the intersection of Willow Street and Lincoln Avenue. Benefit Zone 1 parcels also include all of those parcels running along the south side of Willow Street, within the boundaries of the CBID.</p> <p><u>Benefit Zone 2</u> will include all other parcels on both sides of Lincoln Avenue south of Lester Avenue and Broadway to those parcels running along the north side of Willow Street within the boundaries of the CBID.</p>

Assessments	<p>The annual assessments are based on multiple property factors: 1) square footage of the building; 2) square footage of the parcel, or lot size; 3) the linear frontage of the lot abutting any public right of way and the location of that parcel in a benefit zone; 4) or as a “for-sale” residential unit parcel. The assessable square footage of the commercial parcel building area shall be the gross square footage of the building less the square footage of parking spaces, ramps and common areas related to parking that are used exclusively for the residential tenants or offices within the same building.</p> <p>The first year annual rates are as follows:</p> <table><tr><th>Property Variable</th><th>Zone1</th><th>Zone 2</th></tr><tr><td>Building Sq. Foot Cost</td><td>\$0.114</td><td>\$0.07</td></tr><tr><td>Linear Feet Cost</td><td>\$ 8.50</td><td>\$ 5.30</td></tr><tr><td>Lot Size Cost</td><td>\$ 0.06</td><td>\$ 0.06</td></tr><tr><td>For Sale Res. Unit Parcels Cost (building square footage only)</td><td>\$0.30</td><td>\$ 0.30</td></tr></table>	Property Variable	Zone1	Zone 2	Building Sq. Foot Cost	\$0.114	\$0.07	Linear Feet Cost	\$ 8.50	\$ 5.30	Lot Size Cost	\$ 0.06	\$ 0.06	For Sale Res. Unit Parcels Cost (building square footage only)	\$0.30	\$ 0.30
Property Variable	Zone1	Zone 2														
Building Sq. Foot Cost	\$0.114	\$0.07														
Linear Feet Cost	\$ 8.50	\$ 5.30														
Lot Size Cost	\$ 0.06	\$ 0.06														
For Sale Res. Unit Parcels Cost (building square footage only)	\$0.30	\$ 0.30														

The assessment on each parcel for the first year is the sum of the amounts attributable to each of the property variables, commercial or for sale residential land uses and benefit zones. The assessments are calculated by multiplying the square footage of the building (building size), **plus** the lot size assessment, **plus** the linear frontage of all sides abutting the public right of way included within the boundaries of the district by the rates described above, applicable to the particular parcel based upon its location in a benefit zone; **or** whether the land use is for a residential unit parcel (condo or tenant in common). The assessments in years 2 – 15 may be adjusted for inflation subject to a maximum increase of 5% over the assessment in the prior fiscal year.

For-Sale residential unit parcels

For-sale residential unit parcels are assessed as a separate category. These for-sale condos, under this plan, will be assessed *for their building square footage only at the rate of \$0.30 per square foot per year*, commencing the first year of the district. The rationale for this assessment of building square footage rate only is provided below. This assessment will be levied on the actual building square footage, regardless of benefit zone in the Willow Glen CBID.

For-sale residential unit parcels are assessed differently than multi-unit for-rent apartment buildings. The multi-unit apartment buildings are commercial properties in which the tenant and landlord have a business relationship. They are required to have a business license to operate in the City of San Jose and these residential apartment buildings can be bought or sold just as commercial buildings can be bought and sold. In addition, they can be evicted by a landlord, something that sets them apart from single family residential unit parcel owners.

Ground floor commercial or retail condominiums or parcels will be assessed consistent with the assessment methodology used for other commercial parcels in their respective benefit zones.

The for-sale residential assessments would allow for an expansion of the budget and these new revenues would fund *enhanced beautification and residential special benefits* including dog stations, hanging plants, late night security and other items that would respond to the special needs of these residential unit owners, regardless of benefit zone.

For-sale residential unit parcels or condos owned by one owner/developer will be treated as a commercial building with commercial rate assessments until at least 50% plus 1 of the individual units have been sold.

Annual Budget:	The proposed first year budget for the CBID is \$ 196,738.00 and includes the projected special benefit assessments. The annual budgets for subsequent years will be set forth in annual reports prepared by the management corporation and submitted to the City Council as required by state law.
Annual Increase:	<p>Assessments in years 2 – 15 may be adjusted for inflation based on the consumer price index for the San Francisco-Oakland-San Jose Area for all urban consumers, not to exceed 5% annually. This assessment increase can only be initiated by the Willow Glen CBID non-profit management corporation via a request to the City Council at the time of the submission of the Annual Report, due 30 days following each fiscal year.</p> <p>The District Management Corporation may make this recommendation for an annual increase, not to exceed 5%, subject to approval by the San Jose City Council.</p>
City Services:	The City Council, by adopting this Plan, will confirm its intention to ensure an existing level of services in the district equivalent to the level that is being provided elsewhere in the City.

Formation:	District formation requires submission of petitions from owners of property representing at least 30% of the total proposed assessments. The amount of the assessment attributable to property and businesses owned by the same owner that is in excess of forty percent (40%) of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by the business or property owners who will pay the requisite percentage of the assessments. Once the petitions have been submitted, the City Council will consider the adoption of a Resolution of Intent to establish the district and levy the assessments for 15 years. The City will mail out assessment ballots to all owners of property included in the proposed district. The City Council will hold a public hearing between 45-90 days after adopting the Resolution of Intent. The Council may form the Willow Glen CBID if the weighted majority of returned ballots support the district formation. "Weight" is determined by the percentage of monetary contribution each property owner will make to the CBID, based upon the assessment methodology.
Duration:	The district will have a 15 year-term, commencing January 1, 2009.

B. WILLOW GLEN COMMUNITY BENEFIT IMPROVEMENT DISTRICT BOUNDARIES

The addresses of the properties included within the boundaries of the Willow Glen CBID, described on page 4, are as follows:

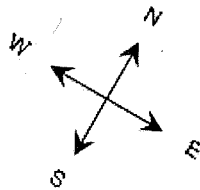
Table B-1

<i>Street</i>	<i>Address Series</i>
Brace Avenue	1110 -1114
Lincoln Avenue	1041 – 1396
Minnesota Avenue	1092 - 1151
Willow Street	1033 – 1122

Willow Glen CBD Benefit Zone Map

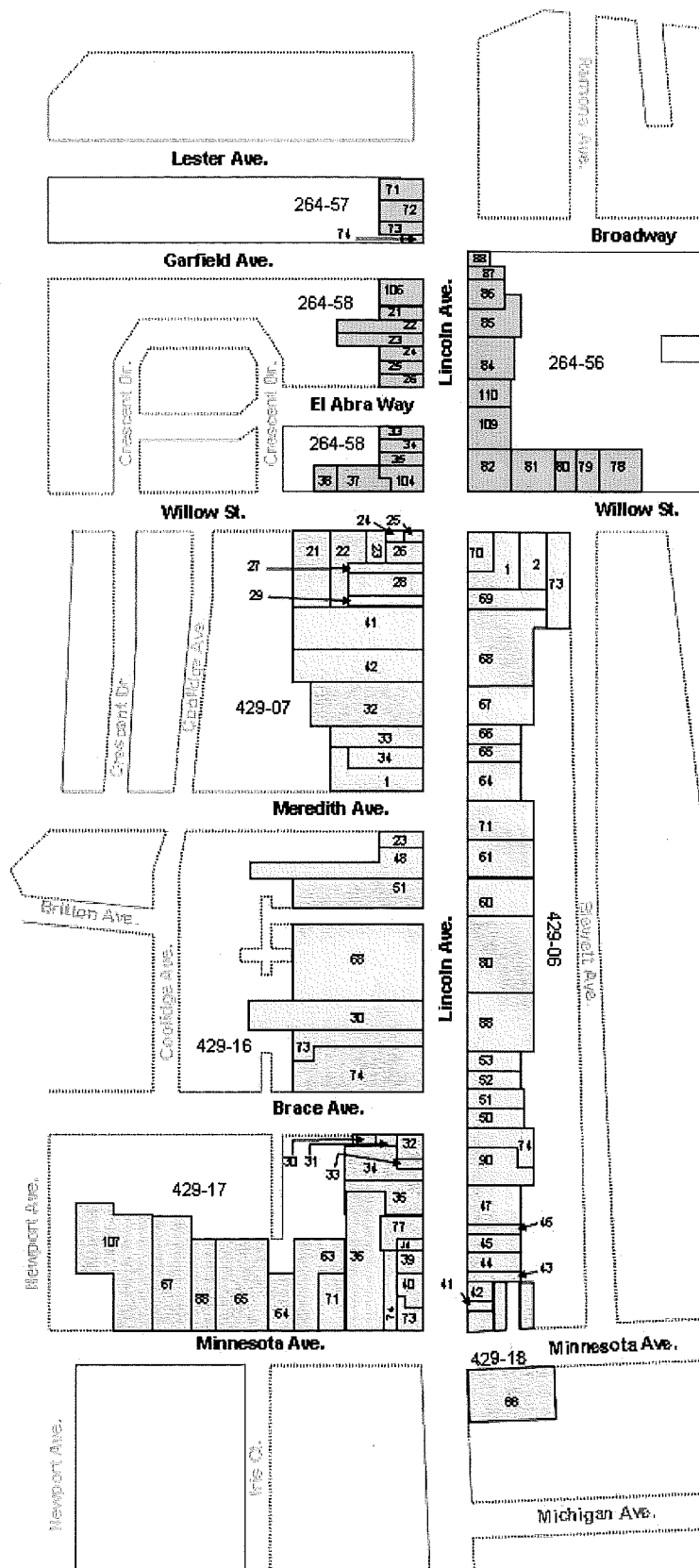
August, 2008

Surrounding Boundaries
(Not included in District)



Benefit Zone 1

Benefit Zone 2



C. SERVICE PLAN AND BUDGET

Service Plan

The Willow Glen CBID Steering Committee has reviewed the survey results and discussed the current and future special benefit needs of the business and property owners in the district. The following list of services is the result of this collaborative community-outreach effort:

SIDEWALK OPERATIONS BEAUTIFICATION AND ORDER AND PARKING:

The first prioritized special benefit services would be those which are referred to as "**Sidewalk Operations, Beautification, Order and Parking (SOBOP).**" These items refer to all special benefit services that are allocated between the curb and the property line and could include:

Examples of the special benefit services and costs include, but are not limited to:

- Sidewalk sweeping, graffiti removal, dog bag maintenance, steam cleaning,
- Quarterly sidewalk steam cleaning
- Spot steam cleaning as necessary
- Systematic trash removal, installation of new trash cans
- Public right of way beautification programs
- Materials for beautification
- Landscaper and maintenance for plants and trees planted with special benefit funding
- Maintenance of pedestrian public spaces in addition to sidewalks
- Banners and decorations
- Supervision of SOBOP Services
- Parking management;
- Graffiti removal, within 24 hours
- Equipment, supplies, tools
- Vehicle maintenance and insurance related to liability issues from new projects within the public rights of way.
- Insurance, (General liability, officers and directors, workers comp)
- Office related expenses for maintenance services;
- Repayment of District formation costs; *(during the first year of operation, up to \$10,000 in formation costs may be repaid to the businesses or organizations which funded the formation efforts of the district, for actual expenditures for the cost of preparing this plan and the engineer's report consistent with San Jose Public Works and Improvement Code, Chapter 14.31, Section 14.31.080).*

DISTRICT IDENTITY AND STREETScape IMPROVEMENTS/MARKETING AND PROMOTIONS

(Examples of special benefit services and costs include, but are not limited to)

- Special events
- Marketing and Promotions strategies
- Personnel related to Marketing and Promotions
- Logo development and Web site
- Pedestrian kiosks and way-finding signage system
- Public space development and planning
- Farmer's Market
- Walking map
- Advertising
- Communications
- Insurance for special events;
- Office related expenses for maintenance services;
- Communications;
- Repayment of District formation costs, if any *(see above)*

ADMINISTRATION, (PERSONNEL):

(Examples of special benefit services and costs include, but are not limited to)

- Staff and administrative costs
- Relations with City
- Public relations

CONTINGENCY/RESERVE:

(Examples of special benefit services and costs include, but are not limited to)

- Delinquencies
- Reserves
- Hardship repayments
- Insurance;
- Financial reporting
- Office related expenses for maintenance services;
- Repayment of District formation costs, if any *(see above)*

CONTINUATION OF CITY SERVICES

Throughout the process of establishing the new Willow Glen CBID, businesses and property owners have voiced concerns that the City San Jose maintain existing services at verifiable existing service levels. The San Jose City Council, by adopting this Plan, will confirm its intention to ensure an existing level of services equivalent to the level that is being provided elsewhere in the City.

Service Plan Operating Budget The service plan budget has been developed to provide the services identified as the highest priorities to the property owners in the Willow Glen CBID area. The operating budget for the first year of the Willow Glen CBID is estimated to be \$ 196,738.00. A breakdown of this budget is included in the table below.

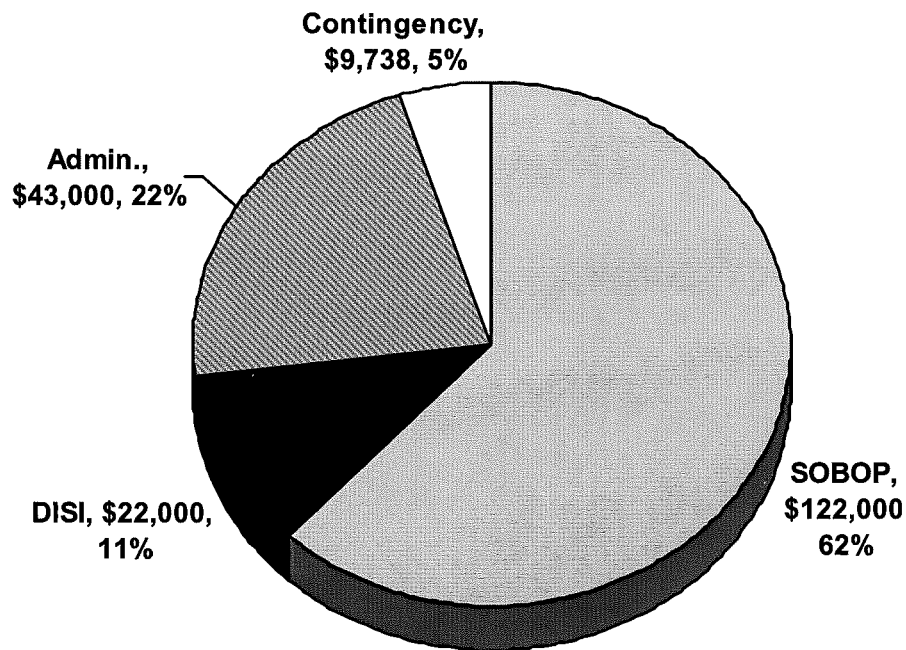
Under this plan, **35%** of the special benefit assessments would be derived from linear frontage, **22%** will be derived from building square feet, **43%** would be derived from lot size. Since there are no single family residential unit parcels within the district whose current land use is not of a commercial nature, there are no contributions from this segment of the assessment methodology into the first year budget.

TABLE C – 1

PERCENTAGE OF BUDGET AND ANNUAL COSTS ALLOCATED TO TYPES OF SERVICES

<i>CBID Services in the Willow Glen CBID</i>	<i>% of 1st year budget</i>	<i>Annual first year costs</i>
Sidewalk Operations Beautification and Order (SOBOP) (Cleaning and Safety, beautification programs, parking)	62%	\$ 122,000.00
District Identity and Streetscape Improvements (DISI)	11%	\$ 22,000.00
Administrative, (Personnel)	22%	\$ 43,000.00
Contingency/Reserve (surplus funds in this category, at the conclusion of the fiscal year may be transferred to other service categories upon a vote of the Management Corporation) Repayment of District formation costs; (during the first year of operation, up to \$10,000 in formation costs shall be repaid to the businesses or organizations which funded the formation efforts of the district, for actual expenditures for the cost of preparing this plan and the engineer's report consistent with the San Jose Public Works and Improvement Code, Chapter 14.31, Section 14.31.080).	5%	\$ 9,738.00
Total	100%	\$ 196,738.00

WILLOW GLEN COMMUNITY BENEFIT IMPROVEMENT DISTRICT
FIRST YEAR BUDGET
\$196,738.00



D. ASSESSMENTS AND ASSESSMENT METHODOLOGY

Proportion of Benefit and Proposition 218, General vs. Special Benefits:

The proportionate special benefit derived by each identified parcel shall be determined in a relationship to the entirety of the improvement or the maintenance and operation expenses of an improvement or for the cost of property service being provided. Per California Constitutional Amendment Article XIII D, Section 2(i), 'Special Benefit', means a particular and distinct benefit over and above general benefits conferred on a real property located in the district or to the public at large.

No assessment shall be imposed on any parcel, which exceeds the reasonable cost of the proportional special benefits conferred upon that parcel. Only special benefits are assessable and these benefits must be separated from any general benefits. A general benefit is defined as a benefit to properties in the surrounding community or a benefit to the public in general resulting from improvement, activity or service to be provided by the assessment levied.

The special benefits funded by this new District will be over and above existing City of San Jose baseline service levels in the commercially zoned parcels and will serve to increase tenancies, increase commerce, increase economic viability and fund a system of cleanliness and beautification over and above current service levels.

All benefits derived from the assessment outlined in the Management District Plan (MDP) fund only services directly benefiting the property owners in this specialized District in maintenance and security, as well as increased commerce and all the other goals and objectives of the Willow Glen CBID's purpose.

Properties are assessed as defined on the county assessor's most current parcel maps.

The following methodology is applied to the database of parcels within the District. The process for compiling the property database includes the following steps:

- A report was submitted to the Public Works Department office using the data obtained from the County of Santa Clara Assessor's office. The Public Works Department reviewed the report.
- A list of properties to be included within the Willow Glen CBID is provided in section 7.

The basis of funding shall be through special benefit assessments levied on real property throughout the District. The rates of assessment vary by the proportionate amount of special benefit received by each parcel. A detailed explanation of the special benefit assessment rationale is made in the attached Engineer's Report.

Calculation of Assessments:

There are four property variables that are to be used in determining parcel property special benefit assessments. These variables are:

- Linear frontage, (sidewalk frontage, all sides),
- Lot or parcel size;
- Gross building square footage, (less the square footage of parking spaces, ramps and common areas related to parking that are used exclusively for the residential tenants or offices within the same building)
- For Sale residential unit parcels;

Commercially Used Parcels:

The annual assessments are based on three property factors: 1) square footage of the building; 2) the linear frontage of the lot abutting any public right of way and 3) the lot or parcel size. The assessable square footage of the commercial parcel buildings shall be the gross square footage of the building, less the square footage allocated to structured parking spaces, ramps and common areas dedicated to parking that are used exclusively for the residential tenants or offices within the same building. In addition, the location of the parcel determines which benefit zone it is in, which determines the applicable assessment formula.

The assessment on each parcel for the first year is the sum of the amounts attributable to each of the three land uses in their respective benefit zone. The assessments are calculated by multiplying the square footage of the building (building size), **plus** the linear frontage of all sides abutting the public right of way **plus** the parcel or lot size - included within the boundaries of the district by the rates described in this plan, applicable to the particular parcel based upon its location in a benefit zone; **or** whether the land use is for a single family residential unit parcel (condo or row home).

For sale residential unit parcels: For-sale residential unit parcels, are assessed as a separate category. These single family residential unit parcels and/or condos, under this plan, will be assessed for *their building square footage only at the rate of \$0.30 per square foot per year*, commencing the first year of the district (there currently are no such land uses in the proposed Willow Glen CBID, however all future parcels of this nature within the boundaries of this plan

will be assessed consistent with the special benefits and costs articulated in this plan).

Multi-unit apartment buildings are treated as commercial properties for the purposes of the proposed assessment because the tenant and landlord have a business relationship. They are required to have a business license to operate in the City of San Jose and these residential apartment buildings can be bought or sold just as commercial buildings can be bought and sold. In addition, residents can be evicted by a landlord, something that sets them apart from for sale residential unit parcel owners.

For sale residential unit parcels, and individual condo owners have a different relationship in the District as compared to retail or commercial land uses. These property owners will receive the benefits from clean and safe special benefit services but not other programs designed to attract and retain businesses.

Ground floor commercial or retail condominiums or parcels will be assessed consistent with the assessment methodology used for other commercial parcels.

The special residential assessments will contribute to the SOBOP, and Administration components of the special benefits budget but would also allow for an expansion of the beautification budget. These new revenues would fund *enhanced beautification and residential special benefits* including dog stations, hanging plants, late night security and other items that would respond to the special needs of these single family residential unit parcel owners, regardless of their benefit zone.

For-sale residential unit parcels or condos owned by one owner/developer will be treated as a commercial building with commercial rate assessments until at least 50% plus 1 of the individual units have been sold.

Public Benefit Non-Profit Corporations:

Public Benefit, Non-Profit parcels which are owned and operated by the public benefit owner (501(c)(3)), shall pay into the Willow Glen CBID, however their building mass, which funds marketing programs and some administrative personnel and contingency services, shall be exempt from paying into the CBID. Those parcels will pay on the basis of Benefit Zone, linear frontage and lot or parcel size, not building square footage.

The calculation of assessment for each parcel in the CBID is as follows:

Table D-1

Projected Annual Costs for First Year of the Willow Glen CBID

Property Variable	Zone1	Zone 2
Building Sq. Foot annual cost	\$0.114	\$0.07
Linear Feet annual cost	\$ 8.50	\$ 5.30
Lot or parcel size annual cost	\$ 0.06	\$ 0.06
Single Family Res. Unit Parcels Cost (building square footage only)	\$0.30	\$ 0.30

Benefit Zone 1:

Total Linear Street Frontage X \$ 8.50 per linear foot
plus
Total Lot Square Footage X \$0.06 per Square Foot
plus
Total Building Square footage X \$0.114 per Square Foot
Equals
TOTAL PARCEL ASSESSMENT

Benefit Zone 2:

Total Linear Street Frontage X \$ 5.30 per linear foot
plus
Total Lot Square Footage X \$0.06 per Square Foot
plus
Total Building Square footage X \$0.07 per Square Foot
Equals
TOTAL PARCEL ASSESSMENT

All property in the district will be assessed using the above calculation, with the exception of for sale residential unit parcels, which are defined previously.

For sale residential unit parcels are assessed as a separate category. These single family residential unit parcels will be assessed for their building square footage only at the rate of \$.30 per square foot for the first year of the District. A detailed explanation of their special benefit and the rationale for this assessment is provided in the attached Engineer's Report. The Calculation of Assessment for each Single Family Residential Unit Parcel in the CBID is as follows:

Total Residential Unit Square footage X \$0.30 per Square Foot
Equals
TOTAL FOR SALE RESIDENTIAL UNIT PARCEL ASSESSMENT

Table D-2

Database for Willow Glen CBID:

Zone	Linear Frontage Total	Lot Square Footage Total	Building Square Footage Total	Single Family Residents Unit Parcels, Building Square Footage to be assessed only
1	6,603	1,064,268	333,001	0
2	2,442	339,770	78,077	0
Total	9,045	1,404,038	411,078	0

Table D-3

**Amount Generated during the First Year by Property Variable for the Willow Glen
CBIDs: \$ 196,738.00**

Zone	Linear Frontage Total	Lot Square Footage Total	Building Square Footage Total	Single Family Residents Unit Parcels, Building Square Footage to be assessed only
1	\$ 56,126	\$ 63,856	\$ 37,962	0
2	\$ 12,943	\$ 20,386	\$ 5,465	0
Total	\$ 69,069	\$ 84,242	\$ 43,427	0

**PERCENTAGE OF BUDGET AND ANNUAL COSTS ALLOCATED TO TYPES OF SERVICES
BASED UPON PROPERTY VARIABLE FUNDING THAT PARTICULAR SPECIAL BENEFIT SERVICE**

<i>Special Benefit Services in the Willow Glen CBID Plan</i>	<i>% of 1st year CBID Plan</i>	<i>Annual first year costs and how assessments are generated</i>
Sidewalk Operations Beautification and Order (Cleaning and Safety, beautification programs, parking)	62 %	\$ 122,000 (From all linear frontage assessments, (Approximately 1/2 costs from Lot size assessments and balance of (\$11,689 from Building square assessment footage costs)
District Identity and Streetscape Improvements – Marketing/Promotions	11%	\$ 22,000 (Funded entirely through building square footage assessments)
Administrative, (Personnel)	22%	\$ 43,000 Personnel Costs (Approximately 1/2 of Lot size assessments)
Contingency/Reserve	5%	\$ 9,738.00 (Funded entirely from building square footage assessments)
Total	100%	\$ 196,738.00

Benefit Zones and Frequency of Special Benefit Services:

There will be two benefit zones within the proposed Willow Glen CBID. The Willow Glen CBID may provide services to properties outside of the district on a contract basis. As required by law, the management corporation may not use assessments to provide services outside the district.

Table D-4

Type and Frequency of Willow Glen CBID SOBOP Services, First Year

Special Benefit Category/Item	Number of employees/contractors	Benefit Zone 1 Frequency	Benefit Zone 2 Frequency	% of budget, Annual Costs
SOBOP/Personnel	(Sample for budget)			
a. Sidewalk sweeping, graffiti removal, dog bag maintenance, b. steam cleaning, c. Regular trash removal, installation of new trash cans d. Landscaper and maintenance e. Banner maintenance f. Supervision of SOBOP Services g. Public rights of way consulting services h. Parking management i. Materials for beautification; j. Other non-personnel items: -General Liability, Directors and Officers and -vehicle insurance; -vehicle and machinery maintenance -materials, equipment and supplies; -Office rent; -Parking signs -B of A parking rental, other parking lot rentals	-2 full time, 6 days per week, (\$15 per hour weighted cost) -1 supervisor 40 hours per week (\$18.00 per hour weighted cost)	a. 6 days b. Quarterly c. 6 days d. as needed e. quarterly f. daily g. if needed h. Thurs. – Sat. i. as needed	a. 4 days b. Quarterly c. 4 days d. as needed e. quarterly f. daily g. if needed h. Thurs – Sat. i. as needed	
Sub-total for SOBOP –				\$ 122,000 62%

**Table D-5
District Identity, Administration and Contingency Special Benefit Services, First
Year of the Willow Glen CBID**

Special Benefit Category/Item	Benefit Zone 1 Frequency	Benefit Zone 2 Frequency	% of budget, total first year costs
District Identity and Streetscape Improvements	4/5 costs (\$17,600)	1/5 costs (\$4,400)	
a. Web site b. Special Events c. Holiday decorations d. Branding e. Banner program f. Public art g. Logo development h. Public space design work i. Signage j. Personnel related	a. Same b. Founders Day, (6,000) Dancing on the Avenue (5,400) c. Annual \$ 6,000 d. Same e. As needed f. As determined g. Same h. As determined i. As determined	a. Same b. None c. Annual \$ 4,400 d. Same e. As needed f. NA g. Same h. As determined i. As determined	
Sub-total DISI			\$ 22,000 11%
Administration (Personnel))			
a. District manager b. Staff c. Relations with public and public officials	Services allocated equally to each benefit zone	Services allocated equally to each benefit zone	
Sub-total Administration			\$43,000 22%
Contingency/Reserve			
a. City Costs b. County costs c. Reserve d. Debt service	Costs distributed equally to each benefit zone	Costs distributed equally to each benefit zone	
Sub-total Contingency – 7%			\$ 9,738 5%
Total Anticipated First Year Costs Needed – 100%			\$ 196,738.00 100%

Table D-6

Annual First Year Budget for Willow Glen CBID

Program or activity funded by the Willow Glen Community Benefit District	Approximate% of First Year Annual Budget	Estimated Annual Costs (First Year)
Sidewalk Operations, Beautification and Order	62%	\$ 122,000.00
District Identity and Streetscape Improvements	11%	\$ 22,000.00
Administration/Corporate Operations (Personnel)	22%	\$ 43,000.00
Contingency/City Fees/Reserves	5%	\$ 9,738.00
Total	100%	\$ 196,738.00

Benefit Zone 1 includes the parcels identified on page 10 and represent the core parcels of the district. These parcels are anticipated to benefit to a greater extent with the creation of the new Willow Glen CBID. Generally speaking, these are the parcels from the south side of Willow Street running southward to Minnesota Avenue.

Benefit Zone 2 include the parcels identified on page 10 and represent that secondary level of needs based upon less frequency of clean and safe special benefit services, as well as benefiting to a lesser extent for the district identity programs. Generally speaking, these are the parcels along the north side of Willow Street running northward to south side of Lester Avenue and Broadway.

Publicly Owned Parcels and Government Assessments:

Public property owners such as the City and County of San Jose, are subject to assessments for the special benefits conferred upon government owned property within the boundaries of the CBID. Article XIID (4) of the California Constitution, (Proposition 218), requires that government owned parcels be assessed unless they receive no special benefit from the improvements and activities funded by the assessments:

"Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from Assessments unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit."

Exemptions and Exclusions:

Consistent with Article XIID of the State Constitution, (Proposition 218), it has been determined that all parcels within the proposed district will derive special benefits from the assessments. Therefore, no parcels will be exempted from payment of assessments, regardless of use or ownership. As noted above, the square footage of any parking that supports residential tenants or offices in the same building will be excluded from the building square footage when calculating the assessment for the particular parcel.

Over the next few years, within the Willow Glen CBID boundaries, the Steering Committee anticipates new developments and land use changes that will impact the public rights of way and therefore service requirements.

With that background, the Willow Glen CBID Management District Plan provides for the exclusion of all building square footage assessments on a parcel or parcels once that building has been demolished. (Assessments for linear frontage and lot size will continue to be levied on the parcels.) When the new building has received an occupancy permit, that new building square footage, whether it be a commercial building in Benefit Zones 1 or 2, it shall be assessed in accordance with the Management District Plan for the remaining years of the term of the Willow Glen CBID. It shall be the responsibility of the subject property owner to demonstrate the status of its development project to the Management Corporation, in order to receive such assessment discounts.

Public Benefit Non-Profit Corporations:

Public Benefit, Non-Profit parcels which are owned and operated by the public benefit owner (501(c)(3)), shall pay into the Willow Glen CBID, however their building mass, which funds marketing programs and some administrative

personnel and contingency services, shall be exempt from paying into the CBID. Those parcels will pay on the basis of Benefit Zone, linear frontage and lot or parcel size, not building square footage.

Annual Assessment Increases

Assessments in years 2 – 15 may be adjusted for inflation based on the consumer price index for the San Francisco-Oakland-San Jose Area for all urban consumers, not to exceed 5% annually. This assessment increase can only be initiated by the Willow Glen CBID non-profit management corporation via a request to the City Council at the time of the submission of the Annual Report, due 30 days following each fiscal year.

The District Management Corporation may make this recommendation for an annual increase, not to exceed 5%, subject to approval by the San Jose City Council.

TABLE D - 7:

PROJECTION OF ASSESSMENTS OVER THE LIFE OF THE DISTRICT
ASSUMING MAXIMUM ANNUAL ADJUSTMENTS

<i>Fiscal Year of Operation</i>	<i>Maximum Annual Assessment, Adjusted with Maximum CPI of 5%</i>
2009 - 2010	\$ 196,738.00
2010 - 2011	\$ 206,575.00
2011 - 2012	\$ 216,904.00
2012 - 2013	\$ 227,749.00
2013 - 2014	\$ 239,136.00
2014 - 2015	\$ 251,093.00
2015 - 2016	\$ 263,648.00
2016 - 2017	\$ 276,830.00
2017 - 2018	\$ 290,672.00
2018 - 2019	\$ 305,205.00
2019 - 2020	\$ 320,465.00
2020 - 2021	\$ 336,489.00
2021 - 2022	\$ 353,313.00
2022 - 2023	\$ 370,979.00
2023 - 2024	\$ 389,528.00

E. TIME AND MANNER OF COLLECTING ASSESSMENTS

The Willow Glen Community Benefit Improvement District assessment will appear as a separate line item on the annual property tax bills prepared by Santa Clara County Tax Collector. A special assessment bill will also be issued annually by the City of San Jose to parcels that are exempt from payment of property taxes. Payment of property taxes is due on November 1 and February 1, with the bill becoming delinquent at the close of business December 10 and April 10, respectively. The total bill may be paid with the first installment. The City of San Jose will receive the assessments collected by the Santa Clara Tax Collector and the City will then distribute the assessments to the management corporation pursuant to the management agreement between the City and the owners' association for the district.

Manual billing in Early 2009:

Due to the fact that the Willow Glen CBID was not established in time to be included in the County 2008-09 Fiscal Year Collection cycle, the City of San Jose will conduct a manual billing for the first year of the CBID. These bills will be mailed out in January and March 2009 once the ordinance establishing the Willow Glen CBID has been adopted by the San Jose City Council. These supplemental property tax bills will be due and payable within 30 days of their mailing. Assessments not paid during this first year manual billing cycle will be added to the County property tax rolls, with penalties, the following year of the district. This manual billing will allow the Willow Glen CBID to commence special benefit services within the first quarter of calendar year 2009.

F. NUMBER OF YEARS ASSESSMENTS WILL BE LEVIED

This Willow Glen CBID *will be established for a maximum term of 15 years*. This term is used to allow for enough time for property owners to produce and review sustainable improvement to the public rights of way as results of the services administered by the CBID.

The district would commence operations January 1, 2009 and expire on December 31, 2024, unless disestablished.

Disestablishment:

Each year that the Willow Glen CBID is in existence, there will be a 30-day period during which the property owners will have the opportunity to request disestablishment of the CBID. This 30-day period begins each year on the anniversary date the City Council established the CBID. Within that 30-day period, if a written petition is submitted by the owners of real property who pay

50% or more of the assessments levied, the CBID may be disestablished by the City Council.

All outstanding indebtedness must be paid prior to disestablishment of the CBID.

G. TIMELINE FOR IMPLEMENTATION AND COMPLETION OF THE WILLOW GLEN DISTRICT COMMUNITY BENEFIT IMPROVEMENT DISTRICT

TABLE G – 1:

TIMELINE FOR DISTRICT FORMATION

<i>Task</i>	<i>Time task is anticipated to be, or was completed</i>
Final approval of Management District Plan by Willow Glen CBID Steering Committee	March
Mail out Management District Plan and petition endorsing plan to affected Willow Glen property owners	April
Submit minimum 30% weighted petitions endorsing plan and their related assessments to the City Department of Public Works	Mid - September
Ballots distributed by mail to property owners upon Resolution of the City Council	October - November
Ballots due, public hearing, ballots counted, district formed	December
Interim Non-Profit Management Corporation Board formed	December - January
First assessments billed by the City of San Jose. Second installment mailed out in March and due in April	January - February
First assessments transferred from City to Willow Glen CBID Management Corporation	February - March 2009

H. PROPOSED RULES AND REGULATIONS TO BE APPLIED TO THE DISTRICT

Management of the District:

A new non-profit management corporation will be formed to administer the Willow Glen CBID. At least one voting member of the Board shall be a non-property owning business tenant. The new non-profit District Management Corporation may allocate seats on the Board by slots of ownership related to Benefit Zone and Category of business or land use. The Board may select a minimum and maximum number of seats. The Board will determine its own policies and procedures through adoption of its bylaws which should make accommodation for participation of all CBID members through the Board, the Board meetings, Committees or Task Forces.

Once the CBID has been established, the current CBID Steering Committee will select an interim volunteer Board of Directors consistent with the above board structure, prepare to commence operations, obtain a business registration certificate from the Tax Collector's Office, create by-laws, obtain insurance, and complete other requirements imposed by law and/or the management contract with the City San Jose.

The interim CBID Board nominations will be taken from Willow Glen CBID property owners, merchants, community based organizations and residents interested in developing additional rules and regulations of the new management corporation, all meetings of the interim board are open to the public. The current CBID Steering Committee is cognizant of the need to have this new non-profit management corporation be as transparent as possible and responsive to all sectors of the diverse CBID community.

The new Willow Glen CBID Management Corporation may hire paid staff and sub-contractors to implement the services as outlined in this Management District Plan. The Management Corporation is required to comply with state open meeting and public records laws, the California Public Records Act and the Ralph M. Brown Act. The Management Corporation may reallocate funding within the service categories, not to exceed 10% of the annual budgeted amount for the category, consistent with the Management District Plan.

The management corporation shall aim to meet the following operational objectives for the Willow Glen CBID:

- *Create and manage programs that best respond to the top priorities of Willow Glen District CBID stakeholders;*

- *Maximize coordination with the City of San Jose to avoid duplication of services and to leverage resources;*
- *Deliver services through a cost-effective, non-bureaucratic and easy to access organizational structure; and*
- *Provide accountability and responsiveness to those who pay assessments into the district.*
- *Seek opportunities in which the Willow Glen CBID funds, consistent with the programs as defined in the Management District Plan, may be used in the community to foster job growth, economic opportunities and self-help programs.*

The management corporation may establish rules and regulations that uniquely apply to the district. The following rules and regulations, as may be subsequently modified or supplemented by the management contract with the City of San Jose, will be employed by the Willow Glen CBID management corporation in the administration of the district such as:

Competitive Bidding:

Following the formation of the district, the management corporation board shall develop a policy for competitive bidding as it pertains to contracted services for the Willow Glen CBID.

Conflict of Interest:

Any board member of the Willow Glen CBID management corporation shall recuse themselves from any vote in which a potential financial conflict of interest is apparent. Such potential conflicts include, but are not limited to, prioritizing capital improvement projects which result in special benefit to specific property owners, prioritization of services to benefit a particular owner or group of owners, hiring or selecting the relatives of board members.

Open Door Policy:

Meetings of the management corporation board shall be open to the public. Annual budgets and financial reports shall be submitted to the board members and to the City Council for approval.

Public Access to Meetings and District Records:

Meetings of the district management corporation board and its sub-committees are subject to the Ralph M. Brown Act and must be open to the public. Annual budgets and financial reports shall be submitted to the board members and to the City Council for approval. Records concerning the district are subject to public inspection in accordance with the California Public Records Act.

I. LIST OF ASSESSED PARCELS

APN	Site #	Site Street	Assessment	Percent
26456078	1033	Willow St	\$1,647.76	0.84%
26456079	1045	Willow St	\$1,383.24	0.70%
26456080	1053	Willow St	\$866.88	0.44%
26456081	1075	Willow St	\$1,418.60	0.72%
26456082	1096	Lincoln Ave	\$2,788.25	1.42%
26456084	1074	Lincoln Ave	\$2,609.36	1.33%
26456085	1072	Lincoln Ave	\$2,210.89	1.12%
26456086	1060-1070	Lincoln Ave	\$1,846.78	0.94%
26456087	1058	Lincoln Ave	\$764.75	0.39%
26456088	1056	Lincoln Ave	\$701.66	0.36%
26456109	1082	Lincoln Ave	\$3,048.36	1.55%
26456110	1080	Lincoln Ave	\$1,467.60	0.75%
26457071	1041	Lincoln Ave	\$1,031.46	0.52%
26457072	1049	Lincoln Ave	\$1,267.12	0.64%
26457073	1055	Lincoln Ave	\$804.38	0.41%
26457074	1057	Lincoln Ave	\$625.37	0.32%
26458021	1065	Lincoln Ave	\$743.50	0.38%
26458022	1071	Lincoln Ave	\$1,388.83	0.71%
26458023	1075	Lincoln Ave	\$1,388.06	0.71%
26458024	1079	Lincoln Ave	\$677.61	0.34%
26458025	1083	Lincoln Ave	\$762.55	0.39%
26458026	1087	Lincoln Ave	\$760.52	0.39%
26458033	1089	Lincoln Ave	\$746.93	0.38%
26458034	1091	Lincoln Ave	\$647.83	0.33%
26458035	1093	Lincoln Ave	\$568.02	0.29%
26458037	1111	Willow St	\$2,055.42	1.04%
26458038	1121	Willow St	\$840.98	0.43%
26458104	1099	Lincoln Ave	\$2,415.96	1.23%
26458106	1061	Lincoln Ave	\$1,315.52	0.67%
42906001	1072	Willow St	\$1,864.93	0.95%
42906002	1062	Willow St	\$1,150.94	0.59%
42906041	1384	Lincoln Ave	\$342.67	0.17%
42906042	1378	Lincoln Ave	\$1,004.50	0.51%
42906043	1366	Lincoln Ave	\$205.92	0.10%
42906044	1360	Lincoln Ave	\$1,627.92	0.83%
42906045	1352	Lincoln Ave	\$1,334.38	0.68%
42906046	1342	Lincoln Ave	\$756.76	0.38%
42906047	1330-1338	Lincoln Ave	\$2,081.31	1.06%
42906050	1306	Lincoln Ave	\$1,649.22	0.84%
42906051	1302	Lincoln Ave	\$1,993.22	1.01%
42906052	1292	Lincoln Ave	\$1,119.71	0.57%
42906053	1284	Lincoln Ave	\$1,295.50	0.66%
42906060	1228	Lincoln Ave	\$3,116.76	1.58%
42906061	1224	Lincoln Ave	\$2,584.10	1.31%
42906064	1190	Lincoln Ave	\$2,852.96	1.45%

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42906065	1180	Lincoln Ave	\$1,878.85	0.96%
42906066	1172-1176	Lincoln Ave	\$1,879.76	0.96%
42906067	1140	Lincoln Ave	\$3,547.40	1.80%
42906068	1140	Lincoln Ave	\$3,558.82	1.81%
42906069	1126-30	Lincoln Ave	\$1,974.56	1.00%
42906070	1104	Lincoln Ave	\$2,036.69	1.04%
42906071	1202	Lincoln Ave #200	\$2,854.86	1.45%
42906073	1060	Willow St #2	\$4,505.32	2.29%
42906074	1314	Lincoln Ave	\$2,825.08	1.44%
42906076	1093	Minnesota Ave	\$738.62	0.38%
42906079	1396	Lincoln Ave	\$1,877.52	0.95%
42906080	1250	Lincoln Ave	\$4,662.08	2.37%
42906087	1093	Minnesota Ave	\$794.70	0.40%
42906088	1264	Lincoln Ave	\$3,199.94	1.63%
42906090	1318-1324	Lincoln Ave	\$2,983.85	1.52%
42907001	1191	Lincoln Ave	\$3,570.03	1.81%
42907021	1122	Willow St	\$3,517.72	1.79%
42907022	1122	Willow St	\$2,080.86	1.06%
42907023		Willow St	\$764.78	0.39%
42907024	1108-1110	Willow St	\$643.11	0.33%
42907025	1102	Willow St	\$706.54	0.36%
42907026	1109	Lincoln Ave	\$1,320.08	0.67%
42907027	1115	Lincoln Ave	\$699.58	0.36%
42907028	1123	Lincoln Ave	\$1,521.08	0.77%
42907029	1129	Lincoln Ave	\$544.08	0.28%
42907032	1165	Lincoln Ave	\$4,944.90	2.51%
42907033	1177	Lincoln Ave	\$1,500.00	0.76%
42907034	1181	Lincoln Ave	\$1,587.96	0.81%
42907041	1147	Lincoln Ave	\$3,954.92	2.01%
42907042	1155	Lincoln Ave	\$3,125.26	1.59%
42916023	1203	Lincoln Ave	\$1,187.06	0.60%
42916030	1261	Lincoln Ave	\$3,215.84	1.63%
42916048	1213	Lincoln Ave	\$4,357.75	2.22%
42916051	1221	Lincoln Ave	\$680.66	0.35%
42916068	1245	Lincoln Ave #a	\$7,150.55	3.63%
42916073	1275	Lincoln Ave	\$3,228.96	1.64%
42916074	1285	Lincoln Ave	\$8,032.85	4.08%
42917030	1114	Brace Ave	\$1,135.99	0.58%
42917031	1110	Brace Ave	\$538.80	0.27%
42917032	1305	Lincoln Ave	\$1,872.96	0.95%
42917033	1319	Lincoln Ave	\$326.18	0.17%
42917034	1331	Lincoln Ave	\$1,951.64	0.99%
42917035	1345	Lincoln Ave	\$2,771.83	1.41%
42917036		Minnesota Ave	\$3,792.96	1.93%
42917038	1371	Lincoln Ave	\$494.08	0.25%
42917039	1373	Lincoln Ave	\$626.86	0.32%
42917040	1377-1389	Lincoln Ave	\$1,304.06	0.66%
42917063	1143	Minnesota Ave	\$1,650.07	0.84%

42917064	1145	Minnesota Ave	\$1,006.56	0.51%
42917065	1147	Minnesota Ave	\$2,190.14	1.11%
42917067	1151	Minnesota Ave	\$2,701.60	1.37%
42917071	1139	Minnesota Ave	\$1,146.79	0.58%
42917073	1115	Minnesota Ave	\$1,781.98	0.91%
42917074	1125	Minnesota Ave	\$1,960.49	1.00%
42917077	1351-1359	Lincoln Ave	\$1,699.28	0.86%
42917088	1149	Minnesota Ave	\$1,195.20	0.61%
42917107		Minnesota Ave	\$876.16	0.45%
42918066	1092	Minnesota Ave	\$4,286.60	2.18%

EXHIBIT B

City of San José, California

COUNCIL POLICY

TITLE	PROCUREMENT AND CONTRACT PROCESS INTEGRITY AND CONFLICT OF INTEREST	PAGE	1 of 3	POLICY NUMBER	0-35
EFFECTIVE DATE	February 6, 2007	REVISED DATE			
APPROVED BY COUNCIL ACTION					2/6/07

BACKGROUND

On December 13, 2005, Council directed the City Manager and City Attorney as part of the Mayor's Biennial Ethics Review to develop this Council Policy which includes all elements of the Procurement Process Integrity Guidelines adopted by Council on November 9, 2004 and apply this policy to all competitive processes.

PURPOSE

The purpose of this policy is:

1. to ensure integrity in the procurement and contract processes;
2. to educate City employees, consultants, uncompensated outside parties, and any person involved in the decision to award a contract about potential Conflicts of Interests; and
3. to establish guidelines for procedural screening of Conflicts of Interests.

POLICY

It is the policy of the City of San José to provide a fair opportunity to participants in competitive processes for the award of City contracts by promulgating integrity and removal of Conflicts of Interests through the inclusion of the following components in all competitive solicitations. Procurement and contract activities are defined as but not limited to specification development, preparation and issuance of solicitations, evaluation of solicitations and submissions, and other evaluations which lead to an award of a City contract.

I. Communication Protocol:

This section describes the characteristics of appropriate communication between respondents and the City during various phases of a solicitation.

A. Prior to Issuance of Solicitations

Prior to the issuance of solicitations, contact between prospective respondents and City staff, elected officials, or consultants is permissible.

B. After Issuance of Solicitations and prior to Submission deadline for Solicitations:

After issuance of solicitations, all contact between prospective respondents and the City must be directed to the Procurement Contact designated in the solicitation. City staff, elected officials, and consultants will refer all inquiries to the Procurement Contact.

All requests for clarification, objections to the structure, content, or distribution of a solicitation, or other inquiries must be made in writing and the City shall answer to these clarifications, objections, and inquiries in writing via addenda to the solicitation.

TITLE	PAGE	POLICY NUMBER
PROCUREMENT AND CONTRACT PROCESS INTEGRITY AND CONFLICT OF INTEREST	2 of 3	0-35

C. After Submission Deadline of Solicitations and prior to Issuance of a Notice of Intended Award:

After the submission deadline of solicitations, all contact regarding the procurement between respondents and the City and participants in the evaluation process, who are not City employees, must be directed to the Procurement Contact designated in the solicitation. City staff, elected officials, and consultants will refer all inquiries to the Procurement Contact.

D. After Issuance of a Notice of Intended Award:

The City will issue a Notice of Intended Award to all respondents including the basis for selection and instructions for filing a protest. All respondents shall follow the procedures for protest as indicated in the solicitation document. During the protest period, City staff, elected officials, and consultants will refer all inquiries to the Protest Hearing Officer identified in the solicitation document.

E. After Completion of Protest Period:

After completion of the protest period, contact between prospective respondents and City staff, elected officials, or consultants is permissible.

II. Respondent's Code of Conduct

By submitting a response to a City solicitation, respondents agree to adhere to this Policy and are individually and solely responsible for ensuring compliance with this policy on behalf of the respondent's employees, agents, consultants, lobbyists, or other parties or individuals engaged for purposes of developing or supporting a response.

In addition to adhering to the various sections of the policy, respondents may not

- collude, directly or indirectly, among themselves in regard to the amount, terms or conditions of a solicitation;
- influence any City staff member or evaluation team member throughout the solicitation process, including the development of specifications; and
- submit incorrect information in the response to a solicitation or misrepresent or fail to disclose material facts during the evaluation process.

Any evidence that indicates that a Respondent has failed to adhere with any section of this policy may result in the respondent's disqualification from the procurement as well as possible debarment.

III. Confidentiality during Evaluation Process

City staff, consultants, and outside evaluators, who are participants in the evaluation process are required to sign a Confidentiality Agreement, which binds the participants not to share any information about responses received and the evaluation process until the City issues a Notice of Intended Award.

IV. Conflict of Interest

Per the General Rule with Respect to Conflicts of Interest, as outlined in the City Policy 2.01, "Code of Ethics", City elected officials, appointed officials, their staffs, and City employees are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

In general, Council Appointees shall take measures to ensure that the City avoid any conflict of interests in procurement processes of City contracts. Specifically, these measures include that

1. professional procurement and contracting staff, including buyers, managers, department heads, members of the City Attorneys office and others who regularly participate in the making of contracts on behalf of the City to disclose relevant financial interest as required by State Law and by City Policy and to annually review those statements in conjunction with this Policy and other ethical standards.

TITLE	PAGE	POLICY NUMBER
PROCUREMENT AND CONTRACT PROCESS INTEGRITY AND CONFLICT OF INTEREST	3 of 3	0-35

2. persons who may not be regularly involved in City procurements to review this Policy and other ethical standards and to elicit such information from them to enable the City to determine if the person's participation would create a conflict of interest. Such persons shall include, but are not limited to:
 - a. authors of specifications
 - b. paid and unpaid evaluators
 - c. paid and unpaid consultants who assist in the procurement process
3. the person managing the procurement shall discuss any potential conflict of interest identified with the City Attorney's Office and document the resulting determination, and take appropriate action including, but not limited to, removal of an employee, consultant, or outside uncompensated party from the procurement activity or cancellation of a solicitation.
4. the City Manager, in consultation with the City Auditor and City Attorney, publish an administrative policy outlining the procedural elements of this Council Policy.

This Policy is intended to set a balance between careful adherence to good procurement and contracting principles together with thorough examination of potential conflicts of interest against an undue burden on the participants in procurement and contracting processes. By establishing the following exceptions to the procedures to be administered by the City Manager, it is not intended to suggest that there is a lesser requirement with regard to ethical standards, but rather a need to have a less burdensome process with regard to certain procurements and contracting activities. The following competitive processes are not subject to procedural requirements as administered by the City Manager:

1. Any contracting activity with an estimated value less than \$100,000.
2. Disposition of goods as described in the Municipal Code Section 4.16.
3. Award of grants by the City with a value below \$10,000.

V. Allegations of Conflict of Interest

Prior to the solicitation release up to award of contract, any allegations of Conflict of Interest by a City employee, consultant, or other participant in the pre-solicitation and solicitation process shall be reported to the Procurement Contact. The Procurement Contact shall investigate the alleged conflict of interest in consultation with the City Attorney's Office and document the resulting determination.

VI. Allegations of Misconduct

At any time during a solicitation process, any misconduct by a City employee, consultant, or other participant in the pre-solicitation and solicitation process, shall be reported to the City's Chief Purchasing Officer. The Chief Purchasing Officer shall investigate the alleged misconduct, in consultation with the City Attorney's Office and others as appropriate. Nothing in this Policy is intended to prohibit anyone from communicating with the City Manager's Office, the City Attorney's Office, the City Auditor's Office, or the Mayor or any City Council Member about any alleged misconduct.

Exhibit C

INSURANCE

The Willow Glen Business Association (hereinafter "BUSINESS ASSOCIATION") shall, at its own expense, procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by their respective agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles.
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors and Omissions insurance for all professional services.
5. Crime Insurance/Employee Dishonesty

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

B. Minimum Limits of Insurance

BUSINESS ASSOCIATION shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and

2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; coverage shall be endorsed to state carrier waives its right of subrogation against the City of San Jose, its officers, employees, agents and contractors; and
4. Professional Liability Errors and Omissions \$1,000,000 Aggregate Limit.
5. Crime/Employee Dishonesty Coverage

A Combination Crime policy with minimum limits not less than \$100,000 for

Form A: Employee Dishonesty

Form B: Forgery or Alteration

Form C: Theft, Disappearance, Destruction Inside/Outside Premises

Form D: Robbery and Safe Burglary Inside/Outside Premises

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. At the option of CITY, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officer, employees, agents and contractors; or BUSINESS ASSOCIATION shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
 - a. The City of San Jose, its officers, employees, agents and contractors are to be covered as additional insured as respects: Liability arising out of activities performed by or on behalf of, BUSINESS ASSOCIATION ; products and completed operations of BUSINESS ASSOCIATION ; premises owned, leased or used by BUSINESS ASSOCIATION; and automobiles owned, leased, hired or borrowed by BUSINESS ASSOCIATION . The coverage shall

contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.

- b. BUSINESS ASSOCIATION's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of BUSINESS ASSOCIATION 's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by BUSINESS ASSOCIATION shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
 - d. Coverage shall state that BUSINESS ASSOCIATION 's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors
2. Workers' Compensation and Employers' Liability
Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors
3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY, except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

BUSINESS ASSOCIATION shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

There are two (2) options for the delivery of insurance:

- PDF via e-mail: Riskmgmt@sanjoseca.gov
- Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose – Human Resources
Risk Management
200 East Santa Clara St., 2nd Floor Wing
San Jose, CA 95113-1905

G. **Subcontractors**

BUSINESS ASSOCIATION shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.