



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Ashleigh Kanat
Director, Economic and
Workforce Development
Department

SUBJECT: Oakland Tourism Business
Improvement District Modification

DATE: May 8, 2024

City Administrator Approval


Jestin Johnson (May 23, 2024 15:38 PDT)

Date: May 23, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Of Intention To Modify The Oakland Tourism Business Improvement District 2018 (OTBID 2018); Granting Preliminary Approval Of The Proposed Modified Oakland Tourism Business Improvement District 2018 Management Plan; And Scheduling A Public Hearing For July 2, 2024.

EXECUTIVE SUMMARY

The proposed Resolution of Intention would initiate the modification of the Oakland Tourism Business Improvement District 2018 (OTBID 2018) in the City of Oakland (City) and schedule a related public hearing for July 2nd to modify the term of the existing OTBID 2018 to end on July 31, 2024 rather than on July 31, 2025. This proposed modification to the OTBID 2018 would end the current term a year early, in order to replace and update the OTBID 2018 with a next generation renewed OTBID to begin on August 1, 2024 with a new progressive assessment model and increased funding. Renewing the OTBID a year early will allow Visit Oakland, the Owners Association for the OTBID 2018 to build on OTBID 2018 accomplishments, enhance their support of the tourism industry's post-pandemic recovery in Oakland, and enable improved marketing and sales services for assessed lodging businesses. The process to establish the next generation renewed OTBID to begin August 1, 2024 is scheduled to be completed at the June 4th City Council meeting with Council considering the approval of the Resolution to establish the OTBID and second reading of the ordinance to establish the BID. The proposed modification of the OTBID 2018 will terminate the current term on July 31, 2024 so that lodging businesses assessed under the current OTBID 2018 will not be subject to assessments for both OTBID 2018 and the renewed OTBID at the same time, but rather will end their existing OTBID 2018 assessments and services on July 31, 2024 in time to start their new assessment and services under the renewed OTBID on August 1, 2024.

City Council
June 4, 2024

The Property and Business Improvement District Law of 1994, Streets and Highways Code §36600 *et seq.*, allows for City Council to consider the modification of a BID and District Plan at the request of the Owners' Association. The OTBID Owners' Association, Visit Oakland, has provided a written request to the City Council (Council) to modify the term (Exhibit A to the Resolution). Therefore, to enable the OTBID 2018 to modify the existing BID term and assessment to end on July 31, 2024, City Council would need to adopt the proposed Resolution of Intention to modify the OTBID 2018 and schedule a related Public Hearing (no less than 10 days after notice thereof is given). If, at the close of the public hearing (currently proposed for July 2, 2024), no majority protest exists, the City Council would then consider whether to take final action to approve and adopt the proposed Resolution to Modify the BID.

The current OTBID term is a seven (7) year life, beginning April 1, 2018 and ending July 31, 2025. The proposed modified term is a six (6) year life, beginning April 1, 2018 and ending on July 31, 2024. The criteria for assessed lodging businesses under the OTBID 2018 and the proposed renewed OTBID are identical, so that all lodging businesses that currently pay an assessment for the OTBID 2018 will be subject to the new assessment under the renewed OTBID.

A list of affected businesses and the proposed service plan can be found in Appendix 2 and Section IV, respectively, of the proposed Modified OTBID 2018 Management District Plan (Exhibit B to the Resolution).

BACKGROUND / LEGISLATIVE HISTORY

Tourism Business Improvement Districts (TBIDs) are an evolution of the traditional Business Improvement District (BID). The first TBID was formed in West Hollywood, California, in 1989. Since then, over 100 California destinations have followed suit, resulting in California's TBIDs collectively generating over \$300 million per year for local destination marketing. In recent years, other U.S. cities and states have adopted—or are in process of adopting—their own TBID legislation based on the California model (e.g. Washington, Montana and Texas).

In California, Streets and Highways code section 36600 *et seq.* (Property and Business Improvement District Law of 1994) allows for TBIDs to be established undertaking a range of special benefit services, independent from government, to utilize the efficiencies of private sector operation in the market-based promotion of tourism districts and allow lodging business owners to organize their efforts to increase commerce. Lodging business owners within the OTBID pay an assessment and those funds are used to provide services that increase commerce.

In November 2008, a Resolution of Intention to form a citywide TBID was adopted by the City Council (Resolution No. 81641 C.M.S.); however, formation efforts were subsequently withdrawn due to the inclusion of Measure C on the local ballot. Measure C (which passed in July 2009 and became effective in January 2010) provided that one half of a three percent (3%) increment to the local Transient Occupancy Tax (TOT) could be used to fund Oakland Convention and Visitors Bureau (Visit Oakland) operations. In 2014, to leverage Measure C funds and keep pace with marketing initiatives in neighboring Bay Area jurisdictions, local hotel industry stakeholders revisited the effort to form a TBID. Pursuant to those efforts, the City

Council adopted [Resolution No. 85725 C.M.S.](#) on July 21, 2015 to form the OTBID for a period of three years beginning August 1, 2015, and ending July 31, 2018. The OTBID was then renewed by City Council on June 19, 2018, in [Resolution No. 87242 C.M.S.](#), for a seven (7) year term beginning August 1, 2018 and ending July 31, 2025.

Prior to 2015, Visit Oakland's only dedicated consistent funding was received from Measure C, with annual budget ranging from \$1.5 million to \$1.9 million. The first year of receiving BID assessments in Fiscal Year 2015-16, Visit Oakland received a combined \$3,985,992 of Measure C and OTBID 2015 funds (\$2,727,324 and \$1,258,668, respectively) to market Oakland to visitors and overnight guests. By 2017, tourism and overnight stays had increased with 3.7 million visitors to Oakland in 2017, and 41% or 1.5 million of those visitors staying overnight, representing a 20% increase since 2010. By 2019, Visit Oakland's TOT and BID annual revenue had increased to \$3,719,393 and \$1,563,638, respectively, allowing Visit Oakland to provide over \$5 million in marketing, sales and promotion services for Oakland tourism. However, in 2020, total revenue from the BID and TOT decreased Visit Oakland's budget by 56% in one year to \$2.3 million. From 2020 to 2023, both OTBID and TOT revenues slowly increased, but in 2023 annual revenue still remained at 75% of 2019 revenue levels. In addition, during this time, 5 hotels closed permanently or converted to transitional housing for unhoused residents, decreasing TOT and OTBID assessment revenues, as well as limiting future potential increases by removing lodging businesses from TOT and OTBID assessment rolls. Despite the decrease in revenues, in 2022, the OTBID services help attract 3.3 million visitors to Oakland and help drive direct visitor spending of \$590 million dollars annually. The Tourism Industry generated 5,377 jobs in Oakland, \$86 million in state and local taxes, and had a total economic impact of \$784 million dollars in Oakland.

As of April 15, 2024, petitions endorsed by affected businesses representing 84.7% of total proposed district assessments in favor of forming the renewed OTBID were received by the City. The submitted petitions far exceeded the minimum threshold of petitions representing more than 50% percent of the total value of assessments that would be imposed if the OTBID is established, and accordingly on April 16, 2024, the City Council adopted a related Resolution of Intention (Resolution No. 90191 C.M.S.) to form the proposed OTBID, scheduling a Public Meeting for May 7, 2024 (not less than 10 days after notice thereof is given) and a Public Hearing for June 4, 2024 (not less than 45 days after notice thereof is given).

As mentioned, should a majority protest exist at the close of the Public Hearing (scheduled for June 4, 2024), the renewed OTBID shall not be established and the assessment shall not be imposed. If, however, no majority protest exists, then City Council may consider whether to form the proposed district by adopting a resolution to form the District and by approving the second reading and adopting the ordinance to form the District, both of which will be presented at the conclusion of the Public Hearing at the June 4, 2024 City Council meeting.

[California Streets and Highways Code Division 18](#) (§36600 et seq., allows for City Council to consider the modification of a BID and/or District Plan at the request of the Owners' Association. Accordingly, on May 15, 2024, The OTBID 2018 Owners' Association, Visit Oakland, provided a written request to the City Council (Council) to modify the OTBID 2018 term (Exhibit A to the Resolution) to end July 31, 2024, and terminating assessment and related special benefit services on July 31, 2024, per the proposed Modified 2018 District Plan (Exhibit B to the

Resolution), as required by Streets and Highways Code § 36636. Therefore, the City Council may adopt the attached proposed Resolution of Intention and conduct a public hearing (not less than 10 days after notice thereof is given). Such notice will be mailed to each affected business owner upon adoption of the proposed Resolution of Intention.

Therefore, to enable the OTBID 2018 to modify the existing BID term and assessment to end on July 31, 2024, City Council would need to adopt the attached Resolution of Intention to modify the OTBID 2018 and schedule a related Public Hearing. The Public Hearing must take place no less than 10 days after the adoption of the attached Resolution of Intention to Modify. If, at the close of the public hearing (currently proposed for July 2, 2024), a majority protest exists, then the OTBID 2018 shall not be modified, and the OTBID 2018 assessment shall not be terminated on July 31, 2024. If, however, no majority protest exists, the City Council would then consider whether to take final action to approve and adopt the proposed Resolution to Modify the BID.

ANALYSIS AND POLICY ALTERNATIVES

The OTBID is one of 11 existing business- and property-based BIDs that collectively generate approximately \$6 million per year in property, business and tourism assessments that are utilized for enhanced services and activities (e.g., cleaning, private security, marketing, business attraction and retention) that proportionally benefit assessed business and property owners. Such special benefit services also enhance the overall economic development climate of affected commercial neighborhoods. As more mixed-use development occurs in Oakland commercial zones, residents have also begun to benefit from special benefit services provided by BID special assessment districts. As such the cumulative impact of BIDs continues to grow, making them an increasingly useful tool for supporting broader economic and community development efforts in Oakland's commercial neighborhoods.

The OTBID has played a key role in the growth of Oakland's tourism industry and increased awareness of Oakland as a tourist, meeting and event destination. To remain competitive with neighboring Bay Area Visitors and Convention Bureaus, to support the momentum of sales and marketing programs funded by OTBID assessments and continue programs driving recovery of the tourism industry post-COVID, local lodging industry stakeholders (as evidenced by the endorsed petitions described above) seek to form the proposed OTBID. If approved, the proposed renewed OTBID will generate approximately \$3,040,269 in the first full year of the new OTBID assessment. These revenues represent an increase of approximately 160% in OTBID assessments compared to the OTBID annual assessments of \$1,173,644 in 2023 with that increase largely/proportionally funded by assessed lodging businesses with higher annual revenues, since the new proposed OTBID assessment will be calculated as a percentage of gross annual revenues. Just as with OTBID 2018, the annual assessment income for the renewed OTBID will fluctuate as room sales do.

There is no anticipated adverse impact related to the adoption of the attached resolution; however, there would be a negative impact to the assessed lodging businesses and tourism-related industries if the proposed Resolution of Intention to Modify is not adopted and the

OTBID was not approved to end the current OTBID term and assessment on July 31, 2024. If the Resolution to Modify was not approved and the Resolution of Formation or Ordinance of Formation for the next generation OTBID were not approved, the current OTBID 2018 term would continue through July 31, 2025 with the current assessment rate, which provides 75% of the funding for the sales and marketing of local lodging businesses compared to 2019 OTBID assessment revenues. And if the Resolution to Modify the OTBID 2018 was not approved, and the establishment of the new OTBID via Resolution or Ordinance were approved, the lodging businesses assessed under the OTBID 2018 would also be assessed under the renewed OTBID, and thus subject to double assessment of \$1.50 per paid occupancy per night in addition to 2% of their gross short-term sleeping room rental revenue.

Given the limitations on municipal funding and a growing need to identify alternate economic development revenue sources, the proposed modification of the OTBID 2018 and establishment of the renewed OTBID represents a unique opportunity for the City to increase a viable, cost neutral funding source to increase key marketing services for the lodging sector of the local tourism industry.

Because OTBID renewal efforts are driven by district stakeholders themselves, and the proposed renewed district will be self-funded (by the proposed special assessment) and self-administered (by the OTBID Owner's Association), the proposal to renew the OTBID a year early also represents a productive step towards community self-empowerment as well as an increased opportunity to cultivate additional public-private investment partnerships and enhanced economic development activity in the City's downtown and neighborhood commercial corridors. Special benefit services to be provided by the proposed renewed district are intended to improve the marketing and sales of assessed lodging businesses and to stimulate ongoing economic development efforts consistent with City Council goals and objectives. Renewal of the OTBID BID would advance the citywide priority of housing, economic and cultural security.

FISCAL IMPACT

There is a positive fiscal impact from the approval of the Resolution of Intention to modify the OTBID 2018 and establish the renewed OTBID, increasing the payments from Visit Oakland of the 3% City cost recovery administrative fee from approximately \$46,260 to \$91,208 annually.

If the proposed modification of the OTBID 2018 and proposed establishment of the renewed OTBID is approved, the City's Revenue Management Bureau will collect the assessment (on a monthly, semi-annual or annual basis) in Miscellaneous Trusts Fund (7999), Revenue Administration Organization (08411), Pass Thru Assessments Account (24224), Oakland Tourism Business Improvement District Project (1001503), Financial Management Program (IP59), and remit the amount collected to Visit Oakland, less the three percent (3%) City cost recovery administrative fee. The three percent (3%) administrative fee is estimated to total approximately \$91,208 per year under the renewed OTBID assessment rate, and will be booked to General Purpose Fund (1010), Revenue Administration Organization (08411), Other Revenue: Administrative Fees Account (48726), Oakland Tourism Business Improvement District Project (1001503), Financial Management Program (IP59) and will be used primarily to offset the cost of staffing support from the City's Revenue Management Bureau and the

Economic and Workforce Development Department. This arrangement is pursuant to both the existing and proposed OTBID Management Plans and a written disbursement agreement to be executed between the City and Visit Oakland, the OTBID's designated Owners' Association.

There are costs of City staff time to provide technical assistance to the OTBID renewal effort and to ongoing administration of the citywide BID Program which is part of the City's adopted Budget supporting the BID Program. As the program continues to grow and the demand on City staff time continues to increase, additional resources or revenue offset from the BID agreements may need to be evaluated as part of the City's agreements with the BIDs and would also need to be included in future budget development processes.

PUBLIC OUTREACH / INTEREST

For the City Council to adopt the attached Resolution of Intention, enabling legislation does not require City staff to conduct public outreach other than the City Council meeting requirements. OTBID representatives performed outreach necessary to secure advisory board consensus sufficient to submit a written request from the OTBID Owners' Association to the City of Oakland (City) to modify the OTBID 2018 term (Exhibit A to the Resolution). In addition, District stakeholders, performed outreach necessary to secure the requisite number of petitions from over 50% of assessed lodging business owners to qualify for adoption of the Resolution of Intention to establish a renewed OTBID.

COORDINATION

The City Controller and Revenue Management Bureaus of the Finance Department, the Office of the City Attorney and the City Clerk's Office were consulted in the preparation of this report and its attachments.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed modification of the OTBID 2018 and establishment of the renewed OTBID will increase funding for activities aimed at increasing room sales of affected lodging businesses. Increased room sales and the increase in overnight visitors, in turn, support increased sales, and business tax revenues, as well as increased job opportunities and on-going economic development within the local lodging sector and in related industries/sectors such as restaurants, retail and entertainment businesses.

Environmental: No specific environmental opportunities were identified in the preparation or in the adoption of the proposed Resolution of Intention.

Race & Equity: The proposed modification of the OTBID 2018 and establishment of the renewed OTBID will continue to incorporate representatives of assessed lodging businesses throughout the City onto the board of the OTBID's Owner's Association (Visit Oakland).

Stakeholders themselves will continue to be responsible for administering district revenues which sustains community self-empowerment. In addition, the OTBID assessments will continue to contribute funding to marketing and special event activities that support enhanced community identity that not only attracts increased tourism but also provides benefits to priority neighborhoods which do not have BIDs of their own to support such marketing and special events activities.


Additionally, in 2022, the City entered into a contract with Urban Place Consulting (UPC) to provide organizational assistance to underserved commercial corridors to advance equity in BID formation. With direction from the City, UPC has been engaging groups of business owners and property owners in underserved commercial corridors throughout the City, providing education not just on BID formation, but on alternative means of formal organization, such as establishing nonprofit status or a merchant's organization, that can accomplish many goals of a commercial district while serving as interim steps to BID formation.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Of Intention To Modify The Oakland Tourism Business Improvement District 2018 (OTBID 2018); Granting Preliminary Approval Of The Proposed Modified Oakland Tourism Business Improvement District 2018 Management Plan; And Scheduling A Public Hearing For July 2, 2024.

For questions regarding this report, please contact Shifra de Benedictis-Kessner, Urban Economic Analyst, at 510-238-6230.

Respectfully submitted,


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