

**2012 OPERATING PLAN
BID #41**

HISTORIC

**DOWNER
AVENUE**

EASTSIDE

Prepared:
Jake Provan
Executive Director

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Prepared: July 27, 2011
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I. INTRODUCTION

A. Background

In 1984, the Wisconsin legislature created S. 66.1109 of the Statutes (see Appendix A) enabling cities to establish Business Improvement Districts (BIDs). The purpose of the law is “to allow businesses within those districts to develop, to manage and promote the districts and to establish an assessment method to fund these activities.” (1983 Wisconsin Act 184, Section 1, legislative declaration.)

The City of Milwaukee has received a petition from property owners, which requests creation of a Business Improvement District for the purpose of revitalizing and improving the Downer Avenue business area on Milwaukee's eastside. The BID law requires that every district have an annual Operating Plan. This document is the Operating Plan for the Historic Downer Avenue Business Improvement District #41.

B. Physical Setting

Boundaries of the proposed district are North Downer Avenue, between East Webster Pl on the south and East Park Place on the north, including the address range of 2551 to 2651 N Downer Avenue on the west side and the address range of 2608 to 2650 on the east side. 2525 E. Bellview Pl, at the intersection of Bellview Pl and Downer Ave is included in the Downer Ave BID Boundaries. Listings of the properties included in the district are provided in Appendix D.

II. DISTRICT BOUNDARIES

Boundaries of the proposed district are described in Appendix B of this plan. A listing of the properties included in the district is provided in Appendix C.

III. PROPOSED OPERATING PLAN

A. Plan Objectives

The Plan Objectives of the Downer Avenue Business Improvement District involves utilizing available funds to continue to improve the business climate for existing and new district merchants. The available funds will be utilized for continued existence of critical projects such as the graffiti removal, street maintenance, and facade improvement projects offering assistance to businesses wishing to make aesthetic improvements along the street.

Additional funds are utilized for general operating expenses of the BID. Other improvements may be made as decided by the BID members. A yearly gathering celebrating the progress of the district will be planned and carried out by BID staff.

The priorities of the BID Board for **2012** are as stated:

1. Implementing a landscape and streetscape maintenance program to ensure the new streetscape continues to draw current and new patrons to Downer Avenue.
2. Creation of a unified visual identity and image for the business area to be implemented over future years with new streetscape
3. Maintain the established landscaping program in future years

4. Maintain safety and cleanliness of the overall appearance of the district
5. Increase the number and variety of businesses in the Downer Ave BID
6. Create a positive image for Downer Avenue and promote Downer Avenue to residents and potential customers

Meeting these objectives will enhance the business area's competitiveness relative to other shopping areas that are also currently undergoing rehabilitation, while enhancing the surrounding neighborhood. The BID will continue to work with DCD, DPW, the City's Common Council and area merchants to achieve stated objectives.

B. Proposed Activities – 2012

Principle activities to be engaged in by the district during its 2012 year of operation will include:

- a. Continue planting, beautification, and maintenance of the recently renovated streetscape
- b. Continue the graffiti removal program
- c. Promote vibrant restaurant and retail environment on Downer Avenue
- d. Continue to support the annual Downer Avenue Bike Race

C. Proposed Expenditures – 2012

New Budget Plan for 2012

	Annually
Executive Director	\$18,000
Legacy Bank Streetscape Loan Repayment	\$36,801
Landscape/Streetscape Maintenance	\$6,500
Programming and Service Charges	\$2,000
Utilities/Holiday Lighting	\$1,000
Holiday Lighting Equip	\$3,500
Bike Race	\$3,000
Website/General Marketing	\$1,000
Festive Friday	\$1,000
BID Board of Director Insurance	\$1,000
Annual Certified Audit	\$1,000
Graffiti Removal	<u>\$750</u>
Total 2011 Annual Budget	\$75,551

D. Financing Method

It is proposed to raise \$ 75,551 through BID assessments for the 2012, BID #41, operating year. The BID Board shall have the authority and responsibility to prioritize expenditures and to revise the budget as necessary to match the funds actually available.

E. Organization of BID Board

Upon creation of the BID, the Mayor will appoint members to the district board ("board"). The board's primary responsibility will be implementation of this Operating Plan. This will require the board to negotiate with providers of services and materials to carry out the Plan; to enter into various contracts; to monitor development activity; to periodically revise the Operating Plan; to ensure district compliance with the provisions of applicable statutes and regulations; and to make reimbursements for any overpayments of BID assessments.

State law requires that the board be composed of at least five members and that a majority of the board members is owners or occupants of property within the district.

It is recommended that the BID board be structured and be operated as follows:

1. Board Size – Seven (7)
2. Composition - At least three members shall be owners or occupants of property within the district. Any non-owner or non-occupant appointed to the board shall be a resident of the City of Milwaukee. The board shall elect its Chairperson from among its members.
3. Term - Appointments to the board shall be for a period of three years except that initially three members shall be appointed for a period of three years, three members shall be appointed for a period of two years, and one member shall be appointed for a period of one year.
4. Compensation – None
5. Meetings - All meetings of the board shall be governed by the Wisconsin Open Meetings Law.
6. Record Keeping - Files and records of the board's affairs shall be kept pursuant to public record requirements.
7. Staffing - The board may employ staff and/or contract for staffing services pursuant to this Plan and subsequent modifications thereof.
8. Meetings - The board shall meet regularly, at least twice each year. The board shall adopt rules of order ("by laws") to govern the conduct of its meetings.

F. Relationship to the Downer Avenue business association.

The BID shall be a separate entity from the Downer Avenue business association, notwithstanding the fact that members, officers and directors of each may be shared. The Association shall remain a private organization, not subject to the open meeting law, and not subject to the public record law except for its records generated in connection with the BID board. The Association may, and it is intended, shall, contract with the BID to provide services to the BID, in accordance with this Plan.

IV. METHOD OF ASSESSMENT

A. Assessment Rate and Method

The principle behind the assessment methodology is that each property should contribute to the BID in proportion to the benefit derived from the BID. After consideration of several assessment methods, it was determined that a combination of the assessed value of a property and the linear footage of a property most directly related to the potential benefit provided by the BID for the Downer Avenue properties. Therefore, a weighted average of 50% assessed value to 50% linear footage will be used as the BID assessment methodology. The total linear footage for the district was calculated to be 1,731 linear feet.

However, maintaining an equitable relationship between the BID assessment and the expected benefits requires an adjustment to the basic assessment method. To prevent the disproportional assessment of a small number of high value properties, a maximum assessment of \$10,000 of assessed value per parcel will be applied.

As of January 1, 2011, the property in the proposed district had a total assessed value of \$16,943,500.

A sample assessment calculation is provided below:

Based Upon an Annual BID Budget of \$75,551

Assessed Value	BID special assessment per assessed value	Linear Footage on Downer	BID special assessment per Linear Footage	Weighted Average of Special Assessments
\$ 1,000,000	\$4,459.00	227ft	\$9,907.61	\$7,183.30

BID Special Assessment per Assessed Value
 $(\$1,000,000/\$16,943,500) \times \$75,551 = \$4,459.00$

BID Special Assessment per Linear Footage
 $(227\text{ft}/1731\text{ft}) \times \$75,551 = \$ 9,907.61$

Weighted Average
 $(\$4,459.00 \times .50) + (\$9,907.61 \times .50) = \$7,183.30$

Appendix C shows the projected BID assessment for each property included in the district.

The BID law requires explicit consideration of certain classes of property. In compliance with the law the following statements are provided.

1. State Statute 66.1109(1)(f)lm: The district will contain property used exclusively for manufacturing purposes, as well as properties used in part for manufacturing. These properties will be assessed according to the method set forth in this plan because it is assumed that they will benefit from development in the district.
2. State Statute 66.1109(5)(a): Property known to be used exclusively for residential purposes will not be assessed.
3. In accordance with the interpretation of the City Attorney regarding State Statute 66.1109(1)(b), property exempt from general real estate taxes has been excluded from the district. Privately owned tax exempt property adjoining the district and which is expected to benefit from district activities may be asked to make a financial contribution to the district on a voluntary basis.

V. RELATIONSHIP TO MILWAUKEE COMPREHENSIVE PLAN AND ORDERLY DEVELOPMENT OF THE CITY

A. City Plans

In February 1978, the Common Council of the City of Milwaukee adopted a Preservation Policy as the policy basis for its Comprehensive Plan and as a guide for its planning, programming and budgeting decisions. The Common Council reaffirmed and expanded the Preservation Policy in Resolution File Number 881978, adopted January 24, 1989.

The Preservation Policy emphasizes maintaining Milwaukee's present housing, jobs, neighborhoods, services, and tax base rather than passively accepting loss of jobs and population, or emphasizing massive new development. In its January 1989 reaffirmation of the policy, the Common Council gave new emphasis to forging new public and private partnerships as a means to accomplish preservation.

The district is a means of formalizing and funding the public-private partnership between the City and property owners in the Downer Avenue business area and for furthering preservation and redevelopment in this portion of the City of Milwaukee. Therefore, it is fully consistent with the City's Comprehensive Plan and Preservation Policy.

B. City Role in District Operation

The City of Milwaukee has committed to helping private property owners in the district promote its development. To this end, the City expected to play a significant role in the creation of the Business Improvement district and in the implementation of the Operating Plan. In particular, the City will:

1. Provide technical assistance to the proponents of the district through adoption of the Plan, and provide assistance as appropriate thereafter.
2. Monitor and, when appropriate, apply for outside funds that could be used in support of the district.
3. Collect assessments, maintain in a segregated account, and disburse the monies of the district.

4. Receive annual audits as required per sec. 66.1109 (3) (c) of the BID law.
5. Provide the board, through the Tax Commissioner's Office on or before June 30th of each Plan year, with the official City records and the assessed value of each tax key number with the district, as of January 1st of each Plan year, for purposes of calculating the BID assessments.
6. Encourage the State of Wisconsin, Milwaukee County and other units of government to support the activities of the district.

VI. PLAN APPROVAL PROCESS

A. Public Review Process

The Wisconsin Business Improvement district law establishes a specific process for reviewing and approving proposed districts. Pursuant to the statutory requirements, the following process will be followed:

1. The Milwaukee City Plan Commission will review the proposed district boundaries and proposed Operating Plan and will then set a date for a formal public hearing.
2. The City Plan Commission will send, by certified mail, a public hearing notice and a copy of the proposed Operating Plan to all owners of real property within the proposed district. In addition a Class 2 notice of the public hearing will be published in a local newspaper of general circulation.
3. The City Plan Commission will hold a public hearing, will approve or disapprove the Plan, and will report its action to the Common Council.
4. The Economic Development Committee of the Common Council will review the proposed BID Plan at a public meeting and will make a recommendation to the full Common Council.
5. The Common Council will act on the proposed BID Plan.
6. If adopted by the Common Council, the proposed BID Plan is sent to the Mayor for his approval.
7. If approved by the Mayor, the BID is created and the Mayor will appoint members to the district board established to implement the Plan.

B. Petition against Creation of the BID

The City may not create the Business Improvement district if, within 30 days of the City Plan Commission's hearing, a petition is filed with the City containing signatures of:

Owners of property to be assessed under the proposed initial Operating Plan having a valuation equal to more than 40% of the valuation of all property to be assessed under the proposed initial Operating Plan, using the method of valuation specified in the proposed initial Operating Plan; or

Owners of property to be assessed under the proposed initial Operating Plan having an assessed valuation equal to more than 40% of the assessed valuation of all property to be assessed under the proposed Operating Plan.

VII. FUTURE YEAR OPERATING PLANS

A. Phased Development

It is anticipated that the BID will continue to revise and develop the Operating Plan annually, in response to changing development needs and opportunities in the district, in accordance with the purposes and objectives defined in this initial Operating Plan.

Section 66.1109 (3) (a) of the BID law requires the board and the City to annually review and make changes as appropriate in the Operating Plan. Therefore, while this document outlines in general terms the complete development program, it focuses upon Year One activities, and information on specific assessed values, budget amounts and assessment amounts are based on Year One conditions. Greater detail about subsequent year's activities will be provided in the required annual Plan updates, and approval by the Common Council of such Plan updates shall be conclusive evidence of compliance with this Plan and the BID law.

In later years, the BID Operating Plan will continue to apply the assessment formula, as adjusted, to raise funds to meet the next annual budget. However, the method of assessing shall not be materially altered, except with the consent of the City of Milwaukee. Nothing in this Year 1 Operating Plan shall limit the ability of the BID to undertake additional activities, consistent with State Law and City of Milwaukee ordinances.

B. Amendment, Severability and Expansion

This BID has been created under authority of Section 66.1109 of the Statutes of the State of Wisconsin. Should any court find any portion of this Statute invalid or unconstitutional its decision will not invalidate or terminate the BID and this BID Plan shall be amended to conform to the law without need of reestablishment.

Should the legislature amend the Statute to narrow or broaden the process of a BID so as to exclude or include as assessable properties a certain class or classes of properties, then this BID Plan may be amended by the Common Council of the City of Milwaukee as and when it conducts its annual Operating Plan approval and without necessity to undertake any other act. This is specifically authorized under Section 66.1109(3)(b).

APPENDICES

- A. STATUTE
- B. DISTRICT BOUNDARIES
- C. PROPERTY LISTING AND ASSESSMENTS
- D. CITY ATTORNEY'S OPINION

APPENDIX A

Wisconsin Statute section

66.1109 Business Improvement Districts

66.1109 Business improvement districts. (1) In this section:

(a) "Board" means a business improvement district board appointed under sub. (3) (a).

(b) "Business improvement district" means an area within a municipality consisting of contiguous parcels and may include railroad rights-of-way, rivers, or highways continuously bounded by the parcels on at least one side, and shall include parcels that are contiguous to the district but that were not included in the original or amended boundaries of the district because the parcels were tax-exempt when the boundaries were determined and such parcels became taxable after the original or amended boundaries of the district were determined.

(c) "Chief executive officer" means a mayor, city manager, village president or town chairperson.

(d) "Local legislative body" means a common council, village board of trustees or town board of supervisors.

(e) "Municipality" means a city, village or town.

(f) "Operating plan" means a plan adopted or amended under this section for the development, redevelopment, maintenance, operation and promotion of a business improvement district, including all of the following:

1. The special assessment method applicable to the business improvement district.

1m. Whether real property used exclusively for manufacturing purposes will be specially assessed.

2. The kind, number and location of all proposed expenditures within the business improvement district.

3. A description of the methods of financing all estimated expenditures and the time when related costs will be incurred.

4. A description of how the creation of the business improvement district promotes the orderly development of the municipality, including its relationship to any municipal master plan.

5. A legal opinion that subds. 1. to 4. have been complied with.

(g) "Planning commission" means a plan commission under s. 62.23, or if none a board of public land commissioners, or if none a planning committee of the local legislative body.

(2) A municipality may create a business improvement district and adopt its operating plan if all of the following are met:

(a) An owner of real property used for commercial purposes and located in the proposed business improvement district designated under par. (b) has petitioned the municipality for creation of a business improvement district.

(b) The planning commission has designated a proposed business improvement district and adopted its proposed initial operating plan.

(c) At least 30 days before creation of the business improvement district and adoption of its initial operating plan by the municipality, the planning commission has held a public hearing on its proposed business improvement district and initial operating plan. Notice of the hearing shall be published as a class 2 notice under ch. 985. Before publication, a copy of the notice together with a copy of the proposed initial operating plan and a copy of a detail map showing the boundaries of the proposed business improvement district shall be sent by certified mail to all owners of real property within the proposed business improvement district. The notice shall state the boundaries of the proposed business improvement district and shall indicate that copies of the proposed initial operating plan are available from the planning commission on request.

(d) Within 30 days after the hearing under par. (c), the owners of property to be assessed under the proposed initial operating plan having a valuation equal to more than 40% of the valuation of all property to be assessed under the proposed initial operating plan, using the method of valuation specified in the proposed initial operating plan, or the owners of property to be assessed under the proposed initial operating plan having an assessed valuation equal to more than 40% of the assessed valuation of all property to be assessed under the proposed initial operating plan, have not filed a petition with the planning commission protesting the proposed business improvement district or its proposed initial operating plan.

(e) The local legislative body has voted to adopt the proposed initial operating plan for the municipality.

(3) (a) The chief executive officer shall appoint members to a business improvement district board to implement the operating plan. Board members shall be confirmed by the local legislative body and shall serve staggered terms designated by the local legislative body. The board shall have at least 5 members. A majority of board members shall own or occupy real property in the business improvement district.

(b) The board shall annually consider and may make changes to the operating plan, which may include termination of the plan, for its business improvement district. The board shall then submit the operating plan to the local legislative body for its approval. If the local legislative body disapproves the operating plan, the board shall consider and may make changes to the operating plan and may continue to resubmit the operating plan until local legislative body approval is obtained. Any change to the special assessment method applicable to the business improvement district shall be approved by the local legislative body.

(c) The board shall prepare and make available to the public annual reports describing the current status of the business improvement district, including expenditures and revenues. The report shall include an independent certified audit of the implementation of the operating plan obtained by the municipality. The municipality shall obtain an additional independent certified audit upon termination of the business improvement district.

(d) Either the board or the municipality, as specified in the operating plan as adopted, or amended and approved under this section, has all powers necessary or convenient to implement the operating plan, including the power to contract.

(4) All special assessments received from a business improvement district and all other appropriations by the municipality or other moneys received for the benefit of the business improvement district shall be placed in a segregated account in the municipal treasury. No disbursements from the account may be made except to reimburse the municipality for appropriations other than special assessments, to pay the costs of audits required under sub. (3) (c) or on order of the board for the purpose of implementing the operating plan. On termination of the business improvement district by the municipality, all moneys collected by special assessment remaining in the account shall be disbursed to the owners of specially assessed property in the business improvement district, in the same proportion as the last collected special assessment.

(4m) A municipality shall terminate a business improvement district if the owners of property assessed under the operating plan having a valuation equal to more than 50% of the valuation of all property assessed under the operating plan, using the method of valuation specified in the operating plan, or the owners of property assessed under the operating plan having an assessed valuation equal to more than 50% of the assessed valuation of all property assessed under the operating plan, file a petition with the planning commission requesting termination of the business improvement district, subject to all of the following conditions:

APPENDIX B

DISTRICT BOUNDARIES

Boundaries of the proposed district are North Downer Avenue, between East Webster Pl on the south and East Park Place on the north, including the address range of 2551 to 2651 N Downer Avenue on the west side and the address range of 2608 to 2650 on the east side. 2525 E. Belleview Pl, at the intersection of Belleview Pl and Downer Ave is included in the Downer Ave BID Boundaries. Listings of the properties included in the district are provided in Appendix C.

MAP ON FILE AT THE CITY OF MILWAUKEE

APPENDIX C

3180190000	2574 N DOWNER	DAPL LLC	\$10,000.00
3180591000	2608 N DOWNER	DOWNER DELAWARE LLC	\$10,000.00
3180592000	2605 E PARK	DOWNER AVE DEVELOPMENT	\$4,764.29
3190301110	2633 N DOWNER	SENDIK FAMILY TRUST	\$10,000.00
3190304000	2629 N DOWNER	DOWNER HARDWARE, INC	\$2,994.19
3190305000	2615 N DOWNER	LDC 2615 DOWNER LLC	\$9,626.73
3190307100	2601 N DOWNER	SCP 2006 C23-116 LLC	\$10,000.00
3191361000	2551 N DOWNER	DOWNER DELAWARE LLC	\$10,000.00
3191362000	2524 E WEBSTER	DOWNER AVE DEVELOPMENT	\$8,165.79

2012 Total: \$75,551

APPENDIX D

City Attorney's Opinion
ON FILE AT THE CITY OF MILWAUKEE