

Office of the City Manager

ACTION CALENDAR
December 10, 2002

To: Honorable Mayor and
Members of the City Council
From: Weldon Rucker, City Manager
Subject: Downtown Berkeley Business Improvement District Assessment

RECOMMENDATION

- 1) Conduct a public hearing, close the public hearing, and adopt a Resolution confirming the year 2003 Annual Report of the Downtown Business Improvement District (BID), thereby levying an annual assessment for the Downtown BID for calendar year 2003.
- 2) Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA) Main Street Program for \$223,000 of Downtown BID funds to support Downtown revitalization.

FISCAL IMPACTS OF RECOMMENDATION

Projected expenditure of \$213,000 in FY '03 BID revenues and \$10,000 of BID fund balance from FY '02 for a total expenditure of \$223,000, account 476-8703-465.35-10; CMS # KNHG1

Adoption of the Resolution levying the BID assessment has no direct financial impact on the City's budget. The BID constitutes an independent funding source that must be targeted to Downtown organizational, promotional and other revitalization efforts that are recommended by the Advisory Board. Assessment rates are unchanged from this year. To the extent that the work of the Downtown BID enhances the development of the Downtown and its business climate over the long term, the BID contributes towards enhanced City revenues through increased sales and property taxes

CURRENT SITUATION AND ITS EFFECTS

On November 12, 2002, Council adopted a Resolution that approved the 2003 Annual Report submitted by the Downtown Berkeley Business Improvement District (BID) Advisory Board, declared Council's intention to levy an annual assessment for the District for year 2003, and set a public hearing for December 10, 2002, to consider levying a renewed assessment for 2003. After Council adopted this Resolution, it was published in a local paper of general circulation for at least 7 days in accordance with State law requirements for public notice.

BACKGROUND

Over the past six years, the City has implemented the Downtown BID and Mainstreet program through a contract with the Downtown Berkeley Association. This is a business-based BID that assesses all businesses in the District. It must be renewed annually by the City Council.

To finalize the BID reauthorization process for 2003 in compliance with State BID law, Council must hold a public hearing on reauthorization of the BID. During the course or upon conclusion of the public hearing, Council may order changes in any of the matters provided in the Annual Report, including changes in the proposed assessments, the proposed improvements and activities to be funded with the revenues derived from the levy of the assessments, and the proposed boundaries of the area. At the conclusion of the public hearing, Council may adopt a Resolution confirming the Annual Report as originally filed or as modified by Council. The adoption of that Resolution shall constitute the levy of an assessment for the BID's 2003 calendar year.

These actions will reaffirm the City's commitment to the Downtown BID that was originally established to implement the Mainstreet program and assist the Downtown Berkeley Association (DBA) in becoming financially independent from City sources. The reauthorization of the BID will enable the continued implementation of the Downtown revitalization partnership between the DBA and the City.

On November 12, 2002, we reported that 2002 BID revenues were \$226,072. However, a more thorough review of BID revenues revealed that 2002 BID revenues were actually \$247,172. Therefore, we have concluded that 2003 BID estimate of \$213,000 in the approved Annual Report is too low. BID revenues are based upon business revenues of the prior year. Therefore, due to the economic downturn in the last year, we would expect some reduction in FY 2003 BID revenues over FY 2002. However, we doubt that the revenues would drop by almost 14 percent to \$213,000. A more realistic estimate of FY 2003 BID revenues is \$235,000, a drop of about 5% from this year. Also, the amount of the BID fund balance going into FY 2003 from prior years is now increased from \$22,849 to \$55,248. The DBA is proposing to use \$10,000 of that fund balance for FY 2003 expenditures. Altogether, we now project that BID revenues totaling about \$290,000 could be available in FY 2003. Deducting the total proposed expenditures of \$223,000 results in a potential FY 2003 yearend fund balance of about \$67,000.

Since the revenue estimates in the Annual Report are sufficient to cover the adopted work plan and budget, staff does not recommend any changes in the Annual Report at this time. However in view of the likely revenue surplus, the DBA and the Downtown BID Advisory Board may want to propose mid-year budget revisions enhance BID activities and increase the FY 2003 budget. Staff will refer this matter to the Downtown BID Board for consideration after 2003 BID revenues have been received.

The recommended contract with the DBA for 2003 provides for the DBA to receive assessments to implement the work plan in the 2003 Annual Report. The Downtown BID Advisory Board recommended that \$213,000 in new BID revenues plus \$10,000 of carried over fund balance be

spent in 2003. Therefore, the total recommended contract with the DBA is \$223,000, including \$213,000 of new BID revenues and \$10,000 of carried over fund balances. Exhibit A of the attached Resolution approving the contract provides the Scope of Services, and Exhibit B provides the payment schedule.

RATIONALE FOR RECOMMENDATION

State law requires that the City Council annually renew Downtown BID by first passing a resolution stating Council's intention to levy an annual assessment and scheduling a public hearing on the proposed renewed assessment for the coming year. This action confirms the City's commitment to continuing implementation of the Mainstreet program, which is a key component of the City's work to revitalize the Downtown. This work is especially important to help maintain the momentum of the revitalization work during this time of economic uncertainty.

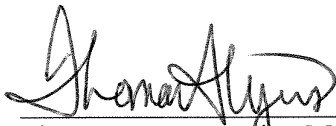
ALTERNATIVE ACTIONS CONSIDERED

The Downtown BID Advisory Board considered whether the assessment rates should be revised for 2003. The Board concluded that there should be no change in the rates at this time.

CONTACT PERSON

Ted Burton – 981-7536

Approved:



Thomas Myers, Acting Manager of Economic Development

RESOLUTION NO. -N.S.

CONFIRMING THE YEAR 2003 ANNUAL REPORT OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (BID), THEREBY LEVYING AN ANNUAL ASSESSMENT FOR THE DOWNTOWN BID FOR CALENDAR YEAR 2003

WHEREAS, the Downtown Berkeley Business Improvement District (BID) Advisory Board submitted an Annual Report to the Berkeley City Council that outlined the activities of the District proposed for the year 2003 as required by California Streets and Highways Code Section 36533; and

WHEREAS, the Annual Report was found to be clear and complete and found to comply with the interests of Downtown assessees; and

WHEREAS, on November 12, 2002 the Berkeley City Council adopted a Resolution of Intent which approved the Annual Report, declared its intent to levy assessments on businesses located within the boundaries of the District, and set a public hearing for December 10, 2002, where interested persons may be heard for or against the levying of the assessment; and

WHEREAS, the City Clerk published the Resolution of Intent in a local newspaper of general circulation in compliance with necessary public notice requirements; and

WHEREAS, a public hearing was held allowing all interested parties to speak on the matter; and

WHEREAS, there have not been protests by business owners in the District who collectively pay 50 percent or more of the assessment proposed to be levied.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the Downtown Berkeley BID Annual Report for the year 2003 as submitted to the City Clerk by the Downtown Berkeley BID Advisory Board is confirmed, thereby levying an annual assessment for the Downtown Berkeley BID for calendar year 2003.

RESOLUTION NO. - N.S.

AUTHORIZING THE CITY MANAGER TO EXECUTE A SOLE SOURCE CONTRACT AND ANY AMENDMENTS WITH THE DOWNTOWN BERKELEY ASSOCIATION (DBA) MAIN STREET PROGRAM FOR \$223,000 OF DOWNTOWN BID FUNDS TO SUPPORT DOWNTOWN REVITALIZATION

WHEREAS, the Downtown Berkeley Association (DBA) has proven to be an effective partner with the City of Berkeley implementing various elements of the Downtown Plan; and

WHEREAS, the DBA is the one private sector organization that is taking comprehensive action to improve the economic vitality of the Downtown, as reflected in the DBA's approved annual work plan; and

WHEREAS, in 2002, the DBA has worked to develop and implement programs that address a wide range of important Downtown issues; and

WHEREAS, for the last six years the DBA has become independent of direct City funding, now deriving its operating resources from the Business Improvement District and from other revenue sources independent of the City; and

WHEREAS, on October 17, 2002, the Downtown BID Advisory Board voted to recommend a budget for the Downtown BID for 2003, that includes \$223,000 of BID revenues to implement the 2003 BID Annual Report and Work Plan; and

WHEREAS, on December 10, 2002, the City Council held a public hearing, after which it adopted a resolution confirming the Downtown Berkeley BID Annual Report for the year 2003 and levying an annual assessment for Calendar Year 2003.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a sole source contract and any amendments with the Downtown Berkeley Association/Main Street Program in the amount of \$223,000 (budget code 476-8703-465.35-10, CMS # KNHG1) for services as outlined in Exhibit A hereof and a payment schedule as outlined in Exhibit B hereof. A record signature copy of said contract and any amendments are to be on file in the Office of the City Clerk.

EXHIBIT A

This Scope of Services outlines the work to be performed by the Downtown Berkeley Association/Main Street Program (DBA/MS) over the course of calendar year 2003.

I. MAINTENANCE AS A MAIN STREET PROGRAM

Contractor will maintain and promote its identity as a Main Street program and continue its implementation of the four point Main Street approach to Downtown revitalization. Contractor shall maintain its status as a California Urban Main Street Pilot Program.

II. WORK PROGRAM IMPLEMENTATION

Contractor will implement the work plan that is a part of the 2003 Downtown Berkeley Business Improvement District Annual Report that was approved by the Downtown Business Improvement District (BID) Advisory Board on October 17, 2002, and approved by the Berkeley City Council on November 12, 2002. The work plan includes tasks in each of the four Main Street program areas: Organization, Design, Promotion, and Economic Restructuring. A central item of the work plan shall be maintaining an ongoing relationship with the Downtown Business Improvement District Advisory Board and responding to the particular needs and concerns of its members.

Contractor will implement its work plan over the course of its 2003 program year. Specific work program goals, objectives, and measures may be modified during the period of implementation by agreement of the BID Advisory Committee, the DBA Executive Director and Board and City Economic Development staff.

The DBA shall prepare a Year 2004 Annual Report and Work Plan in close coordination with the City's Office of Economic Development and the Downtown BID Advisory Board and in conformance with the requirements of the City and State law.

III. REPORTING

Contractor shall submit the following:

1. Four (4) quarterly progress reports to be submitted every ninety days from the execution of this contract.
2. The year 2004 BID Annual Report covering both activities for the DBA in calendar year 2003 and the proposed work program for calendar year 2004 to be submitted to the City prior to September 1, 2003.

EXHIBIT B

PAYMENT

Billable upon execution of this Contract:	\$111,500
Billable on June 1, 2003, and after receipt by the City of two progress reports:	<u>\$111,500</u>
Total compensation under contract:	\$223,000