



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 4, 2010

ITEM NUMBER:

SUBJECT: BUSINESS IMPROVEMENT AREA (BIA) REAUTHORIZATION

DATE: APRIL 26, 2010

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: THOMAS R. HATCH, ASSISTANT CITY MANAGER

**FOR FURTHER INFORMATION CONTACT: THOMAS HATCH, ASSISTANT CITY MANAGER
KELLY SHELTON, EXECUTIVE ASSISTANT TO THE
CITY MANAGER AT (714) 754-5328**

RECOMMENDATION:

That the City Council: 1) approve and file the annual report for the Business Improvement Area (BIA) for Fiscal Year 2010-2011, and 2) adopt a Resolution of Intention including: reauthorization of the BIA Assessment District boundaries; approval of the BIA budget; and the setting of a Public Hearing for June 15, 2010.

BACKGROUND:

In 1995, the City Council adopted Ordinance No. 95-9 to establish a Business Improvement Area (BIA) for the purpose of assisting the Hotel and Motel Industry in their promotion of tourism within the City. The BIA imposed a one percent (1%) assessment on the sale of hotel and motel overnight guest room stays. This money was to be used for the establishment and maintenance of a local tourism and promotion council. The Costa Mesa City Council authorized the City Manager to contract with the Costa Mesa Tourism and Promotion Council to develop and administer the BIA. The Council later became the Costa Mesa Conference and Visitor Bureau. The Bureau's Board of Directors is comprised of the ten (10) general managers of the participating hotels, a representative from the City Council, and the City Manager or his designee.

In January of 2000, the participating hotels requested, and the City Council approved an increase in the assessment from one percent (1%) to two percent (2%).

ANALYSIS:

The authority to develop a Business Improvement Area is detailed in the Streets and Highways Code, Section 36500. This State law enables Costa Mesa to impose an assessment fee on businesses within an area designated by the City. All of Costa Mesa has been designated as the BIA benefit zone. Currently, the number of properties included in the BIA assessment levy is limited to the ten hotels that have expressed an interest in

participating in the program as detailed in the attached Resolution of Intention (Attachment 1 – Exhibit A).

As a function of the renewal process, all ten affected property owners will be legally noticed of the assessment renewal and provided an opportunity to “protest” the annual assessment through the public hearing process. Staff will also notice all the hotels and motels in the City not currently included in the BIA to allow them the opportunity to be included in the BIA. The notice will indicate that hotels/motels wishing to be included may attend the Public Hearing on June 15 to address that issue. The City Council makes the ultimate decision as to the size of, and the properties to be included in the BIA.

Once the annual assessment is approved, the assessment is then collected along with the City’s Transient Occupancy Tax (TOT). The hotels/motels included in the BIA are required to itemize the BIA levy as a separate assessment. The Bureau dictates the expenditure of the annual assessment.

In addition, the Bureau has prepared the attached Annual Report, as required by Section 36533 of the Streets and Highways Code. The Annual Report summarizes the Bureau’s activities and accomplishments over the past year and is included in the Resolution of Intention (Attachment 1 – Exhibit B). The Annual Report also details the projected budget for the coming fiscal year. The City Council may approve the report or modify any particular item(s), and approve as amended.

Lastly, Mayer, Hoffman, McCann P.C. has completed the annual audit of the Bureau for the fiscal year ending on June 30, 2009, as required by the Professional Services Contract in effect between the City and the Costa Mesa Conference and Visitor Bureau. The existing agreement with the Bureau provides for the preparation of an annual audit paid for from the BIA assessment. The audit is intended to ensure that the assessment revenue is expended for public purposes as specified within the resolution and that no expenditures are made in a manner contrary to the agreement. The audit is included in the Annual Report.

ALTERNATIVES CONSIDERED:

Do not adopt the Resolution of Intention.

FISCAL REVIEW:

\$782,847 has been collected through the BIA for the period from July 2009 through February 2010. The CMCVB is estimating that it will generate a total of \$1,146,000 for the entire fiscal year ending on June 30, 2010. Its’ expenditures are projected at \$904,250 for FY 2010-2011 with projected revenues of \$1,181,000. Expenditures include items such as the advertising campaign, media relations and industry Fam tours (tours for industry professionals, such as travel writers and conference planners, sponsored by the CMCVB), brochures/promotional items, trade shows, administration, special promotions and hotel niche marketing.

The City continues to provide a moderate level of assistance to CMCVB and receives one percent (1%) of the BIA assessment as reimbursement for collection and

administrative costs. The one percent (1%) allocated to the City for reimbursement is estimated at \$11,460 for the coming fiscal year. This fee will sufficiently cover the costs incurred by the City in assisting the Bureau. An audit of the CMCVB's expenditures has been completed by the City's independent auditor to determine if the expenditures are in compliance with State law and the agreement with the City. This is included in the attached Annual Report.

LEGAL REVIEW:

The City Attorney's Office has prepared the attached Resolution of Intention pursuant to the Parking and Business Improvement Area Law of 1989. No further legal review is required at this time.

CONCLUSION:

This is the initial step in the re-authorization of the BIA assessment. As with other assessment districts, State law sets up a specific procedure to be followed in the establishment of such an area. Staff will be making a presentation to the City Council on the implementation of the BIA assessment at the Public Hearing on June 15, 2010.

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ASSISTANT CITY MANAGER

COLLEEN O'DONOGHUE
ASSIST. DIRECTOR OF FINANCE

KIMBERLY HALL BARLOW
CITY ATTORNEY

Attachments 1 [Resolution of Intention](#)

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 Chamber of Commerce