

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-26

"Business Improvement Districts Amendment Act of 1997".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-225, on first and second readings, June 3, 1997 and June 17, 1997, respectively. Following the signature of the Mayor on July 3, 1997, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-109, and published in the August 1, 1997, edition of the D.C. Register (Vol. 44 page 4320) and transmitted to Congress on July 29, 1997 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 12-26, effective October 8, 1997.



LINDA W. CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July	29,30,31
Aug.	1
Sept.	2,3,4,5,8,9,10,11,12,15,16,17,18,19,22 23,24,25,26,29,30
Oct.	1,2,3,6,7

AN ACT

D.C. ACT 12-109

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 3, 1997

*Codification
District of
Columbia
Code
1998 Supp.*

To amend the Business Improvement Districts Act of 1996 to authorize the establishment and administration of business improvement districts in the District of Columbia and the assessment and collection of taxes for the improvement of business improvement districts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Business Improvement Districts Amendment Act of 1997".

Sec. 2. The Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Code § 1-2271 *et seq.*), is amended to read as follows:

"Sec. 2. Findings and purpose.

**Section
1-2271**

"(a) The Council finds that:

"(1) Business Improvement Districts will help the District to promote economic growth and employment downtown and in other areas of the District;

"(2) Property owners should be encouraged to create BIDs and BID corporations to enhance their local business climate;

"(3) BID corporations should be given flexibility in establishing the self-help programs most consistent with their local needs, goals and objectives; and

"(4) Because additional services and improvements attendant to a BID will provide direct benefits to the real property within a BID, the most equitable method of financing such services is to levy an additional real property tax against all nonexempt properties within a BID District.

"(b) The purpose of this act is to provide for the creation of Business Improvement Districts the activities of which will promote the general welfare of the residents, employers, employees, property owners, commercial tenants, consumers, and the general public within a BID's geographic area by preserving, maintaining, and enhancing the economic health and vitality of a BID area as a community and business center.

"Sec. 3. Definitions.

"For the purposes of this act, the term:

"(1) "Adjoining residential neighborhood" means any property zoned for residential use within a BID or within 800 feet of the perimeter of a BID.

"(2) "Adverse impact on adjoining residential neighborhoods" means adverse impact on traffic, on-street parking, litter, trash collection, crime, noise, lighting levels, or other such factors affecting the quality of residential life.

"(3) "Assessed value" means the valuation obtained by taking the assessed valuation of taxable real property as it appears on the last completed assessment roll for tax assessment purposes pursuant to section 47-801 *et seq.*

"(4) "BID corporation" means a nonprofit corporation that is organized pursuant to the District law for nonprofit corporations and registered pursuant to the terms of this act. A BID corporation shall not be deemed to be a part of the District government as that term is defined in section 47-393(5).

"(5) "Block" means the properties fronting on both sides of a street that are located between 2 intersecting streets.

"(6) "Business Improvement District Activity" or "BID activity" means a special service or activity conducted in a Business Improvement District designed to improve the economic development climate in the area pursuant to this act, and which is designed and conducted so as to avoid any material adverse impact on adjoining residential neighborhoods and is otherwise in accordance with all applicable laws, regulations, and requirements of the District of Columbia and the United States, which services and activities may augment, but which may not replace, governmental services customarily provided in the regular course of the District's operations. This term shall include the planning, administration, and management of activities designed to provide economic stimulus, stability, or benefit to the BID or its members, including, but not limited to, the following:

"(A) Seasonal promotions such as festivals and special displays;

"(B) Enhanced maintenance and improvements to public space, including sidewalks, parks, and plazas;

"(C) Marketing and procurement activities in support of tourism, job creation, business attraction, development, efficiency, and retention;

"(D) Retail, restaurant, and arts promotions;

"(E) Services to improve public safety and transportation, such as providing shuttle buses, community service representatives acting as goodwill ambassadors, and private security services;

"(F) Development of special signage and storefront and commercial building facade improvement programs; and

"(G) Any other service or activity consistent with the purposes of this act if such service or activity is set out in the BID's business plan, as amended from time to time

and as submitted to the Mayor in accordance with this act.

"(7) "Business Improvement District" or "BID" means a defined geographic area in the District in which the preponderance of activity carried out is commercial or industrial in nature, which does not include any part of an existing BID previously established pursuant to this act, and which area consists of not less than 5 contiguous blocks (or the maximum number of contiguous blocks in cases where there are fewer than 5 contiguous blocks), or noncontiguous commercial blocks within a generally recognized single neighborhood; provided, that noncontiguous blocks are not wholly located in an area that is not part of the general BID area.

"(8) "BID tax" means an additional real property tax assessed and levied by the District on, and payable by, the owners of nonexempt properties in a Business Improvement District subject to the BID certification processes of this act.

"(9) "CFO" means the Chief Financial Officer of the District.

"(10) "Commercial tenant" means a lessee, or other lawful occupant, of nonexempt real property within a BID who is not an owner and who conducts a lawful commercial use as defined in the Zoning Regulations of the District.

"(11) "Council" means the Council of the District of Columbia.

"(12) "District" means the District of Columbia.

"(13) "Fiscal year" means the same fiscal year as the fiscal year of the District.

"(14) "Lot" means the lots described in the District tax and assessment records.

"(15) "Mayor" means the Mayor of the District of Columbia or such administrative agency of the District that is designated by the Mayor to administer the provisions of this act.

"(16) "Member" means a member of the BID Corporation, the membership of which shall be comprised of each owner and each commercial tenant in the BID area, and each person who becomes a member pursuant to section 22.

"(17) "Member of record" means a member that the BID is reasonably able to identify from District of Columbia property tax records or from other reasonably available sources.

"(18) "Nonexempt real property" means real property that is not exempt from paying real property taxes pursuant to section 47-1001 *et seq.*, is not residential property, and is not the residential portion of a property used for both residential and nonresidential purposes.

"(19) "Owner" means an owner of nonexempt real property.

"(20) "Owner's property" means an owner's nonexempt real property located within a BID.

"(21) "Person" means any individual, sole proprietorship, partnership, society, association, joint venture, stock company, corporation, limited liability company, estate, receiver, trustee, assignee, fiduciary, or any combination of any of the foregoing.

"(22) "Reasonably ascertainable", "reasonably available", and "reasonably

determined" mean, in relation to information, reasonably reliable information that is obtained by the BID and relied upon by the BID in good faith.

"Sec. 4. BID formation.

Section
1-2273

"Each BID shall be organized as a nonprofit corporation under the laws of the District and shall be subject to all applicable District and federal laws and regulations. Each owner and each commercial tenant within a BID, whether such owner or commercial tenant is an owner or commercial tenant at the time the BID is established or at any time thereafter when the BID is in existence, shall be a member of the BID corporation from such time as the BID corporation becomes registered pursuant to this act and until such time as such member's ownership or tenancy within the BID area is terminated or the BID corporation is terminated or dissolved.

"Sec. 5. Establishment of Business Improvement District.

Section
1-2274

"(a) To establish a BID with respect to any area, the Board of Directors of a nonprofit corporation established under District law for the purpose of forming a BID and seeking to be registered as a BID corporation shall submit an application to the Mayor for review of compliance with all BID criteria described in this section. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section. Each application shall be duly sworn under oath before a notary public who holds a valid license in the District, and shall contain:

"(1) A statement setting forth the name and address of the nonprofit corporation seeking registration as a BID corporation; a description by lot, square, and street address of the property of each owner to the extent reasonably ascertainable; and the most recent assessed value of each nonexempt real property located in the proposed BID to the extent reasonably ascertainable from District property tax records or a final determination of the District's Board of Real Property Assessment and Appeals. The statement must be signed by the owners (or their authorized representatives) who own at least a 51% interest in the most recent assessed value of the nonexempt real properties in the geographic area of the proposed BID as a whole, and at least 25% in number of the individual nonexempt properties of record in the BID area as a whole. For the purposes hereof, individual nonexempt properties shall mean properties identified by separate lot and square numbers to the extent reasonably ascertainable from the records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that any property subdivided into separate condominium units shall constitute a single property for the purpose of determining the number of nonexempt properties referred to in this paragraph; provided further, that such condominium units shall constitute separate properties for purposes of assessing and levying any BID charges. Changes in the assessed values occurring after submission of a BID application, whether through regular reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be taken into account in the Mayor's review of the BID application;

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"(2) A proposed business plan ("BID plan") for at least the first 3 years of the initial 5-year term of the BID. The BID plan shall contain, at a minimum, the following:

"(A) Specific goals and objectives of the BID consistent with the BID activity as defined in this act, anticipated resources to be used to meet such goals and objectives, and projected timetables for undertaking and completing projects in furtherance of the goals and objectives;

"(B) The annual proposed total BID taxes for the BID's common operations for the BID's first year of operation and the formula used to determine each owner's BID tax which shall be based upon either assessed value, square footage, or a uniform fixed tax per building. BID taxes may vary by class and type of property provided that they are applied fairly and equitably to all owners within the BID; and

"(C) The maximum amount and the nature of any start-up costs incurred prior to the BID's registration that the BID plans to reimburse upon its registration;

"(3) A tax assessor's map of the geographic area comprising the BID clearly designating the BID boundaries and each property by street address, lot, and square number to be included within the BID;

"(4) A list of the initial members of the Board of the BID, which must satisfy the criteria of section 7(a);

"(5) The adopted articles of incorporation and the adopted bylaws of the nonprofit corporation seeking to be registered as the BID corporation which articles of incorporation or bylaws must include:

"(A) The names and addresses of the initial directors and a provision stating that the term of the initial directors shall expire at such time as new directors are elected pursuant to section 8(b). Such terms shall in no event exceed 120 days after the BID is registered by the Mayor;

"(B) The procedures through which the members of the BID corporation shall propose and vote to adopt amendments to the initial bylaws, including the quorum requirements for the method of allocating votes to members for purposes of this vote which shall occur not more than 120 days after the BID is registered by the Mayor; and

"(C) The number of votes allocated to each member subject to the requirements of section 11(a). The adopted articles of incorporation and the adopted bylaws of the nonprofit corporation may contain any provision not inconsistent with the District nonprofit corporation law or this act;

"(6) A list, by street address, lot, and square number, of all nonexempt real property within the proposed BID, including the names and mailing addresses of the record owners to the extent reasonably ascertainable from the real property records of the Office of Recorder of Deeds or the real property tax and assessment records of the Office of Taxation and Revenue;

"(7) A list of the names and addresses of all commercial tenants within the BID

area, to the extent reasonably ascertainable; and

"(8) The name of the bank and the location of the branch at which the BID will establish its bank accounts, which shall be subject to, in addition to the other approvals required by this section, the approval of the CFO.

"(b) With respect to areas outside the central employment area and Georgetown, a BID may be established if the requirements of subsection (a)(2)-(8) of this section are met, if the statement is signed by at least 51% of the number of commercial tenants occupying nonexempt real properties in the geographic area of the proposed BID, and if owners who own at least 51% of the interest in the assessed value of the commercial properties within the proposed BID area and owners who own at least 51% of the individual properties within the proposed BID area agree to do so.

"(c) The formation of the downtown BID, including all of the properties created by drawing a line that starts at the center of the street at the intersection of Massachusetts Avenue, N.W., and the western edge of I-395; and continues south along the western edge of I-395 to the center of D Street, N.W.; and continues east along the center of D Street, N.W., to the eastern edge of the Department of Labor Building; and continues south along the eastern edge of the Department of Labor Building to the center of C Street, N.W.; and continues west along the center of C Street, N.W., to the center of 2nd Street, N.W.; and continues south along the center of 2nd Street, N.W., to the center of Constitution Avenue, N.W.; and continues west along the center line of Constitution Avenue, N.W., to the center of 15th Street, N.W.; and continues north along the center line of 15th Street, N.W., to the center of Pennsylvania Avenue, N.W.; and continues west along the center line of Pennsylvania Avenue, N.W., to the western property line of 1503 Pennsylvania Avenue, N.W.; and continues north along the building edge of 1503 Pennsylvania Avenue, N.W., to the center of the north-south alley in Square 221; and continues north along the center line of the north-south alley in Square 221 to the center of H Street, N.W.; and continues west along the center line of H Street, N.W., to the center of 16th Street, N.W.; and continues north along the center line of 16th Street, N.W., to the southern edge of Thomas Circle; and continues counterclockwise around the center line of Thomas Circle to the center point of Massachusetts Avenue, N.W.; and continues southeast along the center line of Massachusetts Avenue, N.W., to the center of 9th Street, N.W.; and continues north along the center line of 9th Street, N.W., to the center of N Street, N.W.; and continues east along the center line of N Street, N.W., to the center of the north-south alley in Square 424; and continues south along the center line of the north-south alley in Square 424 to the center of M Street N.W.; and continues east along M Street N.W., to the center of 7th Street, N.W.; and continues south along the center line of 7th Street, N.W., to the center of K Street, N.W.; and continues east along the center line of K Street, N.W., to the center of 6th Street, N.W.; and continues south along the center line of 6th Street, N.W., to the center of Massachusetts Avenue, N.W.; and continues east along the center line of Massachusetts Avenue, N.W., to the center of the street at the intersection of Massachusetts Avenue and the western edge of I-395, is

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hereby authorized and the BID taxes specified below are hereby imposed through the expiration date of this act or the earlier termination or dissolution of the BID, subject to the requirements of this act, including the BID application and BID registration procedures established pursuant to subsection (a) of this section and sections 6 and 7; provided, that any BID application for such area shall include a BID tax currently established at:

"(1) Twelve cents per square foot for each net rentable square foot for improved class 4 properties where the Office of Taxation and Revenue has records indicating the net rentable area of the property. Net rentable square feet shall be the number of net rentable square feet reported to the District and shall be calculated by the owner using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring space in agreements between landlords and tenants;

"(2) Twelve cents per square foot for each equivalent net rentable square foot of improvements for improved class 4 properties for any property where the Office of Taxation and Revenue does not have records indicating the net rentable area of the property, and for improved class 5 properties. Equivalent net rentable area shall be 90% of the gross building area. For purposes of this paragraph, gross building area shall be determined using records provided by the Office of Taxation and Revenue;

"(3) Fifty dollars per hotel room for class 3 properties; and

"(4) Twelve cents per square foot of land area for all unimproved class 4 properties, and all improved class 4 properties that are surface parking lots, and all unimproved class 5 properties. Land area shall be determined using records provided by the Office of Taxation and Revenue;

"(d) A 3% annual increase in the BID taxes over the current tax year rates specified in section 5(c) is hereby authorized and imposed subject to the requirements of section 9(b).

"(e) The formation of the Golden Triangle BID, including Square 70, Lot 195; Square 72, Lots 75 and 76; Square 73, Lots 80, 82, 84, 800, 858, and 876; Square 74, Lots 832 and 840; all of Squares 76, 78, 78s, 85, and 86; Square 99, Lots 49, 50, 52, and 53; all of Squares 100, 105, 106, and 107; Square 115, Lots 79, 81, 82, 84, and 85; all of Squares 116, 117, 118, 126, 127, 137, 138, 139, and 140; Square 159, Lots 75, 76, 82, 84, 814, 815, 816, and 855; all of Squares 160, 161, 162, 163, 164, and 165; Square 182, Lots 827 and 828; Square 183, Lots 91, 105, 106, 107, 111, 847, 857, 879, 880, and 881; Square 184, Lots 3, 69, 71, 804, 805, 842, 845, 849, 855, and 856; all of Squares 185 and 186; and Farragut Square is hereby authorized and the BID taxes specified below are hereby imposed through the expiration date of this act or the earlier termination or dissolution of the BID, subject to the requirements of this act, including the BID application and BID registration procedures established pursuant to subsection (a) of this section and sections 6 and 7; provided, that any BID application for such area shall include a BID tax currently established at:

"(1) Ten cents for each net rentable square foot of improved class 4 property, excluding parking lots and above grade parking structures, for any property where the owner is

required to report net rentable area to the Office of Taxation and Revenue or where the Office of Taxation and Revenue has records indicating the net rentable area of the property. Net rentable square feet shall be the number of net rentable square feet reported to or on record with the District and shall be calculated using any method that is recognized generally in the District Metropolitan area as an appropriate method for measuring space in agreements between landlords and tenants;

"(2) Ten cents for each equivalent net rentable square foot of improvements of improved class 4 property, excluding parking lots and parking structures for any property where the owner is not required to report net rentable area to the Office of Taxation and Revenue and where the Office of Taxation and Revenue maintains no record of net rentable area. Equivalent net rentable area shall be 90% of the gross building area. For purposes of this paragraph, gross building area shall exclude parking facilities and shall be determined using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring gross building area;

"(3) Seven cents for each equivalent net rentable square foot of improvements of class 3 property. Equivalent net rentable areas shall be calculated as set forth in paragraph (2) of this subsection;

"(4) Five cents for each equivalent net rentable square foot of class 4 above-grade parking structures consisting of one or more stories. Equivalent net rentable area shall be calculated as set forth in paragraph (2) of this subsection;

"(5) Five cents for each square foot of land for class 5 property and improved class 4 parking lots without parking structures as defined in paragraph (4) of this subsection; and

"(6) Two hundred and fifty dollars per year for each below-grade parking structure associated with above-ground improvements.

"(f) The listing of specifically authorized BIDs in this section shall not be construed to prohibit the establishment of a BID in another area pursuant to the terms of this act; provided, that any BID taxes, or BID tax increases, not authorized by this section (whether as adopted or amended by act of Council) shall not become effective until the effective date of an act of Council which makes such BID taxes effective.

"(g) Nothing in this act shall be construed as modifying or waiving the District's right to enact or adjust any District tax, tax rate, fee, or other assessment applicable to categories of persons or businesses that include persons or businesses subject to a BID tax under this act. Nothing in this act shall be used as a rationale for modifying the District's method of property tax assessment.

"Sec. 6. Review of application.

"(a) The Mayor shall have 15 days (excluding Saturdays, Sundays, and holidays) from the date of the filing of a BID application to conduct a preliminary review of the application to

determine if the filing criteria set forth in section 5 have been met and if the application is otherwise in conformity with this act. If the Mayor fails to make a determination that the BID application is either not in conformity with this act or that the BID application requirements have been met within 15 days (excluding Saturdays, Sundays, and holidays), such inaction shall constitute an affirmative preliminary determination that the BID application requirements have been met and the Mayor shall schedule, notify, and hold the required public hearing pursuant to section 7. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

"(b)(1) If the Mayor determines that any of the BID criteria set forth in section 5(a), except the provisions of section 5(a)(1), have not been met or that the BID application is not in conformity with this act, the Mayor shall specify the particular items that need to be corrected and notify the applicant that the application can be corrected and resubmitted within 30 days from the date of this notification. If a corrected BID application is not submitted within the 30-day period, the Mayor shall enter an order rejecting the application. If the Mayor determines that the criteria set forth in section 5(a)(1) have not been met, the Mayor shall notify the applicant that this standard has not been met and the applicant shall not be eligible to resubmit an application for a period of 1 year from the initial date of submission.

"(2) Once the Mayor affirmatively determines that the BID application requirements have been met, the Mayor shall issue a notice of preliminary finding to the applicant and to Council.

"Sec. 7. Hearing.

"(a) The Mayor shall hold a public hearing within 45 days of the issuance of his findings pursuant to section 6(b)(2). The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the functions described by this section.

"(b) Notice to the public shall be made no less than 21 days prior to the hearing.

"(c) The Mayor shall advertise the notice of the public hearing along with the notice of preliminary finding in the *District of Columbia Register*, and ensure that such notices are advertised in either *The Washington Post* or the *Washington Times*, and at least one monthly, biweekly, or weekly community newspaper serving the BID area. In the event the notice of public hearing along with the notice of preliminary findings cannot be advertised in *The Washington Post* and the *Washington Times* due to circumstances beyond the control of the Mayor, the notice shall be advertised in 2 newspapers of general circulation published in the District of Columbia, once every 2 weeks or more frequently.

"(d) No less than 21 days prior to the public hearing, the applicant shall send, by first class mail, notice of the Mayor's preliminary determination; notice of the public hearing, including the date, time, and place and availability of the BID application for review; and a summary of the application stating the borders of the proposed BID, the BID plan, and the BID

taxes, to:

"(1) The Council;

"(2) Each owner of nonexempt real property within the proposed BID area at the address shown in the most recent real property tax assessment records of the District or, at the election of the applicant, at another address if it is reasonably determined that the information in the District's records is dated;

"(3) Each commercial tenant, to the extent reasonably ascertainable;

"(4) Each advisory neighborhood commission in which the proposed BID is located to the extent reasonably ascertainable; and

"(5) Each major citizens association covering the area in which the proposed BID is located, to the extent reasonably ascertainable.

"(e) The BID application shall be made available to the public for review during normal business hours on weekdays in at least one location in the proposed BID area designated by the applicant, and at a generally accessible District government office designated by the Mayor. The notice of the public hearing shall describe these locations.

"(f) The Mayor shall use the public hearing on the proposed BID to determine whether the BID plan meets the purposes of this act and the definition of BID activity in section 2, and all other BID application requirements.

"(g) Within 10 days after the public hearing (excluding Saturdays, Sundays, and holidays) the Mayor shall either:

"(1) Register the BID and the nonprofit corporation that submitted the application under section 4 as the BID corporation; or

"(2) Determine that the BID application requirements have not been met or that the BID plan does not meet the purposes of this act and the definition of BID activity in section 2. The Mayor shall specify the particular items that need to be corrected and notify the applicant that he will have 45 days from the date of this notification within which to correct the BID application.

"(A) If a corrected BID application is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected application adequately addresses the items that were included in the Mayor's notification, the Mayor shall register the BID and the nonprofit corporation that submitted the application under section 4 as the BID corporation.

"(B) If a corrected BID application is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected application does not adequately address the particular items needing correction that were included in the Mayor's notification, the Mayor shall issue an order rejecting the registration. This order shall include the findings of fact upon which it is based.

"(C) If a corrected BID application is not submitted within the 45-day period, the Mayor shall issue an order rejecting the registration. This order shall include

findings of fact.

"(h) If an order of rejection is not issued within 60 days from the date of the public hearing, the BID and the nonprofit corporation that submitted the application under section 4 shall be deemed registered by the Mayor; except that, if the corrected application under subsection (g) of this section is determined by the Mayor to contain substantial changes, the Mayor may extend the review period for 5 business days. After such time the BID and the nonprofit corporation that submitted the application under section 4 shall be deemed registered.

"(i) Proceedings and determinations under the provisions of this act shall not be considered contested cases under the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

"Sec. 8. Board of Directors; officers; qualifications; expenses.

Section
1-2277

"(a) The powers of each BID corporation shall be vested in a Board of Directors ("Board"). Board members shall include owners, or principals, agents, partners, managers, trustees, stockholders, officers, or directors of owners, and commercial tenants, and also may include residents, community members, and governmental officials; provided, that not less than a majority of all Board members shall represent owners.

"(b) The initial Board of the BID corporation shall be the directors of the nonprofit corporation that submitted the BID application and that the Mayor designated as the BID corporation pursuant to sections 5 and 7. Within 120 days of the registration of the BID corporation, the members of the BID shall have the opportunity to nominate and elect the Board as provided in the BID articles of incorporation or bylaws.

"(c) The Board and its officers shall have all the power and authority of nonprofit corporations established under District law, except to the extent specifically precluded by this act. This power shall include, but not be limited to, the authority to accept donations or gifts of money and property, to apply for and receive grants from public and private sources, and to borrow money or issue bonds.

"(d) No Board member, officer of the BID corporation, or any member shall be paid any salary or other remuneration for serving as such, but may be reimbursed for actual and reasonable out-of-pocket expenses incurred in the performance of such person's duties in connection with the BID, except that an officer who also serves as the managing agent of the BID may receive compensation.

"(e) Each Board may hire a managing agent to perform any or all of the Board's nonfiduciary duties at a commercially reasonable rate and for such terms as the Board deems advisable. A managing agent shall not be a BID member or an affiliate of a BID member, but may be a property manager or asset manager of one or more of the properties located in the BID.

"(f) The Board may employ other persons to assist in carrying out the functions of the BID corporation.

"Sec. 9. Bylaws and articles of incorporation; amendments.

"(a) The Board of each BID corporation shall govern the BID corporation in accordance with the articles of incorporation and bylaws which shall be the articles of incorporation and bylaws of the nonprofit corporation that submitted the BID application. The members shall have the opportunity to be present and vote to adopt amendments to the initial bylaws at a meeting to be held within 120 days of the registration of the BID by the Mayor; provided, that members shall follow the procedures for offering such amendments as provided in the BID's articles of incorporation or bylaws. Bylaws of the BID corporation shall set forth the powers and duties of the Board and its officers, the procedures for removal and replacement of Board members and officers, the method of determining BID taxes consistent with this act or other Council authorization, the calling of meetings and the requirements for a quorum, ethics and conflict of interest standards, and such other information as is deemed advisable. In all cases the bylaws shall be consistent with the requirements imposed on nonprofit corporations under the applicable laws of the District, the provisions of this act, and any regulations adopted pursuant to this act.

"(b) The Board, by a 2/3 vote at a meeting called for such purposes, may adopt amendments to the BID bylaws, BID plan, and BID taxes authorized by this or any other act of the Council to reflect the changing needs of the BID corporation, which shall be duly ratified by a majority vote of the members present and voting at a regularly scheduled meeting at which a quorum is present.

"(1) Amendments shall comply with all applicable provisions of this act and any regulation adopted pursuant to this act.

"(2) Adopted amendments to the BID plan, including, but not limited to, any proposed amendment to the BID taxes, shall be filed with the Mayor within 15 days of adoption. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

"(A) The Mayor shall have 30 days after receipt of a revised BID plan to review such revisions and determine if they are in conformity with the terms of this act.

"(B) If the Mayor determines that the BID plan revisions are in conformity with the terms of this act, the Mayor shall certify such revisions and notify the BID Board that the BID plan revisions have been certified.

"(C) If the Mayor determines that the BID plan revisions are not in conformity with this act, the Mayor shall not certify such revisions and shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect. The Mayor shall specify the particular items that need to be corrected and notify the BID Board that they will have 45 days from the date of this notification within which to correct the BID plan revisions.

"(i) If a corrected BID plan revision is submitted within the 45-day period and the Mayor affirmatively determines that the corrected application adequately

addresses the items that were included in the Mayor's notification, the Mayor shall certify the BID plan revisions.

"(ii) If a corrected BID plan revision is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected plan revision does not adequately address the particular items needing correction that were included in the Mayor's notification, the Mayor shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect.

"(iii) If a corrected BID plan revision is not submitted within the 45-day period, the Mayor shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect.

"(D) If the Mayor fails to either certify the BID plan revisions or to notify the BID Board that the BID plan revisions have not been certified within 75 days of the date of their filing with the Mayor, such BID plan revisions shall be deemed to be certified by the Mayor.

"(3) BID taxes can only be amended once annually.

"Sec. 10. Expanding the geographic area of a BID.

Section
1-2279

"(a) An established BID may only expand its geographic area if:

"(1)(A) Owners of at least 51% interest in the assessed value of the nonexempt real properties and at least 25% in number of individual properties of record in a geographic area petition the existing BID to join the BID; or

"(B) With respect to areas outside the central employment area and Georgetown, owners who own at least 51% of the interest in the assessed value of the commercial properties, owners who own at least 51% of the individual properties, and at least 51% of the number of commercial tenants petition the existing BID to join the BID;

"(2) The BID meets the definition set forth in section 3(7) in relation to the existing BID borders;

"(3) Such petition is accepted by a majority vote of the existing BID Board; and

"(4) Such petition is approved by the Mayor in accordance with the procedures set forth in section 6. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

"(b) An expansion of a BID's geographic area pursuant to this section shall become effective on the effective date of an act of Council which approves such BID geographic expansion. Initial BID taxes for such area shall be collected at the next practicable regularly scheduled billing pursuant to section 16.

"(c) For the purposes of this section, individual nonexempt properties shall mean properties identified by separate lot and square numbers to the extent reasonably ascertainable from the records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that any property subdivided into separate condominium units shall constitute a single

property for the purpose of determining the number of nonexempt properties referred to in subsection (a) of this section; provided further, that such condominium units shall constitute separate properties for purposes of assessing and levying any BID charges. Changes in the assessed values occurring after submission of a BID application, whether through regular reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be taken into account in the Mayor's review of the BID application.

"Sec. 11. Meetings of members and the Board.

Section
1-2280

"(a) Except as otherwise provided by this act, meetings of the members shall be held in accordance with the provisions of the bylaws but shall occur at least once each year after the formation of the BID. The bylaws shall specify an officer who shall send each member notice of the time, place, and purposes of the meeting. Notice shall be given at least 21 days in advance of any annual or regularly scheduled meeting and at least 7 days in advance of any other meeting. Notice shall be sent by first class mail to all members of record at the address of their respective properties and to such other address as may have been designated to such officer. Notice may also be hand delivered by the officer, or his or her agent, provided the officer certifies in writing that notice was actually delivered to the member.

"(b) All meetings of the Board shall be open to members. Minutes shall be recorded and shall be made reasonably available to all members and the Mayor and the Council.

"Sec. 12. Voting.

Section
1-2281

"(a) The articles of incorporation shall provide that each member is entitled to vote. The articles of incorporation and the bylaws may allocate to each BID member a number of votes. The number of votes allocated to each member may be based on any fair and equitable formula that ensures not less than one vote per member and may take into account certain variables, including, but not limited to, assessed value of property owned or occupied, square footage owned or occupied, street frontage owned or occupied, location of property owned or occupied within the BID, obligation to pay BID taxes in the case of property owners, voluntary contribution to the BID in the case of exempt property owners, and payment for services under contract in the case of the federal government's General Services Administration.

"(b) The articles of incorporation and the bylaws may govern how members may cast multiple votes, if multiple votes are allocated, and whether and how proxy voting will be recognized.

"(c) In no case shall the total number of votes assigned to any one member or to any number of members under common ownership or control exceed 33 1/3 % of the total number of votes which may be cast. For purposes of this section, ownership or control shall mean the possession of the power to directly or indirectly cause the direction of the management and the policies of the entity in question.

"Sec. 13. Books, minutes, and records; inspection; accounts; budgets.

"(a) The BID's treasurer shall keep detailed records of the receipts and expenditures affecting the operation and administration of the BID. All such records, minutes of the meetings of the BID's members and Board, and any other records pertaining to the BID, including the names and addresses of the members, shall be available for examination by all of the members, the Mayor, the CFO, and the Council at convenient hours on working days that shall be set and announced for general knowledge. Subject to the provisions of subsection (b) of this section, upon request, any member, the Mayor, the CFO, or Council shall be provided a copy of the records and minutes.

"(b) Books and records kept by or on behalf of a BID may be withheld from examination or copying by members or others to the extent that the records concern:

"(1) Personnel matters;

"(2) Communications with legal counsel or attorney work product;

"(3) Transactions currently in negotiation and agreements containing confidentiality requirements;

"(4) Pending litigation;

"(5) Pending matters involving formal proceedings for enforcement of the BID articles of incorporation, bylaws, or rules and regulations promulgated pursuant thereto; or

"(6) Disclosure of information in violation of law.

"(c) The BID may impose and collect a charge, reflecting its actual costs of materials and labor, prior to providing copies of any books and records to members.

"(d) The Board of each BID corporation may establish such checking, savings, money market, or other depository accounts as it deems advisable; provided, that such accounts may be established only in a federally insured financial institution doing business in the District.

"(e) Upon establishment of the BID and no later than September 15th of each subsequent fiscal year, the Board of each BID corporation shall deliver to all members of record by first class mail, or by personal delivery, an operating budget outlining the Board's then current projections of revenues and operating expenses for the forthcoming fiscal year or portion thereof. The Board also shall deliver to the members of record from time to time, as circumstances warrant, a supplement to the then current operating budget outlining any material changes in anticipated expenditures or income during the applicable budget year. The Board shall update each operating budget and supplement from time to time as the Board receives information requiring material changes to such operating budget or supplement. Operating budgets and supplements shall not require the prior approval of the members. Each operating budget and supplement shall be effective upon delivery to the members of record, or the later effective date set forth in the budget or supplement. For purposes of this section, a material change is a change where major programmatic activity not anticipated in a previously approved plan is undertaken or that involves a reallocation of more than 10% of the anticipated revenues in a budget year.

"Sec. 14. Annual report of BID corporation.

"(a) The Board of each BID corporation shall file an annual report with the Mayor and the Council in compliance with subsection (b) of this section and financial statements with the CFO in compliance with subsection (c) of this section in such forms and at such times as are prescribed by regulations promulgated under this act. The requirement for filing of an annual report shall commence in the first full fiscal year after BID registration.

"(b) Each annual report shall include, at a minimum:

"(1) A financial statement for the preceding year, including a balance sheet, statement of income and loss, and such other information as is reasonably necessary to reflect the BID's actual financial performance. Such statements shall be certified by the treasurer of the BID corporation and shall be prepared on a cash basis or an accrual basis in accordance with generally accepted accounting principles consistently applied;

"(2) A proposed operating budget for the then current fiscal year; and

"(3) A narrative statement or chart showing the results of operations in comparison to stated goals and objectives.

"(c) Each financial statement package submitted to the CFO shall include, at a minimum, a financial statement, budget, and narrative statement in the same form as required by subsection (b) of this section.

"(d) A copy of each annual report shall be sent to the Council, to any Advisory Neighborhood Commission in which any portion of the BID is located, and to all members in the BID, in each case by first class mail or by personal delivery.

"(e) In connection with the filing of each annual report, each BID corporation shall allow its books and records to be open for inspection by the Mayor, the CFO, and the Council during reasonable working hours for such period of time as is prescribed by regulations promulgated under this act.

"Sec. 15. Liability.

"(a) The District shall not be liable or responsible in any manner for any debts incurred, or for any acts or inactions, by the Board or by any agent, employee, or member of the BID corporation. The BID shall reimburse the District for any legal fees or any other legal expenses related thereto, that it may incur as a result of defending against any claim brought against it, or its agents, or officers, as a result of carrying out any actions under this act; provided that the BID shall not be required to reimburse the District for any legal fees or any other expenses related thereto, that the District incurs as a result of defending against any claim brought against it, or its agents, or officers, by the BID if the BID is the substantially prevailing party..

"(b) Neither a director, officer, or member nor any affiliate of a director, officer, or member, nor any shareholder, officer, director, employee, partner, agent, or advisor of a director, officer, or member nor an affiliate of any director, officer, or member of the BID shall be personally liable to the BID corporation or to any owner or member for loss or damage

caused by any act or omission in such capacity, except for losses or damages caused by such party's fraudulent, willful, or wanton conduct or misconduct, breach of the BID instruments, or gross negligence. The BID corporation shall indemnify (only to the extent of BID corporation assets without recourse to any owner or member) any person who was or is a party or threatened to be made a party to any threatened, pending, or completed action, suit or proceeding (other than an action by or on behalf of the BID corporation), which action, suit, or proceeding arises out of or relates to any claim, issue, or matter involving or affecting the BID corporation, by reason of the fact that such party is or was a director, officer, or member, an affiliate of a director, officer, or member, or an officer, shareholder, director, employee, partner, agent, or advisor of a director, officer, or member or an affiliate of any director, officer, or member, or is or was serving at the request of the BID corporation as an officer, shareholder, director, employee, agent, or advisor of another partnership, corporation, joint venture, trust, or other enterprise, against all expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement, actually and reasonably incurred by such party in connection with such action, suit, or proceeding, so long as such party acted in good faith in a manner reasonably believed to be in or not opposed to the best interest of the BID corporation; provided, that no indemnification shall be made in respect of any claim, issue, or matter as to which a party has been adjudged to be liable for fraudulent, willful, or wanton conduct or misconduct, breach of the BID instruments, or gross negligence, or with respect to any criminal action or proceeding.

"(c) The BID corporation may maintain insurance on behalf of any person who is or was a director or officer or the shareholder, employee, partner, agent, or advisor of a director or officer for a liability asserted against it and incurred by such party in any such capacity or arising out of such party's status as such, whether or not the BID corporation would have the power to indemnify such party against such liability under this section.

"Sec. 16. Collection and disbursement of BID taxes.

(a) Within 10 days of its date of registration, and 90 days in advance of the beginning of each fiscal year, each BID shall provide the CFO with a preliminary BID tax roll, which shall include, for each property subject to the relevant BID tax, the square number, the lot number, the name of the BID, the period of time for the BID tax, and the amount of the BID tax for that property for that period of time. In addition to the preliminary tax roll, the BID shall also provide supporting information which describes the information relied upon by the BID in preparing the preliminary tax roll. The supporting information shall be based on information provided to the BID by the Office of Taxation and Revenue and any other reliable source. The preliminary BID tax roll and the supporting information shall be prepared in such form as may be prescribed by regulation by the CFO. In the event that a BID fails to provide the preliminary BID tax roll and the supporting information within the time period specified by this subsection, the BID taxes shall be collected at the time of the next regularly scheduled tax bill.

"(b) During a control year, the CFO, and in any other year, the Mayor shall examine the

preliminary BID tax roll and backup information and shall make any changes it deems are required by this act. During a control year, the CFO, and in any other year, the Mayor, shall certify a final BID tax roll no later than 30 days prior to the billing dates described in subsection (e) of this section.

"(c) Except as otherwise provided by this act, BID taxes shall be collected by the CFO during a control year, and by the Mayor in any other year. Except as otherwise provided by this act, BID taxes shall be collected in the same manner as real property taxes are collected. The CFO during a control year, and the Mayor in any other year, may contract with a financial institution having assets in excess of \$50 million or a BID (if the BID tax is related to such BID) to perform services for the District in connection with the collection and distribution of BID taxes.

"(d) BID taxes shall be effective as of the date a BID is registered or deemed registered by the Mayor pursuant to section 7, except for BID taxes that become effective pursuant to subsection (f) or (g) of section 5. Any changes to the BID tax adopted pursuant to section 9 shall be effective as of the first day of the subsequent fiscal year. BID taxes related to properties affected by a geographic expansion of the BID shall be effective as of the date such an expansion becomes effective pursuant to section 10.

"(e) BID taxes shall be payable in advance and shall cover the 6 months following the due date of the billing described by paragraph (1) of this subsection; provided however, in the case of the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period, BID taxes shall be payable as described by paragraph (2) of this subsection.

"(1) BID taxes shall be due and payable semiannually in 2 equal installments, the first installment to be paid on or before March 31st, and the second installment to be paid on or before September 15th.

"(2) BID taxes for the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period shall be collected through a special bill, if the relevant BID application requests such a special bill, to be mailed by the District or its contractee within 30 days of the effective date of the BID tax with such special bill due for payment 45 days from the date of such special bill, or if the BID application does not request such a special bill, the BID taxes for such period of time shall be billed at the time of the next practicable regularly scheduled property tax bill pursuant to paragraph (1) of this subsection, along with any other BID taxes collectible at the time of such billing.

"(f) If at any time after the dates provided by subsection (e) of this section any BID tax is not paid within the time prescribed, there shall be added to the BID tax a penalty of 10% of the unpaid amount plus interest on the unpaid amount at the rate of 1½% per month or portion of a month until the BID tax is paid.

"(g) If any BID tax shall remain unpaid after the expiration of 60 days from the date such tax became due, the property subject to such BID tax may be sold at the next ensuing tax

sale in the same manner and under the same conditions as property sold for delinquent real property taxes, if such BID taxes with interest and penalties thereon shall not have been paid in full prior to said sale. The proceeds from such sale shall be applied towards such delinquent BID taxes together with interest and penalties thereon, including costs associated with such sale; provided, that the proceeds from such sale shall be applied first towards any delinquent real property taxes (and penalties and costs associated therewith), and then towards any delinquent water and sewer charges, and then towards any delinquent litter control nuisance fines, in accordance, respectively, with section 47-1304.4, sections 104 and 210 of the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 102; D.C. Code §§ 43-1529 and 43-1610), and section 8 of the Litter Control Administrative Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2907). The proceeds shall then be applied towards any other delinquent tax, aside from the BID tax, owed by the owner of such property. The proceeds due for such delinquent BID taxes with interest and penalties thereon shall then be delivered to the collection agent for deposit into the relevant special account within 30 business days of its receipt by the District or the BID pursuant to section 18.

"(h) The Treasurer of the District shall establish a special account of the District for each BID registered pursuant to section 7. Each such special account shall be established by the Treasurer within 20 days of the date of the BID's registration pursuant to section 7.

"(1) Within 10 business days of the date of establishment of any such special account, the Treasurer shall contract with the existing real property tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Upon the termination of any such contract, the District shall contract with the successor tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Such transactions shall not be subject to the provisions of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1101 *et seq.*).

"(2) Each special account created pursuant to this section shall consist solely of funds deposited pursuant to this section, which funds shall at no time be commingled with the general fund or any other fund of the District. The following shall be deposited into the special account associated with a BID within 3 business days of its receipt by the collection agent:

"(A) All BID taxes collected pursuant to subsections (a) through (e) of this section;

"(B) All penalties and interest collected pursuant to subsection (f) of this section; and

"(C) Any proceeds from collections pursuant to subsection (g) of this section.

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"(3) The funds received as payment of a BID tax shall be applied first towards any real property taxes owed and to any delinquent real property taxes (and penalties and costs associated therewith) in the manner described by section 47-1304.4(g), before such payment is applied to the BID tax and any associated penalty and interest.

"(i) The District may recover costs from the special accounts only as specifically provided by this subsection. Any recovery of funds from a special account shall be only by payment from the collection agent to the District.

"(1) The collection agent shall make a payment to the District equal to the amount of any tax refund associated with such special account that the District documents is required pursuant to District law; provided, that to the extent that a special account lacks the funds needed to make a payment pursuant to this paragraph, the collection agent shall make said payment to the District as soon as sufficient funds are deposited into such special account; provided further, that a BID corporation shall have standing to participate in any administrative proceeding or to intervene in any judicial proceeding for the refund of BID taxes associated with such BID.

"(2) The collection agent shall make a monthly accounting to each BID of any payments to the District from the special account associated with that BID.

"(j) Each month, prior to the 5th day of the month, the collection agent shall make a payment to the BID associated with the special account, which payment shall consist of all of the funds in such account as of the end of the final day of the preceding calendar month; provided, that the collection agent shall first provide for the payment of costs pursuant to subsection (i) of this section; provided further, that the collection agent shall withhold a portion of such funds, not to exceed 2% of the total annual BID taxes associated with such account when the BID taxes are based on assessed value or ½ of 1% of the total annual BID taxes associated with such account when BID taxes are based on square footage or per building, that the Treasurer of the District finds is needed as a reserve fund to pay any tax refund that may be required pursuant to District law.

"(k) Each month, the collection agent shall provide a statement regarding the transactions in such special account to the Treasurer of the District and to the BID associated with such special account.

"(l)(1) No funds may be withdrawn from a special account established pursuant to this section except as specifically provided in subsections (i) and (j) of this section. The District and the collection agent shall not pledge the funds in any special account established pursuant to this section under any circumstances, except that the funds in any such account shall be pledged if and when requested by the BID associated with such account as security for bonds or other borrowing by such BID.

"(2) Authority to obligate or expend any taxes collected pursuant to this act shall be subject to the appropriations process.

"(m) The BID shall be the beneficial owner of the funds in the special account

associated with that BID.

"Sec. 17. Additional authority and duties of BIDs; dispute resolution.

Section
1-2286

"(a) A BID's authority shall include any powers possessed by a nonprofit corporation organized pursuant to District law, including, but not limited to, the authority to accept donations or gifts of money and property, to apply for and receive grants from public and private sources, to carry over funds from one fiscal year to the next, and to borrow money or issue bonds. Any agency or independent agency of the District, as those terms are defined in section 301 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-603.1), shall acknowledge and recognize the unique characteristics of a BID corporation.

"(b) A BID shall make a payment to the District to cover any reasonable marginal costs the District documents to the BID it has incurred in collecting the BID tax associated with such BID. If the District is unable to allocate a marginal cost to a particular BID, the District may allocate such costs between the BIDs associated with such marginal costs; provided, that any such allocation shall be based, to the extent practicable, on the equitable benefit received by each BID from such costs.

"(c) In addition to the obligation to pay the BID tax, if any owner requests a special capital improvement or service of a nature above the level of improvements or services provided generally by the BID within the BID area, such owner shall be specially charged, in accordance with such reasonable provisions as the BID Board may determine, to reflect the benefit received by such owner from such special capital improvement or service. Such special charge shall constitute the personal obligation of the property owner involved and shall be payable directly to the BID and may be deposited directly into a bank account established by the BID. Such special charges shall not be construed as a BID tax. The contract for any such special capital improvement or service valued in excess of \$1,000 shall be approved by a majority vote of the disinterested members of the Board.

"(d) In the event disputes arise with respect to any charge pursuant to this section or any activity conducted by a BID, such disputes shall be resolved through mediation, or, if mediation is unsuccessful, arbitration in accordance with the rules of the American Arbitration Association or such other reputable organization as is generally recognized as providing arbitration services as determined by the BID bylaws. Any party to such arbitration shall have the right to initiate judicial proceedings to enforce any award or decision made pursuant to arbitration, but no person shall be authorized to institute judicial proceedings with respect to the matters referred to in this subsection except to enforce an arbitration award. Residents of a residential neighborhood adjoining a BID and citizens associations covering an area in which a BID is located shall be entitled to seek relief under this section.

"(e) A BID shall have a lien on any property on which a capital improvement is made pursuant to subsection (c) of this section and such lien shall be enforced and shall have the same

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priority as a mechanics lien provided that the BID complies with the procedural mechanisms governing mechanics liens under District law.

"(f) The Mayor shall charge a reasonable fee to the proposed BID applicant to cover costs incurred by the District Government associated with processing BID applications and holding administrative hearings.

"Sec. 18. Civil action for BID taxes.

Section
1-2287

"(a) The BID corporation through its counsel may file suit in the Superior Court of the District of Columbia against any property owner with delinquent BID taxes that are at least 120 days overdue. Such a suit may seek as damages any delinquent BID taxes, including penalties and interest owed to the District under section 16(e) and the BID's reasonable attorneys fees. Such a suit shall be brought in the name of the District of Columbia.

"(b) Any judgment obtained pursuant to subsection (a) of this section may not be waived or reduced by the District and may only be satisfied by the payment to the District of the full amount of the judgment or by the sale of the relevant property at a tax sale.

"(c) A BID obtaining a judgment in a suit filed pursuant to subsection (a) of this section shall have the authority to execute this judgment in the name of the District using any method of execution authorized by District law, including, but not limited to, the authority to record such judgment with the Recorder of Deeds of the District, file a creditor's bill to sell real estate to satisfy a judgment, seek any writ of attachment, fieri facias, distringas, or replevin, and seek condemnation under such writs.

"(d) Any funds obtained by the BID as a result of subsection (e) of this section shall be turned over to the Treasurer of the District within 3 business days. The Treasurer shall disburse such funds in accordance with the priorities and procedures set forth in section 16(g).

"(e) An action pursuant to this section shall not be construed as a bar to action by the District to collect a delinquent BID tax under section 16(g).

"(f) An action pursuant to this section shall be dismissed by the Superior Court if notice and evidence thereof is provided to the Court that the District has sold the subject property at a tax sale.

"Sec. 19. Term of BID; extension; termination and dissolution.

Section
1-2288

"(a) Each BID shall have an initial term which shall end on the last day of the 5th full fiscal year of the District during which the BID has been registered pursuant to section 7. A BID may be extended for successive 5-year terms after the Mayor issues a notice or re-registration after holding a public hearing pursuant to the provisions of section 7. In order to request an extension, the BID shall notify the Mayor at least 180 days prior to the end of the BID's term that it desires to extend its status as a registered BID for a 5-year term. The Mayor shall hold such public hearing no earlier than 120 days prior to the end of such fiscal year, and no later than 30 days prior to the end of such fiscal year. If, at the end of the fiscal year, the BID

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has requested an extension and the Mayor has not issued an order revoking registration or denying an extension, then the BID shall be deemed to be re-registered for a subsequent 5-year term.

"(b) The Mayor shall issue an order revoking the registration of a BID at any time if:

"(1) By a 2/3 majority vote of the Board, the Board elects not to seek re-registration of the BID;

"(2) Not more than 1 year and not less than 90 days before the end of each 5-year period, the owners of at least 51% in assessed value of nonexempt real property and at least 25% in number of nonexempt real properties within the BID elect to dissolve the BID effective as of the last day of the then applicable 5-year term;

"(3) The Mayor determines that there has been unlawful conduct by the management or Board of the BID, which conduct has not been remedied within 30 days of notice thereof;

"(4) The Mayor determines that the conduct of the BID has jeopardized the ability of the BID to carry out the purposes of this act, which conduct has not been remedied within 30 days of notice thereof;

"(5) The BID corporation is voluntarily or involuntarily dissolved in accordance with law;

"(6) The operations of the BID cease for any reason for at least 60 consecutive days at any time after the initial organizational period of 120 days; or

"(7) A BID corporation voluntarily files for bankruptcy protection, becomes insolvent, or has a receiver appointed for all or substantially all of its assets, or any such proceeding is instituted against the BID corporation and is not discharged within 60 days.

"(c) Within 60 days of dissolution, the Board shall adopt a plan to timely distribute funds and dispose of assets to satisfy all creditors in the order of their priority, if any. Any surplus funds, including the proceeds of the sale of all real and personal property, shall be returned to the owners in proportion to their obligation to pay BID taxes within 30 days of adoption of the plan of distribution.

"Sec. 20. Prohibited acts.

"No BID corporation shall engage in the financial support of political activities and candidates, lobbying on legislative or administrative actions with respect to any property or area, or the promotion of one business to the exclusion of others. Nothing contained within this act shall be construed as modifying the terms of any lease or occupancy agreement between an owner and commercial tenant.

Section
1-2289

"Sec. 21. Maintenance of base level of city services.

"The District government shall not eliminate or reduce the level of any services customarily provided in the District to any similar geographic area because such area is subject

Section
1-2290

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to a BID, and shall continue to provide its customary services and levels of each service to such area notwithstanding that such area is or may be encompassed in a BID unless a reduction in service is part of a District-wide pro rata reduction in services necessitated by fiscal considerations or budgetary priorities.

"Sec. 22. Exempt property owners; BID membership.

Section
1-2291

"The District government, the federal government, or any property owner owning exempt real property located in the BID may, at their sole discretion, contribute money to the BID. Such exempt real property owners who voluntarily make a payment to the BID in lieu of a BID tax shall be entitled to membership in the BID and services provided to the properties in the BID. Nothing in this act shall either compel or prohibit such exempt real property owners from contributing BID taxes, becoming BID members, or receiving BID services.

"Sec. 23. Rulemaking.

New, Section
1-2292

"Pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*), the Mayor is authorized to issue any rules that may be necessary to implement the provisions of this act, which shall include a fee to cover the administrative costs of processing a BID application and holding a public hearing. No delay in issuing any rules beyond 120 days after the enactment of this act shall prevent an applicant from filing an application with the Mayor, or prevent the Mayor from registering a BID."

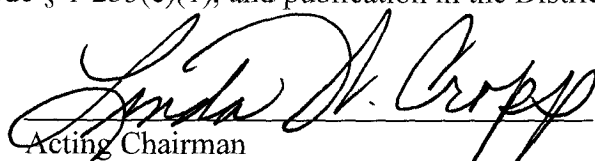
Sec. 3. Fiscal impact statement.

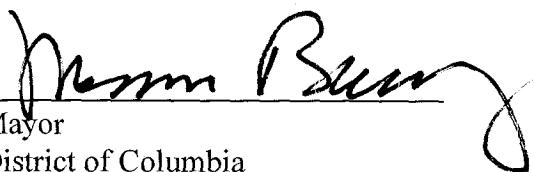
Enactment of this act will have no direct impact on the general fund of the District of Columbia. The District government may incur costs associated with processing BID applications and holding administrative hearings; however, the Mayor is to charge the applicant fees to cover these costs. Furthermore, the District government may incur costs in the collection of BID taxes; however, such costs are recoverable by the District pursuant to section 17(b). Additionally, this act provides that a portion of the BID taxes will be maintained in a special account for the payment of any refunds in BID taxes that might be required by District law. Based on the experiences of Business Improvement Districts in other cities, the creation of BIDs in the District of Columbia is anticipated to have a positive economic impact on those areas. Passage of this act and the creation of BIDs should increase cleanliness, safety, and marketing in BID areas. Cities with existing BIDs have had positive economic impacts, and consequently, indirect positive fiscal impacts from increased tax revenues, and have experienced increased commercial occupancy rates, increased retail sales, and lower reported crime.

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial

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Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1), and publication in the District of Columbia Register.


Acting Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: July 3, 1997



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

Docket No.

B12-225

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 06-03-97

VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

CHAVOUS

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Evans					Smith, Jr.				
Allen					Jarvis					Thomas, Sr.				
Ambrose					Mason									
Brazil					Patterson									
Chavous					Schwartz									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Quelch
Secretary to the Council

June 20, 1997
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 06-17-97

VOICE VOTE

APPROVED, THOMAS VOTED NO

RECORDED VOTE ON REQUEST

ABSENT

ALL PRESENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Evans					Smith, Jr.				
Allen					Jarvis					Thomas, Sr.				
Ambrose					Mason									
Brazil					Patterson									
Chavous					Schwartz									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Quelch
Secretary to the Council

June 20, 1997
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Evans					Smith, Jr.				
Allen					Jarvis					Thomas, Sr.				
Ambrose					Mason									
Brazil					Patterson									
Chavous					Schwartz									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

AN ACT

*Codification
District of
Columbia
Code
1998 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Business Improvement Districts Act of 1996 to authorize the establishment and administration of business improvement districts in the District of Columbia and the assessment and collection of taxes for the improvement of business improvement districts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Business Improvement Districts Amendment Act of 1997".

Sec. 2. The Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Code § 1-2271 *et seq.*), is amended to read as follows:

"Sec. 2. Findings and purpose.

Section
1-2271

"(a) The Council finds that:

"(1) Business Improvement Districts will help the District to promote economic growth and employment downtown and in other areas of the District;

"(2) Property owners should be encouraged to create BIDs and BID corporations to enhance their local business climate;

"(3) BID corporations should be given flexibility in establishing the self-help programs most consistent with their local needs, goals and objectives; and

"(4) Because additional services and improvements attendant to a BID will provide direct benefits to the real property within a BID, the most equitable method of financing such services is to levy an additional real property tax against all nonexempt properties within a BID District.

"(b) The purpose of this act is to provide for the creation of Business Improvement Districts the activities of which will promote the general welfare of the residents, employers, employees, property owners, commercial tenants, consumers, and the general public within a BID's geographic area by preserving, maintaining, and enhancing the economic health and vitality of a BID area as a community and business center.

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Section
1-2272

"Sec. 3. Definitions.

"For the purposes of this act, the term:

"(1) "Adjoining residential neighborhood" means any property zoned for residential use within a BID or within 800 feet of the perimeter of a BID.

"(2) "Adverse impact on adjoining residential neighborhoods" means adverse impact on traffic, on-street parking, litter, trash collection, crime, noise, lighting levels, or other such factors affecting the quality of residential life.

"(3) "Assessed value" means the valuation obtained by taking the assessed valuation of taxable real property as it appears on the last completed assessment roll for tax assessment purposes pursuant to section 47-801 *et seq.*

"(4) "BID corporation" means a nonprofit corporation that is organized pursuant to the District law for nonprofit corporations and registered pursuant to the terms of this act. A BID corporation shall not be deemed to be a part of the District government as that term is defined in section 47-393(5).

"(5) "Block" means the properties fronting on both sides of a street that are located between 2 intersecting streets.

"(6) "Business Improvement District Activity" or "BID activity" means a special service or activity conducted in a Business Improvement District designed to improve the economic development climate in the area pursuant to this act, and which is designed and conducted so as to avoid any material adverse impact on adjoining residential neighborhoods and is otherwise in accordance with all applicable laws, regulations, and requirements of the District of Columbia and the United States, which services and activities may augment, but which may not replace, governmental services customarily provided in the regular course of the District's operations. This term shall include the planning, administration, and management of activities designed to provide economic stimulus, stability, or benefit to the BID or its members, including, but not limited to, the following:

"(A) Seasonal promotions such as festivals and special displays;

"(B) Enhanced maintenance and improvements to public space, including sidewalks, parks, and plazas;

"(C) Marketing and procurement activities in support of tourism, job creation, business attraction, development, efficiency, and retention;

"(D) Retail, restaurant, and arts promotions;

"(E) Services to improve public safety and transportation, such as providing shuttle buses, community service representatives acting as goodwill ambassadors, and private security services;

"(F) Development of special signage and storefront and commercial building facade improvement programs; and

"(G) Any other service or activity consistent with the purposes of this act if such service or activity is set out in the BID's business plan, as amended from time to time

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and as submitted to the Mayor in accordance with this act.

"(7) "Business Improvement District" or "BID" means a defined geographic area in the District in which the preponderance of activity carried out is commercial or industrial in nature, which does not include any part of an existing BID previously established pursuant to this act, and which area consists of not less than 5 contiguous blocks (or the maximum number of contiguous blocks in cases where there are fewer than 5 contiguous blocks), or noncontiguous commercial blocks within a generally recognized single neighborhood; provided, that noncontiguous blocks are not wholly located in an area that is not part of the general BID area.

"(8) "BID tax" means an additional real property tax assessed and levied by the District on, and payable by, the owners of nonexempt properties in a Business Improvement District subject to the BID certification processes of this act.

"(9) "CFO" means the Chief Financial Officer of the District.

"(10) "Commercial tenant" means a lessee, or other lawful occupant, of nonexempt real property within a BID who is not an owner and who conducts a lawful commercial use as defined in the Zoning Regulations of the District.

"(11) "Council" means the Council of the District of Columbia.

"(12) "District" means the District of Columbia.

"(13) "Fiscal year" means the same fiscal year as the fiscal year of the District.

"(14) "Lot" means the lots described in the District tax and assessment records.

"(15) "Mayor" means the Mayor of the District of Columbia or such administrative agency of the District that is designated by the Mayor to administer the provisions of this act.

"(16) "Member" means a member of the BID Corporation, the membership of which shall be comprised of each owner and each commercial tenant in the BID area, and each person who becomes a member pursuant to section 22.

"(17) "Member of record" means a member that the BID is reasonably able to identify from District of Columbia property tax records or from other reasonably available sources.

"(18) "Nonexempt real property" means real property that is not exempt from paying real property taxes pursuant to section 47-1001 *et seq.*, is not residential property, and is not the residential portion of a property used for both residential and nonresidential purposes.

"(19) "Owner" means an owner of nonexempt real property.

"(20) "Owner's property" means an owner's nonexempt real property located within a BID.

"(21) "Person" means any individual, sole proprietorship, partnership, society, association, joint venture, stock company, corporation, limited liability company, estate, receiver, trustee, assignee, fiduciary, or any combination of any of the foregoing.

"(22) "Reasonably ascertainable", "reasonably available", and "reasonably

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determined" mean, in relation to information, reasonably reliable information that is obtained by the BID and relied upon by the BID in good faith.

"Sec. 4. BID formation.

Section
1-2273

"Each BID shall be organized as a nonprofit corporation under the laws of the District and shall be subject to all applicable District and federal laws and regulations. Each owner and each commercial tenant within a BID, whether such owner or commercial tenant is an owner or commercial tenant at the time the BID is established or at any time thereafter when the BID is in existence, shall be a member of the BID corporation from such time as the BID corporation becomes registered pursuant to this act and until such time as such member's ownership or tenancy within the BID area is terminated or the BID corporation is terminated or dissolved.

"Sec. 5. Establishment of Business Improvement District.

Section
1-2274

"(a) To establish a BID with respect to any area, the Board of Directors of a nonprofit corporation established under District law for the purpose of forming a BID and seeking to be registered as a BID corporation shall submit an application to the Mayor for review of compliance with all BID criteria described in this section. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section. Each application shall be duly sworn under oath before a notary public who holds a valid license in the District, and shall contain:

"(1) A statement setting forth the name and address of the nonprofit corporation seeking registration as a BID corporation; a description by lot, square, and street address of the property of each owner to the extent reasonably ascertainable; and the most recent assessed value of each nonexempt real property located in the proposed BID to the extent reasonably ascertainable from District property tax records or a final determination of the District's Board of Real Property Assessment and Appeals. The statement must be signed by the owners (or their authorized representatives) who own at least a 51% interest in the most recent assessed value of the nonexempt real properties in the geographic area of the proposed BID as a whole, and at least 25% in number of the individual nonexempt properties of record in the BID area as a whole. For the purposes hereof, individual nonexempt properties shall mean properties identified by separate lot and square numbers to the extent reasonably ascertainable from the records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that any property subdivided into separate condominium units shall constitute a single property for the purpose of determining the number of nonexempt properties referred to in this paragraph; provided further, that such condominium units shall constitute separate properties for purposes of assessing and levying any BID charges. Changes in the assessed values occurring after submission of a BID application, whether through regular reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be taken into account in the Mayor's review of the BID application;

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"(2) A proposed business plan ("BID plan") for at least the first 3 years of the initial 5-year term of the BID. The BID plan shall contain, at a minimum, the following:

"(A) Specific goals and objectives of the BID consistent with the BID activity as defined in this act, anticipated resources to be used to meet such goals and objectives, and projected timetables for undertaking and completing projects in furtherance of the goals and objectives;

"(B) The annual proposed total BID taxes for the BID's common operations for the BID's first year of operation and the formula used to determine each owner's BID tax which shall be based upon either assessed value, square footage, or a uniform fixed tax per building. BID taxes may vary by class and type of property provided that they are applied fairly and equitably to all owners within the BID; and

"(C) The maximum amount and the nature of any start-up costs incurred prior to the BID's registration that the BID plans to reimburse upon its registration;

"(3) A tax assessor's map of the geographic area comprising the BID clearly designating the BID boundaries and each property by street address, lot, and square number to be included within the BID;

"(4) A list of the initial members of the Board of the BID, which must satisfy the criteria of section 7(a);

"(5) The adopted articles of incorporation and the adopted bylaws of the nonprofit corporation seeking to be registered as the BID corporation which articles of incorporation or bylaws must include:

"(A) The names and addresses of the initial directors and a provision stating that the term of the initial directors shall expire at such time as new directors are elected pursuant to section 8(b). Such terms shall in no event exceed 120 days after the BID is registered by the Mayor;

"(B) The procedures through which the members of the BID corporation shall propose and vote to adopt amendments to the initial bylaws, including the quorum requirements for the method of allocating votes to members for purposes of this vote which shall occur not more than 120 days after the BID is registered by the Mayor; and

"(C) The number of votes allocated to each member subject to the requirements of section 11(a). The adopted articles of incorporation and the adopted bylaws of the nonprofit corporation may contain any provision not inconsistent with the District nonprofit corporation law or this act;

"(6) A list, by street address, lot, and square number, of all nonexempt real property within the proposed BID, including the names and mailing addresses of the record owners to the extent reasonably ascertainable from the real property records of the Office of Recorder of Deeds or the real property tax and assessment records of the Office of Taxation and Revenue;

"(7) A list of the names and addresses of all commercial tenants within the BID

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area, to the extent reasonably ascertainable; and

"(8) The name of the bank and the location of the branch at which the BID will establish its bank accounts, which shall be subject to, in addition to the other approvals required by this section, the approval of the CFO.

"(b) With respect to areas outside the central employment area and Georgetown, a BID may be established if the requirements of subsection (a)(2)-(8) of this section are met, if the statement is signed by at least 51% of the number of commercial tenants occupying nonexempt real properties in the geographic area of the proposed BID, and if owners who own at least 51% of the interest in the assessed value of the commercial properties within the proposed BID area and owners who own at least 51% of the individual properties within the proposed BID area agree to do so.

"(c) The formation of the downtown BID, including all of the properties created by drawing a line that starts at the center of the street at the intersection of Massachusetts Avenue, N.W., and the western edge of I-395; and continues south along the western edge of I-395 to the center of D Street, N.W.; and continues east along the center of D Street, N.W., to the eastern edge of the Department of Labor Building; and continues south along the eastern edge of the Department of Labor Building to the center of C Street, N.W.; and continues west along the center of C Street, N.W., to the center of 2nd Street, N.W.; and continues south along the center of 2nd Street, N.W., to the center of Constitution Avenue, N.W.; and continues west along the center line of Constitution Avenue, N.W., to the center of 15th Street, N.W.; and continues north along the center line of 15th Street, N.W., to the center of Pennsylvania Avenue, N.W.; and continues west along the center line of Pennsylvania Avenue, N.W., to the western property line of 1503 Pennsylvania Avenue, N.W.; and continues north along the building edge of 1503 Pennsylvania Avenue, N.W., to the center of the north-south alley in Square 221; and continues north along the center line of the north-south alley in Square 221 to the center of H Street, N.W.; and continues west along the center line of H Street, N.W., to the center of 16th Street, N.W.; and continues north along the center line of 16th Street, N.W., to the southern edge of Thomas Circle; and continues counterclockwise around the center line of Thomas Circle to the center point of Massachusetts Avenue, N.W.; and continues southeast along the center line of Massachusetts Avenue, N.W., to the center of 9th Street, N.W.; and continues north along the center line of 9th Street, N.W., to the center of N Street, N.W.; and continues east along the center line of N Street, N.W., to the center of the north-south alley in Square 424; and continues south along the center line of the north-south alley in Square 424 to the center of M Street N.W.; and continues east along M Street N.W., to the center of 7th Street, N.W.; and continues south along the center line of 7th Street, N.W., to the center of K Street, N.W.; and continues east along the center line of K Street, N.W., to the center of 6th Street, N.W.; and continues south along the center line of 6th Street, N.W., to the center of Massachusetts Avenue, N.W.; and continues east along the center line of Massachusetts Avenue, N.W., to the center of the street at the intersection of Massachusetts Avenue and the western edge of I-395, is

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hereby authorized and the BID taxes specified below are hereby imposed through the expiration date of this act or the earlier termination or dissolution of the BID, subject to the requirements of this act, including the BID application and BID registration procedures established pursuant to subsection (a) of this section and sections 6 and 7; provided, that any BID application for such area shall include a BID tax currently established at:

"(1) Twelve cents per square foot for each net rentable square foot for improved class 4 properties where the Office of Taxation and Revenue has records indicating the net rentable area of the property. Net rentable square feet shall be the number of net rentable square feet reported to the District and shall be calculated by the owner using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring space in agreements between landlords and tenants;

"(2) Twelve cents per square foot for each equivalent net rentable square foot of improvements for improved class 4 properties for any property where the Office of Taxation and Revenue does not have records indicating the net rentable area of the property, and for improved class 5 properties. Equivalent net rentable area shall be 90% of the gross building area. For purposes of this paragraph, gross building area shall be determined using records provided by the Office of Taxation and Revenue;

"(3) Fifty dollars per hotel room for class 3 properties; and

"(4) Twelve cents per square foot of land area for all unimproved class 4 properties, and all improved class 4 properties that are surface parking lots, and all unimproved class 5 properties. Land area shall be determined using records provided by the Office of Taxation and Revenue;

"(d) A 3% annual increase in the BID taxes over the current tax year rates specified in section 5(c) is hereby authorized and imposed subject to the requirements of section 9(b).

"(e) The formation of the Golden Triangle BID, including Square 70, Lot 195; Square 72, Lots 75 and 76; Square 73, Lots 80, 82, 84, 800, 858, and 876; Square 74, Lots 832 and 840; all of Squares 76, 78, 78s, 85, and 86; Square 99, Lots 49, 50, 52, and 53; all of Squares 100, 105, 106, and 107; Square 115, Lots 79, 81, 82, 84, and 85; all of Squares 116, 117, 118, 126, 127, 137, 138, 139, and 140; Square 159, Lots 75, 76, 82, 84, 814, 815, 816, and 855; all of Squares 160, 161, 162, 163, 164, and 165; Square 182, Lots 827 and 828; Square 183, Lots 91, 105, 106, 107, 111, 847, 857, 879, 880, and 881; Square 184, Lots 3, 69, 71, 804, 805, 842, 845, 849, 855, and 856; all of Squares 185 and 186; and Farragut Square is hereby authorized and the BID taxes specified below are hereby imposed through the expiration date of this act or the earlier termination or dissolution of the BID, subject to the requirements of this act, including the BID application and BID registration procedures established pursuant to subsection (a) of this section and sections 6 and 7; provided, that any BID application for such area shall include a BID tax currently established at:

"(1) Ten cents for each net rentable square foot of improved class 4 property, excluding parking lots and above grade parking structures, for any property where the owner is

ENROLLED ORIGINAL

required to report net rentable area to the Office of Taxation and Revenue or where the Office of Taxation and Revenue has records indicating the net rentable area of the property. Net rentable square feet shall be the number of net rentable square feet reported to or on record with the District and shall be calculated using any method that is recognized generally in the District Metropolitan area as an appropriate method for measuring space in agreements between landlords and tenants;

"(2) Ten cents for each equivalent net rentable square foot of improvements of improved class 4 property, excluding parking lots and parking structures for any property where the owner is not required to report net rentable area to the Office of Taxation and Revenue and where the Office of Taxation and Revenue maintains no record of net rentable area. Equivalent net rentable area shall be 90% of the gross building area. For purposes of this paragraph, gross building area shall exclude parking facilities and shall be determined using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring gross building area;

"(3) Seven cents for each equivalent net rentable square foot of improvements of class 3 property. Equivalent net rentable areas shall be calculated as set forth in paragraph (2) of this subsection;

"(4) Five cents for each equivalent net rentable square foot of class 4 above-grade parking structures consisting of one or more stories. Equivalent net rentable area shall be calculated as set forth in paragraph (2) of this subsection;

"(5) Five cents for each square foot of land for class 5 property and improved class 4 parking lots without parking structures as defined in paragraph (4) of this subsection; and

"(6) Two hundred and fifty dollars per year for each below-grade parking structure associated with above-ground improvements.

"(f) The listing of specifically authorized BIDs in this section shall not be construed to prohibit the establishment of a BID in another area pursuant to the terms of this act; provided, that any BID taxes, or BID tax increases, not authorized by this section (whether as adopted or amended by act of Council) shall not become effective until the effective date of an act of Council which makes such BID taxes effective.

"(g) Nothing in this act shall be construed as modifying or waiving the District's right to enact or adjust any District tax, tax rate, fee, or other assessment applicable to categories of persons or businesses that include persons or businesses subject to a BID tax under this act. Nothing in this act shall be used as a rationale for modifying the District's method of property tax assessment.

"Sec. 6. Review of application.

"(a) The Mayor shall have 15 days (excluding Saturdays, Sundays, and holidays) from the date of the filing of a BID application to conduct a preliminary review of the application to

Section
1-2275

determine if the filing criteria set forth in section 5 have been met and if the application is otherwise in conformity with this act. If the Mayor fails to make a determination that the BID application is either not in conformity with this act or that the BID application requirements have been met within 15 days (excluding Saturdays, Sundays, and holidays), such inaction shall constitute an affirmative preliminary determination that the BID application requirements have been met and the Mayor shall schedule, notify, and hold the required public hearing pursuant to section 7. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

"(b)(1) If the Mayor determines that any of the BID criteria set forth in section 5(a), except the provisions of section 5(a)(1), have not been met or that the BID application is not in conformity with this act, the Mayor shall specify the particular items that need to be corrected and notify the applicant that the application can be corrected and resubmitted within 30 days from the date of this notification. If a corrected BID application is not submitted within the 30-day period, the Mayor shall enter an order rejecting the application. If the Mayor determines that the criteria set forth in section 5(a)(1) have not been met, the Mayor shall notify the applicant that this standard has not been met and the applicant shall not be eligible to resubmit an application for a period of 1 year from the initial date of submission.

"(2) Once the Mayor affirmatively determines that the BID application requirements have been met, the Mayor shall issue a notice of preliminary finding to the applicant and to Council.

"Sec. 7. Hearing.

Section
1-2276

"(a) The Mayor shall hold a public hearing within 45 days of the issuance of his findings pursuant to section 6(b)(2). The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the functions described by this section.

"(b) Notice to the public shall be made no less than 21 days prior to the hearing.

"(c) The Mayor shall advertise the notice of the public hearing along with the notice of preliminary finding in the *District of Columbia Register*, and ensure that such notices are advertised in either *The Washington Post* or the *Washington Times*, and at least one monthly, biweekly, or weekly community newspaper serving the BID area. In the event the notice of public hearing along with the notice of preliminary findings cannot be advertised in *The Washington Post* and the *Washington Times* due to circumstances beyond the control of the Mayor, the notice shall be advertised in 2 newspapers of general circulation published in the District of Columbia, once every 2 weeks or more frequently.

"(d) No less than 21 days prior to the public hearing, the applicant shall send, by first class mail, notice of the Mayor's preliminary determination; notice of the public hearing, including the date, time, and place and availability of the BID application for review; and a summary of the application stating the borders of the proposed BID, the BID plan, and the BID

taxes, to:

"(1) The Council;

"(2) Each owner of nonexempt real property within the proposed BID area at the address shown in the most recent real property tax assessment records of the District or, at the election of the applicant, at another address if it is reasonably determined that the information in the District's records is dated;

"(3) Each commercial tenant, to the extent reasonably ascertainable;

"(4) Each advisory neighborhood commission in which the proposed BID is located to the extent reasonably ascertainable; and

"(5) Each major citizens association covering the area in which the proposed BID is located, to the extent reasonably ascertainable.

"(e) The BID application shall be made available to the public for review during normal business hours on weekdays in at least one location in the proposed BID area designated by the applicant, and at a generally accessible District government office designated by the Mayor. The notice of the public hearing shall describe these locations.

"(f) The Mayor shall use the public hearing on the proposed BID to determine whether the BID plan meets the purposes of this act and the definition of BID activity in section 2, and all other BID application requirements.

"(g) Within 10 days after the public hearing (excluding Saturdays, Sundays, and holidays) the Mayor shall either:

"(1) Register the BID and the nonprofit corporation that submitted the application under section 4 as the BID corporation; or

"(2) Determine that the BID application requirements have not been met or that the BID plan does not meet the purposes of this act and the definition of BID activity in section 2. The Mayor shall specify the particular items that need to be corrected and notify the applicant that he will have 45 days from the date of this notification within which to correct the BID application.

"(A) If a corrected BID application is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected application adequately addresses the items that were included in the Mayor's notification, the Mayor shall register the BID and the nonprofit corporation that submitted the application under section 4 as the BID corporation.

"(B) If a corrected BID application is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected application does not adequately address the particular items needing correction that were included in the Mayor's notification, the Mayor shall issue an order rejecting the registration. This order shall include the findings of fact upon which it is based.

"(C) If a corrected BID application is not submitted within the 45-day period, the Mayor shall issue an order rejecting the registration. This order shall include

findings of fact.

"(h) If an order of rejection is not issued within 60 days from the date of the public hearing, the BID and the nonprofit corporation that submitted the application under section 4 shall be deemed registered by the Mayor; except that, if the corrected application under subsection (g) of this section is determined by the Mayor to contain substantial changes, the Mayor may extend the review period for 5 business days. After such time the BID and the nonprofit corporation that submitted the application under section 4 shall be deemed registered.

"(i) Proceedings and determinations under the provisions of this act shall not be considered contested cases under the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

"Sec. 8. Board of Directors; officers; qualifications; expenses.

Section
1-2277

"(a) The powers of each BID corporation shall be vested in a Board of Directors ("Board"). Board members shall include owners, or principals, agents, partners, managers, trustees, stockholders, officers, or directors of owners, and commercial tenants, and also may include residents, community members, and governmental officials; provided, that not less than a majority of all Board members shall represent owners.

"(b) The initial Board of the BID corporation shall be the directors of the nonprofit corporation that submitted the BID application and that the Mayor designated as the BID corporation pursuant to sections 5 and 7. Within 120 days of the registration of the BID corporation, the members of the BID shall have the opportunity to nominate and elect the Board as provided in the BID articles of incorporation or bylaws.

"(c) The Board and its officers shall have all the power and authority of nonprofit corporations established under District law, except to the extent specifically precluded by this act. This power shall include, but not be limited to, the authority to accept donations or gifts of money and property, to apply for and receive grants from public and private sources, and to borrow money or issue bonds.

"(d) No Board member, officer of the BID corporation, or any member shall be paid any salary or other remuneration for serving as such, but may be reimbursed for actual and reasonable out-of-pocket expenses incurred in the performance of such person's duties in connection with the BID, except that an officer who also serves as the managing agent of the BID may receive compensation.

"(e) Each Board may hire a managing agent to perform any or all of the Board's nonfiduciary duties at a commercially reasonable rate and for such terms as the Board deems advisable. A managing agent shall not be a BID member or an affiliate of a BID member, but may be a property manager or asset manager of one or more of the properties located in the BID.

"(f) The Board may employ other persons to assist in carrying out the functions of the BID corporation.

"Sec. 9. Bylaws and articles of incorporation; amendments.

"(a) The Board of each BID corporation shall govern the BID corporation in accordance with the articles of incorporation and bylaws which shall be the articles of incorporation and bylaws of the nonprofit corporation that submitted the BID application. The members shall have the opportunity to be present and vote to adopt amendments to the initial bylaws at a meeting to be held within 120 days of the registration of the BID by the Mayor; provided, that members shall follow the procedures for offering such amendments as provided in the BID's articles of incorporation or bylaws. Bylaws of the BID corporation shall set forth the powers and duties of the Board and its officers, the procedures for removal and replacement of Board members and officers, the method of determining BID taxes consistent with this act or other Council authorization, the calling of meetings and the requirements for a quorum, ethics and conflict of interest standards, and such other information as is deemed advisable. In all cases the bylaws shall be consistent with the requirements imposed on nonprofit corporations under the applicable laws of the District, the provisions of this act, and any regulations adopted pursuant to this act.

"(b) The Board, by a 2/3 vote at a meeting called for such purposes, may adopt amendments to the BID bylaws, BID plan, and BID taxes authorized by this or any other act of the Council to reflect the changing needs of the BID corporation, which shall be duly ratified by a majority vote of the members present and voting at a regularly scheduled meeting at which a quorum is present.

"(1) Amendments shall comply with all applicable provisions of this act and any regulation adopted pursuant to this act.

"(2) Adopted amendments to the BID plan, including, but not limited to, any proposed amendment to the BID taxes, shall be filed with the Mayor within 15 days of adoption. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

"(A) The Mayor shall have 30 days after receipt of a revised BID plan to review such revisions and determine if they are in conformity with the terms of this act.

"(B) If the Mayor determines that the BID plan revisions are in conformity with the terms of this act, the Mayor shall certify such revisions and notify the BID Board that the BID plan revisions have been certified.

"(C) If the Mayor determines that the BID plan revisions are not in conformity with this act, the Mayor shall not certify such revisions and shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect. The Mayor shall specify the particular items that need to be corrected and notify the BID Board that they will have 45 days from the date of this notification within which to correct the BID plan revisions.

"(i) If a corrected BID plan revision is submitted within the 45-day period and the Mayor affirmatively determines that the corrected application adequately

addresses the items that were included in the Mayor's notification, the Mayor shall certify the BID plan revisions.

"(ii) If a corrected BID plan revision is submitted within the 45-day period, and the Mayor affirmatively determines that the corrected plan revision does not adequately address the particular items needing correction that were included in the Mayor's notification, the Mayor shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect.

"(iii) If a corrected BID plan revision is not submitted within the 45-day period, the Mayor shall notify the BID Board that the BID plan revisions have not been certified and cannot take effect.

"(D) If the Mayor fails to either certify the BID plan revisions or to notify the BID Board that the BID plan revisions have not been certified within 75 days of the date of their filing with the Mayor, such BID plan revisions shall be deemed to be certified by the Mayor.

"(3) BID taxes can only be amended once annually.

"Sec. 10. Expanding the geographic area of a BID.

Section
1-2279

"(a) An established BID may only expand its geographic area if:

"(1)(A) Owners of at least 51% interest in the assessed value of the nonexempt real properties and at least 25% in number of individual properties of record in a geographic area petition the existing BID to join the BID; or

"(B) With respect to areas outside the central employment area and Georgetown, owners who own at least 51% of the interest in the assessed value of the commercial properties, owners who own at least 51% of the individual properties, and at least 51% of the number of commercial tenants petition the existing BID to join the BID;

"(2) The BID meets the definition set forth in section 3(7) in relation to the existing BID borders;

"(3) Such petition is accepted by a majority vote of the existing BID Board; and

"(4) Such petition is approved by the Mayor in accordance with the procedures set forth in section 6. The Mayor may designate the Deputy City Administrator for Business Services and Economic Development to perform the review functions described by this section.

"(b) An expansion of a BID's geographic area pursuant to this section shall become effective on the effective date of an act of Council which approves such BID geographic expansion. Initial BID taxes for such area shall be collected at the next practicable regularly scheduled billing pursuant to section 16.

"(c) For the purposes of this section, individual nonexempt properties shall mean properties identified by separate lot and square numbers to the extent reasonably ascertainable from the records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that any property subdivided into separate condominium units shall constitute a single

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property for the purpose of determining the number of nonexempt properties referred to in subsection (a) of this section; provided further, that such condominium units shall constitute separate properties for purposes of assessing and levying any BID charges. Changes in the assessed values occurring after submission of a BID application, whether through regular reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be taken into account in the Mayor's review of the BID application.

"Sec. 11. Meetings of members and the Board.

Section
1-2280

"(a) Except as otherwise provided by this act, meetings of the members shall be held in accordance with the provisions of the bylaws but shall occur at least once each year after the formation of the BID. The bylaws shall specify an officer who shall send each member notice of the time, place, and purposes of the meeting. Notice shall be given at least 21 days in advance of any annual or regularly scheduled meeting and at least 7 days in advance of any other meeting. Notice shall be sent by first class mail to all members of record at the address of their respective properties and to such other address as may have been designated to such officer. Notice may also be hand delivered by the officer, or his or her agent, provided the officer certifies in writing that notice was actually delivered to the member.

"(b) All meetings of the Board shall be open to members. Minutes shall be recorded and shall be made reasonably available to all members and the Mayor and the Council.

"Sec. 12. Voting.

Section
1-2281

"(a) The articles of incorporation shall provide that each member is entitled to vote. The articles of incorporation and the bylaws may allocate to each BID member a number of votes. The number of votes allocated to each member may be based on any fair and equitable formula that ensures not less than one vote per member and may take into account certain variables, including, but not limited to, assessed value of property owned or occupied, square footage owned or occupied, street frontage owned or occupied, location of property owned or occupied within the BID, obligation to pay BID taxes in the case of property owners, voluntary contribution to the BID in the case of exempt property owners, and payment for services under contract in the case of the federal government's General Services Administration.

"(b) The articles of incorporation and the bylaws may govern how members may cast multiple votes, if multiple votes are allocated, and whether and how proxy voting will be recognized.

"(c) In no case shall the total number of votes assigned to any one member or to any number of members under common ownership or control exceed 33 1/3 % of the total number of votes which may be cast. For purposes of this section, ownership or control shall mean the possession of the power to directly or indirectly cause the direction of the management and the policies of the entity in question.

"Sec. 13. Books, minutes, and records; inspection; accounts; budgets.

"(a) The BID's treasurer shall keep detailed records of the receipts and expenditures affecting the operation and administration of the BID. All such records, minutes of the meetings of the BID's members and Board, and any other records pertaining to the BID, including the names and addresses of the members, shall be available for examination by all of the members, the Mayor, the CFO, and the Council at convenient hours on working days that shall be set and announced for general knowledge. Subject to the provisions of subsection (b) of this section, upon request, any member, the Mayor, the CFO, or Council shall be provided a copy of the records and minutes.

"(b) Books and records kept by or on behalf of a BID may be withheld from examination or copying by members or others to the extent that the records concern:

"(1) Personnel matters;

"(2) Communications with legal counsel or attorney work product;

"(3) Transactions currently in negotiation and agreements containing confidentiality requirements;

"(4) Pending litigation;

"(5) Pending matters involving formal proceedings for enforcement of the BID articles of incorporation, bylaws, or rules and regulations promulgated pursuant thereto; or

"(6) Disclosure of information in violation of law.

"(c) The BID may impose and collect a charge, reflecting its actual costs of materials and labor, prior to providing copies of any books and records to members.

"(d) The Board of each BID corporation may establish such checking, savings, money market, or other depository accounts as it deems advisable; provided, that such accounts may be established only in a federally insured financial institution doing business in the District.

"(e) Upon establishment of the BID and no later than September 15th of each subsequent fiscal year, the Board of each BID corporation shall deliver to all members of record by first class mail, or by personal delivery, an operating budget outlining the Board's then current projections of revenues and operating expenses for the forthcoming fiscal year or portion thereof. The Board also shall deliver to the members of record from time to time, as circumstances warrant, a supplement to the then current operating budget outlining any material changes in anticipated expenditures or income during the applicable budget year. The Board shall update each operating budget and supplement from time to time as the Board receives information requiring material changes to such operating budget or supplement. Operating budgets and supplements shall not require the prior approval of the members. Each operating budget and supplement shall be effective upon delivery to the members of record, or the later effective date set forth in the budget or supplement. For purposes of this section, a material change is a change where major programmatic activity not anticipated in a previously approved plan is undertaken or that involves a reallocation of more than 10% of the anticipated revenues in a budget year.

"Sec. 14. Annual report of BID corporation.

Section
1-2283

"(a) The Board of each BID corporation shall file an annual report with the Mayor and the Council in compliance with subsection (b) of this section and financial statements with the CFO in compliance with subsection (c) of this section in such forms and at such times as are prescribed by regulations promulgated under this act. The requirement for filing of an annual report shall commence in the first full fiscal year after BID registration.

"(b) Each annual report shall include, at a minimum:

"(1) A financial statement for the preceding year, including a balance sheet, statement of income and loss, and such other information as is reasonably necessary to reflect the BID's actual financial performance. Such statements shall be certified by the treasurer of the BID corporation and shall be prepared on a cash basis or an accrual basis in accordance with generally accepted accounting principles consistently applied;

"(2) A proposed operating budget for the then current fiscal year; and

"(3) A narrative statement or chart showing the results of operations in comparison to stated goals and objectives.

"(c) Each financial statement package submitted to the CFO shall include, at a minimum, a financial statement, budget, and narrative statement in the same form as required by subsection (b) of this section.

"(d) A copy of each annual report shall be sent to the Council, to any Advisory Neighborhood Commission in which any portion of the BID is located, and to all members in the BID, in each case by first class mail or by personal delivery.

"(e) In connection with the filing of each annual report, each BID corporation shall allow its books and records to be open for inspection by the Mayor, the CFO, and the Council during reasonable working hours for such period of time as is prescribed by regulations promulgated under this act.

"Sec. 15. Liability.

Section
1-2284

"(a) The District shall not be liable or responsible in any manner for any debts incurred, or for any acts or inactions, by the Board or by any agent, employee, or member of the BID corporation. The BID shall reimburse the District for any legal fees or any other legal expenses related thereto, that it may incur as a result of defending against any claim brought against it, or its agents, or officers, as a result of carrying out any actions under this act; provided that the BID shall not be required to reimburse the District for any legal fees or any other expenses related thereto, that the District incurs as a result of defending against any claim brought against it, or its agents, or officers, by the BID if the BID is the substantially prevailing party..

"(b) Neither a director, officer, or member nor any affiliate of a director, officer, or member, nor any shareholder, officer, director, employee, partner, agent, or advisor of a director, officer, or member nor an affiliate of any director, officer, or member of the BID shall be personally liable to the BID corporation or to any owner or member for loss or damage

caused by any act or omission in such capacity, except for losses or damages caused by such party's fraudulent, willful, or wanton conduct or misconduct, breach of the BID instruments, or gross negligence. The BID corporation shall indemnify (only to the extent of BID corporation assets without recourse to any owner or member) any person who was or is a party or threatened to be made a party to any threatened, pending, or completed action, suit or proceeding (other than an action by or on behalf of the BID corporation), which action, suit, or proceeding arises out of or relates to any claim, issue, or matter involving or affecting the BID corporation, by reason of the fact that such party is or was a director, officer, or member, an affiliate of a director, officer, or member, or an officer, shareholder, director, employee, partner, agent, or advisor of a director, officer, or member or an affiliate of any director, officer, or member, or is or was serving at the request of the BID corporation as an officer, shareholder, director, employee, agent, or advisor of another partnership, corporation, joint venture, trust, or other enterprise, against all expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement, actually and reasonably incurred by such party in connection with such action, suit, or proceeding, so long as such party acted in good faith in a manner reasonably believed to be in or not opposed to the best interest of the BID corporation; provided, that no indemnification shall be made in respect of any claim, issue, or matter as to which a party has been adjudged to be liable for fraudulent, willful, or wanton conduct or misconduct, breach of the BID instruments, or gross negligence, or with respect to any criminal action or proceeding.

"(c) The BID corporation may maintain insurance on behalf of any person who is or was a director or officer or the shareholder, employee, partner, agent, or advisor of a director or officer for a liability asserted against it and incurred by such party in any such capacity or arising out of such party's status as such, whether or not the BID corporation would have the power to indemnify such party against such liability under this section.

"Sec. 16. Collection and disbursement of BID taxes.

Section
1-2285

(a) Within 10 days of its date of registration, and 90 days in advance of the beginning of each fiscal year, each BID shall provide the CFO with a preliminary BID tax roll, which shall include, for each property subject to the relevant BID tax, the square number, the lot number, the name of the BID, the period of time for the BID tax, and the amount of the BID tax for that property for that period of time. In addition to the preliminary tax roll, the BID shall also provide supporting information which describes the information relied upon by the BID in preparing the preliminary tax roll. The supporting information shall be based on information provided to the BID by the Office of Taxation and Revenue and any other reliable source. The preliminary BID tax roll and the supporting information shall be prepared in such form as may be prescribed by regulation by the CFO. In the event that a BID fails to provide the preliminary BID tax roll and the supporting information within the time period specified by this subsection, the BID taxes shall be collected at the time of the next regularly scheduled tax bill.

"(b) During a control year, the CFO, and in any other year, the Mayor shall examine the

preliminary BID tax roll and backup information and shall make any changes it deems are required by this act. During a control year, the CFO, and in any other year, the Mayor, shall certify a final BID tax roll no later than 30 days prior to the billing dates described in subsection (e) of this section.

"(c) Except as otherwise provided by this act, BID taxes shall be collected by the CFO during a control year, and by the Mayor in any other year. Except as otherwise provided by this act, BID taxes shall be collected in the same manner as real property taxes are collected. The CFO during a control year, and the Mayor in any other year, may contract with a financial institution having assets in excess of \$50 million or a BID (if the BID tax is related to such BID) to perform services for the District in connection with the collection and distribution of BID taxes.

"(d) BID taxes shall be effective as of the date a BID is registered or deemed registered by the Mayor pursuant to section 7, except for BID taxes that become effective pursuant to subsection (f) or (g) of section 5. Any changes to the BID tax adopted pursuant to section 9 shall be effective as of the first day of the subsequent fiscal year. BID taxes related to properties affected by a geographic expansion of the BID shall be effective as of the date such an expansion becomes effective pursuant to section 10.

"(e) BID taxes shall be payable in advance and shall cover the 6 months following the due date of the billing described by paragraph (1) of this subsection; provided however, in the case of the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period, BID taxes shall be payable as described by paragraph (2) of this subsection.

"(1) BID taxes shall be due and payable semiannually in 2 equal installments, the first installment to be paid on or before March 31st, and the second installment to be paid on or before September 15th.

"(2) BID taxes for the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period shall be collected through a special bill, if the relevant BID application requests such a special bill, to be mailed by the District or its contractee within 30 days of the effective date of the BID tax with such special bill due for payment 45 days from the date of such special bill, or if the BID application does not request such a special bill, the BID taxes for such period of time shall be billed at the time of the next practicable regularly scheduled property tax bill pursuant to paragraph (1) of this subsection, along with any other BID taxes collectible at the time of such billing.

"(f) If at any time after the dates provided by subsection (e) of this section any BID tax is not paid within the time prescribed, there shall be added to the BID tax a penalty of 10% of the unpaid amount plus interest on the unpaid amount at the rate of 1½% per month or portion of a month until the BID tax is paid.

"(g) If any BID tax shall remain unpaid after the expiration of 60 days from the date such tax became due, the property subject to such BID tax may be sold at the next ensuing tax

sale in the same manner and under the same conditions as property sold for delinquent real property taxes, if such BID taxes with interest and penalties thereon shall not have been paid in full prior to said sale. The proceeds from such sale shall be applied towards such delinquent BID taxes together with interest and penalties thereon, including costs associated with such sale; provided, that the proceeds from such sale shall be applied first towards any delinquent real property taxes (and penalties and costs associated therewith), and then towards any delinquent water and sewer charges, and then towards any delinquent litter control nuisance fines, in accordance, respectively, with section 47-1304.4, sections 104 and 210 of the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 102; D.C. Code §§ 43-1529 and 43-1610), and section 8 of the Litter Control Administrative Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Code § 6-2907). The proceeds shall then be applied towards any other delinquent tax, aside from the BID tax, owed by the owner of such property. The proceeds due for such delinquent BID taxes with interest and penalties thereon shall then be delivered to the collection agent for deposit into the relevant special account within 30 business days of its receipt by the District or the BID pursuant to section 18.

"(h) The Treasurer of the District shall establish a special account of the District for each BID registered pursuant to section 7. Each such special account shall be established by the Treasurer within 20 days of the date of the BID's registration pursuant to section 7.

"(1) Within 10 business days of the date of establishment of any such special account, the Treasurer shall contract with the existing real property tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Upon the termination of any such contract, the District shall contract with the successor tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Such transactions shall not be subject to the provisions of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1101 *et seq.*).

"(2) Each special account created pursuant to this section shall consist solely of funds deposited pursuant to this section, which funds shall at no time be commingled with the general fund or any other fund of the District. The following shall be deposited into the special account associated with a BID within 3 business days of its receipt by the collection agent:

"(A) All BID taxes collected pursuant to subsections (a) through (e) of this section;

"(B) All penalties and interest collected pursuant to subsection (f) of this section; and

"(C) Any proceeds from collections pursuant to subsection (g) of this section.

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"(3) The funds received as payment of a BID tax shall be applied first towards any real property taxes owed and to any delinquent real property taxes (and penalties and costs associated therewith) in the manner described by section 47-1304.4(g), before such payment is applied to the BID tax and any associated penalty and interest.

"(i) The District may recover costs from the special accounts only as specifically provided by this subsection. Any recovery of funds from a special account shall be only by payment from the collection agent to the District.

"(1) The collection agent shall make a payment to the District equal to the amount of any tax refund associated with such special account that the District documents is required pursuant to District law; provided, that to the extent that a special account lacks the funds needed to make a payment pursuant to this paragraph, the collection agent shall make said payment to the District as soon as sufficient funds are deposited into such special account; provided further, that a BID corporation shall have standing to participate in any administrative proceeding or to intervene in any judicial proceeding for the refund of BID taxes associated with such BID.

"(2) The collection agent shall make a monthly accounting to each BID of any payments to the District from the special account associated with that BID.

"(j) Each month, prior to the 5th day of the month, the collection agent shall make a payment to the BID associated with the special account, which payment shall consist of all of the funds in such account as of the end of the final day of the preceding calendar month; provided, that the collection agent shall first provide for the payment of costs pursuant to subsection (i) of this section; provided further, that the collection agent shall withhold a portion of such funds, not to exceed 2% of the total annual BID taxes associated with such account when the BID taxes are based on assessed value or ½ of 1% of the total annual BID taxes associated with such account when BID taxes are based on square footage or per building, that the Treasurer of the District finds is needed as a reserve fund to pay any tax refund that may be required pursuant to District law.

"(k) Each month, the collection agent shall provide a statement regarding the transactions in such special account to the Treasurer of the District and to the BID associated with such special account.

"(l)(1) No funds may be withdrawn from a special account established pursuant to this section except as specifically provided in subsections (i) and (j) of this section. The District and the collection agent shall not pledge the funds in any special account established pursuant to this section under any circumstances, except that the funds in any such account shall be pledged if and when requested by the BID associated with such account as security for bonds or other borrowing by such BID.

"(2) Authority to obligate or expend any taxes collected pursuant to this act shall be subject to the appropriations process.

"(m) The BID shall be the beneficial owner of the funds in the special account

associated with that BID.

"Sec. 17. Additional authority and duties of BIDs; dispute resolution.

Section
1-2286

"(a) A BID's authority shall include any powers possessed by a nonprofit corporation organized pursuant to District law, including, but not limited to, the authority to accept donations or gifts of money and property, to apply for and receive grants from public and private sources, to carry over funds from one fiscal year to the next, and to borrow money or issue bonds. Any agency or independent agency of the District, as those terms are defined in section 301 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-603.1), shall acknowledge and recognize the unique characteristics of a BID corporation.

"(b) A BID shall make a payment to the District to cover any reasonable marginal costs the District documents to the BID it has incurred in collecting the BID tax associated with such BID. If the District is unable to allocate a marginal cost to a particular BID, the District may allocate such costs between the BIDs associated with such marginal costs; provided, that any such allocation shall be based, to the extent practicable, on the equitable benefit received by each BID from such costs.

"(c) In addition to the obligation to pay the BID tax, if any owner requests a special capital improvement or service of a nature above the level of improvements or services provided generally by the BID within the BID area, such owner shall be specially charged, in accordance with such reasonable provisions as the BID Board may determine, to reflect the benefit received by such owner from such special capital improvement or service. Such special charge shall constitute the personal obligation of the property owner involved and shall be payable directly to the BID and may be deposited directly into a bank account established by the BID. Such special charges shall not be construed as a BID tax. The contract for any such special capital improvement or service valued in excess of \$1,000 shall be approved by a majority vote of the disinterested members of the Board.

"(d) In the event disputes arise with respect to any charge pursuant to this section or any activity conducted by a BID, such disputes shall be resolved through mediation, or, if mediation is unsuccessful, arbitration in accordance with the rules of the American Arbitration Association or such other reputable organization as is generally recognized as providing arbitration services as determined by the BID bylaws. Any party to such arbitration shall have the right to initiate judicial proceedings to enforce any award or decision made pursuant to arbitration, but no person shall be authorized to institute judicial proceedings with respect to the matters referred to in this subsection except to enforce an arbitration award. Residents of a residential neighborhood adjoining a BID and citizens associations covering an area in which a BID is located shall be entitled to seek relief under this section.

"(e) A BID shall have a lien on any property on which a capital improvement is made pursuant to subsection (c) of this section and such lien shall be enforced and shall have the same

priority as a mechanics lien provided that the BID complies with the procedural mechanisms governing mechanics liens under District law.

"(f) The Mayor shall charge a reasonable fee to the proposed BID applicant to cover costs incurred by the District Government associated with processing BID applications and holding administrative hearings.

"Sec. 18. Civil action for BID taxes.

Section
1-2287

"(a) The BID corporation through its counsel may file suit in the Superior Court of the District of Columbia against any property owner with delinquent BID taxes that are at least 120 days overdue. Such a suit may seek as damages any delinquent BID taxes, including penalties and interest owed to the District under section 16(e) and the BID's reasonable attorneys fees. Such a suit shall be brought in the name of the District of Columbia.

"(b) Any judgment obtained pursuant to subsection (a) of this section may not be waived or reduced by the District and may only be satisfied by the payment to the District of the full amount of the judgment or by the sale of the relevant property at a tax sale.

"(c) A BID obtaining a judgment in a suit filed pursuant to subsection (a) of this section shall have the authority to execute this judgment in the name of the District using any method of execution authorized by District law, including, but not limited to, the authority to record such judgment with the Recorder of Deeds of the District, file a creditor's bill to sell real estate to satisfy a judgment, seek any writ of attachment, fieri facias, distringas, or replevin, and seek condemnation under such writs.

"(d) Any funds obtained by the BID as a result of subsection (e) of this section shall be turned over to the Treasurer of the District within 3 business days. The Treasurer shall disburse such funds in accordance with the priorities and procedures set forth in section 16(g).

"(e) An action pursuant to this section shall not be construed as a bar to action by the District to collect a delinquent BID tax under section 16(g).

"(f) An action pursuant to this section shall be dismissed by the Superior Court if notice and evidence thereof is provided to the Court that the District has sold the subject property at a tax sale.

"Sec. 19. Term of BID; extension; termination and dissolution.

Section
1-2288

"(a) Each BID shall have an initial term which shall end on the last day of the 5th full fiscal year of the District during which the BID has been registered pursuant to section 7. A BID may be extended for successive 5-year terms after the Mayor issues a notice or re-registration after holding a public hearing pursuant to the provisions of section 7. In order to request an extension, the BID shall notify the Mayor at least 180 days prior to the end of the BID's term that it desires to extend its status as a registered BID for a 5-year term. The Mayor shall hold such public hearing no earlier than 120 days prior to the end of such fiscal year, and no later than 30 days prior to the end of such fiscal year. If, at the end of the fiscal year, the BID

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has requested an extension and the Mayor has not issued an order revoking registration or denying an extension, then the BID shall be deemed to be re-registered for a subsequent 5-year term.

"(b) The Mayor shall issue an order revoking the registration of a BID at any time if:

"(1) By a 2/3 majority vote of the Board, the Board elects not to seek re-registration of the BID;

"(2) Not more than 1 year and not less than 90 days before the end of each 5-year period, the owners of at least 51% in assessed value of nonexempt real property and at least 25% in number of nonexempt real properties within the BID elect to dissolve the BID effective as of the last day of the then applicable 5-year term;

"(3) The Mayor determines that there has been unlawful conduct by the management or Board of the BID, which conduct has not been remedied within 30 days of notice thereof;

"(4) The Mayor determines that the conduct of the BID has jeopardized the ability of the BID to carry out the purposes of this act, which conduct has not been remedied within 30 days of notice thereof;

"(5) The BID corporation is voluntarily or involuntarily dissolved in accordance with law;

"(6) The operations of the BID cease for any reason for at least 60 consecutive days at any time after the initial organizational period of 120 days; or

"(7) A BID corporation voluntarily files for bankruptcy protection, becomes insolvent, or has a receiver appointed for all or substantially all of its assets, or any such proceeding is instituted against the BID corporation and is not discharged within 60 days.

"(c) Within 60 days of dissolution, the Board shall adopt a plan to timely distribute funds and dispose of assets to satisfy all creditors in the order of their priority, if any. Any surplus funds, including the proceeds of the sale of all real and personal property, shall be returned to the owners in proportion to their obligation to pay BID taxes within 30 days of adoption of the plan of distribution.

"Sec. 20. Prohibited acts.

Section
1-2289

"No BID corporation shall engage in the financial support of political activities and candidates, lobbying on legislative or administrative actions with respect to any property or area, or the promotion of one business to the exclusion of others. Nothing contained within this act shall be construed as modifying the terms of any lease or occupancy agreement between an owner and commercial tenant.

"Sec. 21. Maintenance of base level of city services.

Section
1-2290

"The District government shall not eliminate or reduce the level of any services customarily provided in the District to any similar geographic area because such area is subject

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to a BID, and shall continue to provide its customary services and levels of each service to such area notwithstanding that such area is or may be encompassed in a BID unless a reduction in service is part of a District-wide pro rata reduction in services necessitated by fiscal considerations or budgetary priorities.

"Sec. 22. Exempt property owners; BID membership.

Section
1-2291

"The District government, the federal government, or any property owner owning exempt real property located in the BID may, at their sole discretion, contribute money to the BID. Such exempt real property owners who voluntarily make a payment to the BID in lieu of a BID tax shall be entitled to membership in the BID and services provided to the properties in the BID. Nothing in this act shall either compel or prohibit such exempt real property owners from contributing BID taxes, becoming BID members, or receiving BID services.

"Sec. 23. Rulemaking.

New, Section
1-2292

"Pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*), the Mayor is authorized to issue any rules that may be necessary to implement the provisions of this act, which shall include a fee to cover the administrative costs of processing a BID application and holding a public hearing. No delay in issuing any rules beyond 120 days after the enactment of this act shall prevent an applicant from filing an application with the Mayor, or prevent the Mayor from registering a BID."

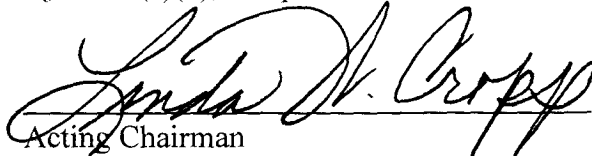
Sec. 3. Fiscal impact statement.

Enactment of this act will have no direct impact on the general fund of the District of Columbia. The District government may incur costs associated with processing BID applications and holding administrative hearings; however, the Mayor is to charge the applicant fees to cover these costs. Furthermore, the District government may incur costs in the collection of BID taxes; however, such costs are recoverable by the District pursuant to section 17(b). Additionally, this act provides that a portion of the BID taxes will be maintained in a special account for the payment of any refunds in BID taxes that might be required by District law. Based on the experiences of Business Improvement Districts in other cities, the creation of BIDs in the District of Columbia is anticipated to have a positive economic impact on those areas. Passage of this act and the creation of BIDs should increase cleanliness, safety, and marketing in BID areas. Cities with existing BIDs have had positive economic impacts, and consequently, indirect positive fiscal impacts from increased tax revenues, and have experienced increased commercial occupancy rates, increased retail sales, and lower reported crime.

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial

ENROLLED ORIGINAL

Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1), and publication in the District of Columbia Register.


Acting Chairman
Council of the District of Columbia

Mayor
District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA
 COUNCIL PERIOD TWELVE
 RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B12-225

ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FIRST READING, 06-03-97

VOICE VOTE APPROVED
 RECORDED VOTE ON REQUEST

ABSENT CHAVOUS

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Evans					Smith, Jr.				
Allen					Jarvis					Thomas, Sr.				
Ambrose					Mason									
Brazil					Patterson									
Chavous					Schwartz									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Regis Ford
 Secretary to the Council

June 20, 1997
 Date

ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FINAL READING, 06-17-97

VOICE VOTE APPROVED, THOMAS VOTED NO
 RECORDED VOTE ON REQUEST

ABSENT ALL PRESENT

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Evans					Smith, Jr.				
Allen					Jarvis					Thomas, Sr.				
Ambrose					Mason									
Brazil					Patterson									
Chavous					Schwartz									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Regis Ford
 Secretary to the Council

June 20, 1997
 Date

ITEM ON CONSENT CALENDAR

ACTION & DATE _____

VOICE VOTE _____
 RECORDED VOTE ON REQUEST

ABSENT _____

ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Evans					Smith, Jr.				
Allen					Jarvis					Thomas, Sr.				
Ambrose					Mason									
Brazil					Patterson									
Chavous					Schwartz									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date