

Downtown Inc  
204 E 4th St. Suite T.  
Santa Ana, CA 92701



Santa Ana Business Council  
400 E 4th Street  
Santa Ana, CA 92701

December 9, 2020

City Manager, Council and Mayor  
City of Santa Ana  
20 Civic Center Plaza  
Santa Ana, CA 92701

Dear City of Santa Ana Staff and Elected Officials,

**RE: SUPPORT FOR THE DOWNTOWN SANTA ANA BUSINESS IMPROVEMENT DISTRICT**

*THIS LETTER SUPPORTS AGENDA ITEM 75A.*

This year has been and continues to be very challenging for downtown. However, this year also showcased the (1) grit and resilience of downtown businesses to stay “open”, (2) the unwavering efforts of the improvement district team to help coordinate and communicate what’s happening downtown, and (3) the fast-action lifting done by the City of Santa Ana to continue to protect, support and stimulate the downtown as the iconic heart of the City and a major economic engine through pandemic, civil strife and economic uncertainty.

Agenda item 75A before you tonight represents the basis of the partnership between the City and our business improvement district, which is a self-assessed business tax district managed by the Downtown Inc and Santa Ana Business Council boards of nearly two dozen downtown stakeholders including residents, commercial property owners and small business owners representing a variety of industries and geographies. This group of downtown leaders bring their perspective and expertise to public meetings where they direct professional staff and local contractors to help manage the organization and multiply its resources and impact.

Some of the accomplishments of the business improvement district organizations in 2020 we’d like to highlight include:

## MARKETING

- Advocated for and secured a \$200,000 per year partnership with OCTA to help increase downtown marketing funds for the downtown destination.
- Increased social media following of Downtown by 20% as we continue to venture into cutting-edge technologies like producing Instagram Reels and Stories and developing a library of downtown drone footage.
- Purchased event equipment including street closure equipment that could be temporarily used by restaurants and retail as outdoor patio space.
- Worked with the City of Santa Ana to create 30+ temporary 15-minute Take-out parking spaces around downtown to help smooth operations during lockdown.
- Supported the growth of the DTSA Farmers Market with a Music at the Market program, visits by "Mickey and Minnie" characters and the Downtown Trolley and giveaways and radio promotions.
- We launched multiple regular online weekly video shows including Artwalk, DTSA Open Stage - performances from patios and public spaces and The Hot Hour with Maria "The Hot Tortilla" - a fun show that covers food, events and *cultura*.
- Partnered with Elite Fitness gym to provide free social-distance yoga classes for the community at the Artists Village Promenade
- Hosted the pre-pandemic "Boca de Oro" festival which was lauded as the best day of business for many this year as well as one of the biggest days for parking revenue.
- We initiated more kid-friendly programs including a Kid-Friendly Menu Guide, participated in Kid Friendly Cities workgroups and deployed a "Kid Mayor" contest
- Hosted 3 in-person Artwalk festivals and the rest of the Artwalk festivals continued online Saturday nights through the duration of the pandemic.
- Hung 40 banners on street poles along 1st Street identifying the Downtown district.
- Sponsored a Downtown Drive-In social distancing showing of "The Sandlot" with the Frida Cinema at the Ebell Club.
- We created and distributed an artist-created cartoon map of Downtown
- We worked with OCTA's Eat Shop Play campaign to connect that marketing opportunity with over 20 downtown businesses.
- Created Garage Banners to showcase businesses to patrons leaving and entering garages.
- Funded regular commercials with radio and TV personality Christian Ramos airing regularly with a few radio remote showcases to get the message out to our Latino audiences to visit the downtown.
- Created a Downtown Marketing Initiative called "Adopt a Shop" where a videographer has been producing 4 video commercials a month which you can find on our Calle Cuatro Marketplace Youtube Channel.
- Public Relations to TV/Radio regarding various downtown stories including when bridal shops began making masks, a story that was picked-up widely.

## COMMUNICATIONS

- Held weekly meetings with the City of Santa Ana and up to 20+ Downtown stakeholders per meeting during the lockdown.

- Sending our 300th Weekly Newsletter is an upcoming milestone
- Sent out 12 quarterly BID reports which is 3 years worth of reports keeping patrons and businesses informed on the ongoing progress in Downtown.
- Created postcards, web pages, articles, posters and Live social media videos to help explain how take-out, delivery and retail businesses could be supported during the pandemic
- Deployed masks and sanitizer to our businesses in a fun and engaging way
- Printed posters to promote social distancing and inform people of public service announcements and online meetings and events they could attend to support DTSA
- Continued to adhere to the Brown Act in posting our regular meetings and hosting them online and facilitating public and membership input.
- Wrote and distributed quarterly 40+ page BID reports covering new business openings, district status updates on developments and community photos and stories.
- We wrote a Coronavirus Resource Guide for Downtown Businesses to be able to access our marketing and promotional resources, county information and city information.
- We hosted a local intern who received college credit for writing articles about his personal experiences relating to Downtown while growing up as a Santanero.
- Before COVID, we hosted a restaurant association meeting with 25+ business owners and an arts mixer with over 200+ artists, arts teachers and organizational representatives in attendance.

## **CLEAN AND SAFE**

- On average, the Clean Team pulls 90,000+ bags (50% increase over last year), power washes. 5,800+ panels of sidewalk. Removes 12,000+ stickers, and removes 12,500+ graffiti markings from benches, bollards, parking meters, light poles and fixtures.
- The Security Team logs an average of 1,900+ visitors given directional assistance and 5,200+ calls for service (50% increase from last year).
- Quarterly Clean and Safe Meetings are held between downtown stakeholders and the City staff to work on issues and opportunities and review expenses, policies and capital improvements generated from the parking revenue.

## **ECONOMIC DEVELOPMENT**

- We have procured a CRM shared by SABC, DTI & The City called PBID manager to Access all of our District Data in one place. This helps us to better communicate across the district, get the important information we need – property addresses, assessments, businesses, owners and incident tracking in one program for clean and safe.
- The “Thrive and Go Live” program consists of web programmers from LearningFuze working to create 90 websites for downtown businesses who find themselves on the wrong side of the digital divide.
- Project Business Lift was hired to do extensive business-to-business consulting including businesses to help gain access to technology, strategy, relief and capital.
- Worked closely with the City of Santa Ana to establish guidelines for outdoor dining and retail and then worked with businesses and the City to help design and deploy 20+ patio and streetside dining and retail setups as well as the Third Street Plaza “Streatory.”



- We worked with UCLA Planning School and the City of Santa Ana on ways the OC Civic Center can be redeveloped and revitalized.
- Worked with the City and the operators of The Blue Lot - an underutilized vacant lot - to create a pathway towards regular permitting for the continued activation of this space for community events and micro-enterprise.
- We helped businesses, individuals and artists and non-profits receive relief funding from the City, County, lending institutions and outside organizations granting support.
- We assisted in the development of the Native Harvest Farmers Market to draw in a larger customer base to support local farmers and activate this essential service in Downtown Santa Ana.
- In the midst of creating a retail guide, downtown spaces website to fill storefront vacancies, events guide, digital mural map, downtown landmarks for 100 historical buildings.
- Raised \$45,000 in grant funding to assist with our community outreach and pipeline projects like Boca de Oro Festival, Downtown Threads: Santa Ana In Design Fashion Week, Circulos Green Alley Project with Downtown's Visioneering Studios, Boca Book Fair/ Lending Library Project.
- Participated in the International Downtown Association and global placemaking networks to learn from abroad while showcasing Santa Ana's urban dynamics to a world audience.

Thank you for a year of excellent partnership and progress despite the many unexpected setbacks. We commend the work of the City Staff, Electeds and our Downtown Liaison, Julie Castro-Cardenas who has helped us move mountains.

While our revenue streams downtown are constricting under the weight of the pandemic and stay-at-home orders, we see new businesses opening and developments seeking to move forward. We see a deeper need for your support and continued partnership than ever before.

Please continue to support and strengthen our partnerships this year as we adapt and seek ways to recover and bounce back in 2021.

Please see an annual highlights document created by Downtown Inc. and these links to 2020 quarterly BID Reports by the Santa Ana Business Council:

BID REPORT ISSUE 12 AUG - OCT:

<https://www.flipsnack.com/Diamondheartenterprises/bid-report-issue-12-aug-oct.html>

BID REPORT JUN:

<https://www.flipsnack.com/Diamondheartenterprises/the-bid-report-jun-2020-u86uwbwilw.html>

BID REPORT MARCH:

<https://www.flipsnack.com/Diamondheartenterprises/the-bid-report-march-2020-fhnq75897.html>

Sincerely,



*Ryan Chase*

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Ryan Chase  
President  
Downtown Inc.

*Raul Yanez*

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Raul Yanez  
President  
Santa Ana Business Council



**DTSA**

**ANNUAL  
HIGHLIGHTS**

2020/2021

**PREPARED BY  
DOWNTOWN INC**



# WE ARE DOWNTOWN INC

The mission of Downtown Incorporated is to facilitate the enhancement of Downtown Santa Ana as a vibrant shopping, entertainment, business and cultural destination for all

## BOARD MEMBERS 2020/2021

<i>Ryan Chase</i>	<i>Michael McCann</i>	<i>Tish Leon</i>
<i>Yvonne Flores</i>	<i>Vanessa Pozzobon</i>	<i>John Chen</i>
<i>Bil Schroeder</i>	<i>Eddie Quillares Jr</i>	<i>Lamson Nguyen</i>
<i>Jon Gothold</i>	<i>Oscar Olivares</i>	<i>Gene Jimenez</i>
<i>Nestor Correa</i>		

## KEY CONTRACTORS

DTSA Placemaker	<i>Ryan Smolar</i>
Operations Manager	<i>Jose Romo</i>
Social Media Consultant	<i>Robert Gutierrez</i>

## HOW TO REACH US

**MAIN OFFICE**  
204 E 4th St, Suite T  
Santa Ana, CA 92701

**PHONE NUMBER**  
(714) 702-5097

**WEBSITE**  
[downtown-santaana.com](http://downtown-santaana.com)





# MARKETING & COMMUNICATION

## We maintain robust internal & external communications

Downtown Inc oversees a powerful set of communications programs which work to meet the needs of a highly diverse city and group of around 700 businesses.

## SOCIAL MEDIA

Downtown Inc maximizes the potential of social media with daily reposting of stakeholder content, accessorized with our own content and robust video coverage of events to our regional and local fan base.



34,000  
Facebook  
followers



3,600  
Twitter  
followers



44,000  
Instagram  
followers



41  
Youtube  
Videos



# MARKETING & COMMUNICATION

We share content and create collaborations across DTSA

## THINGS TO DO



The Downtown Santa Ana Farmers Market will continue every Tuesday from 3-7pm during this lockdown since it is considered an essential resource to the community! Get to cooking during this quarantine and pick up some fresh and local produce right in front of the Yost Theater. See you there!



### 2020 Virtual Posada

The LGBTQ Center of Orange County is hosting a holiday virtual event to raise awareness and donations for their LGBTQ Immigrant Fund! On December 12th, tune in for a screening of the "Before & After Detention" short documentary, a game of loteria, Mariachi performance, and more! To register, [click here](#).

## DOWNTOWN NEWSLETTER

The downtown weekly newsletter is sending out its 300th edition this January. The newsletter helps inform thousands interested in downtown about events, news, grants and programs.

People can sign up for the newsletter on our website or by texting "DOWNTOWN" to 66866 on their mobile device. E-mail [info@downtown-inc.com](mailto:info@downtown-inc.com) if you have local content you would like us to include.





# MARKETING & COMMUNICATION

**We get the word out about what's happening where**

## **NEW ONLINE PROGRAMMING**

Beginning with Artwalk in April, we created a host of new online live shows to keep broadcasting the downtown vibe to residents, fans and each other. Our monthly Artwalk show grew into additional weekly programs like DTSA Open Stage and The Hot Hour with Maria "the Hot" Tortilla. These infotainment programs reach our audiences at home and help show them what's happening downtown.

## **DOWNTOWN STORYTELLERS**

We hire videographers, online showrunners and writers to cover our local arts, restaurants, culture and businesses. This year, we produced 26 articles featuring upcoming events, restaurant reviews, in-depth arts profiles as well as tips and top lists on where to get the best kid-friendly food, do holiday shopping and where to get take-out/delivery and dine outdoors.





# EVENTS & PROMOTIONS

## We produce a full calendar of events and promotions

This year's roster of events was reduced due to COVID, but still many activations and online promotions were able to occur.

**DTSA First Saturday Artwalk**, every first Saturday of the month (*in-person and online*)

**Artists Mixer in the Artists Village**, February

**Boca de Oro Festival of Literary Arts & Culture Festival**, March (*sponsor*)

**Live Music at the Farmers Market**, weekly on Tuesdays 5pm-7pm

**Latin Jazz on the Artists Village Promenade**, with Elite Fitness and Lola Gaspar

**DTSA Open Stage**, weekly online releases of performances in downtown

**The Hot Hour**, weekly online releases of interviews and reels about downtown

**Soundwave Fest 3**, October (*promotions partner*)

**Kid Mayor Video Contest and Social Media Photo Contests**

**Online Virtual Walking Tour of the Neighborhood**

**Defend Earth! Virtual Climate Art Gallery**

**Molcajete Domingero** (*advisor/connector*)

**Free Yoga Saturday** social-distance yoga in partnership with Elite Fitness Gym

**Holiday Special Activities**





# MEETINGS & CONVENINGS

**Representing our 700+ businesses requires we convene with them often to distribute updates, share best practices, and gather ideas and input**

## STAKEHOLDER MEETINGS

Downtown Inc convenes different industry and business sectors for mixing, networking and educational opportunities. This year, we brought together 200 artists at our Arts Mixers and 25 Restaurants out to a DTSA Restaurant Assoc Meeting before COVID struck. Afterwards, we continued e-communications and co-hosted a weekly call with the City that business owners could get the latest info on.

## COMMUNITY MEETINGS

This year, we presented what's happening downtown at community meetings including a ZOOM neighborhood meeting for Wilshire Square and a presentation on *"10 Things Happening Downtown during COVID."* If you need a speaker from downtown at your community meeting, please contact us at [info@downtown-inc.com](mailto:info@downtown-inc.com).





# CITY PARTNERSHIPS

**2020 was a critical year for City partnerships**

## **OUTDOOR DINING AND PATIO RETAIL CONVERSIONS**

The Downtown business organizations brought the idea of outdoor patio commerce to the City who quickly created the "Taking It Outside" guide for outdoor business operations. Ultimately, over 20 businesses worked with the City and us to establish outdoor barricaded patios. Those patios are in the process of being converted into semi-permanent wood structures with a more uniform look.

## **FIRST STREET BANNERS**

We elevated the 115-year family story of local artist Gene Jimenez into a series of street pole banners along First Street that help identify the downtown district.

## **ENVISIONING A REVITALIZED CIVIC CENTER TOGETHER**

We worked with the City of Santa Ana Planning Department and UCLA Urban Planning on a process of reviewing and promoting a new way of thinking of the OC Civic Center that includes more ecological features and greenspace, in-fill development and a more mixed-use character.

## **FARMERS MARKET**

We worked with the City and Native Harvest Events to open a Farmers Market to serve the community on Tuesdays with fresh produce (accepts EBT/WIC).





# CLEAN & SAFE

**We help keep downtown clean and safe by connecting services, stakeholders and the City**

## **CLEAN & SAFE PROGRAM MISSION STATEMENT**

To provide a clean and safe environment with efficient, prompt, and professional service for the enjoyment of Downtown Santa Ana's residents, employees, customers and visitors.

## **CLEAN & SAFE 2019 PROGRAM ACCOMPLISHMENTS:**

- **82** blocks of Downtown Santa Ana are cleaned daily.
- **90,000** bags of trash pulled *(50% increase over last year)*
- **5,840** sidewalks power washed.
- **12,080** stickers removed.
- **12,500** graffiti removals from benches, bollards, parking meters, light poles etc.
- **1,900** visitors and residents given directional assistance.
- **5,200** service calls responded *(50% increase over last year)*

*Read the full report on the Clean & Safe program on our website.  
Guard Cell: 714-818-9538 | Downtown Dispatch: 714-799-0808.*

**Flores, Dora**

---

**From:** Wendy Crandall <info@email.actionnetwork.org>  
**Sent:** Tuesday, December 15, 2020 12:30 PM  
**To:** eComment; Carvalho, Sonia R.; Ridge, Kristine  
**Subject:** Item 75a: Another giveaway to developers?

City Staff,

The City shouldn't provide public land and millions in subsidies to a developer, just to get a hotel they might convert to apartments in a few years. As a Santa Ana taxpayer, I'm outraged that we are going to provide our land and subsidies to a developer. Either get a better deal or make a new plan.

Sincerely,

Wendy Crandall  
wendycrandall@yahoo.com  
1544 Elm Ave  
Costa Mesa, California 92626



## Orozco, Norma

---

**From:** Victor Payan <vpayan@alumni.stanford.edu>  
**Sent:** Tuesday, December 15, 2020 4:01 PM  
**To:** eComment; City Council; !City Clerk  
**Subject:** Fwd: Public Comment - Agenda Item 75A  
**Attachments:** 2011-2012GrandJuryReportDTI.pdf; Ryan Chase 2012 DTI Retaliation Email.pdf

Hello, Mayor, City Council and City Manager,

I am resending my comment (originally submitted 11/17/20) regarding my opposition to Downtown, Inc. receiving funding from the BID and requesting an Audit and Investigation of Downtown Inc/SABC to determine whether they are using City Resources and Money to benefit primarily their own board members, leadership and associates. As there are three new councilmembers, I wanted to make sure that this concern was brought fresh to this council meeting.

In addition to my concerns regarding the Grand Jury report conclusions and recommendations noted in my original (see below, Grand Jury report attached), I would also like to add for your consideration an email from Ryan Chase we received in 2012 requesting his support for a Jewish/Latino cultural celebration in the downtown to address heightened tensions between the communities at that time.

I was taken aback at his statement that "I am the President of Downtown Inc. and will not give money to a person or organization that personally attacks me, Downtown Inc., or anyone connected to it."

This clearly indicated that a blacklist of community organizations who did not agree with Downtown, Inc., or worse, had publicly voiced their opposition was in effect. While this email exchange took place in 2012, it is easy to see how this would set the tone and policy for opportunities and support of activities in the Downtown that has created a constant barrier to access, participation and diversity of visions that excludes and disadvantages Santa Ana residents, organizations and businesspeople.

As such, I request that funding not be allocated to Downtown, Inc until an audit and investigation be conducted regarding the following issues:

1. Unethical and Unfair business practices
2. Conflict of Interest
3. Retaliation against Santa Ana residents, community leaders and organizations that speak out against Downtown, Inc.
4. Monopolization of public funding and resources for private gain
5. Who receives DTI support and who does not, and what is the process for funding
6. Improper relationship between Downtown, Inc. and the SABC

Please do not hesitate to contact me if you have any question.

Sincerely,

- Victor Payan

Ryan Chase <[rchaseusc@gmail.com](mailto:rchaseusc@gmail.com)>



Date: 09/05/2012 05:17PM

To: Victor Payan <[victor@ocfilmfiesta.org](mailto:victor@ocfilmfiesta.org)>

Victor,

Thank you for reaching out. First off, as I said on the phone, I personally love what you and Sandra are doing with the film festival. I think it a great cultural opportunity for the community and the Downtown.

That being said, and as much as I believe in your festival, at this time I are not prepared to contribute to the series due to Sandra's attack of Downtown Inc. Downtown Inc. has done countless things to improve the Downtown as well as assist Sandra with some of her previous events. While Sandra may not agree with everything that has occurred she continues to bash the organization but also asks for money. She is free to say and do whatever she wishes but needs to realize there are repercussions for her actions, and in this case, not getting our contribution. As I mentioned to you, I am the President of Downtown Inc. and will not give money to a person or organization that personally attacks me, Downtown Inc., or anyone connected to it.

Hopefully over time Sandra will realize the benefit of Downtown Inc. and how much it is helping Downtown thrive and grow. I am not ruling out contributing money in the future as I truly like everything about the event but at this time do not feel right giving money to someone who is publicly bashing an organization I believe in and am a part of. In the future, it would also be beneficial to get the sponsorship info much earlier, as its hard to give money for something with less than a week notice.

Thank you for your understanding, and hopefully next time we speak there are changed circumstances.

--

Ryan Chase  
S & A Properties  
129 W. Wilson St. Ste 100  
Costa Mesa, CA 92627  
[949-722-7400](tel:949-722-7400)  
[949-722-8855](tel:949-722-8855) (Fax)

From: **Victor Payan** <[victor@ocfilmfiesta.org](mailto:victor@ocfilmfiesta.org)>

Date: Wed, Sep 5, 2012 at 3:41 PM

Subject: OC Film Fiesta support request for Jewish Latino Celebration

To: [rchaseusc@gmail.com](mailto:rchaseusc@gmail.com)

Dear Mr. Chase,

Thank you for speaking with me today. Please find attached our request for support of the OC Film Fiesta's Jewish Latino Celebration as well as an invitation to the event, which takes place Sunday, Sept. 9, from 1-6 pm at 211 N. Broadway in downtown Santa Ana. This special event is co-presented by the Anti-Defamation League. As part of the celebration, we are honored to be screening the 1922 silent Yiddish film *Hungry Hearts*, which was recently restored by the National Center for Jewish Film at Brandeis University.

We are requesting support in the amount of \$500. I am also attaching a copy of our sponsor levels in case you would like to consider another level of support.

We hope that you will consider being a part of this important event. Do not hesitate to contact me if you have any questions, and as I said, Sandra and I would be happy to meet to discuss any questions you might have.

Sincerely,



- Victor Payan  
Development Director  
OC Film Fiesta  
[www.ocfilmfiesta.org](http://www.ocfilmfiesta.org)  
[619-701-0073](tel:619-701-0073)

----- Forwarded message -----

From: **Victor Payan** <[vpayan@alumni.stanford.edu](mailto:vpayan@alumni.stanford.edu)>  
Date: Tue, Nov 17, 2020 at 4:02 PM  
Subject: Public Comment - Agenda Item 12A  
To: eComment <[ecomment@santa-ana.org](mailto:ecomment@santa-ana.org)>

SANTA ANA CITY COUNCIL AGENDA: ITEM 12A

Adopt a Resolution of Interest to approve the 2021 Assessment Report for the SABID

Dear Mayor, City Council, and Staff,

I'm Victor Payan, a resident and artist living in the Eastside of Santa Ana.

\* It's been inspiring to see the upswell of engagement among my fellow neighbors throughout this pandemic. This quarantine has helped us all take the time to better understand the civic issues around us that will help us succeed or fail.

Thank you for listening to us and hearing when we ask for things like the General Plan to be delayed. Something that affects so many parts of our lives for such a long time, can't be rushed though. \*

I ask today that you reconsider another part of Santa Ana that affects our economic, civic and cultural core, the downtown BIDS, Downtown Inc and Santa Ana Business Council.

As a native of San Diego and having worked with many of San Diego's 30-plus BIDs and Economic Development Agencies, I was real excited to engage with your setup here. Unfortunately, after a decade of work, Downtown Santa Ana is still really struggling and doing even worse than it was when I arrived.

How is this possible when the amount your Downtown BID raises is ten times what any of San Diego's districts get?

Over \$400,000 a year for boarded up storefronts, empty streets and a suffering economy?

On top of the ridiculous amount of money DTI and SABC already get from the BID monies, these boosters actively siphon off significant additional funding that should be available for other Santa Ana organizations, neighborhoods, leaders and community visions.

Downtown Inc and SABC actively work to undermine the reputation, work and opportunities of other Santa Ana organizations, Community Advocates and City Staff. The Lead Consultants from both organizations are known for misrepresenting themselves across Art, Culture and PlaceMaking Communities and using their public positions for private gain.

We need that people are hired that are not at war with most of Santa Ana's homegrown, activist and progressive community.

Since the Downtown BIDS were set up wrongfully as detailed in the attached Grand Jury Report, suffered through severe dysfunction in its first decade and is still limping onward, why don't we take this opportunity to curb some massive spending and review this whole situation?

Before you re-fund the BID, I ask that you:

- conduct an Audit and Investigation of Downtown Inc/SABC to determine whether they are using City Resources and Money to benefit primarily their own board members, leadership and associates
- recommend that a new RFP is drafted, with the input of business-owners (as opposed to property-owners) and representatives from Santa Ana's diverse neighborhoods
- enact Conflict of interest guidelines for future BIDS so that equity is ensured with public monies, as opposed to self-funded owner-initiatives and commercial districts

With these measures taken, I know that not only Santa Ana's downtown will benefit, but the City as a whole. I would be happy to discuss this matter further, if you have any questions or to connect you with my colleagues in the BID, Booster, Public Event and PlaceMaking field.

A also urge the City Council to review the Grand Jury Report, to determine if the concerns identified in it are still in effect today.

Keep up the great work!

Sincerely,

--- Victor Payan

I have attached the 2011-2012 OC Grand Jury report section on the Santa Ana's Property-Based Improvement District to facilitate your review.

Additionally, below is the summary of findings and recommendations from the report:

#### FINDINGS:

In accordance with California Penal Code §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the Findings/Conclusions presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its study of the Santa Ana Property Based Improvement District, the 2011-2012 Orange County Grand Jury makes the following Findings/Conclusions:

F1. City of Santa Ana appears to be in violation of California State Law in the formation of this Improvement District.



F2. Monies collected from the improvement district appear to have only benefited a few and have not resulted in a direct benefit to the assessed property as required by California law.

F3. An appearance of impropriety exists in the relationship between the developer and the City of Santa Ana.

F4. An appearance of impropriety exists in the relationship between the developer and Downtown Inc., the administrator of the funds from the special district.

F5. The process by which the district was established in regard to the mailing of ballots, the process of tabulation, and the voting by the City of Santa Ana does not appear to be in compliance with the statutory requirements for establishing an assessment on property owners.

#### RECOMMENDATIONS:

In accordance with California Penal Code §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the Recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its study of the Santa Ana Property Based Improvement District, the 2011-2012 Orange County Grand Jury makes the following recommendations:

R1. The City of Santa Ana should request that its City Attorney or independent counsel conduct an investigation into whether the City of Santa Ana complied with the requirements of establishing a formation district; whether that district benefits all property owners proportionately; and whether there are any violations or conflicts of interest. If so, the City of Santa Ana should immediately take action to disestablish the district.

R2. The Santa Ana City Attorney and the Orange County District Attorney should investigate the alleged violations of election laws and procedures.

# 2011 – 2012 Orange County Grand Jury



## Final Report





**Final Report of 2011-2012 Orange County Grand Jury Table of Contents**

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SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

**CITY OF SANTA ANA**  
**SPECIAL ASSESSMENT DISTRICT**



**GRAND JURY 2011-2012**

2011/2012 ORANGE COUNTY GRAND JURY



# **SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT**

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## **CITY OF SANTA ANA SPECIAL ASSESSMENT DISTRICT**

### **SUMMARY:**

In July of 2011, the Orange County Grand Jury received a complaint requesting that it conduct an inquiry into the establishment of a Community Management District (CMD) in the City of Santa Ana, Ca. Such specially established assessment districts are frequently referred to as "Property Based Improvement Districts" or PBIDs.

After a preliminary investigation, it appeared that certain irregularities took place regarding the election process that established the district. It was also alleged that a sufficient number of property owners within the district objected to the process and have sought relief through a petition to "disestablish" the district and filed a petition to do so with their elected representatives on the Santa Ana City Council. This petition has been repeatedly re-calendared by the Santa Ana City Council without making any definitive decisions as to the substance of the petition. These actions or lack thereof, have prevented these petitioners from receiving their rightful consideration.

### **METHODOLOGY:**

The 2011-2012 Orange County Grand Jury took the following steps to investigate the citizen's complaint letter. They:

- Compiled and read documents related to the complaint;
- Interviewed by phone and in person individuals related to the complaint;
- Interviewed city officials;
- Researched public documents relating to ethics of public officials;
- Reviewed applicable statutes and case law;
- Evaluated the compiled information; and
- Generated this report.

### **HISTORY:**

For many years, almost from its very inception, the City of Santa Ana has had a downtown shopping and business district known as "Fourth Street." It has a long cultural history of Hispanic influence and atmosphere.

Approximately twenty-five (25) years ago, it came to be known as the "Fiesta Marketplace", a reference to a business entity which began private development in the immediate area. Fiesta Marketplace initially consisted of majority and minority partners, each of whom owned various parcels of commercial property within the immediate vicinity of this "downtown" area. The "Fiesta Marketplace" originated in 1985 for the purpose of the general improvement of Fourth Street. Some of the improvements were to be financed through various funding sources

## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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including the United States Department of Housing and Urban Development, as well as tax-exempt bonds.

While the original intent appeared to be an effort to preserve the area's Hispanic and cultural identity, subsequent efforts began to erode the very proposition that was supposed to preserve this "redevelopment" area.

By 2006 and 2007, actions by the city and the developers were perceived as efforts to "gentrify" the downtown area in what one newspaper reporter referred to as an "obvious effort to replace the city's Mexican themed atmosphere with something more in keeping with a yuppie clientele." Additional planning proposals included efforts to change the housing and business identities of the downtown area with the addition of new apartment and condominium projects. Some citizens saw this as a "Forced Gentrification Plan" along with other descriptions such as the "Remove the Poor Mexicans from Downtown Santa Ana Plan."<sup>1</sup>

Under any terms or descriptions, the changes being proposed were destined to create a cultural conflict. As explained by the city planners in the "Renaissance Plan", "The community's heritage needs to be celebrated to express and enjoy the important aspect of daily life. Often when communities forget their past they lose their cultural meaning and stand to seriously dilute any future identity."<sup>2</sup>

In response to the concerns being voiced, by 2008, city officials were making promises to amend their earlier redevelopment plans giving more consideration to the cultural history of the downtown area.

But in 2008, the City of Santa Ana initiated a program that offered financial rebates to the business owners in the downtown area to improve the facades of their buildings. The "Fourth Street Façade Program" allocated one million, two hundred and fifty thousand dollars (\$1,250,000) for improvements to building fronts with a supposed limitation of \$75,000 per storefront. However, for various reasons, the money went to only three (3) property owners:

CM Theater LP (West End Theatre).....	\$ 63,814.77
Gumm & Livingston Investments (Pacific Building).....	\$110,191.00
Fiesta Marketplace Partners (S & A Properties).....	\$765,000.00

The vast majority of these rebate dollars went to the same property owners/developers who comprised the majority interest in the "Fiesta Marketplace" entity, i.e. those developers who were the primary interests in changing the culture of the area.

These same property owners/developers have, and continue to have, extensive connections to the newly formed non-profit business group called Downtown, Inc. As of this writing, these developers presently serve as the officers and directors of Downtown Inc., the entity the City of Santa Ana chose to manage the proceeds from the special assessment.

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<sup>1</sup> Orange County Register, Dec. 23, 2007

<sup>2</sup> Ibid



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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Also, in 2008, the City of Santa Ana began efforts to establish a new “CID” or Community Improvement District for the same area.

### **FACTS:**

In 2007, the City of Santa Ana began to review various options on how to increase revenues available for improvements in that business district commonly referred to as “downtown.”

In January of 2008, the city formed the Management District Formation Committee for the purpose of developing a Community Management District (CMD). The committee also began working with a consultant in an effort to define the specific area to be considered as part of any district and to develop the actual management plan.

From June through October of 2008, the petitioning process took place.

On July 7, 2008, the City of Santa Ana City Council added Article XX to Chapter 13 of the Municipal Code allowing for the establishment of CMDs. This ordinance differs significantly from state law in that the ordinance set “pre-formation petitioning” at 30% of the proposed district value while the state normally required 50%. Also, the life span of the CMD was set for 10 years while state law limits the life span to five years, with renewals of 10 year periods.

On August 5, 2008, Downtown Inc., the newly formed non-profit organization filed Articles of Incorporation with the Secretary of State with the intention of becoming that organization which would manage the proceeds from the new CMD. This non-profit organization had a board of directors that consisted of the very same developers who were pursuing the developmental changes for the downtown area.

On August 18, 2008, the Santa Ana City Council adopted Ordinance No. NS-2771...”An Ordinance of the City Council of the City of Santa Ana Adding Article XX to Chapter 13 of the Santa Ana Municipal Code Related to Establishment of Community Management Districts.”

On August 29, 2008, the Santa Ana City Council adopted the CMD plan, and on October 6, 2008, declared its intention to go forward with the establishment of the CMD. On October 16, 2008, a notice of public hearing in this regard was issued, and a public hearing was set for December 1, 2008.

The voting process to establish “property based improvement districts” is based upon the assessed value of the properties and not on an individual or “one man-one vote” rule.

On December 1, 2008, the following voting tabulations were reported to the City Council. The tabulations were reported in two ways, i.e. one including the ballots from the Town Square Condominium project and one excluding the project:

## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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### Including Town Square:

In support: (31) representing \$301,510 or 59.7% of total assessed value.

Opposed: (73) representing \$203,556 or 40.3% of total assessed value.

### Excluding Town Square:

In support (27) representing \$301,252 or 60.03% of total assessed value.

Opposed (42) representing \$200,558 or 39.97% of total assessed value.

A cursory review of this tabulation shows that a minority (27) of the "in support" votes controlled a majority of the total assessed value. This became a critical issue as the district became operational.

On December 15, 2008, the clerk of the City Council "certified" the voting results and certain items are of significant note.

Ballots mailed: 421

Ballots returned: 107

Ballots returned from Town Square Condominium Project: 35

Ballots returned (excluding Town Square): 69

### Total weighted assessment amounts of returned ballots:

All ballots: \$505,066

Excluding Town Square: \$501,810

These numbers are problematic in that only twenty-five percent (25%) of the ballots were returned. This would indicate the existence of administrative problems with the procedure, disinterest by the voters, a lack of understanding as to the ramifications of the voting, or a combination thereof.

However, based upon these results, the City Council moved forward with a resolution to establish the "Downtown Santa Ana CMD." On April 21, 2009, the Santa Ana City Council authorized the execution of an agreement with Downtown Inc., the non-profit corporation.

On May 4, 2009, the Council approved a resolution to modify the original plan to change the dates of implementation to reflect a new and different period from January 1, 2010, to December 31, 2014.

On May 18, 2009, a public hearing was conducted related to the proposed amendment to the original plan.

On September 17, 2009, approximately 10 months after the votes were certified by the City Clerk, Downtown, Inc. sent correspondence to the property owners announcing the results of the vote and the subsequent establishment of the CMD and in November of 2009, the first assessments were delivered to the property owners in the newly established CMD.



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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Many of the property owners claimed they were taken by surprise at the existence of the assessment much less the amounts. In many cases, their property taxes with the assessment doubled and in some cases tripled. Many assessments went unpaid and many properties were threatened with legal actions.

As more of the assessments became known, the protests from those most affected became more vocal and louder.

On August 1, 2011, a notice for a public hearing was issued indicating the city's intent to modify the boundaries for the downtown CMD. "Considerable dissention took place at this hearing alleging mismanagement issues associated with Downtown Inc., and the mayor pro tem directed staff to prepare a resolution for the "disestablishment of the PBID." A second city councilman indicated that any modifications to the original district area is considered a new district, and cites Proposition 218 in support of that position.

On August 24, 2011, a public hearing was held wherein numerous speakers addressed the city council. The majority of the speakers objected to the PBID indicating that proper procedures were not followed in its establishment, that the assessments being made did not provide a proportional benefit as required by applicable law, and requested that the PBID be "disestablished." Subsequent comments from city council members revealed a lack of consensus as to what actions if any could, or should, be taken. At least three (3) of the members of the city council agreed that certain changes had to take place, most notably in the manner in which Downtown Inc. was organized and conducting the business of administering the PBID. At this council meeting, the council agreed to allow an amendment to the boundary of the PBID.

On September 11, 2011, the city council again met to discuss the disestablishment of the PBID. Again, extensive discussions took place regarding the manner in which the PBID was established, whether it should continue, a lack of transparency by Downtown Inc., and mismanagement issues with Downtown Inc. The lack of consensus amongst the council continued and the matter was continued until October 3, 2011.

On October 3, 2011, a resolution was introduced before the city council to disestablish the PBID pursuant to Article XX, Chapter 13, of the Santa Ana municipal code. Multiple petitions had been received by the city calling for the disestablishment, "specifically, the City Clerk received fifty-six (56) signatures on petitions protesting against the existence of the CMD." The resolution also states that "there are questions regarding the overall support for the CMD from the remaining property owners during the vote if the City had not cast votes in support of the CMD." Comments at this meeting included statements that fifty-nine (59) signatures requesting disestablishment had been received, and that the proposed budget submitted by Downtown Inc. was "substandard." The matter was again continued until November 7, 2011.

On November 7, 2011, the Mayor Pro Tem asked the city council to "clean things up." She further stated that the council never approved the bylaws or the agreement, i.e. with Downtown Inc. Furthermore, she stated that "State Law has a Clause for Disestablishment that was deleted from the Resolution that approved the Santa Ana Ordinance." Three motions were made: (1) to set a public hearing for the disestablishment of the PBID; (2) to have an advisory election



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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without the city's vote; (3) to add a process for disestablishment. All three motions died for a lack of votes.

### ANALYSIS

Fiesta Marketplace Partners owns 145,000 square feet of retail and office buildings, with approximately 45 tenants in downtown Santa Ana. When first developed in the late 1980s, Fiesta Marketplace was specifically oriented to Hispanic shoppers. Most recently, the area has been renamed East End.

The 66-block special assessment district includes 312 property owners and approximately 800 businesses. Property owners have been ordered to pay assessment fees for extra security, marketing and promotional events in the immediate area. A considerable portion of these expenses are related to the "newer" businesses such as restaurants and nightclubs.

The developer in this matter has indicated publically that his relationship with the City of Santa Ana was, in many instances, "informal." He further indicated that this was possible because "city staff had a rough idea of whether the City Council would back their plans." "That's the kind of relationship I had with them. They said something, they did it. I said something, I did it." However, he also stated that after the allegations of "gentrification" were made, the "political atmosphere started to turn sour, and city staff became less confident in making agreements." "It was as if one day you could trust what staff was saying, then the next day they were scared and couldn't commit to anything."<sup>3</sup>

In regard to many of the smaller shopkeepers the developer stated: "They're in business because I'm propping them up. But I can't do that forever. Some of them are going to make it because they are going to change, and others are just going to keep doing things the way they've always done, and they will fail."<sup>4</sup> "In order for the retailer to adapt, they're going to have to figure out what to sell and how they're going to sell it," he said.

There is significant opposition to the PBID, the procedures used in its formation, and to how Downtown Inc. is managing the proceeds, from many area business owners. Many comments were made in local newspapers and neighborhood publications.

One shop keeper said some of the changes taking place are hurrying the trend of Spanish-speaking customers seeking other places to shop. "This plan should have, from the beginning, been inclusive and gotten all the merchants together so they're not forcing anyone out—but that didn't happen," he said.

The comments from that merchant reflected the attitude of many others. "What are we paying for? They don't do anything for us. They only care about nightlife and bringing in the wealthy, but those people aren't going to help my business." There have been additional allegations that the proceeds from the assessments from "struggling property owners" are being utilized for the

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<sup>3</sup> Voice of OC, July 22, 2011

<sup>4</sup> NY Times article October 30, 2011



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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benefit of certain individuals. That merchant also stated "So many people donated their time and money to helping the downtown and to see this infuriates me so much."

By August of 2011, the level of discord and combative rhetoric had reached a high level of intensity. By this time, the special assessments had taken place, the actual amounts of the moneys due were known, many had gone unpaid, and actions were being taken to collect those in arrears. This was taking place during a time of economic distress as well.

The primary influences promoting the changes to this consistently historical area were the developer on the one hand with resistance by the cultural traditionalists on the other, with the latter being forced to pay for the changes which they vigorously opposed. They were being assessed monies that were being used to change the identity of the very area that they had long cherished.

Allegations of racism inevitably became an integral part of the dispute and further escalated the loudness of the discussion and the intensity of the differences.

Many property owners complained that the special assessment district was illegal in its formation, and that the promoters of the special district deliberately eliminated the disestablishment procedure. The petitions to disestablish the assessment district were in an amount representing numbers considerably in excess of the minimum required and have been submitted to the City of Santa Ana.<sup>5</sup> It is also alleged that the City of Santa Ana voted its interest in the formation process in violation of the proper procedures established by law and that their vote constituted 38% of the votes needed to establish the district. The results have caused, on average, a doubling of the financial burdens on the respective properties.

Additionally, these property owners point out that the majority of the proceeds of the assessment are being utilized in a manner that benefits a particular clientele, those related to the business interests of the developers with little or no benefit to the majority of the property owners. They believe that they are paying a significant surcharge on their properties that they cannot afford, for services that are of no benefit to them or their businesses, with the result that they will be driven out of business, and have become disenfranchised and disillusioned.

And, although numerous requests and proposals for relief were made to the Santa Ana City Council, continuing inaction by the city council has aggravated an already serious situation.

A significant number of issues have arisen related to the procedures required to establish a Community Improvement Districts. Many of these issues are directly related to the originating ordinance approved by the City Council while others are related to specific provisions of the California Government Code and the Constitution of the State of California:

*"Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed*

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<sup>5</sup> Streets and Highway Code Section 36670(a).



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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*assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c), including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property."*<sup>6</sup>

*At the conclusion of the public hearing conducted pursuant to subdivision (d) an impartial person designated by the agency who does not have a vested interest in the outcome of the proposed assessment (emphasis added) shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. For the purposes of this section, an impartial person includes, but is not limited to, the clerk of the agency. If the agency uses agency personnel for the ballot tabulation, or if the agency contracts with a vendor for the ballot tabulation and the vendor or its affiliates participated in the research, design, engineering, public education, or promotion of the assessment, the ballots shall be unsealed and tabulated in public view at the conclusion of the hearing so as to permit all interested persons to meaningfully monitor the accuracy of the tabulation process."*<sup>7</sup>

Furthermore, in 1996, the voters of the State of California passed Proposition 218 (Cal. Const., art. XIII D). Considerable interpretation was given to this provision in 2008 by the courts:

*"Before Proposition 218 became law, special assessment laws were generally statutory, and the constitutional separation of powers doctrine served as a foundation for a more deferential standard of review by the courts. But after Proposition 218 passed, an assessment's validity, including the substantive requirements, is not a constitutional question. There is a clear limitation however, upon the power of the Legislature to regulate the exercise of a constitutional right. All such legislation must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it. Thus, a local agency acting in a legislative capacity has no authority to exercise its discretion in a way that violates constitutional provisions or undermines their effect."*<sup>8</sup>

The court further states that:

*"Under the plain language of Proposition 218 (Cal. Const., art. XIII D), a special benefit must affect the assessed property in a way that is particular and distinct from its*

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<sup>6</sup> California Government Code section 53753(b)

<sup>7</sup> California Government Code section 53753 Subsection (e)(1):

<sup>8</sup> Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority. 44 Cal.4<sup>th</sup> 431.

<sup>7</sup> Ibid

<sup>8</sup> Ibid



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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*effect on other parcels and that real property in general and the public at large do not share.”<sup>9</sup>*

*A “tax” can be levied without reference to peculiar benefits to particular individuals or property. But, a special assessment, unlike a tax, must confer a special benefit upon the property assessed beyond that conferred generally. “An assessment can be imposed only for a “special benefit” conferred on a particular property”<sup>10</sup>. An assessment is “invalid” if it does not comply with the special benefit and proportionality requirement of Proposition 218, or if it fails to “directly connect any proportionate costs of and benefits received from the permanent public improvement.”<sup>11</sup>*

It has been alleged the tabulation of the ballots was not performed in a manner consistent with requirements of the Government Code. Because the City of Santa Ana placed its interest into the process by voting, it now had a vested interest in the outcome of the process, and thereafter used its own clerk’s office to conduct that tabulation, there is a lack of impartiality, or certainly the appearance of one.

The language of the applicable constitutional provisions is clear and unequivocal as to its intent as well as to when such assessments are to be allowed and the manner in which they are to be appropriated. As stated above: **“A special assessment must confer a special benefit upon the property assessed, beyond that conferred generally.”** (emphasis added)

Furthermore, in light of the history of this area over the past twenty-five (25) years, the way in which public money has been channeled to a select few, and with these select few continuing to exercise control over the proceeds produced by this assessment district, there exist strong reasons to suspect that appropriate procedures were not followed.

Most importantly, the actions taken by the developers, the confusion which took place in the voting process, the failure to comply with the legal requirements relating to special assessment districts, the difficulties associated with businesses in a period of economic limitations, and the lack of civility in the discussions, have resulted in tumultuous circumstances at best. These circumstances have become unmanageable and can only result in serious financial difficulties for all concerned. The developers will be in danger of having abandoned properties as the smaller business seek alternatives elsewhere, and those that cannot afford the change will be put out of business. The City of Santa Ana will continue to suffer the financial drawbacks associated with those conditions.

The City Council of Santa Ana has been placed on notice on numerous occasions as to their lack of compliance with the legal requirements well established in California law as related to the establishment, management, and continuance of special assessment districts. Its continuing disregard of the concerns of the majority of the citizens being impacted by these circumstances constitutes a disenfranchisement and disservice to its constituency. The time has long past for the city managers and the city council to step back, reflect on what has taken place and take

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<sup>11</sup> Ibid

## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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corrective actions. Continuing to ignore this matter can only result in further discourse, both conversationally and legally, which will be detrimental to all.

### **FINDINGS:**

In accordance with California Penal Code §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the Findings/Conclusions presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its study of the Santa Ana Property Based Improvement District, the 2011-2012 Orange County Grand Jury makes the following Findings/Conclusions:

**F1.** City of Santa Ana appears to be in violation of California State Law in the formation of this Improvement District.

**F2.** Monies collected from the improvement district appear to have only benefited a few and have not resulted in a direct benefit to the assessed property as required by California law.

**F3.** An appearance of impropriety exists in the relationship between the developer and the City of Santa Ana.

**F4.** An appearance of impropriety exists in the relationship between the developer and Downtown Inc., the administrator of the funds from the special district.

**F5.** The process by which the district was established in regard to the mailing of ballots, the process of tabulation, and the voting by the City of Santa Ana does not appear to be in compliance with the statutory requirements for establishing an assessment on property owners.

### **RECOMMENDATIONS:**

In accordance with *California Penal Code* §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the **Recommendations** presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its study of the Santa Ana Property Based Improvement District, the 2011-2012 Orange County Grand Jury makes the following recommendations:



## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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**R1.** The City of Santa Ana should request that its City Attorney or independent counsel conduct an investigation into whether the City of Santa Ana complied with the requirements of establishing a formation district; whether that district benefits all property owners proportionately; and whether there are any violations or conflicts of interest. If so, the City of Santa Ana should immediately take action to disestablish the district.

**R2.** The Santa Ana City Attorney and the Orange County District Attorney should investigate the alleged violations of election laws and procedures.

### **REQUIREMENTS AND INSTRUCTIONS:**

In accordance with *California Penal Code* Sections §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the **Findings/Conclusions and Recommendations presented** in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

*“Not later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section §914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations.”*

(a.) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b.) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for

## SANTA ANA'S PROPERTY BASED IMPROVEMENT DISTRICT

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discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.

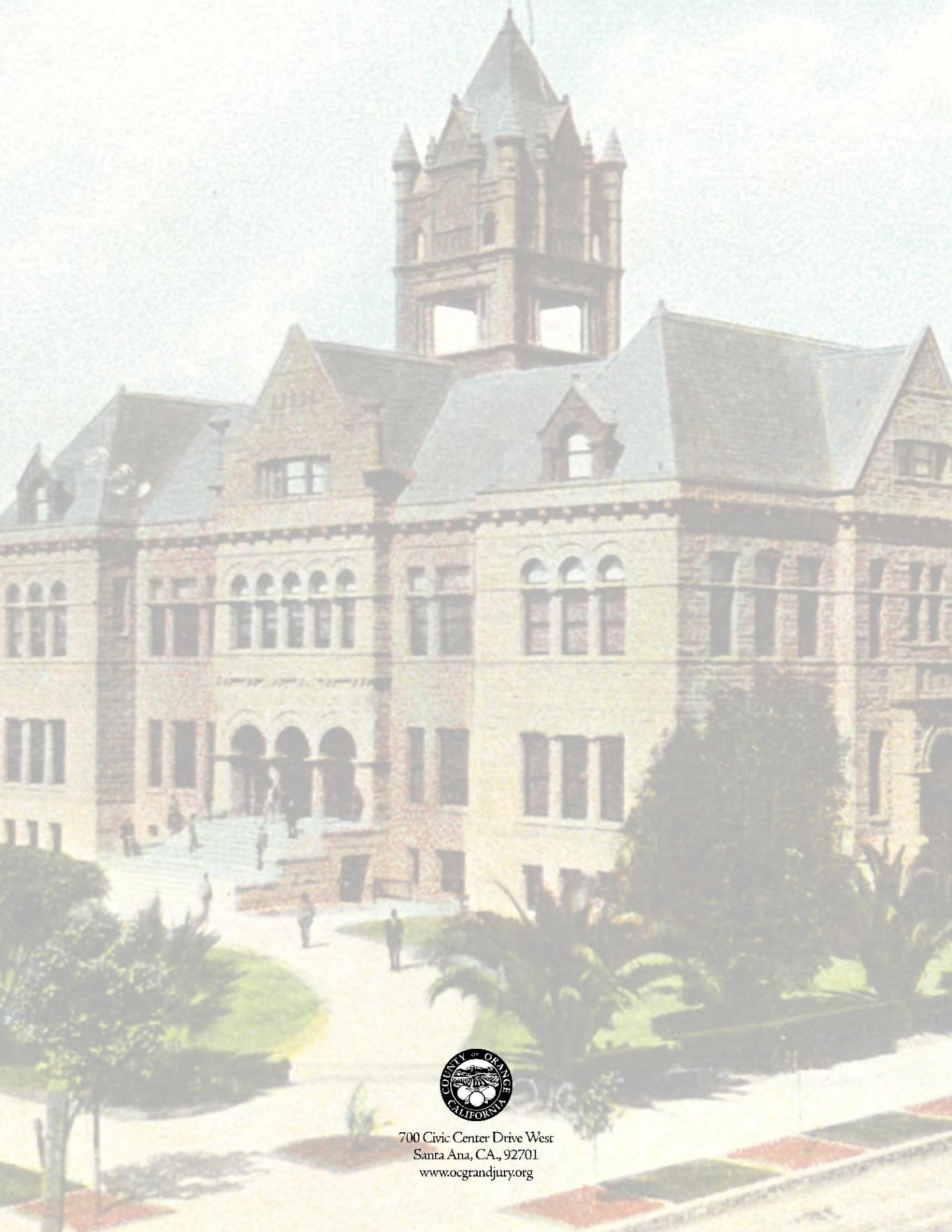
(4) The recommendation will not be implemented because it is not warranted or is not warranted or is not reasonable, with an explanation therefore.

(c.) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making aspects of the findings or recommendations affecting his or her agency or department.

### **Responses Required:**

<b>Respondent</b>	<b>Findings</b>	<b>Recommendations</b>
City Council of Santa Ana Orange County District Atty.	F1, F2, F3, F4, F5	R1, R2 R2





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## Orozco, Norma

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**From:** pocharte@aol.com  
**Sent:** Tuesday, December 15, 2020 4:09 PM  
**To:** eComment; !City Clerk  
**Cc:** City Council  
**Subject:** URGENT: Agenda Item 75A

CORRECTION: I am commenting on ITEM 75A not 75C

-- SPS

-----Original Message-----

From: pocharte@aol.com  
To: ecomment@santa-ana.org <ecomment@santa-ana.org>; cityclerk@santa-ana.org <cityclerk@santa-ana.org>  
Cc: citycouncil@santa-ana.org <citycouncil@santa-ana.org>; vsarmiento@santa-ana.org <vsarmiento@santa-ana.org>  
Sent: Tue, Dec 15, 2020 3:53 pm  
Subject: Agenda Item 75C

Dear Mayor, City Council, and Staff,

I am a Santa Ana native, resident and neighborhood leader.

I'm writing to comment on Agenda Item 75C, to express that I am against Downtown Inc and SABC receiving funding from BID monies.

It's been my experience, both with the previous Downtown Inc administration under Vicky Baxter and the current one administered by Lead Consultant Ryan Smolar, that Downtown Inc is a very dysfunctional organization. Not only to they overcharge for services rendered and greatly inflate even their in-kind budgets, they siphon off additional public monies that could have gone to other local non-profits. They also employ wasteful and divisive business practices that have killed downtown Santa Ana's vitality.

In contrast to the the \$500,000 + Downtown Inc/SABC receive every month, Downtown BIDS in prosperous cities like San Diego only average about \$100,000 in City Support, with BID staff responsible for raising their own operating and program funds. The BID in Barrio Logan, San Diego employs local youth to carry out their cleaning, media, ambassador and promotional services for a much lower rate than what we pay.

For all these reasons and the one's listed below, I recommend we dissolve Downtown Inc and SABC and get a fresh start with our City BID structure. We should have staff research successful models in affinity cities and we should build a less wasteful and more inclusive structure that's a better fit for Santa Ana.

Kind Regards,

-- Sandra Pena Sarmiento  
Santa Ana Resident & Neighborhood Leader

### \*\*\* Reasons to Defund DTI/SABC \*\*\*

- DTI/SABC is doing a terrible job considering the amount of money they are getting, over \$500,000 every year.

- DTI/SABC siphons off public monies from community non-profits, like the \$400,000 they are getting from the \*YMCA sale.



- DTI/SABC Board Members, Contractors & Staff continuously target, undermine and slander anyone who is critical of their business practices, events, programs or behavior.
  - DTI/SABC perpetuate Gentrification by advocating for the end of ethnic traditions and displacement of events, like Santa Ana's historic Cinco de Mayo festival, Noche de Altares celebration on Calle Cuatro and Fiestas Patrias festival.
  - DTI/SABC uses unethical and unfair business practices to undermine Businesses, Business Owners, Santa Ana Residents, and Local Activists who stand in their way.
  - The OC Grand Jury recommended that Downtown Inc be dissolved due to a history of Improper City Relationships, Conflict of Interest and Unethical Business Practices.
- \* YMCA sale is 12/15 Agenda Item 20C

## **NOTES FROM OC GRAND JURY REPORT:**

In accordance with California Penal Code §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the Findings/Conclusions presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its study of the Santa Ana Property Based Improvement District, the 2011-2012 Orange County Grand Jury makes the following Findings/Conclusions:

- F1. City of Santa Ana appears to be in violation of California State Law in the formation of this Improvement District.
- F2. Monies collected from the improvement district appear to have only benefited a few and have not resulted in a direct benefit to the assessed property as required by California law.
- F3. An appearance of impropriety exists in the relationship between the developer and the City of Santa Ana.
- F4. An appearance of impropriety exists in the relationship between the developer and Downtown Inc., the administrator of the funds from the special district.
- F5. The process by which the district was established in regard to the mailing of ballots, the process of tabulation, and the voting by the City of Santa Ana does not appear to be in compliance with the statutory requirements for establishing an assessment on property owners.

**RECOMMENDATIONS:** In accordance with California Penal Code §933 and §933.05, the 2011-2012 Orange County Grand Jury requires responses from each agency affected by the Recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its study of the Santa Ana Property Based Improvement District, the 2011-2012 Orange County Grand Jury makes the following recommendations:

- R1. The City of Santa Ana should request that its City Attorney or independent counsel conduct an investigation into whether the City of Santa Ana complied with the requirements of establishing a formation district; whether that district benefits all property owners proportionately; and whether there are any violations or conflicts of interest.

If so, the City of Santa Ana should immediately take action to disestablish the district.

- R2. The Santa Ana City Attorney and the Orange County District Attorney should investigate the alleged violations of election laws and procedures.

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