

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

Meeting Date: 11/22/10		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 2011; (2) Appointment of Members to the Business Improvement District Advisory Board; and 2) Approval of the Management Agreement between the City and the Downtown Business Association for Calendar Years 2011 and 2012.			
Contact Person/Dept.: Glenn Heald Todd Tipton/Community Development		Phone Number: 310-253-5752/5783	
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 (10/05/10); (E-Mail) Meetings and Agendas – City Council (11/17/10); Published in Culver City News (11/04/10 and 11/11/10).			
Department Approval: Sol Blumenfeld: (11/02/10)		City Attorney Approval: Carol Schwab (by H. Baker) (11/16/10)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (11/16/10)		City Manager Approval: John M. Nachbar (11/17/10)	
<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 the Downtown Culver City Business Improvement District Assessment (BID) for 2011 (Attachment No. 8); (2) appoint members to the BID Advisory Board (Attachment No. 6); and (3) approve the Management Agreement for calendar years 2011 and 2012 (Attachment No. 7). <u>PROCEDURE:</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 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.			

City of Culver City, California
Agenda Item Report

BACKGROUND:

The BID provides a mechanism for businesses to levy assessments on themselves for the promotion of business activities and public events; decoration of public places; and the acquisition, construction, installation and maintenance of specific improvements. The BID assessment reduces the downtown business community's dependency on the City and Redevelopment Agency.

On November 1, 2010, the City Council approved the BID's 2011 Annual Work Program and Budget, as filed with the City Clerk, and adopted by a Resolution of Intention to conduct a public hearing on November 22, 2010. Additional information related to the Annual Work Program and Budget was included in the November 1, 2010, staff report, which is attached for reference (Attachment No. 1).

DISCUSSION:

During 2010, the BID reported approximately \$154,518 in total BID assessment revenues and \$22,326 in carryover funds from 2009. These funds were used toward the 2010 DBA BID Work Program, with an anticipated carryover of \$29,640 for 2011. This is further described in the DBA's Quarterly Financial Statements and Accounts Payable Summary, which are attached for review (Attachment No. 5).

BID revenues are managed by the DBA in accordance with the Management Agreement between the City and the DBA, which details the responsibilities and obligations of both parties. The DBA uses BID revenues to implement the Work Program defined in the BID Advisory Board's Annual Report (Report). The 2011 Annual Work Program and Budget are attached for reference (Attachment No. 2).

The following elements of the BID renewal process are outlined in summary form below due to their governance by State law: protest of the proposed assessment, appointment of BID Advisory Board members, and renewal of the Business Improvement District Management Agreement.

Protest of the Proposed Assessment

State Law [Streets and Highways Code Section 36525.(a)] states: "If written protests received from the owners of businesses in the proposed area which will pay fifty percent or more of the assessment 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 Council."

City of Culver City, California
Agenda Item Report

BID Advisory Board Membership

State law requires the City Council to appoint a BID Advisory Board, which is responsible for compiling the Report. The Report identifies how BID assessment revenue will be spent, proposed improvements and activities, the classification of businesses, the method and basis of levying assessments, and other matters the Advisory Board deems appropriate.

The BID Advisory Board members for 2010 were:

- 1) Ken Kaufman – Business Owner
- 2) John Byers – Business and Property Owner
- 3) Stu Freeman – Property Owner
- 4) Eric Sims - Bus Representative
- 5) Debbie Weiss – Business and Property Owner
- 6) Gerry Weiner – Business Owner

The DBA recommends the following BID Advisory Board Members for 2011:

- 1) Ken Kaufman – Business Owner
- 2) John Byers – Business and Property Owner
- 3) Stu Freeman - Property Owner
- 4) Eric Sims – Bus Representative
- 5) Debbie Weiss – Business and Property Owner
- 6) Milena Alunni – Business Owner

As part of the Management Agreement between the City and the DBA, all members of the BID Advisory Board must be in good standing with the City, Redevelopment Agency, and BID in terms of business tax payments, BID assessments, refuse billing and Redevelopment Agency debt agreements. The Finance Department has no record of debt to the City, Redevelopment Agency, or BID by any of the above-named individuals. The City Council may appoint the members recommended by the DBA or appoint new members to the BID Advisory Board.

Management Agreement

The current Management Agreement between the City and the DBA expires on December 31, 2010. The proposed Management Agreement for calendar years 2011 and 2012 is a two year contract from January 1, 2011 through December 31, 2012 (Attachment No. 7). The below 2011-2012 Management Agreement contains the following changes from the 2009-2010 Management Agreement:

- The two percent (2%) administrative fee retained by the City for normal activities involving the mailing and processing of BID renewal forms and the distribution of

City of Culver City, California
Agenda Item Report

funds collected will be collected on the total amount of assessments levied prior to disbursement of funds to the DBA.

- The DBA may request the City engage a third party collection agent to pursue delinquent assessments pursuant to the procedures set forth in the Management Agreement. The DBA will pay all costs associated with the collection agent and the collection efforts.

FISCAL ANALYSIS:

There is no significant fiscal impact to the City by approving a one year extension 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 distribution of BID assessments is offset by the two percent (2%) administrative fee included in the Management Agreement between the City and the DBA. In 2011 the BID assessment and 2010 rollover is estimated to total approximately \$193,609, which will be used to fund Maintenance Management (\$150,420 – includes \$122,100 funded by maintenance MOU), Advocacy and Administration (\$123,900), and Communication and Image-enhancement expenses (\$29,840).

Pursuant to City Council direction, staff has provided the sum of uncollected delinquent assessments related to the BID. The cumulative total for all uncollected delinquent assessments past and present years is \$41,388, including \$8,892 in current delinquent assessments, \$8,892 in current-assessment penalties, and \$23,604 in prior balances due (assessments and penalties). Though prior Management Agreements have contained methods for collection of delinquent assessments, the DBA did not choose to pursue the additional collections through the City and has sought instead to establish new collection procedures with a third party collection agent, at minimal cost to the DBA.

ATTACHMENTS:

1. Staff Report for the November 1, 2010 meeting of City Council, *Approval of the Downtown Culver City Business Improvement District Advisory Committee's Annual Work Program and Budget, and Adoption of a Resolution of Intention to Conduct a Public Hearing for Continuation of the Downtown Business Improvement District.*
2. 2011 BID Work Program and Budget (Approved by the Council on November 1, 2010).
3. Internal Revenue Service Tax-Exempt Certification.
4. DBA Certificate of General Liability Insurance.
5. DBA Quarterly Financial Statements and Accounts Payable Summary.
6. BID Advisory Board Recommendations for 2011.
7. Management Agreement between the City and the DBA for 2011-2012.
8. Resolution to levy the Proposed Assessment for 2011.

City of Culver City, California
Agenda Item Report

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 2011; and
3. Appoint members to the Business Improvement District Advisory Board; and
4. Approve the Management Agreement for calendar years 2011 and 2012; 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.