Office of the City Manager

05

CONSENT CALENDAR
June 4, 2013

To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by: Michael J. Caplan, Economic Development Manager

Subject: Assessment: Telegraph Property and Business Improvement District

RECOMMENDATION

Adopt a Resolution:

1. Approving the Annual Report for the Telegraph Property and Business Improvement District (hereafter "TBID" or "the District") for FY 2013 and proposed budget for 2014;
2. Declaring an intention to levy annual assessments in the District for FY 2014; and
3. Setting a public hearing on the levy of assessments for July 16, 2013.

FISCAL IMPACTS OF RECOMMENDATION

Proposed special assessment revenues of approximately $275,418 for FY 2014 must be spent for purposes specified in a Management Plan approved by Telegraph commercial property owners and ratified by the City Council when it renewed the TBID for a ten-year period on June 17, 2008 (Resolution No. 64,102-N.S.) Annual assessment funds are deposited in the Telegraph Business Improvement District Fund (477-3302-312-1001) and expended from 477--8703-465-3038.

As a property owner within the District through the Telegraph-Channing garage, the City itself pays an assessment to the TBID. With the proposed 2% increase recommended by the Board of Directors of the operating company for the TBID, the Telegraph Property and Business Management Corporation, the assessment would be $39,252 for 2014. This is billed directly to the City and paid through the Off-Street Parking Fund (835-4942-410.40-46.)

The Management Plan constitutes the Scope of Services for Contract No. 7813 between the City and the Telegraph Property and Business Management Corporation. The Plan and Scope of Services require that revenues be spent for sidewalk cleaning, other maintenance activities, and promotion of the business district. State legislation requires that BID assessment revenues be spent for special services that supplement and enhance existing City services in the district and cannot be used to pay for these City services themselves. The City benefits indirectly through greater tax revenue from a cleaner, more prosperous business district.

CURRENT SITUATION AND ITS EFFECTS

The current item reports on activities with the district for the expiring fiscal year and begins renewal of the assessments for FY 2014.

BACKGROUND

On June 17, 2008, the Berkeley City Council renewed the TBID for a ten-year period that ends on June 30, 2018. The Council had initially established the TBID for the five-year period July 1998-June 30, 2003, and then renewed it for a second five-year period July 15, 2003-June 30, 2008. The TBID finances special maintenance and marketing activities that benefit commercial property and businesses in the Telegraph commercial district. As noted above, a non-profit corporation, the Telegraph Property and Business Management Corporation, administers these services.

State legislation that authorizes formation of property-based BIDs (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget proposal to the City Council each year. The City Council may approve them with a Resolution to reauthorize the annual assessments. Accordingly, the President of the Telegraph Property and Management Corporation, with the assistance of its Executive-Director, Roland Peterson, prepared the attached report on operations of the TBID for FY 2013, proposed services and activities in 2014 and the proposed budget to finance them. At its meeting of May 14, 2013, the Board of Directors of the Management Corporation voted to recommend a two percent increase in the assessment to cover increased costs, as is authorized by the Management Plan for the TBID, but within the same boundaries and with the same assessment formula as already established (MSC McClung/Moskowitz- unanimous.) The Board then approved the Annual Report for 2013 and the proposed budget for 2014 and recommended that they also be approved by the City Council (MSC Moskowitz/McDougall-unanimous.)

RATIONALE FOR RECOMMENDATION

In developing the proposed budget for 2014, the Board of Directors of the Management Corporation considered alternatives for expenditure of funds, though within the framework of services authorized by the Management Plan that was approved by property owners and the City Council in reauthorizing the TBID. Discussions focused on the balance of emphasis between the core service of sidewalk cleaning and maintenance and the other main service, promotion of the business district. The budget, including the proposed two percent cost-of-living increase, reflects adjustments intended to free some revenues for promotion, particularly a proposed program Sunday public festivals, with street closures, during the summer.

CONTACT PERSON

Dave Fogarty, Economic Development Project Coordinator, 981-7534

Attachments:
1: Resolution
Exhibit A: Annual Report of the Telegraph Property and Business Improvement District for FY 2013
Exhibit B: Draft Budget for Fiscal Year 2014

RESOLUTION NO. ##,###-N.S.

ANNUAL ASSESSMENT REPORT FOR THE TELEGRAPH PROPERTY AND BUSINESS IMPROVEMENT DISTRICT FOR FY 2013 AND PROPOSED BUDGET FOR 2014; INTENT TO LEVY SPECIAL ASSESSMENTS IN THE TELEGRAPH PROPERTY AND BUSINESS IMPROVEMENT DISTRICT FOR FY 2014; AND SETTING A PUBLIC HEARING ON THE LEVY OF ASSESSMENTS FOR JULY 16, 2013

WHEREAS, the Property and Business Improvement District Law of 1994 as amended (California Streets and Highways Code Section 36600 et.seq.) authorizes cities, with the consent of property owners, to fund property-related improvements, maintenance and activities through the levy of assessments upon the real property that benefits from the improvements, maintenance and activities; and

WHEREAS, after ten years of successful operation, the City Council re-established the Telegraph Property and Business Improvement District (hereafter, "the District") by Resolution No. 64,102-N.S. on June 17, 2008; and

WHEREAS, the City Council has now received the *Annual Report of the Telegraph Property and Business Improvement District for FY 2013* (hereafter "the *Annual Report*" and attached as Exhibit A) from the Telegraph Property and Business Management Corporation, the governing body for the District, that describes the operations of the District in FY 2013, recommends services for FY 2014 and proposes a budget for 2014 (attached as Exhibit B).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the *Annual Report of the Telegraph Property and Business Improvement District for FY 2013* (Exhibit A) and the proposed budget for FY 2014 and declares its intent to levy special assessments on property within the boundaries of the District for FY 2014.

BE IT FURTHER RESOLVED that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the *Telegraph Property and Business Improvement District Management and Service Plan* (the "*Plan*"), which was made part of Resolution No. 64,102-N.S., re-establishing the District.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the *Plan* and the *Annual Report.*

BE IT FURTHER RESOLVED that the cost of providing the improvements and activities is as described in the budget (Exhibit B) that accompanies the *Annual Report*.

BE IT FURTHER RESOLVED that to finance these improvements and activities, the Annual Report and Budget includes a two percent (2%) cost-of-living increase as allowed by the Management Plan.

BE IT FURTHER RESOLVED that the contributions made from sources other than assessments levied in the District are those described in the budget that accompanies the *Annual Report*.

BE IT FURTHER RESOLVED that the *Annual Report* and supporting material, including the *Telegraph Property and Business Improvement District Management and Service Plan* and the *Telegraph Property and Business Improvement District Engineer's Report,* are on file with the City Clerk. A public hearing on the levying of assessments within the District for FY 2014 shall be held before the City Council on the 16th day of July 2013, in the Council Chambers, 2134 Martin Luther King Jr. Way, Berkeley, California. Council meetings begin at 7 pm. At this hearing, the Council will hear all interested persons for or against the levying of assessments for the purposes described in the *Annua*l *Report*. A protest may be made orally or in writing by any interested person. Written protests shall be filed with the City Clerk at or before the time fixed for the public hearing. Each written protest shall contain a description of the business or property in which the person subscribing the protest is interested sufficient to identify the business or property. Following conclusion of the public hearing, the City Council may confirm the *Annual Report* and levy assessments for FY 2014.

Exhibits:

A. *Annual Report for the Telegraph Property and Business Improvement District for FY 2013.*
B. Draft Budget for Fiscal Year 2014.

ANNUAL REPORT OF THE TELEGRAPH BUSINESS IMPROVEMENT DISTRICT

For fiscal year 2012-13

By Telegraph Property and Business Management Corporation

The Telegraph Business Improvement District, a property-based business improvement district, was renewed for a ten-year period by an affirmative vote of the property owners of the Telegraph commercial district by mail-in ballot during the spring 2008. This vote was affirmed without protest by City Council on June 17, 2008. This report is for the fiscal year ending June 30, 2013 of this ten-year period.

In accordance with Section 36650 (b) of the Streets and Highway Code for the State of California, the Telegraph Property and Business Management Corporation (TPBMC) affirms the following:

1. The TPBMC proposes no changes in boundaries for the next fiscal year.
2. The TPBMC will continue with the same services as has been outlined in the Management District Plan of May 23, 2008. These include street and sidewalk cleaning and beautification, marketing and promotions, decorations, and maintenance of a district office.
3. The draft budget submitted to the TPBMC Board of Directors calls for expenditures in the FY 2013-14 to be $340,914. These expenditures are independent of funds spent on the host/ambassador program.
4. The draft budget submitted to the TPBMC Board of Directors outlined a 2% increase in assessments. Other smaller increases were considered.
5. The draft budget submitted to the TPBMC Board of Directors envisions a balance carry forward of funds that are not dedicated to be approximately $150,000, which may include tax assessment revenues received in June 2013. The draft budget envisions a deficit for FY 2013-14 of $19,236 to be paid from carry forward funds.
6. In addition to assessments levied on real property, income will be derived from the following sources: (1) an annual contribution from the University of California in the amount of $65,466 (2) a modest amount of interest earned on deposits and (3) reimbursements from merchants for shared costs in advertising.

The Telegraph Business Improvement District has steadily maintained a cleaning service on behalf of the district without interruption. The Management District Plan calls for a full-time cleaning staff of four, and this has been maintained with only brief interruptions due to staff illnesses and terminations in the past fiscal year. At no time has staffing dropped below three full-time.

Marketing and beautification have continued in the following ways:

- Purchases of advertising, usually in conjunction with merchants, in the Express newspaper and web site.
- Purchase of ads with Berkeleyside.com.
- Hiring of performers for the days of the Holiday Street Fair.
- Prominent participation in the UC campus's CalTopia.

- Planning for and pre-purchase of advertising for the 2012 World Music Festival.
- Lead sponsorship of the Last Sundays Festivals on August 26, 2012.

The Telegraph Business Improvement District has also served as the fiscal agent for the City's Host/Ambassador program. It acts in the supervisory role for those who work in the Telegraph district. The District plans to continue to act on behalf of that program for the next fiscal year.

The Telegraph Business Improvement District has also served in new ways on behalf of the district. As noted last year, TBID fully participated in the Telegraph charrette sponsored by the Berkeley Design Advocates (BDA), and for FY 2012-13, it continued to work with them on designing improvements for the district. For the subsequent fiscal year, TBID anticipates co-hosting another design charrette, this time for possible redesign of the Telegraph Avenue-Dwight Way intersection.

The TBID has also successfully advocated for the conversion of the district into a 24-hour zone, and encouraging businesses to take advantage of this will be a TBID initiative in the next fiscal year. Other initiatives the TBID has undertaken in FY 2012-13 have been (1) support for the Mad Monk performance venue at 2454 Telegraph (2) support for the designation of the district as a priority development area and (3) support for utilizing the Chancellor grant for decorative arch lighting over the street. As indicated in the prior year's report, the TBID did form a capital projects committee that has begun to work with the BDA and others for enhancement of the district.

For the future, TBID plans to move further into the following initiatives:

1. Work with the BDA for a design charrette on possible redesigning of the Telegraph-Dwight Way intersection to enhance a sense of place as well as pedestrian safety.
2. Work with the University and other stakeholders to improve the sense of safety and welcoming of People's Park.
3. Continue to work with its partners to execute the decorative lighting project.
4. Develop a capital projects committee that would examine ways to make changes in streetscape and decorations to enhance the commercial viability of the district.
5. Work closely with the City to implement Sundays on Telegraph-- a summer-time set of Sundays when the street would be closed to vehicular traffic to encourage visiting, shopping, dining, and an overall positive ambiance.

TBID BUDGET FY 2014

Income:

Tax assessments	236166
T C Garage assessment	39252
UC contribution	65446
Interest	50
Total income	340914

Expenses:

Administrative expenses	124750
Maintenance expenses	182650
Special projects/promotion	47750
Capital projects	5000
Total expenses	360150
Surplus/deficit	-19236