



Legislation Text

File #: 18-0099, **Version:** 2

Ordinance No. 18-34 Including Certain Property into the First and Main Business Improvement District No. 2

(Legislative)

Presenter:

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Summary:

This is a request for approval of an ordinance for inclusion of property into the First and Main Business Improvement District No. 2 (the "District"). The City received a Petition for Inclusion of the Property executed by the owner of the properties. State Statute (Section 31-25-1220, C.R.S.) requires that any inclusions of property into Business Improvement Districts ("BIDs") be approved by an ordinance. In accordance with the statutory section cited above, the petition for inclusion has been verified and arrangements made with the City for legal publication.

This item has been scheduled for the March 13, 2018 City Council Budget Committee meeting. A summary from that meeting will be included in the final Council staff report for this item.

Previous Council Action:

The District was established by election on November 4, 2008, following adoption by Council of an ordinance creating the District on September 23, 2008 (Ordinance No. 08-144). In 2009, Council authorized issuance of Series 2009 Limited Tax General Obligation Bonds in the principal amount of \$2,400,000 (Resolution No. 53-09). In 2010, Council authorized issuance of Series 2011 Public Improvement Fee Revenue Bonds in the principal amount of \$2,000,000 (Resolution No. 186-10). In 2012, Council approved boundary modifications for this District (Ordinance 12-33) and in 2014 Council approved a resolution eliminating term limits (Resolution 14-17). In 2015, Council approved an issuance of formal debt in the amount of up to \$3,475,000 in the form of Public Improvement Fee (PIF) and General Obligation Bonds (Resolution 35-15). On an annual basis, Council approves the Operating Plan and Budget for this District.

Background:

BIDs are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements in non-residential areas, utilizing a property tax mill levy as the revenue source. BIDs are separate legal entities from the City, but their budgets and operating plans must be approved annually by the City.

Changing the boundaries of a BID by inclusion of additional property is governed by C.R.S. 31-25-1220, which requires the property owner to petition the governing body of the municipality in which

the BID is located. Upon receipt of a petition for inclusion, notice of the petition must be given in accordance with C.R.S. 31-25-1220. The notice must inform all persons having objections to the inclusion to appear at a hearing to show cause why the petition should not be granted. If the governing body (City Council) determines that changing the boundaries of the BID as requested by the petition does not adversely affect the BID, the governing body may grant the petition by ordinance. A certified copy of the ordinance is then filed with the County Clerk and Recorder and the property is then included in the boundaries of the BID.

This BID was originally created in 2008 in order to differentiate it from the original First and Main BID ("First and Main BID No. 1"). First and Main No. 2 BID currently has a total property tax of 51.0 mills in place (50.0 mills for debt service and 1.0 mills for operations and maintenance). Certain properties within this BID have a 0.0075 percent (0.75 cent) retail public improvement fee (PIF) in place. This PIF is pledged as additional revenue for some of the bonds previously issued by this District.

The subject property is currently developed with the now vacant Whole Foods Market and is owned by developer associated with both the First and Main BID ("BID No. 1") and First and Main BID No. 2. By Statute, BID boundaries do not have to be contiguous as long as there is a logical nexus to the improvements or services provided and the taxes being paid. This proposed inclusion was not contemplated in this District's most recent Operating Plan and Budget approved by Council in October of 2017. The petitioner notes that the leasing status of the property (and language pertaining to BID inclusion) was still being addressed at that time.

The petitioner provides the following additional explanation and justification for the requested inclusion:

"Due to existing lease issues with this property at the time the BID was formed it was not included in the district. That lease is no longer in effect and the property is vacant and owned by the petitioner who is asking for inclusion at this time so it can contribute to the improvements benefiting the property. The property is surrounded and directly benefits from improvements built and funded by the BID and inclusion will allow it to pay its proportionate share of the improvements and O&M costs going forward".

As depicted in the attached PowerPoint presentation, this property is largely surrounded by First and Main BID No. 1. The petitioners will address their justification for inclusion in BID No. 2 rather than BID No. 1.

Legal notice of the required City Council hearings is being published as required by State Statute.

Financial Implications:

There should be no direct financial implications to the City from this action.

Board/Commission Recommendation:

The City's staff-level Special District Committee has been provided copies of these materials. All comments received have been in support and/or with no stated concerns.

Stakeholder Process:

N/A

Alternatives:

City Council could choose to approve, not approve or modify the proposed ordinance.

Proposed Motion:

Move to approve an ordinance including certain property into the boundaries of the First and Main Business Improvement District No. 2

An ordinance including certain property into the First and Main Business Improvement District No. 2