




Office of the City Manager

ACTION CALENDAR

January 15, 2008

To:  Honorable Mayor and Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Michael J. Caplan, Acting Manager of Economic Development

Subject: Downtown Berkeley Business Improvement District Annual Assessment

RECOMMENDATION

1) Conduct a public hearing, and upon conclusion, adopt a Resolution confirming the 2008 Annual Report of the Downtown Business Improvement District (BID) and to levy an annual assessment for the Downtown Business Improvement District (BID) for calendar year 2008.

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 \$280,168 of Downtown BID funds to support Downtown revitalization.

FISCAL IMPACTS OF RECOMMENDATION

The FY 2008 Adopted Budget contains revenues and expenditures of \$250,000 for the Downtown BID. As of June 30, 2007, the Downtown BID Fund balance is \$30,168. The Board has asked for these available funds to be distributed to them as part of the contract. The appropriation of the additional \$30,168 was included in the first amendment to the FY 2008 Annual Appropriations Ordinance as adopted by Council on October 23, 2007. The additional appropriation raises the total contract amount to \$280,168 for FY 2008.

The contract with the Downtown Berkeley Association has been entered into the City's contract management system and assigned CMS No. TBGA7.

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. 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 27, 2007, Council adopted Resolution No. 63,889–N.S. that approved the 2008 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 2008, and set a public hearing for December 18, 2007 to consider levying a renewed assessment for 2008. After Council adopted this Resolution, it was published in a local paper of general circulation at least 7 days prior to the public hearing in accordance with State law requirements for public notice.

BACKGROUND

Over the past 10 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 2008 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 2008 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.

The recommended contract with the DBA for calendar year 2008 provides for the DBA to receive assessments to implement the work plan in the 2008 Annual Report. The Downtown BID Advisory Board recommended that \$280,168 in BID revenues be spent in 2007. Therefore, the total recommended contract with the DBA is \$280,168. 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.

ALTERNATIVE ACTIONS CONSIDERED

The Downtown BID Advisory Board considered whether the assessment rates should be revised for 2008. The Board concluded that there should be no change in the rates at this time.

CONTACT PERSON

Michael J. Caplan, Office of Economic Development – 981-7530

Attachments:

- 1: Assessment Resolution
- 2: Contract Resolution
 - Exhibit A: Scope of Services
 - Exhibit B: Payment Schedule

RESOLUTION NO. –N.S.

CONFIRMING THE 2008 ANNUAL REPORT OF THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (BID) AND LEVYING AN ANNUAL ASSESSMENT FOR THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (BID) FOR CALENDAR YEAR 2008

WHEREAS, the Downtown Berkeley Business Improvement District (BID) Advisory Board submitted an Annual Report to the Berkeley City Council outlining the activities of the District proposed for the year 2008 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 27, 2007 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 18, 2007, where interested persons may be heard for or against levying 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 2008 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 2008.

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 \$250,000 OF DOWNTOWN BERKELEY BID FUNDS

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 2007, the DBA has worked to develop and implement programs that address a wide range of important Downtown issues; and

WHEREAS, for the last nine 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 15, 2007, the Downtown BID Advisory Board voted to recommend a budget for the Downtown BID for 2008, that includes \$280,168 of BID revenues to implement the 2008 BID Annual Report and Work Plan; and

WHEREAS, on January 15, 2008, the City Council held a public hearing, after which it adopted a resolution confirming the Downtown Berkeley BID Annual Report for the year 2008 and levying an annual assessment for Calendar year 2008.

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 \$280,168 (budget code 476-8703-465-35-10, CMS No. TBGA7) 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 over the course of calendar year 2007.

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 2008 Downtown Berkeley Business Improvement District Annual Report that was approved by the Downtown Business Improvement District (BID) Advisory Board on October 17, 2007, and approved by the Berkeley City Council on November 27, 2007. Contractor shall work diligently to implement all Workplan Action Items including improving the cleanliness and safety of the district, improving accessibility through improved transit and better management of parking resources, promoting economic vitality, ongoing participation in area planning processes, greater attention to member services, and greater community outreach. Contract shall also give greater attention to their own long-term financial health and will investigate ways to generate new resources to enhance direct services. Such mechanisms may include establishment of Downtown parking management district or reincorporating their current BID as a PBID with a more focused on-the-street work program.

Contractor will implement its work plan over the course of its 2008 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 2009 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 2009 BID Annual Report covering both activities for the DBA in calendar year 2008 and the proposed work program for calendar year 2008 to be submitted to the City prior to September 01, 2008.

EXHIBIT B

PAYMENT

Billable upon execution of this Contract:	\$140,084
Billable on June 1, 2008, and after receipt by the City of two progress reports:	<u>\$140,084</u>
Total compensation under contract:	\$280,168

