Business Improvement Districts

A *Guide to Establishing a BID in Massachusetts*

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TABLE OF CONTENTS

Introduction 1

What is a Business Improvement District (BID)? 2

What activities or improvements can a BID undertake? 3

How is a BID financed? 4

How is a BID managed? 6

What is the required process for implementing a BID in Massachusetts? . . . 7

How is an established bid altered or dissolved? 10

Appendix A. Business Improvement District Legislation 12
(MGL Ch. 40 O)

Appendix B. Municipal approval process for implementing a BID 19

INTRODUCTION

This guide has been prepared by staff of the Department of Housing and Community Development to help communities interested in organizing and implementing a Business Improvement District (BID) in Massachusetts.

According to the International Downtown Association, a non-profit organization dedicated to downtown revitalization and a national clearinghouse of BID information, in 1994 Massachusetts joined over 40 other states when it passed legislation enabling the local formation of BIDs. Hundreds of BIDs are currently operating in the United States.

A BID is a downtown management strategy and financing tool that allows commercial districts to develop, fund, and administer programs and services targeted solely within the district. The key to their success is the participation by the private sector businesses and property owners who recognize the benefit of a private sector solution to downtown management and improvement. Downtown property owners within the district add an assessment to their existing real estate property tax to fund the additional services and programs that they have designed and the BID will implement to improve the business climate. The municipality provides its power to raise and collect revenues to operate the BID, thus making the BID a true public-private partnership.

Downtown property owners initiate BIDs for various reasons. Often the impetus is the loss of a major retailer or several storefront vacancies. Other catalysts include the impending arrival of large discount department stores on the outskirts of town or a progressive local administration seeking to revitalize the community center, stabilize the property tax base, and boost civic pride.

This guide defines a Business Improvement District and outlines the improvements and services a BID is specifically enabled to undertake under Massachusetts law. It also describes the finance mechanism and range of fee structures a BID can employ. The steps a BID must go through to gain municipal approval and commence operations are outlined in the text. A chart in the Appendix defines each phase of the approval process and the time required for municipal action. Although no existing BID is known to have been dissolved, the process for dissolving a BID is also included.

WHAT IS A BUSINESS IMPROVEMENT DISTRICT (BID)

A Business Improvement District (BID) is a method used to finance and manage commercial area improvements in designated districts in order to restore or promote business activity. The BID is a specifically designed geographic district established to provide additional and supplemental services such as business retention and recruitment, professional management, marketing, improved maintenance, enhanced safety and security, and physical improvements to the streetscapes of the district. The BID is financed by property owners within the district who agree to an additional assessment to their real estate property taxes, which is then exclusively dedicated for improvements that will benefit the entire district. The municipality collects the assessed funds and provides them to the BID, which directs them to enhanced or additional services which are not traditionally offered by the municipality. The funds from a BID are used only to supplement municipal services and are not permitted to replace those existing services.

There are three primary advantages of a BID. The first is the ability to provide additional and enhanced services that improve the business environment. The second advantage is the capability of professional management of retail and commercial services, much like those offered in a mall, that enhance the district and strengthen a municipality's economic capacity. The third primary advantage is the predictable and reliable source of funding that a BID offers. In short, BIDs allow for the organized and professional implementation of competitive business practices and services developed and maintained cooperatively at the local level.

In Massachusetts, a BID can be formed in any geographical area in which at least 75% of the land is zoned or used for commercial, retail, industrial or mixed uses. The BID concept of private assessment for common improvements is not unlike a betterment district where property owners pay for specific utility benefits. It has also been compared to the common charges assessed to all shopping mall tenants which are used for maintenance, security, and promotions. A BID can provide all of these services to compete more equitably with shopping malls.

WHAT ACTIVITIES AND IMPROVEMENTS CAN A BID UNDERTAKE?

The legislation enabling the formation of BIDs in Massachusetts can be found in the Massachusetts General Laws Chapter 40 O (See Appendix A). Throughout the country, BID activities fall into the following general activities:

1) District Management Services - A BID provides funding for and requires a management entity to develop and implement the commercial area improvements based on individual districts needs.

2) Maintenance and Security - These must be supplemental services beyond the level which a municipality provides in the areas of street cleaning, snow removal, landscaping and security.

3) Business Services - BIDs commonly undertake business recruitment practices including compiling district data on vacancies, available space and its characteristics, commissioning market analyses, consumer surveys, and providing storefront design, merchandising, and business development assistance.

4) Promotion and Marketing Services - Typical of many BID programs are common advertising, district promotions and special events not normally provided by a municipality.

5) Physical Improvements and property management - BIDs are sometimes formed specifically to finance downtown public improvements and operate properties such as parking facilities.

The Massachusetts legislation broadly provides the rights and powers of a BID approved by a municipal governing body (town or city council or town board of selectmen) including the following:

1. Retaining or recruiting business
2. Administering and managing central and neighborhood business districts
3. Promoting economic development
4. Managing parking

5. Designing, engineering, constructing, maintaining or operating buildings, facilities, urban streetscapes or infrastructures to further economic development and public purposes
6. Conducting historic preservation activities
7. Leasing, owning, acquiring, or optioning real property
8. Supplementing maintenance, security or sanitation
9. Planning and designing services
10. Formulating a fee structure
11. Accumulating interest
12. Incurring costs or indebtedness
13. Entering into contracts
14. Suing and being sued
15. Employing legal and accounting services
16. Undertaking planning, feasibility and market analyses
17. Developing common marketing and promotional activities
18. Supporting public art and human and environmental services as related to the enhancement of the business district
19. Conducting other supplemental services or programs that would further the purposes of this chapter (MGL Ch. 40 O)

The flexibility of a BID allows each district to develop its own improvement plan based on its own needs. One community may initiate a BID solely to provide supplemental maintenance and security. A small downtown may determine that a BID is an appropriate replacement for a volunteer effort to raise funds for the replacement of holiday decorations or the sponsorship of promotional events. Another may form a BID to develop and manage a parking facility.

HOW IS A BID FINANCED?

All property owners within the BID are assessed a fee in addition to their real property taxes to fund the supplemental services and programs. The collector-treasurer of the municipality collects the fee and distributes it to the management entity designated by the BID. The amount of the fee is established by each BID but annually cannot exceed one-half of one percent (.005) of the total assessed value of the real property owned by participating members in the district. For example, for every $5 million in assessed valuation of participating property owners within the district, the BID can generate a maximum of $25,000. However through its improvement plan, the BID has the option to limit or cap this maximum annual fee derived from

individual properties or the total annual revenue generated by the BID. The municipality may exempt 1) owner-occupied residential, 2) agricultural, or 3) tax exempt properties from the BID fee.

The basis of the fee is determined by a formula using any one or a combination of the following:

1) assessed valuation
2) different levels for varying classifications of real property
3) benefit zones
4) square footage
5) street frontage
6) any other formula which meets the objectives of the BID

There are a number of considerations for a BID when deciding on a fee structure. The total revenue generated by the BID fee is driven by the improvement plan outlining the supplemental services and programs to be undertaken by the BID. By developing a general idea of the district needs and their costs, BID supporters can prepare a budget to fund the programs to meet those needs. An initial cursory analysis of the revenue potential for a BID can be done by computing the assessed valuation of the entire proposed district and determining the maximum amount that could be assessed. Communities may want to undertake that exercise to determine roughly if a BID would generate sufficient revenue to begin to meet district needs.

The fee structure should meet the BID's objective and satisfy district property owners. Basing the fee solely on assessed valuation is the simplest and, perhaps, easiest structure for property owners to understand. Larger property owners have a larger assessed valuation which is a built-in mechanism to correspond to the presumably greater benefit the larger property would receive from the BID services and programs. (A larger property has a larger sidewalk to clean, etc.) A fee structure that includes as assessment for square footage or front footage is also a method that property owners can calculate for themselves and relate to the benefits provided. For example, existing BIDs throughout the country have assessments that generally range from $.05 to $.15 per square foot with larger urban BIDs closer to the $.25 range. This cost can be favorably compared with nearby shopping mall assessments for ease of relating costs to benefits. Property owners typically pass the assessment costs through the lease to their tenants. If the BID is being formed solely to develop and manage a parking facility, then the BID supporters may want to develop a

fee structure that equitably considers the level of benefit with those properties nearest to the structure and more densely benefiting from the improvements paying a higher assessment. Again, the fee structure will depend on the needs of the district and the particular objectives of the BID.

The International Downtown Association reports that small communities with populations ranging from up to 25,000 have budgets ranging from $25,000 to $100,000. Cities of up to 80,000 people have average budgets of $100,000 to $125,000 with large urban budgets reaching into the millions.

The collector-treasurer of the municipality collects the district fees and distributes them together with any earned interest to the management entity designated by the BID within thirty days of collection. Any fees unpaid thirty days after billing become a lien on the property after being recorded in the appropriate registry to the BID management entity. The funds must be used solely to fund the items identified and approved in the management plan.

In addition to receiving funds generated by the district fee, the BID is also authorized to receive grants, donations and gifts. In Massachusetts, a BID is specifically permitted to incur debt, or borrow funds to implement approved improvements.

HOW IS A BID MANAGED?

A BID is managed by a Board of Directors who may act as the "management entity" required by statute, or who may designate a separate management entity to receive the funds and implement the district improvement plan. It is not uncommon for existing downtown organizations or Community Development Corporations to act as management entities for BIDs. The local municipal governing body may establish rules and regulations governing the BID Board of Directors. The Massachusetts enabling legislation does not require specific Board composition, but typically BIDs ensure representation from property owners, retailers, residents, and corporations on their Board of Directors. Many BIDs include municipal officials or their appointees as voting or ex-officio members in order to strengthen communication and cooperation between the municipality and the BID. The number of Board members varies depending on the size of the district, but generally ranges in the teens, with the exception of very large urban districts which tend to have larger Boards. Some Boards are elected by the general district membership with a number of automatic seats for designated officials such as the Economic Development

Director or specific positions like a university or hospital president. While the Massachusetts enabling legislation leaves the composition and regulations of the BID Board of Directors up to the municipality without specific guidance, it is essential to keep in mind that in addition to the guaranteed revenue that a BID provides, its ability to bring committed business and community leaders to the table to assume responsibility for the economic development of the downtown is one of its greatest assets.

WHAT IS THE REQUIRED PROCESS FOR IMPLEMENTING A BID IN MASSACHUSETTS?

The legal process for establishing a BID in Massachusetts is outlined in MGL Chapter 40 O. BID supporters must allow over four and one-half months to obtain municipal approval in addition to the requisite consensus building, marketing of the BID to property owners, developing an improvements plan to address district needs, and establishing or identifying a management entity to implement the plan. Establishing a BID typically requires 15 to 24 months from the planning stage through municipal approval.

There are basically four components of the municipal approval process:

1) Petition
2) Public Notification and Public Hearing
3) Declaration of BID by municipal governing body and commencement of BID activities
4) "Opting-out" period

1) <u>Petition</u>

The statute requires that those property owners supporting a BID petition the local municipal governing body. The petition must contain the signatures of the owners of at least 60% of the real property and of at lest 51% of the assessed valuation of the real property within the proposed BID. The petition must also contain the following:

1) a description and site map delineating the boundaries of the BID
2) the proposed improvements plan which details the supplemental services and programs, revitalization strategy, update mechanisms, budget, and fee structure

3) the identity and location of the BID management entity
4) the criteria for waiving the fee for any property owner within a BID who can provide evidence that the imposition of such fee would create a significant financial hardship (these hardship criteria could be developed locally and a committee of BID members could review such waiver requests.

The petition may also include a mechanism for reimbursing the municipality for the costs incurred in establishing the BID, and for costs incurred in collecting the district fees.

Prior to the public hearing, the municipal governing body will direct the town/city clerk or his/her designee to determine that the petition contains the required items and that the required process of notification was followed. Within 30 days of receipt of the petition, the city/town clerk must forward the petition to the Department of Housing and Community Development.

2. Public Notification and Public Hearing

Within 60 days of receipt of a BID petition, the municipal governing body must hold a public hearing. Written notification of the public hearing must be mailed to each property owner within the boundary of the proposed BID within 30 days prior to the hearing. Notices must be mailed to each address listed in the property tax records. Notification of the public hearing must also be published in a general circulation newspaper for two consecutive weeks at least 14 days prior to the public hearing. These mailed and published notices must contain the same information provided in the petition. Specifically, this includes the BID boundaries, the proposed fee level, the proposed benefits, the basis for determining the district fee, and the process by which a property owner may elect neither to participate in nor benefit from BID.

The municipal governing body will hear comment on the proposed BID plan and its intended effects at the public hearing. They will also read into the record the basis for determining the district fee and the process by which individual property owners can "opt-out" of the BID by electing neither to participate in nor to receive benefits from the BID.

3) Declaration of the BID and Commencement of BID Activities

Within 45 days after the public hearing the municipal governing body, in its sole discretion, may by a vote declare the district organized and describe the

boundaries and service area of the district. At this time a BID may begin operations. Notice of the declaration of the BID and the process by which individual property owner may elect to "opt-out" of the BID must be mailed or delivered by the municipal governing body to each property owner within the BID. This information must, once again, be published for two consecutive weeks in a general circulation newspaper with the last publication being at least seven days prior to the last day of the 30 day "opting-out" period for individual property owners.

4) "Opting-Out" Period

The Massachusetts legislation structures BIDs as "fee for services" programs funded by an assessment on each participating property within the district. In Massachusetts, fees are voluntary, not mandatory, therefore individuals have the right to elect not to pay the fee or receive services or benefits. Any property owner within the BID may, within 30 calendar days after the municipality declares the BID, elect not to participate or "opt-out" of the BID. By "opting-out" a property owner is neither subject to the BID fee nor eligible to receive any of the benefits or services of the BID. In order to "opt-out," a property owner must notify the city/town clerk in writing of his/her intent not to participate in the BID. However, property owners may elect to participate at a future date by notifying the city/town clerk, BID board of Directors, and the BID management entity in writing of such an intention. The decision to participate will be permanent as stated above until BID dissolution or property transfer.

Upon transfer of participating property within a BID, the new owner may elect not to participate within 30 days of the closing, provided that he/she reimburses the BID for the allocable share of debt, incurred prior to the date of withdrawal, as determined by the management entity.

The provisions allowing property owners to "opt-out" or elect not to participate in the BID, once again underscores the critical need for consensus building and peer-to-peer marketing of the BID concept, its costs and benefits prior to petitioning the municipality to establish a BID. While the statute requires support of at least 60% of real property owners and the representation of at least 51% of assessed valuation within the district, actual practice in other states has proved that support from 80-90% of district property has been more successful.

HOW IS AN ESTABLISHED BID ALTERED OR DISSOLVED?

The BID improvement plan is contained inthe original petition to the municipal governing body and outlines the programs and services the BID will provide as well as the fee structure and fees generated to implement that plan. The improvement plan must be updated every three years by the BID Board of Directors and a copy of the updated plan must be mailed or delivered to each BID member. The updated plan will take effect upon approval of a majority of the electors or BID members.

In addition to the required update of the BID improvement plan every three years, the statute allows for more significant amendments to that plan at any time. However, any amendment to a BID plan that calls for additional improvements, provides for expenditures or program services which affect more than 25% of the project budget, proposes that the BID incur indebtedness, or changes the fee structure, management entity or district boundary, will require municipal approval. Such amendments must be recommended by the BID Board of Directors with the concurrence of the owners of at least 51% of the assessed valuation of all participating real property and 51% of the participating real property owners within the BID. Municipal approval of amendments to a BID plan must follow a public hearing process that includes a 30 day advance publication of a hearing notice and allows the municipal governing body 30 days to vote on the proposed amendment. Amendments become effective on the date of municipal approval. If an amendment increases the BID boundaries, written notices must be mailed to any affected property owners who have 30 days following approval of the amendments to "opt-out" or elect not to participate in the BID.

Anecdotal evidence of the success of BIDs and the satisfaction of participating property owners shows that not one of the hundreds of existing BIDs in the country has elected to dissolve. Nonetheless, the state enabling legislation provides for that option. A petition with the signatures of the owners of at least 51% of the assessed valuation within the district or at least 51% of the real property owners within the district must be delivered to the municipal governing body, who will hold a hearing within 30 days of its receipt. The municipality may then declare the BID dissolved. A BID with any outstanding indebtedness, obligations, and liabilities will not be permitted to dissolve unless funds are on deposit or a repayment schedule has been approved by the municipality.

MASSACHUSETTS GENERAL LAWS

CHAPTER 40O

BUSINESS IMPROVEMENT DISTRICTS [1994, CH. 173]

(PLEASE CONSULT GENERAL LAWS FOR ANY CHANGES SINCE 1997)

Sec.

1. Definitions.
2. BID Powers and Rights.
3. Property Owners to Initiate Organization of BID; Contents of Petition; Filing.
4. Public Hearing on Petition; Notice; Declaration of Organization of BID; Election Not to Participate.
5. BID Board of Directors.
6. Fee Formulas for Supplemental Services and Programs: Exemptions.
7. Effect of Approval of BID; Determination of Fee Formula; Receipt of Funds.
8. Collection of BID Fees; Duties and Responsibilities of Collector-Treasurer; Liens; Audits.
9. Amendments to BID Improvement Plan; Procedures.
10. Dissolution of BID; Procedure.

§1. Definitions.

As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Business improvement district board of directors" or "Board of directors", a locally designated board of property owners or their designees who are assigned responsibility for the management of a business improvement district.

"BID", a business improvement district formed pursuant to this chapter, which is a contiguous geographic area with clearly defined boundaries in which at least three-fourths of the area is zoned or used for commercial, industrial, retail, or mixed uses.

"BID member", a property owner who elects to participate in a BID. "Elector", a BID member, or a natural person designated by a member to vote by proxy for such member; provided, however, that such designation shall be in writing and filed with the city or town clerk; provided, further, that only one such proxy may be designated by an owner.

"Fee", a payment for services or improvements specified by the BID improvement plan.

"Improvement plan", the strategic plan for the BID which sets forth the supplemental services and programs, revitalization strategy, budget and fee structure, as well as the management entity for the business improvement district, and is approved by the local municipal governing

body as part of the creation of the BID. An improvement plan shall, within the limitations described in section nine, be updated at least once every three years by the BID board of directors, and a copy thereof shall be mailed or delivered to each BID member. The updated improvement plan shall take effect upon the approval of a majority of the electors. Any amendment to the improvement plan under section nine shall be deemed to be an update of the improvement plan.

"Local municipal governing body", the city council or board of alder-men in a city or the board of selectmen or town council in a town.

"Management entity", an entity designated in an improvement plan to funds to carry out and implement the purposes of the Bid, and which shall be governed by the BID board of directors to act as the management entity, or may designate that the management entity will be selected by the board of directors. If a management entity is utilized, such entity shall be required to furnish a surety bond condi-tioned on the faithful performance of its duties.

"Property", any real property located within the BID.

"Property owner", the owner of record of property.

"Standard government services", governmental functions, programs, activities, facilities, improvements and other services which a municipality is authorized to perform or provide.

"Supplemental service", the provision of programs, public services, activities, amenities, or information addition to the standard governmental services provided to the BID.

§2. BID Powers and Rights.

The rights and powers of a BID approved by a municipal governing body shall include: retaining or recruiting business, administering and managing central and neighborhood business districts; promoting economic development; managing parking; designing, engineering, constructing, maintaining or operating buildings, facilities, urban streetscapes or infrastructures to further economic development and public purposes; conducting historic preservation activities; leasing, owning, acquiring, or optioning real property; supplementing maintenance, security, or sanitation; planning and designing services; formulating a fee structure; accumulating interest; incurring costs or indebtedness; entering into contracts; suing and being sued; employing legal and accounting services; undertaking planning, feasibility and market analysis; developing common marketing and promotional activities; and supporting public art and human and environmental services as related to the enhancement of the business district or other supplemental services or programs that would further the purposes of this chapter.

§ 3. Property Owners to Initiate Organization of BID; Contents of Petition; Filing.

The organization of a BID shall be initiated by a petition of the property owners within the proposed BID which shall be filed in the office of the clerk of the municipality.

Such petition shall contain:

(1) the signatures of the owners of at least fifty-one percent of the assessed valuation of all real property within the proposed BID and sixty percent of the real property owners within the proposed BID;

(2) a description of and a site map delineating the boundaries of the proposed BID;

(3) the proposed improvement plan which shall set forth the supplemental services and programs, revitalization strategy, update mechanism, and budget and fee structures;

(4) the identify and location of the management entity designated to implement and oversee the ongoing improvement plan; and

(5) the criteria for waiving the fee for any property owner within the BID who can provide evidence that the imposition of such fee would create a significant financial hardship.

Such petition may include a mechanism for reimbursing the municipality for the costs incurred in establishing the BID, and for costs incurred in collecting the district fees.

A copy of said petition shall be filed with the secretary of the executive office of communities and development within thirty days of receipt of such petition by the clerk of the municipality.

§ 4. Public Hearing on Petition; Notice; Declaration of Organization of BID; Election Not to Participate.

The local municipal governing body shall hold a public hearing within sixty days of the receipt of a petition. Written notification of such hearing shall be sent to each property owner within the boundary of the proposed BID at least thirty days prior to such hearing, by mailing notice to the address listed in the property tax records. Notification of the hearing shall also be published for two consecutive weeks in a newspaper of general circulation in the area at least fourteen days prior to such hearing. Such public notice shall contain the proposed boundaries of the BID, the proposed fee level, the proposed benefits, the basis for determining the district fee, and the process by which a property owner may elect not to participate in or benefit from the BID.

Prior to the public hearing, the local municipal governing body shall direct the town clerk or city clerk or his designee to determine that the establishment criteria has been met as set forth in section three.

At the public hearing, the local municipal governing body shall determine if the petition satisfies the purposes set forth and the establishment criteria of this chapter and shall obtain public comment regarding the

improvement plan and the effect the proposed BID will have on the property owners, tenants and others within the BID. If it appears that said petition is not in conformity with the purposes and establishment criteria, the local municipal governing body shall dismiss the petition. At the public hearing, the presiding officer or clerk of said governing body shall read into the record the basis for determining the district fee pursuant to section seven and the process for property owners to follow who elect not to participate in or benefit from said BID in accordance with the provisions of this section.

Within forty-five days after the public hearing, the local municipal governing body, in its sole discretion, may by a vote declare the district organized and describe the boundaries and service area of the district. Upon such declaration, the BID may commence operations.

Notice of the declaration of the organization of the BID and of the time period within which an owner of real estate within the district may elect not to participate shall be mailed or delivered to each property owner within the proposed BID. Said notice shall describe the process by which a property owner may elect not to participate in the BID, explain that membership in the BID is irrevocable until dissolution of the BID or a transfer of BID property, and include a description of the basis for determining the district fee, the projected fee level, and the proposed services to be provided by the BID. Such notice shall also be published for two consecutive weeks in a newspaper of general circulation in the area, the last publication being at least seven days prior to the last date for an election not to participate.

Any property owner within the BID may, within thirty calendar days after such declaration of organization by the local municipal government body, elect not to participate and not be subject to the BID fee. Such property owner shall notify, in writing, the city or town clerk of the intent not to participate in the BID. Such property owner shall not receive benefits or services from the BID. Property owners who choose not to participate in the BID may, at a later date, elect to participate in the BID by notifying the city or town clerk, the BID board of directors, and the management entity in writing. The decision to participate in the BID shall be permanent until dissolution of the BID as set forth in section ten, or until the transfer of such property as provided herein. Upon the transfer of any participat-

ing property, the new owner shall have the option to withdraw the property from BID participation within thirty days of closing; provided, however, that the new owner shall reimburse the BID for the allocable share of any debt which may have been incurred but remains unpaid prior to the date of withdrawal, as determined by the management entity.

Nothing in this section shall prevent the filing of a subsequent petition for a similar project.

§ 5. BID Board of Directors.

Each BID shall have a board of directors who shall oversee the management entity to insure the implementation of the improvement plan. The BID board of directors shall be designated by a majority vote of the electors, or their designees, who own real property participating in the BID. The local municipal governing body may establish rules and regulations governing the BID board of directors.

§ 6. Fee Formulas for Supplemental Services and Programs; Exemptions.

All real property located within the proposed BID shall be considered in the fee formula for the supplemental services and programs as outlined in the improvement plan.

The municipality may exempt from fees certain properties, specifically classified as: (1) owner-occupied residential; (2) agricultural; or (3) tax exempt.

§ 7. Effect of Approval of BID; Determination of Fee Formula; Receipt of Funds.

By formal approval of a BID, the local municipal governing body shall adopt the district fee structure for the financing of items submitted in the improvement plan for the BID; provided, however, that the total fees assessed in any one year may not exceed one-half of one percent of the sum of the assessed valuation of the real property owned by participating members in the BID district.

The basis of such district fee may be determined by a formula utilizing any one or a combination of the following:

(1) different levels for varying classifications of real property;
(2) benefit zones;
(3) assessed valuations;
(4) square footage
(5) street frontage; or

(6) any other formula which meets the objectives of the BID.

The BID, through its improvement plan, shall have the option to limit or cap the maximum annual fee derived from individual properties or the total annual revenue generated by the BID.

The formula for determining the district fee structure shall be set forth in the original petition as required by section three.

In addition to receiving funds from the district fee, the management entity shall be authorized to receive grants, donations or gifts on behalf of the BID.

§ 8. Collection of BID Fees; Duties and Responsibilities of Collector-Treasurer; Liens; Audit.

The collector-treasurer of each municipality is hereby authorized to collect such district fees in designated BIDs and to disburse the funds to the designated management entity.

The district fees collected shall be used solely to fund items identified and approved in the improvement plan for the BID.

The collector-treasurer shall disburse revenue to the management entity within thirty days of the collection of such fees, together with the interest earned on the holding of such fees.

Following establishment of the BID, all fees billed by or on behalf of the BID and unpaid after thirty days from the date of filling shall become a lien on the property, which shall have priority over all other liens except municipal liens and mortgages of record prior to the recording of a notice of lien, if notice of the lien is duly recorded by the management entity in the appropriate registry of deeds or land court registry district.

An annual audit, certified by a certified public accountant, of the revenues generated, grants, donations, and gifts received by the BID and its expenses shall be made within one hundred and twenty days of the close of the fiscal year, and shall be placed on file wit the collector. Such accounting shall be a public record.

§ 9. Amendments to BID Improvement Plan; Procedures

At any time after the establishment of a BID pursuant to the provisions of this chapter, the improvement plan upon which the establishment was based may, upon the recommendation of the BID board of directors, with the concurrence of the owners of at least fifty-one percent of the assessed valuation of all participating real property within the BID and fifty-one percent of the participating real property owners within the BID, be amended by the local municipal governing body after compliance with the procedures set forth in this section.

Amendments to the BID improvement plan which provide for additional improvements, program services or expenditures which affect more than twenty-five percent of the total project budget, incurring indebtedness, changes to the fee structure or management entity or changes to the district boundaries shall be subject to the approval of the local municipal governing body; provided, however, that said governing body, after a public hearing, determines that it is in the public interest to adopt said amendments.

The local municipal governing body shall give notice of the public hearing for amendment by publication of a notice, in at lest one newspaper having general circulation in the district, specifying the time and the place of such hearing and the amendments to be considered. Such notice shall be published once at least thirty days prior to the date of such hearing.

The local municipal governing body may, within thirty days of the public

hearing and, in its sole discretion, declare the amendments approved or disapproved. If approved, such amendments shall be affective upon the date of such approval.

Upon the adoption of any amendments to the district boundaries which increases the size of the district, any owner of property to be added to the district shall be notified of the new boundaries of the district in accordance with section four and may elect not to participate in the BID as provided in such section.

§ 10. Dissolution of BID; Procedure.

A BID may be dissolved by petition to the local municipal governing body and a subsequent decision by such governing body to authorize dissolution.

In order to be considered by the local municipal governing body, a petition to dissolve a BID shall contain the signatures of the owners of at least fifty-one percent of the assessed valuation within the district or at least fifty-one percent of the real property owners within the district.

The local municipal governing body shall hold a public hearing within thirty days of receipt of a completed petition on the issue of dissolution.

Following the public hearing, the local municipal governing body may declare the BID dissolved; provided, however, that no BID shall be dissolved until it has satisfied or paid in full all of its outstanding indebtedness, obligations, and liabilities; or until funds are on deposit and available therefor; or until a repayment schedule has been formulated and municipally approved therefor. In addition, the BID shall be prohibited from incurring any new or increased financial obligations.

Any liabilities, either current or future, incurred as a result of action to accomplish the purposes of the BID improvement plan shall not be an obligation of the municipality, but said liabilities shall be paid for entirely from revenues gained from the project or facilities authorized, or from the fees on the properties in the BID.

Upon the dissolution of a BID, any remaining revenues derived from the sale of assets acquired with fees collected shall be refunded to the property owners in the BID in which fees were charged by applying the same formula used to calculate the fee in the fiscal year in which the BID is dissolved.