

**City of Culver City, California
Agenda Item Report**

Meeting Date: 12/09/2013		Item Number: <u>PH-1</u>	
CITY COUNCIL AGENDA ITEM: PUBLIC HEARING - (1) Adoption of a Resolution Confirming the Business Improvement District Advisory Board's Annual Report and the Levy of the Downtown Culver City Business Improvement District Assessment for 2014; and (2) Appointment of Members to the Business Improvement District Advisory Board for Calendar Year 2014.			
Contact Person/Dept.: Glenn Heald Todd Tipton/Community Development		Phone Number: 310-253-5752 310-253-5783	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☒		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail and Telephone) Downtown Business Association (09/05/13); (E-Mail) Meetings and Agendas – City Council (12/03/13); Published in Culver City News (11/27/13).			
Department Approval: Sol Blumenfeld (11/27/13)		City Attorney Approval: Carol Schwab (by H. Baker) (12/02/13)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (12/03/13)		City Manager Approval: John M. Nachbar (12/03/13)	
<u>RECOMMENDATION:</u> Staff recommends the City Council (1) adopt a resolution confirming the Business Improvement District Advisory Board's Annual Report and the levy of assessments on the Downtown Culver City Business Improvement District (BID) for 2014 (Attachment No. 1); and (2) appoint members to the BID Advisory Board. <u>PROCEDURE:</u> Mayor: Announces that this is the time and place for the hearing of protests or objections to the continuation of the BID. City Clerk: Announces that the Resolution of Intention, which included notice of this public hearing, was published in the Culver City News on November 28, 2013, and was mailed to all affected businesses. Mayor and City Council: Moves to receive and file all affidavits. City Clerk: Announces the number of written protests received and verifies that all protests have been delivered to the Council.			

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Mayor: Calls to the podium those individuals who filed a written protest and wish to make oral protests or presentations.

Staff: Reports on protests received.

Mayor and City Council: Moves to declare the Public Hearing closed.

If business/property owners representing less than 50 percent of the total assessment to be levied submit protests, move to overrule and deny all protests and then consider the adoption of a resolution to levy the 2014 BID assessment;

OR

If business/property owners representing more than 50 percent of the total assessment to be levied submit protests, move to deny the BID for a period of one year.

BACKGROUND:

The BID renewal process is governed by the California Streets and Highways Code, Sections 36500-36551. In accordance with the process prescribed therein, on November 12, 2013, the City Council approved the 2014 BID Annual Work Program and Budgetⁱ and adopted a Resolution of Intention to conduct a public hearing on December 9, 2013 to consider continuation of the BID program and the levy of assessments on the District for calendar year 2014.ⁱⁱ

BID assessments are collected by the City and disbursed to the Downtown Business Association (DBA), which manages the BID Work Program in accordance with the Management Agreement between the City and the DBA.ⁱⁱⁱ During 2013, the DBA received approximately \$174,621 in BID assessment revenues and held \$20,557 in carryover funds from 2012. These revenues funded the 2013 BID Work Program with an anticipated carryover of \$31,000 for 2014. The DBA's Quarterly Financial Statements and Accounts Payable Summary are attached for reference (Attachment No. 2).

DISCUSSION:

The BID is managed by the BID Advisory Board in accordance with the Management Agreement between the City and the DBA.

Management Agreement

The Management Agreement defines and denotes the responsibilities and duties of the City and the DBA regarding administration of the BID program. The current

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Management Agreement was approved by the City Council on December 10, 2012 and remains effective through December 31, 2014.^{iv}

BID Advisory Board Membership

State law requires the City Council to appoint a BID Advisory Board, which submits the Annual Report. The City Council may appoint the persons recommended by the DBA or choose other individuals for appointment to the Board.^v

The DBA recommends the following as BID Advisory Board Members for 2014:

1. Eric Sims – Business Representative
2. John Byers – Property Owner
3. Kathryn Lundeen – Business Owner
4. Karl Kuhn – Business Owner

FISCAL ANALYSIS:

There is no significant fiscal impact to the City by approving a one year continuation of the BID program. Expenses to the City due to the collection and distribution of BID assessments and staff time spent preparing and presenting the two required staff reports are offset by the City's two percent (2%) administrative fee included in the Management Agreement between the City and the DBA.

ATTACHMENTS:

1. Proposed Resolution.
2. DBA Quarterly Financial Statements and Accounts Payable Summary.
3. Internal Revenue Service Tax-Exempt Certification.
4. DBA Certificate of General Liability Insurance.

MOTION:

That the City Council:

1. **(If there is a majority protest)** Approve a motion recognizing that protests have been received from the owners of businesses in the proposed district which represent 50 percent or more of the assessment proposed to be levied, and no further proceedings to continue the Downtown Culver City Business Improvement District shall be taken for a period of one year from the date of this meeting.

OR

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2. **(If there is not a majority protest)** Adopt a resolution confirming the Business Improvement District Advisory Board's Annual Report and the levy of the Downtown Culver City Business Improvement District Assessment for 2014; and,
3. Appoint members to the Business Improvement District Advisory Board.

ⁱ The 2014 Annual Work Program and Budget is included in the BID Annual Report, filed with the City Clerk in accordance with California Streets and Highways Code, Section 36533. The Report identifies proposed expenditures of BID assessment revenue, proposed improvements and activities, the classification of businesses, the method and basis of levying assessments, and any additional matters the Advisory Board deems appropriate.

ⁱⁱ The California Streets and Highways Code, Sections 36500-36551 govern the formation, implementation and continuation of parking and business improvement areas. Protest of the proposed assessment is addressed in Section 36525(a), which states:

"If written protests received from the owners of businesses in the proposed area which will pay fifty percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than that fifty percent, no further proceedings to create the specified parking and business improvement area or to levy the proposed assessment, as contained in the Resolution of Intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council."

ⁱⁱⁱ Initial BID assessments and first delinquent notices are sent by the City. Pursuant to the Management Agreement, delinquent BID accounts are assigned to the DBA for collection.

^{iv} The Management Agreement requires the DBA to maintain tax-exempt status with the Internal Revenue Service (Attachment No. 3) and to maintain valid General Liability Insurance (Attachment No. 4).

^v The Management Agreement requires that all members of the BID Advisory Board be in good standing with the City and BID in terms of business tax payments, BID assessments, refuse billing and City debt agreements. The Finance Department has no record of debt to the City or BID by any of the individuals recommended for appointment.