AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WALNUT CREEK
ALTERING THE METHOD AND BASIS OF LEVYING THE ASSESSMENTS IN THE
WALNUT CREEK DOWNTOWN BUSINESS IMPROVEMENT DISTRICT AND THE SOUTH
DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, AMENDING CHAPTER 7 OF TITLE 8
BUSINESS IMPROVEMENT DISTRICT AND SOUTH DOWNTOWN BUSINESS
IMPROVEMENT DISTRICT ASSESSMENTS

WHEREAS, the City Council of the City of Walnut Creek has two business improvement
districts, the Downtown Walnut Creek Business Improvement District (“BID”) and the South Downtown
Business Improvement District (“SBID”), created by Ordinance No. 2043 on June 21, 2005 and
Ordinance No. 2089 on May 18, 2010, respectively; and

WHEREAS, there have been no changes to the method and basis for the BID or the SBID
assessments since the creation of each business improvement district, despite increases in the cost of
living; and

WHEREAS, the City prepared annual reports for the 2014-2015 fiscal year for the BID and
SBID, setting forth proposed changes; and

WHEREAS, on February 4, 2014 the City Council adopted a Resolution of Intention to Levy an
Annual Assessment for each business improvement district; and

WHEREAS, Pursuant to California Government Code 54954.6 and the California Streets and
Highways Code, a noticed public meeting and public hearing regarding the changes to the method and
basis and classification of businesses were held on March 18, 2014 and April 1, 2014, respectively, in the
Council Chambers at City Hall, 1666 North Main Street, Walnut Creek, California, 94596; and

WHEREAS, at said public hearing, written and verbal evidence regarding the changes to the
method and basis of levying the assessments and changes in the classification of certain businesses were
received and considered by the City Council, and written protests received did not constitute a majority
protest by the owners of businesses affected by changes to the BID and SBID in accordance with section
36525 of the Act; and

NOW THEREFORE, the City of Walnut Creek does ordain as follows:

Section 1. Levy and Collection of Assessments

The City Council confirms the Annual Reports for the 2014-2015 fiscal year. Adoption of this Ordinance
shall constitute the levy of an assessment in the Downtown Walnut Creek Business Improvement District
and the South Downtown Business Improvement District for the fiscal year 2014-2015.

Section 2. Method and Basis of Assessments

Assessments will be levied on each business as determined by 1) business category and, if applicable, 2)
the square footage of the business. The estimated assessment for an individual business can be
determined as set forth in Exhibit A, attached hereto and incorporated by reference herein. This method
and basis supersedes the method and basis set forth in Ordinance Nos. 2043 and 2089.
Section 3. Definitions.

Business categories are defined as follows and supersede those definitions set forth in Ordinance Nos. 2043 and 2089:

a) Non-Profit: Businesses registered as a non-profit corporation with the state or with 501(c)(3) status and listed as an exempt organization on the California Franchise Tax Board website.

b) Ground Floor Business: Any for-profit business located on the ground floor of a building.

c) Upper Level Business: Non-Restaurant Type: Any for-profit business located on a floor level above the ground floor of a building that does not derive 90 percent or more of its revenue from the sale of Prepared Food. Prepared Food means foods or beverages that are prepared on premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and that require no further preparation to be consumed, other than heating.

d) Upper Level Business: Restaurant Type: Any for-profit restaurant, take-out food establishment, or any other business that receives 90 percent or more of its revenue from the sale of Prepared Food and/or alcohol to be eaten on or off its premises, located on a floor level above the ground floor of the building.

Section 4. Chapter 7 of Title 8 of the Walnut Creek Municipal Code is amended to read in its entirety as follows:

BUSINESS IMPROVEMENT DISTRICTS

Article 1. Walnut Creek Downtown Business Improvement District

Section 8-7.101 Establishment of District

Pursuant to Section 36500 et. seq. of the Streets and Highways Code of the State of California, a business improvement area to be designated as Walnut Creek Downtown Business Improvement District is hereby created and established.

Section 8-7.102 Description of District Boundaries

The Walnut Creek Downtown Business Improvement District shall contain all of the real property within the boundaries so described in Ordinance No. 2043 or such subsequent ordinance as may be adopted from time to time by the City Council.

Article 2. Walnut Creek South Downtown Business Improvement District

Section 8-7.201 Establishment of District

Pursuant to Section 36500 et. seq. of the Streets and Highways Code of the State of California, a business improvement area to be designated as Walnut Creek South Downtown Business Improvement District is hereby created and established.
Section 8-7.202 Description of District Boundaries

The Walnut Creek South Downtown Business Improvement District shall contain all of the real property within the boundaries so described in Ordinance No. 2089 or such subsequent ordinance as may be adopted from time to time by the City Council.

Article 3. Additional BID and SBID Provisions

Section 8.7-301 Uses of Revenues

The purposes for which the funds raised by said benefit assessment in the Walnut Creek Downtown Business Improvement District and the Walnut Creek South Downtown Business Improvement District shall be devoted to the statutory purposes set forth in Sections 36510 and 36513 of the California Streets and Highways Code, which may include but are not limited to the following improvements and activities:

a) General promotion of business activities within each district;

b) Promotion of public events which benefit businesses within each district and which are to take place on or in public places within the district;

c) Decoration of any public place within each district;

d) Acquisition, construction, installation or maintenance of improvements identified in Section 36510 of the California Streets and Highways Code.

Section 8-7.302 System of Charges

a) Except where funds are otherwise available, assessments shall be levied annually to pay for improvements and activities within the area. The method and basis for levying such assessments are set forth by ordinance as may be adopted from time to time by the City Council of the City of Walnut Creek.

b) The charges hereby assessed shall be paid at the same time and in the same manner that business license taxes, imposed by the Walnut Creek Municipal Code are due and payable.

c) No business owner shall fail or refuse to pay the charge hereby imposed. Any business owner who fails to pay the assessment levied shall first receive notice of such failure to pay and thirty days to remit the full amount due. If the business owner continues to refuse to pay, an action may be brought by the City of Walnut Creek in Municipal Court in order to secure payment of the assessment and penalty.

d) If a business falls into more than one business category as set forth by ordinance, the business owner shall be assessed the highest charge of any one of those businesses, when considered individually, according to their classification.

e) There shall be no additional charge for any business which transfers the same business to any other location within the same district.
Section 8-7.303 Exemption for Home Occupiers
A business conducted pursuant to a valid home occupation permit issued according to Title 10 shall be exempt from the assessment levied by this article.

Section 8-7.304 Advisory Board/Annual Report
a) Appointment. The City Council shall appoint an advisory board or boards pursuant to Section 36530 of the California Streets and Highways Code in order to make recommendations to the City Council on the expenditure of revenues derived from the levy of assessments, on proposed improvements and activities, on the classification of businesses, and on the method and basis of levying assessments.

b) Annual Report. The advisory board shall prepare a report for each fiscal year for which subsequent assessments are to be levied. The report shall be filed with the City Clerk and shall comply with all the requirements of Section 36533 of the California Streets and Highways Code. The report shall be approved as filed or modified. No change in the basis or method of levying assessments which would impair an executed contract to be paid from the revenues derived from the assessments shall be approved by the City Council.

Section 8.7-305 Subsequent Annual Levy of Assessments
a) Annual Resolution of Intention. After approval of the annual report filed by the advisory board, the City Council, in order to renew the assessments, shall adopt a resolution of intention to levy and collect assessments for the subject fiscal year pursuant to Section 36534 of the California Streets and Highways Code. The resolution shall be published once in a local newspaper and shall set the time and place for a public hearing on the levy of assessments for that fiscal year.

b) Annual Public Hearing. The City Council shall, pursuant to Section 36535 of the California Streets and Highways Code, hold an annual public hearing on the levy of assessments as specified in the resolution of intention.

c) Resolution Confirming Annual Report and Levy of Assessments. At the conclusion of the annual public hearing, in order to levy assessments for the subject fiscal year, the City Council shall, by resolution, confirm the annual report as filed or modified. Adoption of this resolution shall constitute the levy of assessments for the fiscal year referred to in the annual report.

Section 8-7.306 Boundary and Assessment Modifications
The City Council may, at the advisory board’s recommendation, modify the boundaries or assessments established pursuant to this article; the modifications shall be made pursuant to the requirements of the Act, but no assessment shall be modified which would impair the ability of each district to meet the obligation of a contract to be paid from the revenues derived from the levy of assessments. Such changes shall be made by ordinance adopted after a hearing before the City Council or by resolution, if approved in conjunction with confirmation of the annual report.

Section 8-7.307 Collection of Assessment
The assessment authorized by this article shall be billed annually by the City with all funds collected placed in an account separate from the City’s general fund to be expended in accordance with this article and subsequent resolutions and fund management agreements. The levy of assessments will be
accomplished by mailing assessment notices to all businesses as herein defined within each district by first class mail by July 1st of each year, to be due and payable by July 31st.

**Section 8-7.308 Penalty for Delinquent Payment**

Unpaid benefit assessments shall be subject to the same penalties as those imposed for failure to pay business license taxes as set forth in Municipal Code Section 8-6.24.

*Section 5.* This ordinance shall become operative thirty (30) days from the date that it is adopted.
EXHIBIT A
METHOD AND BASIS

BID Assessments

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<td>Non-Profits</td>
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SBID Assessments

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