

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 12/08/08		Item Number: <u>PH-3</u>	
AGENDA ITEM: PUBLIC HEARING - (1) Adoption of a Resolution Continuing the Downtown Culver City Business Improvement District for Calendar Year 2009, Levying Assessments Therefore, and Appointing Members to the 2009 BID Advisory Committee; and (2) Approval of the Management Agreement between the City and the Downtown Business Association for an Additional Two Years.			
Contact Person: Glenn Heald		Phone Number: (310) 253-5752	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☒		Action Item: ☐	Attachments: ☒
Public Notification: The Resolution of Intention was mailed to all businesses in the Downtown Culver City Business Improvement District (11/11/08); published in the Culver City News (11/13/08 & 11/20/08); Master E-Mail Notification List (12/03/08).			
Department Approval: Sol Blumenfeld (11/12/08)		City Attorney Approval: Carol Schwab (by H. Baker) (12/02/08)	
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (12/02/08)		City Manager Approval: Jerry B. Fulwood (12/02/08)	

RECOMMENDATION:

Staff recommends the City Council adopt a resolution to levy the proposed 2009 Downtown Business Association's (the "DBA") Business Improvement District ("BID") assessment (Attachment No. 8) and appoint members to the 2009 BID Advisory Committee (Attachment No. 6), unless a majority protest is made, and approve the Management Agreement between the City and the DBA (Attachment No. 7) for an additional two years (to December 31, 2010).

PROCEDURE (Noticed Public Hearing):

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 13 and 20, 2008, and was mailed to all affected businesses.

Mayor: Seeks a Motion 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.

Mayor: Calls to the podium those individuals who filed a written

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Staff: protest, who wish to make oral protests or presentations.
Reports on protests received.

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

If business/property owners representing less than fifty 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 2009 BID assessment;

OR

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

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 businesses' dependency on the City and Redevelopment Agency.

On November 10, 2008, the Council approved the BID's 2009 Annual Work Program and Budget, as filed with the City Clerk, and adopted a Resolution of Intention to conduct a public hearing on December 8, 2008. Additional information related to the Annual Work Program and Budget is included in the November 10, 2008 City Council Agenda Item Staff Report, which is attached for the Council's ease of reference (Attachment No. 1).

DISCUSSION:

During 2008, the BID reported approximately \$122,085 in total BID assessment revenues and \$25,671 in carryover funds from 2007. These funds were used toward the 2008 DBA BID Work Program, with an anticipated carryover of \$36,016 for 2009. This is further described in the DBA's Quarterly Financial Statements and Accounts Payable Summary, which are attached for review (Attachment No. 5).

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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. The 2009 Annual Work Program and Budget are attached for review (Attachment No. 2).

The following elements of the BID renewal process are outlined in summary form below due to their governance by State law: (1) protest of the proposed assessment, (2) appointment of BID Advisory Board members, and (3) 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."

BID Advisory Board Membership

State law requires the 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 2008, appointed by City Council on December 10, 2007, were:

- 1) John Byers – Business and Property Owner
- 2) John Wolcott – Business and Property Owner
- 3) Debbie Weiss - Property Owner
- 4) Heidi Fahringer - Business Owner
- 5) Stu Freeman – Property Owner
- 6) Gerald Weiner - Attorney

The DBA recommends the following BID Advisory Board Members for 2009:

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- 1) Ken Kaufman – Business Owner
- 2) Douglas Newton – Business Owner
- 3) John Wolcott – Business and Property Owner
- 4) Gerald Weiner - Attorney
- 5) Emily Beretta – Business Owner

As part of the Management Agreement between the City and the DBA, all members of the BID Advisory Committee 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. Upon review by the Finance Department it appears that none of these individuals show any record of debt to the City, Redevelopment Agency, or BID.

The 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, 2008. The proposed Management Agreement for 2009-10 is a two year contract from January 1, 2009 through December 31, 2010 (Attachment No. 7). The 2009-10 Management Agreement contains the following changes from the 2007-08 Management Agreement:

- The accounting fee retained by the City for normal activities involving the mailing and processing of BID renewal forms and the distribution of funds collected will be two percent, an amount agreed upon prior to the previous Management Agreement.
- The DBA and the City may, under separate agreement, agree to take additional actions to collect delinquent BID assessments as deemed appropriate. Under such an agreement the City shall retain additional fees as determined by the Finance Department to cover 100% of the City's costs for the agreed upon collection efforts.

FISCAL ANALYSIS:

In 2009, the BID assessment total and 2008 carry over is estimated to total approximately \$179,900, which will be used to fund Maintenance Management (\$28,180), Advocacy and Administration (\$106,878), and Communication and

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Image-enhancement expenses (\$8,970), with approximately \$36,000 held in reserve. The City would withhold 2% of the total assessment (\$3,600) as an administration fee for processing and collecting the BID renewal for the DBA. Finance Department staff calculated the cost of collecting the BID renewal for the DBA and 2% is sufficient to cover direct staff costs.

If the DBA requests the City to take additional actions to collect delinquent BID assessments, the City shall retain additional fees as determined by the Finance Department to cover 100% of the City's costs for the agreed upon collection efforts.

ATTACHMENTS:

1. Staff Report for the November 10, 2008, 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. 2009 BID Work Program and Budget (Approved by the Council on November 10, 2008).
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 2009.
7. Management Agreement between the City and the DBA for 2009-10.
8. Resolution to levy the Proposed Assessment for 2009.

MOTION:

(If there is a majority protest) That the City Council:

- 1A. Approve a finding that protests have been received from the owners of businesses in the proposed district who 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

*(If there is **not** a majority protest) That the City Council:*

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- 1B. Adopt a resolution to levy the proposed 2009 BID assessment; and to Appoint Ken Kaufman, Douglas Newton, John Wolcott, Gerald Weiner, and Emily Beretta to the DBA BID Advisory Board; and,
2. Approve the Management Agreement between the City and the Downtown Business Association for an additional two (2) years (to December 31, 2010); and,
3. Authorize the City Attorney to review/prepare the necessary documents and authorize the City Manager to execute such documents.