

CITY OF SAN DIEGO  
ADMINISTRATIVE REGULATION

SUBJECT  BUSINESS IMPROVEMENT DISTRICT ADMINISTRATION, ASSESSMENT REDUCTION, AND DISESTABLISHMENT PROCEDURES AND GUIDELINES	Number 1.90	Issue 2	Page 1 of 10
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1. PURPOSE

- 1.1. Establish the responsibilities and procedures for general oversight of the City's *BID* (defined in Section 3) program, collection and disbursement of *Assessments*, reduction of *Assessments*, administration of *BID* management agreements, and disestablishment of *BIDs*.

2. SCOPE

- 2.1. This Regulation applies to each City department that oversees all or any part of the City's *BID* program, collects, or disburses *Assessments*, administers *BID* management agreements, or assists *Business* owners or *Business* associations in reduction of *Assessments* or disestablishment of *BIDs*.

3. DEFINITIONS

- 3.1. Defined terms in California Streets and Highways Code sections 36500 through 36551 will control the application of this Regulation, even if the same terms are defined in this Regulation.

3.1.1. Activities – all of the following:

- a. Promotion of public events that: (i) benefit *Businesses* in the *BID*; and (ii) take place on or in public places within the *BID*;
- b. Furnishing of music in any public place in the *BID*;
- c. Promotion of tourism within the *BID*; and
- d. Activities benefitting *Businesses* located and operating in the *BID*. (Cal. Sts. & High. Code § 36513).

3.1.2. Advisory Ballot – a mailed ballot requesting each *Business* required to pay an *Assessment* in a *BID* to indicate whether such *Business* supports disestablishment of the *BID*.

3.1.3. Advisory Board - the advisory board appointed by the City Council for the *BID*. (Cal. Sts. & High. Code § 36505).

(Supersedes Administrative Regulation 1.90, Issue 1, effective September 15, 1987)

Authorized

[Signature on File]

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CHIEF OPERATING OFFICER

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- 3.1.4. Annual Report - a report prepared annually for a *BID*, on a City fiscal year basis (July 1 – June 30), that includes:
- a. any proposed changes in the *BID* boundaries or any benefit zones within the *BID*;
  - b. the *Improvements* and *Activities* to be provided in the *BID* during that fiscal year;
  - c. an estimate of the cost of providing the *Improvements* and *Activities* in the *BID* during that fiscal year;
  - d. any increase in *Assessments* for that fiscal year authorized by the City Council ordinance establishing the *BID*;
  - e. the method and basis of levying the *Assessment* in sufficient detail to allow each *Business* owner to estimate the *Assessment* amount to be levied against his or her *Business* for that fiscal year;
  - f. the amount of any surplus or deficit revenues to be carried over from a previous fiscal year;
  - g. the amount of any contributions to be made from sources other than *Assessments* levied by the *BID*; and
  - h. any other information requested by City.  
(Cal. Sts. & High. Code § 36533).
- 3.1.5. Assessment - a levy for the purpose of acquiring, constructing, installing, or maintaining *Improvements* and undertaking *Activities* benefitting the *Businesses* located and operating within a *BID*. (Cal. Sts. & High. Code § 36506).
- 3.1.6. Business - all types of businesses, including financial institutions and professions. (Cal. Sts. & High. Code § 36507).
- 3.1.7. BID - an area designated as a Parking and Business Improvement Area in accordance with either:
- a. Parking and Business Improvement Area Law of 1989 (Cal. Sts. & High. Code §§ 36500-36551); or
  - b. Parking and Business Improvement Area Law of 1965 (Cal. Sts. & High. Code §§ 36000-36084).
- 3.1.8. BID Law – defined in Section 4.1.1.

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3.1.9. *Improvement* - the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more, including, but not limited to, the following:

- a. Parking facilities;
  - b. Benches;
  - c. Trash receptacles;
  - d. Street lighting;
  - e. Decorations;
  - f. Parks; and
  - g. Fountains.
- (Cal. Sts. & High. Code § 36510).

3.1.10. *Owners' Association* - a private, nonprofit entity representing, and whose membership includes, the *Business* owners or *Business* owners' representatives of *Businesses* paying *Assessments* in a *BID*.

3.1.11. *Property* - real property situated within a *BID*. (Cal. Sts. & High. Code § 36512).

4. POLICY

4.1. General

4.1.1. *BIDs* are authorized by the Parking and Business Improvement Area Law of 1989 (Cal. Sts. & High. Code §§ 36500-36551) or the Parking and Business Improvement Area Law of 1965 (Cal. Sts. & High. Code §§ 36000-36081) (collectively, *BID Law*). Additionally, Council Policy 900-07 establishes certain guidelines for establishment, administration, modification, and disestablishment of *BIDs* in the City.

4.1.2. The *BID Law* requires the City Council to appoint an *Advisory Board* to make recommendations on the method and basis of levying *Assessments* and expenditure of *Assessments* collected by the City. This Regulation is intended to provide guidelines for coordination between *Advisory Boards*, *Business* owners, and City staff in *BID* administration, *Assessment* reduction, and *BID* disestablishment.

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5. RESPONSIBILITY

5.1. Disestablishment

- 5.1.1. The City Council begins the *BID* disestablishment process by adopting a resolution of intention to disestablish the *BID*. The resolution of intention must state the reason(s) for disestablishment of the *BID*, set the date, time and location of a required public hearing about disestablishment of the *BID*, and contain a proposal for disposing of any assets acquired with *Assessments* levied in the *BID*. The public hearing must be held not less than 20 and not more than 30 days after the date of adoption of the resolution of intention. City staff will publish notice of the public hearing in accordance with Section 5.6.1. After adopting a resolution of intention to disestablish the *BID* and holding the associated public hearing, the City Council may adopt an ordinance disestablishing the *BID*.
- 5.1.2. The City Council may adopt an ordinance disestablishing a *BID* without approval of any *Business* within the *BID*. The City may also pursue disestablishment of a *BID* if requested to do so by *Business* owners within the *BID* through the following described process. One or more *Businesses* within a *BID* may request disestablishment of the *BID* by submitting a disestablishment petition to the City satisfying the requirements of Section 5.1.4 and signed by at least 20% of the *Businesses* within the *BID*. Following receipt of a disestablishment petition satisfying the requirements of Section 5.1.4 and signed by at least 20% of the *Businesses* within the *BID*, City staff will conduct an *Advisory Ballot* pursuant to Section 5.1.9 to determine whether *Businesses* paying 50% or more of the *BID Assessments* support disestablishment of the *BID*. If *Businesses* paying 50% or more of the *BID Assessments* support disestablishment of the *BID*, City staff will docket a resolution of intention to disestablish the *BID* for the next feasible regularly scheduled City Council meeting.
- 5.1.3. Within 15 calendar days after a City Council ordinance disestablishing a *BID* becomes effective, the City Clerk's Office will publish notice of the *BID* disestablishment in a newspaper of general circulation in the City for at least one day. Unless otherwise directed by the Mayor or designee, the Economic Development Department will pay the cost of publishing the notice.

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5.1.4. A *BID* disestablishment petition must:

- a. State that its purpose is to document the general interest of *Businesses* within the *BID* in disestablishing the *BID*;
- b. For each *Business* signing the petition, contain the printed *Business* owner or representative name, title, signature, date signed, and *Business* address within the *BID*;
- c. Contain declarations under penalty of perjury from each *Business* representative signing the petition that he or she is the current owner or authorized representative of the identified *Business*; and
- d. For each *Business* signing the petition, contain signatures no older than six (6) months, as of the date the petition is submitted to the City.

5.1.5. With each *BID* disestablishment petition, the petition proponents must also submit a letter to the City describing in detail the process used to obtain signatures on the petition from *Businesses* within the *BID*.

5.1.6. Within 30 calendar days after receipt of a disestablishment petition and the associated letter required in Section 5.1.5, City staff will:

- a. Determine whether the petition satisfies the requirements of Section 5.1.4, as of the submission date;
- b. Send notice by email or first-class mail to the *Businesses* signing the petition that City staff has:
  - i. Determined that the petition does or does not satisfy the requirements of Section 5.1.4; and
  - ii. Identified the number of eligible and ineligible *Business* signatures on the petition and the general reason(s) for any signature being determined to be ineligible.

5.1.7. If the number of eligible *Business* signatures on a *BID* disestablishment petition does not meet the 20% threshold specified in Section 5.1.2, the disestablishment proponents will have an additional 30 calendar days from the date of the notice sent by City staff pursuant to Section 5.1.6.b. to obtain additional *Business* signatures on the petition to satisfy the 20% threshold specified in Section 5.1.2, all subject to Section 5.1.4.d.

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- 5.1.8. Within 30 calendar days after receipt of any additional signatures on a disestablishment petition pursuant to Section 5.1.7, City staff will determine and send notice by email or first-class mail to the *Businesses* signing the *BID* disestablishment petition whether or not the number of eligible *Business* signatures on the disestablishment petition satisfies the 20% threshold specified in Section 5.1.2 and Council Policy 900-07. If the number of eligible *Business* signatures on the disestablishment petition still do not to satisfy the 20% threshold specified in Section 5.1.2 and Council Policy 900-07, the City will not consider disestablishment of the *BID* at the request of any *Business* within the *BID* for a minimum of one (1) year after the date City staff sends notice in accordance with this Section 5.1.8. However, nothing in this Section 5.1.8 prohibits the City Council from independently considering disestablishment of a *BID*.
- 5.1.9. Within 30 calendar days after timely receiving a *BID* disestablishment petition satisfying the requirements of Section 5.1.2 and an associated letter satisfying the requirements of Section 5.1.5, City staff will prepare a ballot packet pursuant to Council Policy 900-07 that includes an *Advisory Ballot* and supporting materials. Each ballot packet will be mailed by first class mail to all *Businesses* in the *BID* registered with the City Treasurer. The ballot materials will include: (i) the *BID* street names and address ranges; (ii) the categorization of *Businesses* for benefits and *Assessments*; (iii) a general map of the *BID* area showing those parcels with an address within the street names and ranges included in the *BID*; (iv) the *Assessment* schedule; (v) a list of excluded *Business* types (if applicable); (vi) a summary of ballot procedures; (vii) an *Advisory Ballot*; and (viii) a return envelope.
- 5.1.10. Ballots must be returned to the City Clerk for opening, sorting, counting, and consideration of questionable ballots by a panel convened by the City Clerk. City staff will provide the City Clerk with certification of first class mailing of a ballot packet to each *Business* in the *BID* registered with the City Treasurer. City staff will then tabulate the votes from the returned ballots by weighted value, where the ballot of each *Business* is weighted according to the percentage of the total amount of *Assessments* in the *BID* paid by the *Business*. City staff may hire a consultant to tabulate the votes.
- 5.1.11. Where the tabulated *Advisory Ballot* votes show that a majority by weighted value, based on the amount of the *Assessment* per responding *Business* and total amount of *Assessments* in the *BID*, of the *Businesses* receiving ballots support disestablishment

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of the *BID*, City staff will docket a resolution of intention to disestablish the *BID* for City Council consideration in accordance with Section 5.3.1.

5.2. Assessment Reduction

5.2.1. The City Council may reduce *Assessments* in a *BID* by holding a required public hearing on the proposed *Assessment* reduction and adopting an ordinance. The City Council begins the *Assessment* reduction process by adopting a resolution of intention to reduce the *Assessment* and setting the date, time, and location of the required public hearing about the *Assessment* reduction. The public hearing will be consistent with the requirements of the Ralph M. Brown Act. The public hearing will be conducted in accordance with California Streets and Highways Code sections 36524 and 36525. City staff will docket the *Assessment* reduction to be considered with the annual *BID* budgets.

5.3. City Council Docketing

5.3.1. City staff will docket each proposed *BID* disestablishment or *Assessment* reduction resolution of intention for City Council consideration at the earliest feasible regularly scheduled City Council meeting.

5.3.2. City staff will also prepare a Report to the City Council summarizing each proposed *BID* disestablishment or *Assessment* reduction.

5.4. Council Committee Review

5.4.1. Before presenting a proposed *BID* disestablishment or *Assessment* reduction to the full City Council for consideration, City staff will present the associated Report to the City Council described in Section 5.3.2 to the City Council Economic Development and Intergovernmental Relations Committee (or any successor City Council committee with jurisdiction over *BIDs*) and request that the committee move the matter to the full City Council for consideration.

5.5. City Attorney Preparation of Resolutions and Ordinances

5.5.1. City staff will request that the City Attorney prepare the following proposed documents for City Council consideration of any proposed *BID* disestablishment or *Assessment* reduction: (a) a resolution of intention to disestablish the *BID* or reduce the *Assessment* in the *BID*, as applicable; and (b) after City Council adoption of a

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resolution of intention to disestablish the *BID* or reduce the *Assessment* in the *BID*, an ordinance disestablishing the *BID* or amending the existing *BID* ordinance to reduce the *Assessment* for some or all *Businesses* within the *BID*, as applicable.

5.5.2. City staff will comply with Administrative Regulation 3.20, Processing Requests for Council Action for Approval of a Resolution or Ordinance and the Ralph M. Brown Act, in processing proposed resolutions and ordinances and providing public notices under this Regulation.

5.6. Notice of Public Hearing

5.6.1. After City Council adoption of a resolution of intention to disestablish a *BID* or reduce an *Assessment*, City staff will give notice of a public hearing about the *BID* disestablishment or *Assessment* reduction in accordance with California Streets and Highways Code sections 36523 and 36523.5, as applicable. Unless otherwise directed by the Mayor or designee, the Economic Development Department will pay the cost of publishing the public hearing notice.

5.7. Management Agreement

5.7.1. *BID* management agreements are anticipated to have a term of one (1) fiscal year, with up to a maximum of four (4) extensions for one (1) fiscal year each, and are subject to City Council approval. City staff will docket a written management agreement between the City and the entity managing each *BID* or extension of such an agreement for City Council consideration in advance of each applicable fiscal year. Each management agreement or extension will include an annual budget and scope of work.

5.7.2. If more than one entity expresses interest in managing a *BID*, City staff will solicit *BID* management proposals from each such entity and recommend one such entity to the City Council to manage the *BID*. Such City staff recommendation should consider each entity's familiarity with the *BID*, involvement in small business affairs in the *BID*, expertise/capability to manage the *BID*'s budget and work program, and approval/support of *BID Businesses*.

5.7.3. The management agreement for each *BID* will require the management entity to comply with the Ralph M. Brown Act, California Government Code section 54950, *et. seq.*, when matters within the subject matter of the *BID* are heard, discussed, or



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deliberated by the management entity governing board, and with the California Public Records Act, California Government Code section 6250, *et. seq.*, for all documents relating to the *BID*.

5.8. Collection and Disbursement of Assessment Funds

- 5.8.1. The City Treasurer will levy, collect, and enforce each annual *Assessment* in the same manner, at the same time, and with the same penalties and interest as the general City business tax, unless otherwise specified in the ordinance establishing the *BID*.
- 5.8.2. The City’s Chief Financial Officer will certify the availability of *BID Assessment* funds before such funds are disbursed to the *BID* management entity.
- 5.8.3. Following the certification required in Section 5.8.2, City staff will disburse *BID Assessment* funds during the fiscal year in which they are collected and received by the City to the *BID* management entity pursuant to the management agreement and Council Policy 900-07.

5.9. Staff Oversight

- 5.9.1. Unless otherwise directed by the Mayor or designee, the Economic Development Department will be responsible for oversight of the City’s *BID* program, including: (i) *Assessment* reductions in *BIDs*; (ii) bringing annual advisory board appointment, budget approval and *Assessment* levy actions before the City Council; (iii) administration of management agreements with *BID* management entities; and (iv) disestablishment of *BIDs*.
- 5.9.2. The City will charge each *BID* reasonable annual administrative and monitoring costs of the City, consistent with City Council approved annual *BID* budgets.

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APPENDIX

Legal References

California Government Code sections 6250-6276.48, California Public Records Act.

California Government Code sections 54950-54963, Ralph M. Brown Act.

California Streets and Highways Code sections 36500-36551, Parking and Business Improvement Area Law of 1989.

California Streets and Highways Code sections 36000-36081, Parking and Business Improvement Area Law of 1965.

San Diego Municipal Code sections 61.1800-61.1823.

Council Policy 900-07.

Forms

None

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