

BUSINESS IMPROVEMENT DISTRICT NO. 42

Schlitz Park

PROPOSED OPERATING PLAN

1555 N River Center Drive
Suite 204
Milwaukee, Wisconsin 53212
414-272-6302

Introduction

The Schlitz Riverwalk has suffered tremendous infrastructure damage in the last two years. The Dock wall was over 100 years old and had to be repaired completely on an emergency basis to prevent the entire Riverwalk from falling into the Milwaukee River. As a result, the Riverwalk in its current state is unusable and needs to be returned to its previous glory as it is the longest single stretch of Riverwalk on the entire system.

Year 1 Operating Plan

I. Introduction

In 1984, the Wisconsin Legislature created Sec. 66.1109 (formerly Sec. 66.608) of the Wisconsin Statutes (“BID Law”) enabling cities to establish Business Improvement Districts (BIDs) upon the petition of at least one-property owner within the proposed district. 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 for property owners which requests creation of Business Improvement district for the purpose of revitalization and improving the Schlitz Park business area in Milwaukee’s 3rd Aldermanic District.(See Appendix C). The BID law requires that every district have an annual Operating Plan. This document is the initial Operating Plan for the proposed Schlitz Park district. The BID proponents prepared this Plan with technical assistance from the City of Milwaukee Department of City Development.

We are hoping that the Common Council of the City of Milwaukee by Resolution File Number ____, creates Business Improvement District Number (“Schlitz BID”, “BID”, or “District”) and adopts its initial operating plan.

The BID Law requires that a BID Board of Directors “...*shall annually consider and make changes to the operating plan. The Board shall then submit the operating plan to the local legislative body for its approval.*” The Board not yet appointed submits this 2010 Operating Plan in fulfillment of the statutory requirement (“Operating Plan”).

This Operating Plan proposes to repair the Schlitz Riverwalk to its previous glory in cooperation with the City of Milwaukee. All plans will be approved by DCD and the appropriate city agencies prior to implementation.

II. District Boundaries

Boundaries of the Schlitz BID are shown on the map in Appendix C of this Operating Plan. A listing of the properties included in the Schlitz Park BID is provided in Appendix D. (Together Appendix C and D, “BID Boundary”)

III. Proposed Operating Plan

A. Plan Objective

The objective of the Schlitz Business Improvement District is to pay for the capital costs of repairing and reconstructing the Schlitz Riverwalk. The total cost for this work, including dock wall reconstruction and installation of new Riverwalk and related amenities, is \$1,794,325. Of this amount, \$848,200 will be paid for by the Schlitz Business Improvement District (the "BID Contribution"). The balance is being paid for by the owners of the properties within the BID and by the City of Milwaukee. The BID Contribution has been loaned to the BID by the City and the property owners within the BID and will be repaid by the BID through annual assessments over a period of ten years at an annual interest rate of 5%. The annual assessment to the BID for the BID Contribution will be \$108,000. In addition to the assessment for the annual installment of the BID Contribution, there will be a modest annual assessment to cover the BID's administrative expenses. For 2010, the assessment for administrative expenses is \$5,000.

B. Proposed 2010 Expenditures

<u>Revenue</u>	\$113,000
<u>Expenses</u>	
Debt Service – City Loan	\$ 42,000
Debt Service – Schlitz Loan	\$ 66,000
Administrative Expenses	\$ 5,000

C. Financing Method

The proposed expenditures will be financed from funds collected from the BID Assessments (as defined by Section IV.A). The estimated assessed value of BID-eligible properties within the District is \$46,748,000. One hundred percent of the BID budget will be raised through BID Assessments.

The BID Board of Directors shall have the authority and responsibility to prioritize expenditures, and to revise the budget as necessary.

D. 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 be owners or occupants of property within the district.

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

1. Board Size – Five

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 two members shall be appointed for a period of three years, two 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

E. Relationship to the Schlitz Park Business Association.

The BID shall be a separate entity from the any association or organization 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 & Rate

A. Assessment Rate and Method

The principle behind the assessment methodology is that each parcel's owner should pay for the benefit and use of the Riverwalk in proportion to such parcel's benefit and use. Subject to any modifications that might be required under section IV B. 2, below, the annual assessments for the BID Contribution for each of the properties within the BID have been allocated accordingly and shall be fixed and remain the same during the ten-year amortization of the BID Contribution. Each property's proportionate obligation for the annual administrative expenses shall be identical to such property's annual share of the BID Contribution.

The annual assessments for the BID Contribution, fixed for the duration of the ten-year amortization of the BID construction as noted above, are shown in Appendix D, attached hereto. The assessment against a parcel for its proportionate share of the BID Contribution and administrative expenses is herein referred to as "BID Assessment" Any BID Assessment related to a previous year or years may not be contested. Any BID Assessment related to this and any

subsequent Operating Plan may only be contested prior to approval and adoption of this Operating Plan by the City Council.

B. Excluded and Exempt Property

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

1. The BID will assess properties to the maximum extent allowed by law, this includes without limitation, properties used in part or in whole for manufacturing, properties that are vacant, mercantile apartments, and all other properties that are used for any commercial gain. By way of example, and not limiting the foregoing, a property which is used exclusively by its owner and immediate family for their principle residence shall not be assessed. A property will be assessed, however, when any portion of the premises is either (a) leased or possession is otherwise given to a third party, or (b) is used for any other commercial purpose. If any other provision of this Operating Plan shall be in conflict with this paragraph, this paragraph shall prevail.

2. Pursuant to State Statute 66.1109(1)(b), property exempt from general real estate taxes has been excluded from the boundaries of the BID. However, if and at such time as any of such formerly exempt property becomes taxable, then such property shall be included within and become part of the BID. When such event occurs, the annual allocation of assessments for the BID Contribution and the administrative expenses shall be adjusted by the BID Board in the next Operating Plan to reflect the addition of the new assessable property.

V. Relationship to Milwaukee Comprehensive Plan and Orderly Development of the City.

A. City Plans

In February 1978, Common Council of the City of Milwaukee adopted 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 Schlitz Park business area and for furthering preservation and redevelopment in the portion of the City of Milwaukee. Therefore, it is fully consistent with City's Comprehensive Plans Preservation Policy.

B. City Role In District Operation

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

1. Provide assistance as appropriate to the BID Board of Directors;
2. Monitor and, when appropriate, apply for outside funding which could be used in support of the District;
3. Collect BID assessments and maintain them in a segregated account; Disburse all funds of the District, no earlier than January 31, 2009 and no later than March 31, 2009. Disbursement of the full amount assessed by the District shall be made without reference to the amount of assessments collected by the City by the date of disbursement;
4. Receive annual audits as required per Wis. Stats. Sec. 66.1109(3)(c).
5. Provide the Board of Directors through the Assessor's Office on or before June 30th of each plan year with the official City of Milwaukee records on the assessed value of each tax key number within the district as of January 1 of each plan year and provide an update immediately prior to preparation of tax bills for purpose of calculating the actual BID assessments for the following plan year; and
6. Encourage the State of Wisconsin, County of Milwaukee and other units of government to support the activities of the District.

The presentation of this Operating Plan to the City of Milwaukee shall be deemed a standing order of the Board of Directors under Sec. 66.1109(4) Wis. Stats. to disburse the BID assessments without necessity of an additional disbursement agreement, disbursement method or accounting method. Budget authority made under this plan shall be shown in the City's budget as a line item.

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.

VI. Future Year Operating Plans

A. Phased Development

It is possible that the BID Board will revise the Operating Plan in a given year in response to conditions affecting the Riverwalk and/or opportunities and needs within the BID.

Section 66.1109 (3) (a) of the BID law requires the BID Board and the City to annually review and make changes as appropriate in the Operating Plan. 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.

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).

VII. Contracting with BID #

Any contracting with the BID shall be exempt from the requirements of Sec 62.15, Wis. Stats. because such contracts shall not be for the construction of improvements or provision of materials. If the BID does contract for the construction of improvements or provisions of material, it shall follow the requirements of such statutes to the extent applicable. Further, the annual accounting required under Sec 66.1109(3)(c) Wis. Stats., shall be deemed to fulfill the requirements of Sec 62.15 (14) Wis. Stats. The Board of Directors and the City of Milwaukee shall comply with applicable law before the City inserts assessments for this BID plan onto the tax bills for the parcels assessed there under, only to the extent required by law, to create a lien on the parcels assessed.

APPENDICES

- A. STATE STATUTE
- B. PETITION
- C. PROPOSED DISTRICT BOUNDARIES
- D. YEAR ONE PROJECTED ASSESSMENTS
- E. CITY ATTORNEY'S OPINION

APPENDIX "A"
BID STATUTE

WEST'S WISCONSIN STATUTES ANNOTATED MUNICIPALITIES
SUBCHAPTER XI. DEVELOPMENT

Current through 2003 Act 28, published 6/2/03

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 notices 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:

(a) A petition may not be filed under this subsection earlier than one year after the date the municipality first adopts the operating plan for the business improvement district.

(b) On and after the date a petition is filed under this subsection, neither the board nor the municipality may enter into any new obligations by contract or otherwise to implement the operating plan until the expiration of 30 days after the date of hearing under par. (c) and unless the business improvement district is not terminated under par. (e).

(c) Within 30 days after the filing of a petition under this subsection, the planning commission

shall hold a public hearing on the proposed termination. 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 operating plan and a copy of a detail map showing the boundaries of the business improvement district shall be sent by certified mail to all owners of real property within the business improvement district. The notice shall state the boundaries of the business improvement district and shall indicate that copies of the operating plan are available from the planning commission on request.

(d) Within 30 days after the date of hearing under par. (c), every owner of property assessed under the operating plan may send written notice to the planning commission indicating, if the owner signed a petition under this subsection, that the owner retracts the owner's request to terminate the business improvement district, or, if the owner did not sign the petition, that the owner requests termination of the business improvement district.

(e) If after the expiration of 30 days after the date of hearing under par. (c), by petition under this subsection or subsequent notification under par. (d), and after subtracting any retractions under par. (d), 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, have requested the termination of the business improvement district, the municipality shall terminate the business improvement district on the date that the obligation with the latest completion date entered into to implement the operating plan expires.

(5)(a) Real property used exclusively for residential purposes and real property that is exempted from general property taxes under s. 70. 11 may not be specially assessed for purposes of this section.

(b) A municipality may terminate a business improvement district at any time.

(c) This section does not limit the power of a municipality under other law to regulate the use of or specially assess real property.

HISTORICAL AND STATUTORY NOTES

2003 Main Volume

APPENDIX “B”
BID Property Owner Petition

APPENDIX “C”
PROPOSED BID BOUNDARIES

**APPENDIX “D”
PROJECTED BID ASSESSMENTS**

<u>TAX KEY</u>	<u>ADDRESS</u>	<u>PERCENTAGE SHARE OF BID ASSESSMENT</u>	<u>SHARE OF BID CONTRIBUTION</u>	<u>SHARE OF ADMINISTRATIVE EXPENSES</u>	<u>TOTAL</u>
3611841110	1610 N. 2nd St.	8.95%	\$9,666.00	\$ 447.50	\$10,113.50
3611954000	215 W. Pleasant St.	2.29%	2,473.20	114.50	2,587.70
3611961000	201 W. Pleasant St.	1.91%	2,062.80	95.50	2,158.30
3612001000	235 W Galena St.	1.28%	1,382.40	64.00	1,446.40
3611963000	101 Et Pleasant St.	2.31%	2,494.80	115.50	2,610.30
3611842000	111-113 W Pleasant St	2.31%	2,494.80	115.50	2,610.30
3611844000	101 West Pleasant St.	4.63%	5,000.40	231.50	5,231.90
3611852110	1542 N 2nd St	14.45%	15,606.00	722.50	16,328.50
3610184112	1505-55 N River Cnter	59.90%	64,692.00	2,995.00	67,687.00
3611962000	1500 N 2nd Street	1.22%	1,317.60	61.00	1,378.60
3612002000	205-219 W Galena St	<u>0.75%</u>	<u>\$ 810.00</u>	<u>\$ 37.50</u>	<u>847.50</u>
		100%	\$108,000	\$5,000	\$113,000

The owner of 1505-55 North RiverCenter Drive is Schlitz RiverCenter LLC. The owner of all other properties is The Brewery Works, Inc. The address of all of the owners is 1555 North RiverCenter Drive, #204, Milwaukee, WI.

**APPENDIX “E”
CITY ATTORNEY’S OPINION**