

CITY OF LOS ANGELES
Business Improvement Districts
Policy and Implementation Guidelines

Introduction

The process of establishing a Business Improvement District is, first and foremost, a process which must originate from and be developed by the business or commercial property-owner community itself. The City will provide various types of administrative assistance in order to support the development effort and will monitor the progress of an established district. However, the City will not initiate or impose the development process; the motivation and request for district establishment must be generated by the commercial/business community. This does not exclude public information campaigns relative to Business Improvement Districts. Establishing and operating a Business Improvement District involves an assessment which is levied by the City only after significant support from the commercial stakeholders is demonstrated. This assessment then goes not to the City but directly back to the individual Business Improvement District properties to support the agreed upon programs. A district will derive much of its success directly from the efforts of its members, each of whom may help to decide what types and costs of projects/services, and the amount of assessment each member in the district will pay to support the projects. The commercial stakeholders, working with a Consultant, help to develop a management district plan and direct the preparation of an Engineer's report that separates the special benefit portion of the assessment from the general benefit portion. A Business Improvement District is truly a commercial community driven entity.

This policy seeks to establish guidelines for commercial areas interested in establishing a Business Improvement District in the City of Los Angeles. The policy is a result of experience both within the City, as well as from the thousands of Business Improvement Districts already in operation throughout the U.S. In this context, the policy supports business and property owners who want to take the lead in an effort to establish a Business Improvement District.

The City of Los Angeles recognizes the importance of fostering public-private partnerships to restore and maintain the health and vitality of Los Angeles' neighborhood commercial/business districts. The City will actively assist groups

interested in establishing Business Improvement Districts by providing City staff and feasibility study/establishment funding resources to guide groups through the process. The purpose of this policy is to provide guidelines to establish and administer Business Improvement Districts within the City. The City recognizes the economic development benefits of established Business Improvement Districts, as well as the unique and varied needs of the neighborhood business districts throughout the City of Los Angeles.

The Neighborhood and Business Improvement Division will serve as the central coordinating office to maintain the Business Improvement District Program and guide proposed and renewing Business Improvement Districts through the City process. The Neighborhood and Business Improvement Division will develop and publish materials that explain Business Improvement District establishment to the communities (This does not preclude the hire of a contractor to prepare materials and release public information on Business Improvement Districts). These materials can be distributed by the Consultants. The Business Improvement District proponents should direct their questions to the Neighborhood and Business Improvement Division at (213) 978-1099. The Neighborhood and Business Improvement Division will work closely with the Council and City Attorney's Offices to ensure a BID's success. In addition, the Economic and Workforce Development Department, as well as LA's Business Team within the Mayor's Office of Economic Development, will serve to assist with the City's marketing arm for Business Improvement Districts and assist communities with pre-BID activities.

What is a Business Improvement District?

A Business Improvement District is a geographically defined area in which businesses or property owners have requested that the City assess them for additional services designed to improve the business climate of the area. The Business Improvement District and the assessment are created under one of two State laws:

1. The Parking and Business Improvement Act Law of 1989 allows business owners to assess themselves; or
2. The Property and Business Improvement Law of 1994 allows owners of real property within a defined area to assess themselves (both of the State laws could be utilized to assess both business and property owners within a defined area.

Property and/or business owners within the defined area receive special services designed to improve the business climate of the area.

The level and types of services are determined by the Business Improvement District. Services may include, but are not limited to:

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- Parking facilities
- Benches, booths, kiosks, display cases, pedestrian shelters, and signs
- Trash receptacles and public restrooms
- Lighting and heating facilities
- Decorations
- Parks
- Fountains
- Planting areas
- Closing, opening, widening, or narrowing of existing streets
- Facilities or equipment, or both, to enhance security of persons and property within the area
- Ramps, sidewalks, plazas, and pedestrian malls
- Rehabilitation or removal of existing structures
- Economic Development/Marketing activities.

The goals of a Business Improvement District include, but are not limited to:

- Increase pedestrian traffic (improve commerce) for business
- Increase building occupancies and commercial lease rates
- Improve economic vitality of a commercial area
- Encourage new business development and attract ancillary businesses for assessed parcels in the district
- Improve safety of individual assessed parcels.

These benefits are realized through the variety of services (e.g., clean and safe) provided, as well as guidance and support from the City.

Establishing a Business Improvement District

The Neighborhood and Business Improvement Division will make available materials explaining what a Business Improvement District is, the difference between a business/tenant based and property-owner based Business Improvement District, as well as the advantages and disadvantages of each. These materials are considered background materials to assist BID proponents with the first steps of organizing a Business Improvement District.

Role of the BID proponents - The stakeholders or supporting proponents of the Business Improvement District must be representative of those persons who will be assessed if/when a Business Improvement District is established and they must be prepared to take an active role in the development of the Business Improvement District. The City requires that the proponent group be a recognized entity within the business community that can enter into contracts with the City or in the process of becoming an entity that can enter into contracts with the City. The proponents must lead the Business Improvement District effort and provide guidance and leadership

within the commercial area to ensure the highest probability for success of the Business Improvement District. The organization should establish a "core group" or Advisory Committee that can work with the City to actively develop the Business Improvement District. As a part of this process, the proponent group will work with the Neighborhood and Business Improvement Division to encourage all business owners to obtain a business license.

Generating Community Support - The proponents of a Business Improvement District must initially demonstrate that the businesses (if merchant-based) and/or property owners (if property-based) have an interest in the formation of a Business Improvement District. The City highly recommends this "grass roots" involvement of business and/or property owners, as it has proven to be essential to the establishment and success of a Business Improvement District. In addition, the City will not grant seed capital until adequate community support has been documented. Community support could include:

1. An informal petition signed by a significant number of the affected potential stakeholders in the commercial area;
2. Research completed which proves these stakeholders understand the way a Business Improvement District works and how it affects that commercial area; and/or
3. A core advisory group (Business Improvement District proponents) which will take the lead on planning and formation of the Business Improvement District (BID staff attendance at a meeting).

Establishment of realistic time lines regarding the formation of a Business Improvement District is strongly recommended. Generating community support, documenting the necessary support, and developing a management plan, as well as collecting the funds, all take a substantial amount of time. Communities should not expect to see success overnight. Realistic expectations as to the benchmarks for success will contribute to the overall success of the Business Improvement District. On average, the time frame for establishing a Business Improvement District is 18 months. The process can take a longer period. An internal review of the proposed Business Improvement District's feasibility will be conducted 24 months after the consultant contract execution. If the proposed Business Improvement District is deemed not feasible, the remaining funds may be disencumbered.

The Neighborhood and Business Improvement Division will provide a mechanism for evaluating stakeholder support in the commercial area for each Business Improvement District to ensure the investment of seed capital is responsibly granted to communities with a high chance of success in their BID efforts.

Funding for Consultants - City funding is available to hire a consultant to assist with the development of a Business Improvement District, as long as the City has funds available for this assistance. The consultant's role is to work with the Business Improvement District proponents, document community support, develop a

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management district plan and provide an Engineer's report for the Business Improvement District. The consultant should also prepare time lines and after consultation with the Neighborhood and Business Improvement Division, provide the community a realistic idea of how long it will take to establish the Business Improvement District, assist proponents with the petition drive, assist proponents with establishment of a nonprofit organization.

The amount of seed capital granted will depend on the scale, size and complexity of the proposed Business Improvement District. The request for seed capital should not exceed \$40,000 in grant funds from the BID Trust Fund No. 659. Typical requests range from \$20,000 - \$40,000 in matching funds as funds are available in the BID Trust Fund. The Council may provide up to \$80,000 from other funding sources. The Neighborhood and Business Improvement Division will work with the Business Improvement District proponents to establish a realistic budget for seed capital and recommend to the City Council when funds should be allocated. Seed capital will be allocated based on the merits of the grant proposal. Merit will be determined by demonstrated stakeholder interests and could include documentation of education/informational meetings attended by the majority of business/property owners, submission of an informal petition, etc. The seed capital amount can have two components: a *Non-Repayable or Grant Portion* and a *Loan Portion*. The request for seed capital should not exceed \$40,000 for Tenant/business-based or merchant-based Business Improvement Districts.

Non-Repayable or Grant Portion- The City's experience has shown most of the funding for Business Improvement District formation is used to conduct feasibility analysis. A maximum grant of \$40,000 may be provided for this initial study and a review is conducted to ensure that the amount requested is appropriate. A match of up to 50%, and no less than 25% of the requested amount is required for all new proposed Business Improvement Districts. This match can combine a cash and documented in-kind contributions; the percentage required will be determined on a case-by-case basis. Examples of in-kind contributions include printing, office space, staff time, etc. This has proved to be an adequate incentive for business communities to establish Business Improvement Districts and at the same time provides a means to demonstrate their level of interest in seeing the process through to its fruition.

Loan Portion - The balance of the seed funding amount, up to a maximum of \$40,000, may be provided as a zero-interest loan repayable in annual increments over five years as funding availability permits. This loan portion is provided only if feasibility is established and is paid incrementally based on a proposal submitted by the consultant or Business Improvement District. The loan is not intended to be prohibitive but ensures that a level of interest and seriousness is maintained in establishing the BID; and gives the City confidence that its investment in the potential Business Improvement District is maximized.

Selecting a Consultant - The Neighborhood and Business Improvement Division will release a Request For Proposals from the list of qualified consultants and compile a list of potential consultants for the Advisory Committee (comprised of Business Improvement District proponents, Special Assessment staff and Council Office representative) to contact. The Advisory Committee will work with the City and together, interview a minimum of three consultants. If a Business Improvement District proponent group is not requesting seed capital from the City, the City does not have to be involved with the selection of a consultant. Consultants interested in being on the City's list should submit his/her qualifications to the Neighborhood and Business Improvement Division upon the release of a Request For Qualifications. A Request For Qualifications should be completed every five years. The City will be looking for consultants who have successfully demonstrated the capability to guide a community through the Business Improvement District establishment process, from planning through implementation.

The City, when using the BID Trust Fund and matching funds from the proponents, will contract with a consultant for the Business Improvement District establishment process. If the City enters into a contract with a consultant, the contract will require sign-offs from the Advisory committee or community Business Improvement District proponents. The contract will require all funds to be used only to compile and submit a current database of stakeholders, implement and complete the required petition process, formulate a management district plan, work with an Engineer to devise an assessment formula and Engineer's Report; communicate and meet with the business/property owners, and prepare and assist with the submittal of the formal Business Improvement District documents (Petition and Reports) to the City Council. The cost of the Engineer's report required by Proposition 218, for Property-based Business Improvement Districts, is also an allowable cost to the consultant contract. A BID proponent group may fully pay for and contract with a consultant of their own choosing without going through the RFP process. However, that consultant will be required to complete all of the steps required in the feasibility study/BID establishment process, as well as submit a Management District Plan Report and Engineer's Report that meet all State law, Proposition 218 and City requirements, as applicable.

Assessments - State law requires that the assessment formula should be fair and equitable, based on the unique service needs and character of the community. The assessments for each business and/or property must be based on special benefits received from the services provided. The management district plan should be written by the consultant in sufficient detail to allow business/property owners to understand what services and activities will be funded. The assessment formula must be stated in terms that will allow the individual business/property owners to determine how much they will be assessed. The consultant must ensure that the Engineer provides a report which separates the general from the special benefits. The Neighborhood and Business Improvement District Division will make available copies of management district plans and Engineer's reports consistent with the Public Records Act. It is recommended that the Business Improvement District Advisory Committee and its consultant work with the

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Neighborhood and Business Improvement District Division throughout this process. The Neighborhood and Business Improvement District Division will review proposed work and give feedback to the prospective Business Improvement District and its consultant before the petition process is initiated and the reports are submitted for consideration by the City Council. The Neighborhood and Business Improvement District Division will work with the consultant and the community proponents group to determine the appropriate assessment for publicly owned/leased properties. The consultant will ensure that the Engineer follows the requirements of Proposition 218 by designating the special benefits to be received by the assessed parcels and separating the general benefits from the special benefits. After the Neighborhood and Business Improvement Division ensures that the management district plan and Engineer's report complies with applicable law and policies, the consultant and BID proponent group will be allowed to circulate petitions to support the establishment/renewal of the District. State law requires the submission of petitions representing 50% of the weighted assessments for the proposed or renewed Business Improvement District. After the requisite petition level is reached, the Neighborhood and Business Improvement Division will submit a report, management district plan, Engineer's report and Ordinance to the Council for its consideration.

City Council Adoption of the Business Improvement District

The Council process of Business Improvement District submissions, protests, and ordinances shall be consistent with California Streets and Highways Code Section 36520 and 36620-36630 inclusive. Both property- and business owner based-Business Improvement Districts are subject to these processes.

The Business Improvement District proponents are responsible for submitting the following items to the City Council in order to establish a Business Improvement District:

- List of recommended individuals who will serve on the Advisory Board;
- A description of the Business Improvement District boundaries;
- The management district plan including an assessment schedule, a budget, and a description of services and programs to be funded,
- An Engineer's Report which includes, but not limited to, the separation and quantification of special and general benefits for the properties pursuant to the California Streets and Highways Code and Proposition 218; and
- A petition signed by the business owners for tenant-based Business Improvement Districts, or property owners for property-based Business Improvement Districts.

Proponent groups working to establish Property-Based Business Improvement Districts are responsible for the cost of reproducing the management district plan and Engineers report or their summary, labels and the cost of mailing the ballots.

Once the Business Improvement District proponents submit the aforementioned materials, a preliminary hearing will be held before the City Council's Economic Development Committee or appropriate City Council Committee. The Neighborhood and Business Improvement Division will prepare the necessary report, including the draft Ordinance of Intention and Notice to be mailed to all impacted businesses or property owners. The Committee, once it approves the proposed Business Improvement District, will submit the Neighborhood and Business Improvement Division report to the full Council for the required hearings. The first hearing will be for the adoption of the Ordinance of Intention to levy the Business Improvement District assessment and to approve the Advisory Board or nonprofit organization to manage the business improvement district and a management district plan and Engineer's report. The Advisory Board will serve as an oversight committee, reporting annually to Council that the service provider is providing services efficiently and in accord with the specifications of the management district plan. The Advisory Board also provides annual reports as set forth in California Street and Highways Code Section 36533 and 36633 and the subsequent administrative contract.

The public meeting required by State Government Code Section 54954.6 can be combined with the hearing for the Ordinance of Intention. The second hearing will be for adoption of the Assessment Ordinance (Ordinance of Establishment), which also legally establishes the Business Improvement District. The Neighborhood and Business Improvement Division will mail the required notices to all business or property owners that are to be assessed which announce the date and time of the two hearings for the business-based district or the one hearing for property-based district. The notice includes a copy of the Ordinance of Intention and a summary of the management district plan.

At the second hearing, the City Council will consider the written protests that have been submitted by the impacted community before adopting the Assessment Ordinance. If protests exceed more than 50% of the value to be assessed, no further proceedings can be undertaken for one year from the finding of the 50% protest.

The City Council can proceed with the Business Improvement District if the protest is less than 50%. However, Business Improvement District proponents are cautioned that they should not expect a favorable vote from the City Council with a significant number of protests.

Operation of the BUSINESS IMPROVEMENT DISTRICT

Once a Business Improvement District is formally established, the Advisory Board must designate a "service provider" to contract with the City and provide services. The City will only enter into a contract with a legally formed California non-profit organization. The City reserves the right to conduct audits of the Business Improvement Districts from time to time.

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Business Improvement District assessments will be collected from business owners by the Neighborhood and Business Improvement Division and from property owners by the County of Los Angeles. Funding permitting, the City Council may advance funds for the first quarter of a new district so that the district can commence work prior to the collection of the assessments. The funds advanced will not exceed one quarter of the total assessment. The advanced funds will then be deducted from the first year's disbursement. In the instance of a business/tenant-based Business Improvement District, if a business is not in the district for the entire fiscal or operating year of the district, the business will pay the assessment in accord with the Annual Report specifications for that Business Improvement District. The Business Improvement District may choose to assess a portion or none of the assessment for the first year. Any funds remaining at the end of a fiscal year can be spent at the discretion of the Advisory Board of the Board of the Business Improvement District, subject to approval by the Neighborhood and Business Improvement Division via submission of its Annual Report and subsequent approval by the City Council.

Renewals

A property-based Business Improvement District has a fixed life/term. The initial life of a property-based Business Improvement District is for a period of up to five years. It may renew for a period of to 10 years. The Ordinance of Establishment provides the authority to levy the annual Business Improvement District assessment for the life or term of the Business Improvement District. A tenant/merchant-based Business Improvement District is different. Once established by the City Council, a tenant based Business Improvement District remains established until disestablished by a formal City Council action. However, the annual assessment on the tenants must be approved by the City Council after reviewing the Annual Report from the Business Improvement District on the planned use of the assessment funds during the upcoming year; this is known as the "renewal" or "reconfirmation" of assessments process. This annual procedure for funding authority requires the Advisory Board of tenant/merchant-based Business Improvement Districts to initiate the renewal process well in advance of the start of each operating year to ensure that there will not be a break in funding.

Proposition 218 and Property Based Business Improvement Districts

Procedures regarding voting requirements for property based Business Improvement Districts, as mandated by Article XIII (D) of the California Constitution (Proposition 218), will be implemented by the Neighborhood and Business Improvement Division. Property-based Business Improvement Districts cannot go forward if the City receives a majority protest vote of those property owners who have returned their ballot on the issue of levying an assessment. This is an additional requirement to the Business Improvement District formation process. Proposition 218 requires that a certified

Engineer's report be completed and included as part of the assessment methodology. The cost of the Engineer's report shall be borne by the proponent group and/or consultant.

Improvements on City Property

If a Business Improvement District makes physical improvements to City property it must provide insurance to assure no City liability, must bond the improvements work and must submit an estimated cost of maintaining the improvements with the annual proposed budget. The Council may require the improvements to be removed using remaining BID funds if a district is disestablished. NOTE: Ongoing discussion may eliminate liability of sidewalk repairs to the business improvement districts.

Reimbursement of City Funds

The City will partially recover the direct costs related to the billing, collection, accounting, and financial transactions of the Business Improvement District. Direct costs also include salaries, expenses, equipment and any cost charged to the City by Los Angeles County. The City will provide for each Business Improvement District a realistic estimate of these costs in advance of billing. The cost of collection of delinquencies will be borne by the penalty assessed for late payments. The partial recovery of direct costs is deemed sufficient inasmuch as the additional receipts would reduce the business improvement district services provided by assessment funds. The portion of salaries provided by the General Fund may be considered a portion of the general benefits born for the business improvement districts. The amount to be recovered is based on projected total assessments in the following chart:

<u>Annual Total Assessments</u>	<u>Recovery Percentage</u>
Up to \$100,000	5%
\$100,001 - \$500,000	3%
\$500,001 - \$2,000,000	2%
\$2,000,001 and above	1%

*An additional one percent (1%) for processing of billing will be added for business/merchant-based business improvement districts, property-based business improvement districts and any other district for which the City/Neighborhood and Business Improvement District Division prepares the invoices and collects assessments.

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Disestablishment

A Business Improvement District may be disestablished if:

1. Misappropriation of funds, malfeasance, or a violation of law in connection with the management of the Business Improvement District;
2. Majority Protest; and/or
3. In the instance of a tenant/merchant-based Business Improvement District, disestablishment for any reason upon the action of the City Council to adopt the Ordinance;
4. Failure of a merchant-based Business Improvement District to reconfirm the assessments for 3 consecutive years will initiate a disestablishment report for Council's consideration.

If there are funds remaining at the end of a fiscal year and the district is disestablished, the remaining funds shall be used first to pay any outstanding City costs and debt owed by the Business Improvement District. The remainder, if any, shall be returned on a pro-rata basis to the business/property owners which are still within the former district's boundaries. The Neighborhood and Business Improvement Division shall be responsible for monitoring the above noted disestablishment criteria and shall propose a disestablishment process to the City Council when deemed appropriate. This proposal shall be reviewed by the City Attorney prior to refunding any remaining district funds.

NOTE: The requirements listed in this policy are intended as a brief summary and are not all inclusive of the laws governing Business Improvement Districts. The California Streets and Highways Code, Government Code, Proposition 218 and Proposition 26 are more comprehensive as it relates to the establishment of Business Improvement Districts.