

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

SUBJECT: BUSINESS IMPROVEMENT DISTRICTS
POLICY NO.: 900-07
EFFECTIVE DATE: August 4, 2011

BACKGROUND:

Business Improvement Districts (BID's) are governmentally-designated geographic areas formed to permit businesses to assess themselves to improve business conditions in community commercial areas. They are formed by the City Council under the provisions of The Parking and Business Improvement Act law of 1989 (California Streets and Highways Code sections 36500-36551). The State legislature found that businesses located and operating within business districts are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts. The legislature further found that it is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent erosion of the business districts.

Oftentimes, voluntary merchant's associations serve as the catalyst to form a district. While effective, purely voluntary organizations often benefit all businesses but draw their resources from only a minority. BID's permit the costs of improvements to be spread equitably over all those who benefit.

BID's are not voluntary organizations; they should, however, have the strong support of the underlying membership. They require annual budgets, assessments, and hearings and generally have the same formation, administration, and dissolution criteria as other governmental assessment districts. The City collects the assessment, contracts with a business association to carry out the improvement program, and generally oversees the district operation. In its most successful form, however, the BID and its related association have a great deal of latitude in defining and carrying out their improvement programs with a minimum of bureaucratic intervention and related governmental overhead costs.

POLICY:

The following criteria shall apply to the operation of such BIDs:

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Establishment

Upon presentation of a petition signed by 20% of the eligible businesses within the proposed district, staff shall conduct a mailed ballot procedure of all eligible businesses. The procedure shall be held to determine whether majority support exists among eligible businesses, based on both the number and assessed value of the responding businesses. In the event that an assessed value and numerical majority of those responding support the formation, the City Council may proceed with a public hearing process.

The BID shall include business tax certificate holders within the boundaries established as part of the formation process and may include rental unit business tax certificate holders.

Home-based Businesses may be excluded.

Establishment shall be considered once annually prior to confirming the budget and levying the annual assessment for the following fiscal year.

Administration

The Council, as part of the annual confirmation of the various BID budgets, shall designate a business or merchant's association (the Association) within each BID to advise the Council on the district budget, assessments, and activities and to carry out the improvement program. Selection of the entity shall be based upon its involvement in small business affairs within the district, demonstrated track record, and representation of business.

The Association shall be a legally formed California non-profit corporation whose membership shall include all businesses within the BID holding current business tax certificates. The Association shall elect its board at an annual meeting of the membership called for that purpose and shall take affirmative measures to assure its board reflects the ethnic and business diversity of the community. The election may be accomplished through a mailed ballot prior to the annual meeting, during which the results of the mailed ballot election will be announced and confirmed. Notice of the meeting and ballots shall be provided to all eligible member businesses.

The City will contract with the Association for administration of the improvement program within its respective BID.

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Policy issues including assessment levels should be resolved through the board election process.

Proposed reductions in assessment levels and changes to eliminate address ranges from the BID boundaries shall be noticed to the BID membership. Any such proposed changes shall be approved by at least two-thirds of the Association board of directors prior to City Council consideration as part of the annual confirmation of the various BID budgets.

The City Treasurer shall collect the BID assessments as part of the business tax certificate process. Money collected shall first be applied against the BID assessments due, and any associated penalties, and then applied against the business taxes due.

Disbursement of Assessment Revenues

Following each month during which BID assessments are collected, the City will transfer the net cash available from all assessments collected by the City Treasurer during that month to the association to pay for the authorized activities of the improvement program. The association shall only use the assessment revenues for expenditures eligible under State law and in conformance with the BID budget.

Following the disbursement of assessments, the association will submit a report highlighting the BID-related activities of the association and accounting for any expenditure of the assessment revenues. The report shall include all supporting documentation necessary to verify the proper expenditure of the assessment revenues, as determined by the City. Failure to submit the report, including all necessary supporting documentation, shall be cause for the City to suspend any future transfers of assessment revenues to the association until the issue is fully resolved to the City's satisfaction in accordance with the provisions of the contract.

All requirements with respect to the transfer of assessment revenues to the association, and the reconciliation thereof, will be set forth in the contract between the City and the association that is approved by City Council. Such requirements will include: the City's deadline for transferring funds to the association; the association's deadline for submitting the monthly report to the City; the required contents of the monthly report, including an explanation of all required supporting documentation; and the procedures and consequences for the association's failure to submit a complete monthly report to the City in accordance with the provisions of the contract.

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B.I.D. Modifications

Proposed increases in assessment levels should be approved by at least two-thirds of the Association board of directors. Upon presentation to the City of the Association meeting minutes indicating support for the increase, City staff shall conduct a mailed ballot procedure of all affected businesses. The procedure shall be held to determine whether majority support exists among eligible businesses, based on both the number and assessed value of the responding businesses. In the event that an assessed value and numerical majority of those responding support the increase in the levels of assessment, the City Council may proceed with a public hearing process to amend the BID ordinance. The public hearing process will include a first class mailing to all businesses in the BID to inform them of the proposed change in the ordinance and the date(s) of the public hearing(s).

Proposed expansions of BID boundaries should be approved by 20% of eligible businesses which fall within the expansion areas. The petition should clearly indicate the proposed levels of assessment and the modified BID boundaries. Upon presentation of the petition to the City, staff shall conduct a mailed ballot procedure of all eligible businesses within the expansion areas. The procedure shall be held to determine whether majority support exists among eligible businesses, based on both the number and assessed value of the responding businesses. In the event that an assessed value and numerical majority of those responding support the expansion of the BID boundaries, the City Council may proceed with a public hearing process to amend the BID ordinance. The public hearing process will include a first class mailing to all businesses in the existing and expansion areas of the BID to inform them of the proposed change in the ordinance and the date(s) of the public hearing(s).

If an expansion of BID boundaries and an increase in assessments for existing business is proposed then both processes above must occur but the noticing by first class mail to all businesses may be combined.

In the event that the mailed ballot procedure does not indicate sufficient support to move forward with a public hearing process for increasing the levels of assessment and/or expanding the BID boundaries, then the existing BID ordinance will remain in effect.

Disestablishment

The Council will consider disestablishment where strong support for such action is indicated by one or more of the following:

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Upon presentation of a petition signed by 20% of the eligible businesses within the district, staff shall conduct a mailed election of all eligible businesses. The election shall be held to determine whether 50% of eligible businesses by assessed value support district disestablishment. In the event that 50% or more of the total number of eligible businesses by assessed value do not vote to support disestablishment, further proceedings shall cease and the district shall not be disestablished. Non-responses to the election shall not be deemed as supporting disestablishment. The Council will consider only one disestablishment by petition process per district for disestablishment in any three-year period.

A resolution by at least four-fifths of the total number of directors of the association. In this event, the Council may proceed to disestablish the district or take any other appropriate action including district continuance.

Special circumstances as determined by the Council.

In the event of disestablishment, the Council shall allow for an appropriate period to permit for a reasonable wind down of operations and to assure that existing contracts are not impaired. Any remaining assets shall be returned to those businesses of record which were current in their BID assessments at the effective date of the disestablishment ordinance. If the costs to return the remaining assets are greater than the amount of the assets, then the assets shall be spent on an eligible BID activity as determined by the City Manager.

Implementation

The City Manager shall establish the necessary administrative procedures to implement this policy.

HISTORY:

“Formation of Business Improvement Districts”
adopted by Resolution R-265208 - 03/10/1986
Retitled to “Business Improvement Districts” and
amended by Resolution R-279400 - 02/10/1992
Amended by Resolution R-290890 - 10/19/1998
Amended by Resolution R-295443 - 09/10/2001
Amended by Resolution R-306965 - 08/04/2011