



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 13, 2014 REPORT NO: 15-044
ATTENTION: Honorable Council President and Members of the City Council
SUBJECT: FY 2016 Business Improvement District Budgets –
Annual Appropriation Process

REQUESTED ACTION:

At the first Council date (Requested date April 27 or 28, 2015):

1. Designate the Advisory Boards for each specified Business Improvement District [BID].
2. Approve the FY2016 Budget Reports for each specified BID.
3. Declare the Council's intention to levy and collect annual assessments from businesses within each specified BID, and set May 19, 2015 as the noticed public hearing date.

At the second Council date (Requested noticed public hearing date May 19, 2015):

4. Confirm the FY2016 Budget Reports for each specified BID and levy the annual assessments for those BID's.
5. Authorize the City's Chief Financial Officer or designee to appropriate, transfer, and expend assessment revenues within each District's fund for administration and operation of that District in accordance with the approved Fiscal Year 2016 Budget Reports, including the Fund Balance and Interest Fund Balance from Fiscal Year 2015 at year end and the anticipated District assessments to be collected and interest in Fiscal Year 2016.
6. Authorize the First Amendment to the BID Management Agreement with each of the specified BID Associations.

STAFF RECOMMENDATION:

Approve requested actions.

SUMMARY:

The state Streets & Highways Code authorizes the City to establish Business Improvement Districts (BIDs), to levy and collect assessments from businesses within the BID for improvements and activities that benefit the assessed businesses. The City's BID program strengthens small businesses and facilitates business attraction and retention and commercial neighborhood revitalization.

Each BID was initiated through the efforts of businesses in the respective communities who determined the desired activities and improvements, estimated the total cost of those activities and improvements and then developed the range of assessments by business type and /or size, and business location based on the estimated relative benefit to businesses. Each BID was then established by the City Council through adoption of an ordinance detailing the BID street ranges and the amounts and methodology for assessing the district businesses.

The Council designates a business association for each BID to advise the Council on the district budget, assessments, and activities and improvements and to implement the program under an agreement with the City.

Annually, as required by State law, the process to approve Budgets Reports and authorize the levy and collection of assessments occurs over two Council meetings held three to four weeks apart. At the first meeting, the BID Budget Reports are submitted to Council for approval, along with a resolution of intention to levy and collect the annual assessments, and to notice the required public hearing.

The second Council meeting includes the public hearing for receipt of testimony on the assessments. Council may then confirm the Budget Reports (or approve modifications to the Budget Reports) by adopting a resolution which shall constitute the levy of assessments for the fiscal year.

In previous years we asked Council to authorize the Mayor to enter into annual agreements with the BID associations but starting with FY2014 we entered into five year agreements. However, due to changes in the Municipal Code for contracting and procurement and other circumstances, staff is recommending changes to the agreement; collectively, the First Amendment. This First Amendment clarifies procurement thresholds and the number of written quotes required when Associations procure goods or services using any BID funds. It also clarifies that when no BID funds are involved in any manner whatsoever in an activity of the Association that the provisions of the BID Management Agreement do not apply. A further clarification is for the reconciliation documents to be submitted just over 2 weeks earlier than previously requested which will facilitate a more timely resolution for any questions and the final reconciliation of disbursements.

Once authorized, the BID assessments are collected by the City Treasurer at the same time and in the same manner as the City's business tax; approximately \$1.52 million annually from 15,000 businesses. The revenue for each BID is recorded separately in the City's accounting system and then, in accordance with Council Policy 900-07, the actual assessment revenue collected by the City in the previous month is advanced to the respective BID associations to enhance cash flow. Supporting documentation on the use of the assessments advanced is required from the BID associations within two months of the disbursement, otherwise future disbursements are held.

State law requires that the Budget Reports submitted to Council identify the amounts of projected assessments to be collected during the coming fiscal year which are listed in the reports as "Estimated Assessments to be collected in the Fiscal Year".

State law also requires the identification of surplus or deficit revenues from prior years. There may be revenues at fiscal year-end which will carry over within the City's accounts (City-held Carry Over) and identified in the Budget Reports as "Estimated Unexpended Assessments from prior fiscal year to be carried forward". Additionally, BID associations may have surplus revenues (BID-held Carry Over) at fiscal year-end which is identified in the Budget Reports as "Estimated Outstanding Advances/Unreconciled Disbursements." This BID-held Carry Over is the result of assessments disbursed which are not reconciled by the close of the fiscal year. These estimated City-held and BID-held Carry Over amounts will be available in FY2016 to support the proposed BID activities.

By approving the Budget Reports the City Council authorizes the appropriation, expenditure, and transfer as applicable, of the assessments to be collected and all City-held and BID-held Carry Over amounts for the approved activities and improvements in the Budget Reports.

Economic Development staff monitors the performance of the BID associations through review of disbursement reconciliation documents, newsletters, meeting minutes, feedback from other City staff/council representatives, attendance at BID association meetings, and site visits. The BID Management Agreement also requires the completion and submission of annual audits or financial statements. The City's web site provides links to the respective BID association web sites where they are required to display agendas, minutes, and contracts greater than \$5,000 which use BID assessments.

Please note there is a current lawsuit against the levied FY2014 assessments that was filed by San Diegans for Open Government. The City has filed a motion for summary judgment which will be heard in May. If the court does not grant the motion then a trial is scheduled for June. There was also a lawsuit filed challenging the levied FY 2015 BID assessments. The court stayed that case pending the outcome of the FY 2014 case since the issues are identical. The City is asserting that existing districts and assessments are not new and therefore are not subject to the 2010 constitutional amendment known as Proposition 26 ("Prop 26").

FISCAL CONSIDERATIONS:

The City does not retain any of the assessments and undertakes the associated administration with existing budgeted staff. All of the assessments are remitted to the BID funds and therefore, there is no net fiscal impact to the General Fund. However, in conjunction with the City Council's approval of the FY2015 BID Budget Reports and assessment, the City Attorney's office issued a public memorandum dated April 18, 2014, which examined the applicability of Prop 26 to that approval and the associated risks. These same risks continue to apply to the proposed City Council approval of the FY2016 BID Budget Reports and assessments.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On May 20, 2014, Council approved the FY2015 Budget Reports and levy of assessments for these BIDs: Adams Avenue, City Heights, College Area, Diamond, Downtown, East Village, El Cajon Blvd Central, El Cajon Blvd Gateway, Gaslamp, Hillcrest, La Jolla, Little Italy, Mission Hills, North Park, Ocean Beach, Old Town, Pacific Beach, and San Ysidro (Resolutions: R-308990, and R-308144)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

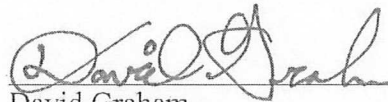
The BID associations regularly hold noticed, open meetings and publish newsletters for assessed businesses. Budgets are developed by the respective boards and approved at these meetings.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Businesses within the respective BIDS are the key stakeholders and beneficiaries of the BID program.



Erik Caldwell, Director
Economic Development



David Graham
Deputy Chief Operating Officer