

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

Meeting Date: 12/10/12	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 2013; (2) Appointment of Members to the Business Improvement District Advisory Board for Calendar Year 2013; and (3) Approval of the Management Agreement between the City and the Downtown Business Association for Calendar Years 2013 and 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 (09/04/12); (E-Mail) Meetings and Agendas – City Council (12/07/12); Published in Culver City News (11/29/12).	
Department Approval: Sol Blumenfeld (12/05/12)	City Attorney Approval: Carol Schwab (by H. Baker) (12/07/12)
Chief Financial Officer Approval: Jeff Muir (12/06/12)	City Manager Approval: John Nachbar (12/07/12)
<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 2013 (Attachment No. 1); (2) appoint members to the BID Advisory Board; and (3) approve the Management Agreement between the City and the Downtown Business Association (DBA) for calendar years 2013 and 2014. <u>PROCEDURE (Noticed Public Hearing):</u> 1. Mayor seeks motion from the City Council to receive and file the affidavits of publication and posting of notices, and correspondence received in response to the public hearing notices; and, 2. Mayor calls for a staff report and the City Council Members may pose questions to staff as desired; and, 3. Mayor seeks a motion to open the public hearing; and, 4. Mayor seeks a motion to close the public hearing after all public testimony has been presented; and, 5. The City Council discusses the item and arrives at its decision.	

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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, 2012, the City Council approved the 2013 BID Annual Work Program and Budgetⁱ and adopted a Resolution of Intention to conduct a public hearing on December 10, 2012 to consider continuation of the BID program and the levy of assessments on the District for calendar year 2013.ⁱⁱ

BID assessments are collected by the City and disbursed to the DBA, which manages the BID Work Program in accordance with the Management Agreement between the City and the DBA.ⁱⁱⁱ During 2012, the DBA received approximately \$162,023 in BID assessment revenues and held \$16,470 in carryover funds from 2011. These revenues funded the 2012 BID Work Program with an anticipated carryover of \$20,557 for 2013. The DBA's Quarterly Financial Statements and Accounts Summary are attached for reference (Attachment No. 2).

DISCUSSION:

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.^{iv}

The DBA recommends the following as BID Advisory Board Members for 2013:

- 1) Eric Sims – Business Representative
- 2) Kathryn Lundeen – Business Owner
- 3) Debbie Weiss – Business Owner
- 4) Karl Kuhn – Business Owner

Management Agreement

The current Management Agreement between the City and the DBA expires on December 31, 2012. Staff and the DBA propose a continuation of the current Management Agreement with no change to terms or conditions, to be effective January 1, 2013 through December 31, 2014.^v

FISCAL ANALYSIS:

There is no significant fiscal impact to the City by approving a one year continuation of the BID program, though there may be incidental expense to the City in staff time spent preparing and presenting the two required staff reports. The collection and

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distribution of BID assessments is 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 fifty 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

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 2013; and,
3. Appoint members to the Business Improvement District Advisory Board; and,
4. Approve the Management Agreement between the City and the Downtown Business Association for Calendar Years 2013 and 2014; and,
5. Authorize the City Attorney to review/prepare the necessary documents; and,
6. Authorize the City Manager to execute such documents on behalf of the City.

ⁱ The 2013 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.

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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 assessment 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 between the City and the DBA 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.

v The proposed Management Agreement is revised to reflect effective dates of calendar years 2013-2014 and to omit prior references to the former Culver City Redevelopment Agency. 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).