



## REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
www. CityofSacramento.org

**Consent Report**  
**June 16, 2009**

**Honorable Mayor and  
Members of the City Council**

**Title: Agreement: Sutter Business Improvement Area**

**Location/Council District: 3**

**Recommendation:** Adopt 1) a **Resolution** approving an agreement with the Midtown Business Association to administer the Sutter Business Improvement Area funds and appointing the Midtown Business Association as the Advisory Board; 2) a **Resolution** approving the FY2009/10 Sutter Business Improvement Area budget.

**Contact:** Brad Wasson, Revenue Manager, 808-5844

**Presenter:** Brad Wasson, Revenue Manager

**Department:** Finance

**Division:** Revenue

**Organization No:** 06001211

### **Description/Analysis**

**Issue:** The Sutter Business Improvement Area (SBIA) was established in March 2008 at the request of several restaurants and nightclubs in the area. The purpose of creating the district and assessing fees is to provide additional security and coordinate marketing in the area. An advisory board was also established at this time.

The advisory board has requested that the City enter into an agreement with the Midtown Business Association (MBA) to administer the SBIA objectives and funds. MBA has the capacity to represent the interests of SBIA and its general objectives are consistent with the purpose of the SBIA. The Advisory Board has also requested that the city appoint MBA as the new official Advisory Board due to public meeting constraints.



The Advisory Board has submitted its first budget for the 2009/10 fiscal year (Exhibit A to Attachment 2). The individual businesses started collecting the SBIA fees in May 2009. The funds will be remitted to the City in June 2009. With the adoption of the agreement between the City and MBA, the City will be able to remit the program funds to MBA starting in July 2009.

**Policy Considerations:** City Code chapter 3.106 allows the City to enter into an agreement with an entity to carry out the administrative functions of the SBIA. Chapter 3.106 also reserves the sole discretion on how the SBIA funds are to be expended to the City Council. Additionally, Streets and Highway Code Section 36530 requires the City Council to appoint an Advisory Board to make recommendations to the Council on how the revenues from the assessments should be expended.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

**Sustainability Considerations:** None.

**Rationale for Recommendation:** The proposed agreement is necessary in order for the SBIA to have a mechanism to carry out the objectives of the membership. MBA encompasses the area and is the most logical entity to administer funds for the SBIA. The budget submitted by the current Advisory Board is consistent with the purpose of the SBIA. The Advisory Board has had a difficult time meeting as a quorum and following public meeting requirements. The Board feels that using the MBA Board to advise on SBIA issues will be more effective than the individual appointments from City Council.

**Financial Considerations:** City Code chapter 3.106 makes the City responsible for the collection and enforcement of fees. The code also mandates that an annual \$5,000 administrative fee is to be retained by the City to offset its costs. This offset will be posted to the General Fund, Department of Finance, Revenue Division as miscellaneous revenue.

**Emerging Small Business Development (ESBD):** Not applicable.

Respectfully Submitted by: Walker Slack for  
Brad Wasson, Revenue Manager

Approved by: Leanne Milstein  
Leanne Milstein, Director of Finance

Recommendation Approved:

Ray Max U  
Ray Kerridge  
City Manager

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**Attachment 1**

**RESOLUTION NO.**

Adopted by the Sacramento City Council

**APPROVAL OF AGREEMENT BETWEEN THE CITY AND MIDTOWN BUSINESS ASSOCIATION FOR MIDTOWN TO ADMINISTER IMPROVEMENTS AND ACTIVITIES OF THE SUTTER BUSINESS IMPROVEMENT AREA AND APPOINTMENT OF NEW ADVISORY BOARD**

**BACKGROUND**

- A. The Parking and Business Improvement Area Law of 1989, California Streets and Highways Code Section 36500 *et seq.* (the Law) authorizes establishment of Business Improvement Areas to provide activities and improvements that benefit businesses within the Area.
- B. At the request of business owners and operators and after public hearings, the City Council of the City of Sacramento (City) established the Sutter Business Improvement Area (SBIA) on March 25, 2008. Sacramento City Code Title 3, Chapter 3.106, codifies establishment of the SBIA. The SBIA levies an annual assessment on businesses that sell prepared food, such as restaurants, bars, nightclubs, and diners.
- C. The improvements and activities to be funded by the assessments are additional security and maintenance, marketing programs promoting SBIA as an attractive destination for dining, and projects, programs, and activities that benefit the assessed businesses.
- D. The Midtown Business Association is a California nonprofit mutual benefit corporation, with its principal office for business in the City of Sacramento. The Association's membership includes any person, business, or firm licensed to conduct business in Sacramento at an address within the boundaries of 15<sup>th</sup> Street on the West to Alhambra Boulevard on the East, B Street on the North to X Street on the South. Its membership includes SBIA assessed businesses, and it has experience with assessments because it administers under contract with the City the Midtown Property and Business Improvement District (a property assessment district known as the Midtown PBID).
- E. The City by Resolution number 2008-186 accepted an advisory board (Advisory Board). The Advisory Board is to make recommendations to the City on the expenditure of revenues derived from the assessments, among other things provided by the Law.

- F. The Advisory Board and the Midtown Business Association request that the City repeal Resolution number 2008-186, and accept as the SBIA advisory board the Midtown Business Association board, as it may be comprised from time to time under its bylaws and nonprofit corporation law.
- G. The Advisory Board and the Midtown Business Association also request that, consistent with Title 3, Chapter 3.106 of the Sacramento City Code, the City enter an agreement with the Midtown Business Association for administration of the SBIA's improvements and activities. Under Chapter 3.106, the City may provide for administration of the SBIA's activities by entering into an agreement with an entity, that in the opinion of the city council will have the capacity of representing the interests of the restaurant businesses in the SBIA, whose general objectives will be consistent with the purposes of the SBIA, and who will provide the resources to effectively achieve those objectives.
- H. Combining advisory and administrative functions in one entity is intended to enhance transparency of their proceedings, avoid unnecessary duplication of effort, and maintain the utility of application of business judgment and private-sector creativity to solve problems.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The Midtown Business Association has the capacity to represent the interests of the SBIA businesses, its general objectives are consistent with the purposes of the SBIA, and it will provide the resources to effectively achieve those objectives.
- Section 2. The Agreement between the City and the Midtown Business Association for administration of the SBIA is approved. The City Manager or the Manager's designee is authorized to execute the Agreement.
- Section 3. Resolution number 2008-186 is hereby repealed and the Advisory Board thereunder is dissolved. The Midtown Business Association Board, as it is now comprised and as it may be comprised from time to time under its bylaws and nonprofit corporation law, is hereby accepted as the new advisory board.

**RESOLUTION NO.**

Adopted by the Sacramento City Council

**APPROVING THE FY2009/10 SUTTER  
BUSINESS IMPROVEMENT AREA BUDGET**

**BACKGROUND**

- A. The Sutter Business Improvement Area (BIA) is established under Chapter 3.106 of the City Code for the purposes described therein.
- B. City Code section 3.106.010 requires that each BIA submit an annual budget for review. The purpose of an annual budget review is to ensure that the funds for each district are being used for purposes specified in the City Code. For each BIA, City Code section 3.106.080 specifies that the City Council shall reserve unto itself sole discretion as to how the revenue derived from the charges shall be used within the scope of said authorized purposes.
- C. Staff has reviewed the FY2009/10 budget showing estimated BIA fees of \$150,000, and finds the budget to be adequate and reasonable for authorized purposes.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

- Section 1. The City Council finds and determines that the background statements A through C are true and correct.
- Section 2. The City Council hereby approves the proposed FY2009/10 Sutter BIA budget as detailed in Exhibit A of the resolution.
- Section 3. Exhibit A is part of this resolution.

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Exhibit A

Exhibit A

Sutter Business Improvement Area Annual Budget  
Fiscal Year 2009/10

|                                   | BIA                        | Total                      |
|-----------------------------------|----------------------------|----------------------------|
| <b>Revenues</b>                   |                            |                            |
| Business Tax Collections          | <u>\$150,000.00</u>        | <u>\$150,000.00</u>        |
| <b>Total Revenues</b>             | <u><u>\$150,000.00</u></u> | <u><u>\$150,000.00</u></u> |
| <b>Expenses</b>                   |                            |                            |
| Operating/Administrative Expenses |                            |                            |
| Administration                    | \$ 15,000.00               | \$ 15,000.00               |
| Maintenance                       | <u>\$ 15,000.00</u>        | <u>\$ 15,000.00</u>        |
|                                   | <u>\$ 30,000.00</u>        | <u>\$ 30,000.00</u>        |
| Advertising                       |                            |                            |
| Clean and Safe                    | <u>\$ 75,000.00</u>        | <u>\$ 75,000.00</u>        |
|                                   | <u>\$ 75,000.00</u>        | <u>\$ 75,000.00</u>        |
| Special Events                    |                            |                            |
| Marketing & Special Events        | <u>\$ 45,000.00</u>        | <u>\$ 45,000.00</u>        |
|                                   | <u>\$ 45,000.00</u>        | <u>\$ 45,000.00</u>        |
| <b>Total Expenses</b>             | <u><u>\$150,000.00</u></u> | <u><u>\$150,000.00</u></u> |