



Legislation Text

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BID Model Operating Plan and Budget
(Legislative Matter)

From:

Peter Wysocki, Planning and Development Director, Planning and Development Department

Summary:

This proposed action would result in adoption of standard template for the annually adopted Operating Plans and Budgets for Business Improvement Districts (BIDs). A draft standard template and resolution are attached.

Previous Council Action:

Council approved its Special District Policy on January 24, 2006 (Resolution 9-06). This Policy pertains to BIDs among others. In accordance with Colorado Revised Statutes, Council annually adopts the Operating Plans and Budgets for BIDs, ordinarily in October.

Background:

For Title 32 metropolitan districts, the City has used a Model Service Plan since 2006. By comparison, the City has no required standard template for BID Operating Plans and Budgets. Adoption of a standard template has been recommended by staff for a number of years, and was informally supported by City Council including during a September 2013 Work Session.

The purposes of having a Model BID Operating Plan and Budget include the following:

- 1) Standardization of format for ease of use and reference
- 2) Assurance that all necessary and desired information is provided or clearly linked/ referenced in one document
- 3) Assurance that key policies and limitations are clearly and affirmatively addressed.

If adopted in a timely fashion, this template would be used for Council's 2014 annual actions concerning the 2015 BID Operating Plans and Budgets.

BIDs are authorized to be formed under Colorado Revised Statutes §31-25-1201 et. seq. to finance and/or maintain certain public improvements in non-residential areas, ordinarily utilizing a property tax mill levy as the primary revenue source. BIDs are a separate legal entity from the City, but their budgets and operating plans must be approved annually by the City. There are a total of ten (10) active BIDs in the City, with the potential for more being formed in the future. Of the ten current BIDs, nine are development-specific and have elected boards of directors (BODs). The Downtown BID is more broadly based and has a Council-appointed BOD.

This template was developed by starting with the format already being used for the majority of City BIDs and making 'redline' adaptations to address desired purposes.

Timing and Schedule

At the August 11, 2014 City Council work session on this item a question was asked concerning the timing of submittal of these documents and the schedule for required review and action. At least one Councilor noted a concern with adequate time for review given Council's concurrent responsibilities associated with other budgets including those for Colorado Springs Utilities and the general City. A specific question was asked concerning whether the City could require submittal prior to the September 30th deadline established in Colorado Revised Statutes (e.g. an August 31st date).

It should be noted that at this time the Model Operating Plan and Budget does not specify a schedule for submittal, processing, hearings or final action. These are all addressed via a combination to Statutes and City procedures.

Setting the legal questions aside, there are practical implications associated with even a voluntary agreement to move forward the date of submittal. This is because the BIDs do not get their preliminary certification of assessed valuation (AV) from the County Assessor until August 25th of each year. The BIDs then need to finalize their proposed operating plans and budgets and meet as boards to take action on them.

The Statutes also require City Council to take action on the documents within 30 days of receipt. Effectively, this drives the first formal hearing date as being the second City Council meeting in October. Because the Statutes require final action by December 5th of each year, it is possible for Council to continue action to their first November meeting (an possibly the second), with or without the concurrence of BID.

Staff recommends maintaining the current schedule and process with the option of continuance beyond the second meeting in October only if special issues or circumstances arise and with the concurrence of a majority of Council.

Financial Implications:

There are no direct financial implications associated with this proposed action.

Board/Commission Recommendation:

The Special District Committee was provided a draft of this template. Members responded with positive comments. There was a request from City Finance to change the date for provision of audit information to their office be moved up to March 1 (from March 31st). This has been done. There have been no other comments from the Committee.

Stakeholder Process:

This draft Model Budget and Operating Plan has been circulated by e-mail to a variety of potentially interested parties including representatives of the ten BIDs, special district attorneys, the HBA, and other City staff.

One set of comments has been received (from Mr. Russ Dykstra Esq. whose firm represents eight of the ten active BIDs in the City). Other comments were received from the Downtown BID via their

attorney, Mr. Al Zeigler Esq. Mr. Dykstra's one substantive concern had to do with the language in Section A if it were construed to allow a future change to the Special District Policy to adversely impact the ability of the BID to meet its bonding and other financial obligations consistent with the authorities granted in the original Ordinance authorizing and creating the District. Alternate language has been incorporated into the proposed draft. The Downtown BID had a number of comments. These included a clarification that BID's are not authorized with condemnation powers by State law. The Downtown BID also recommended that a number of statements could be deleted from the text. Generally, staff recommends retention of this language primarily for purposes of emphasis and having it included in a single document. The Downtown BID is now on record as being satisfied with this template.

Alternatives:

City Council could choose to approve, not approve or modify the proposed Model BID Operating Plan and Budget.

Proposed Motion:

Approval of the attached resolution with exhibit approving the model annual business improvement district operating plan and budget.

N/A