

**City of Minneapolis
Department of Public Works
Self-Managed Special Service District Policy**

DRAFT FOR DISCUSSION

Version Date: February 20, 2013

1) Purpose

This policy shall guide the formation and management of Special Service Districts within Minneapolis where the City engages a nonprofit District Management Entity to implement an individual District's desired services.

Districts with this type of public-private partnership will be referred to in this policy as "Self-Managed Special Service Districts" to distinguish them from those Special Service Districts where the City retains direct responsibility for the day-to-day implementation of services.

In general, the roles and responsibilities of each partner shall be as follows:

- a) The City:
 - i) Shall use its assessing authority under MN Statute 428A to impose service charges on eligible property within the District. The City shall use these service charges to fund the contract with the District Management Entity.
 - ii) Shall review and approve an annual operating plan and budget for the District.
 - iii) Shall review and approve a business plan for the District.
 - iv) Shall monitor overall performance of the District's annual operating plans.
 - v) Shall review the District Management Entity's financials, including its independently audited financial statements to ensure compliance with annual operating plans and budgets.
 - vi) Shall allocate City staff to coordinate the District's services with on-going City services.

- b) The District Management Entity:
 - i) Shall provide all direct day-to-day management and operation of the District.
 - ii) Shall be responsible for all administrative management of services contracts including specification, procurement, contract management, vendor oversight and payment.
 - iii) Shall be governed by a management board composed of property owners and business owners within the District.
 - iv) Shall work with property owners and business owners to develop an annual operating plan and budget.
 - v) Shall develop a business plan describing how the district will be managed.
 - vi) Shall be responsible for communicating and coordinating service delivery with property owners and business owners within the District.

2) District Formation

Self-Managed Special Service Districts shall be established in accordance with Minnesota Statute 428A, or applicable law, which authorizes the City to establish Special Service Districts and impose annual service charges on eligible property within a District.

3) Governance

The District Management Entity shall be governed by a board of directors which shall have ultimate legal responsibility for the actions (and inactions) of the District Management Entity. The board of directors shall have a minimum of five (5) members. A minimum of three-fifths (3/5ths) of the board of directors shall own property or represent property owner(s) that are required to pay into the District. The remaining board member positions may include representatives other District stakeholders, including but not limited to, nonprofit, residential and institutional property owners. Multiple board members may not represent or have an affiliation with the same property or property owner(s). The District Management Entity shall make best efforts to have board members which represent a cross-section of property owners including, but not limited to, geographic location within the District, property type and property size. A quorum shall be at least 50% of board members plus one and shall be required for all board actions.

4) Existing City Services

Existing services provided by the City shall continue to be provided within a District at the present levels and in the same manner. In the event of a reduction of City resources or redeployment of resources based on City policy and priorities that would affect City service delivery levels in a District, the City will take into consideration current service delivery levels in the District and make best efforts to ensure that the reduction in any City service levels in the District will be in proportion to or less than the level of service reduction to the City at large.

In addition, it is understood that the core mission of a District is to enhance, not replace, City service deliveries in accordance with Minnesota Statute.

5) District Management Entity Eligibility and Business Plan

A District Management Entity shall be a nonprofit corporation incorporated in the State of Minnesota in accordance with Minnesota Statute 317A. A District Management Entity may be a new or an existing nonprofit provided that its structure and operations comply with the provisions set forth in this policy. The District Management Entity's articles of incorporation shall include a provision prohibiting compensation of board and committee members as well as distribution of funds to board and committee members.

In order to qualify as a District Management Entity, a nonprofit shall meet the following minimum criteria:

- a) Demonstrated knowledge, capacity and experience to properly manage the district's activities.
- b) Demonstrated knowledge, capacity and experience to manage the district's financial needs.
- c) Demonstrated knowledge, capacity and experience to manage and implement the district's services.
- d) Demonstrated knowledge, capacity and experience to manage the district's procurement activities.
- e) Demonstrated knowledge, capacity and experience to provide services within the public realm.
- f) Demonstrated knowledge, capacity and experience to effectively engage and communicate with the district's ratepayers.

In addition, a District Management Entity shall comply with the provisions set forth in the District Management Business Plan as described in Appendix A of this policy.

6) Budget Setting and Operating Plan

No later than July 31 of each year, the District Management Entity shall submit to the City for review and approval a proposed operating plan for the District for the following year in accordance with the requirements described in Appendix B of this policy.

7) Eligible Services

Each ordinance establishing a Self-Managed Special Service District shall outline the general categories of services that a District may provide. A District's annual operating plan shall describe with particularity the proposed services for the year. Any services not itemized in the annual operating plan shall be deemed ineligible.

8) Procurement of Services

The City shall enter into a professional services contract with a District Management Entity as described in this policy to directly implement the services of the District. This professional services contract shall be sole-sourced by the City and shall not require a bidding process. This professional services contract shall include, but is not limited to, the provisions described below, in addition to the responsibilities and requirements as set forth in this policy.

a) Provision of Services

- i) The District Management Entity may elect to hire direct employees to perform some or all of the District's services or may elect to enter into subcontracts with services providers.
- ii) When electing to enter into subcontracts with service providers, proposals may be evaluated and awarded based on best value, technical merit, past performance, safety practices, local experience, worker training, and price, in accordance with industry best practices.
- iii) The District Management Entity shall make best efforts to prevent conflicts of interest, as defined in Minneapolis Code of Ordinances Chapter 15 Ethics in Government, in employee hiring decisions and when awarding subcontracts. Any conflicts of interest which may arise shall be immediately disclosed to the City.

b) Accounting Policies, Procedures and Responsibilities

- i) The District Management Entity shall maintain the necessary source documentation and enforce sufficient internal controls as dictated by normally accepted accounting practices to properly account for revenue received and expenses incurred.
- ii) If the District Management Entity completes an annual financial audit performed by an independent CPA, it shall be submitted to the City within 30 days of its completion.

c) Contract Term Limitations

Because the imposition of service charge assessments is subject to a property owner objection process, all contracts, including any subcontracts that the District Management Entity may enter into, shall be limited to terms no greater than that for which a service charge has been lawfully put into effect.

d) Compliance with Specific Minneapolis Code of Ordinances (“MCO”)

i) MCO Chapter 38 Living Wage and Responsible Public Spending Regulations:

The District Management Entity shall comply with all provisions of this chapter.

ii) MCO Section 24.220 Prevailing Wage:

The District Management Entity shall agree that any construction work that requires funding from more than one year’s assessment cycle shall be subject to this chapter, but shall otherwise be exempt from the provisions of this section. Further, the District Management Entity shall not sell bonds to obtain a larger funding source.

iii) MCO Section 18.200 Equal Benefits:

The District Management Entity shall extend any benefits offered to its employees based on marital status to employees with domestic partners registered as such pursuant to Minneapolis Code of Ordinances: Section 142.30. In addition, the District Management Entity will require its subcontractors to extend the same benefits to any of their employees providing services to the District.

iv) MCO Section 139.50 Non-discrimination and Affirmative Action:

The District Management Entity shall maintain a modified Affirmative Action Plan that meets the requirements of Title VII of the Civil Rights Act of 1964 or Minneapolis City Ordinance 139.50

v) MCO Chapter 423 Small and Underutilized Business Enterprise Program:

The District Management Entity shall, when seeking competitive bids for services in the District, seek bids from, but not limited to, vendors on a list of small and underutilized businesses provided annually by the City, but shall otherwise be exempt from the provisions of this chapter.

vi) MCO Chapter 15 Ethics in Government

The District Management Entity, its directors, officers and staff shall be deemed public officials as defined in this chapter and shall comply with all provisions of this chapter.

e) General Conditions

The professional services contract shall also include, but is not be limited to, provisions for Insurance, Subcontractors, Indemnification, Hold Harmless, Non-Discrimination, Transfer of Interest, Independent Contractor, Compliance Requirements, Accounting Standards, Retention

of Records, Disclosure, Inspections, Applicable Law, Conflict and Priority, Ownership of Materials, Intellectual Property, Cancellation, and, Default and Remedies, Notices.

9) Operational and Financial Transparency

The District Management Entity shall operate in a transparent manner to ensure property owners paying into the District and the public understand the District's activities and can access District-related information. A District Management Entity shall be subject to the provisions set forth in Minnesota Statute 13D. Open Meeting Law and shall be subject to the provisions set forth for government entities in Minnesota Statute 13. Government Data Practices.

The District Management Entity shall submit the following information to the City for each calendar year:

- a) Financial reports including, but not limited to, income statement, balance statement, general ledger, individual transaction and expenditure spreadsheets, and bank statements.
- b) Year-end annual report detailing the prior year's services, activities, performance measurements, and accomplishments.
- c) Copies of its annual IRS 990 filings.
- d) Audited financials prepared by an independent CPA if one has been completed.
- e) Any and all additional information and documentation requested by the City, including, but not limited to, bidding documents and procedures, individual contracts, subcontracts, invoices, and expenditure details.

The District Management Entity shall maintain at all times a public website with the following information:

- a) Annual operating plan(s).
- b) Annual report(s).
- c) Schedule of upcoming board and committee meetings.
- d) Minutes from past board and committee meetings.
- e) District management contact information.

The District Management Entity shall provide access to the public upon request any and all documents and materials produced by and/or related to the District, including but not limited to the following:

- a) Bidding documents
- b) Contracts and agreements, including subcontracts and agreements
- c) Invoices and billing statements
- d) Individual expenditure details

10) Oversight

The City shall maintain oversight of District Management Entity. Oversight shall include, but is not limited to:

- a) Reviewing and approving the District's annual operating plan, budget and service charge assessment methodology.

- b) Monitoring the District's actual annual expenditures compared to its annual budget.
- c) Ensuring the equitability of the District's service charge assessment methodology.
- d) Monitoring the performance of the District Management Entity against goals and performance measurements set forth in the annual operating plan.
- e) Reviewing the District Management Entity's financial reports.
- f) Reviewing the District Management Entity's IRS 990 filings.
- g) Reviewing the District Management Entity's annual report summarizing the prior year's services, activities, and accomplishments.
- h) Requesting and reviewing any other District related information and documentation.
- i) Meeting with the District Management Entity's staff and management board periodically to review financial, service implementation and performance, and contract compliance matters.

11) Transition from an Existing District

Any existing City-Managed Special Service District wishing to transition to a Self-Managed Special Service District may do so by establishing a new Special Service District by following the procedure as set forth in Minnesota Statutes, Chapter 428A, or as permitted by applicable law, and the provisions of this policy.

The City shall not require any existing City-Managed Special Service Districts to transition to a Self-Managed Special Service District.

12) District Sunset and Renewal

The Ordinance establishing a Self-Managed Special Service District shall include an automatic sunset provision at the end of the District's fifth year unless the Ordinance is renewed by following the procedure as set forth in Minnesota Statutes, Chapter 428A, or as permitted by applicable law, and the provisions of this policy.

13) Public Right of Way Powers and Responsibilities

The City shall retain all powers, rights and responsibilities for the public right of way. Nothing in this policy shall delegate the City's powers, rights and responsibilities to a District Management Entity.

14) Policy Implementation Procedures

Public Works department staff shall develop detailed implementation procedures, including, but not limited to, oversight review processes and reporting, financial reporting forms and processes, petition forms and processes, service charge assessment documentation and processes. Such procedures may be amended by the department from time to time as needed.

APPENDIX A

District Management Entity Business Plan

The District Management Entity shall submit a business plan that includes, but is not limited to, the deliverables described below.

1) District Governance

Minimum Requirement:

Demonstrated knowledge, capacity and experience on the part of the district management entity to properly manage the district's activities.

Specific Deliverables:

- Description of the experience and qualifications of the person(s) and/or management company that will provide day-to-day management of the district's operations.
- Description of governance board composition and committee structure (if any).
- Plan for board member and committee member recruitment and retention.
- Description of internal policies and procedures, including bylaws.
- Plan for meeting materials and records management.
- Entity's conflict of interest policy.

2) Financial Management

Minimum Requirement:

Demonstrated knowledge, capacity and experience on the part of the district management entity to manage the district's financial needs.

Specific Deliverables:

- Plan for ensuring proper accountability of public funds, including financial procedures, internal controls, and oversight.
- Plan for ensuring all applicable local, state, federal and industry rules, procedures and laws will be adhered to.
- Statement of whether an annual independent financial audit will be completed.
- Plan for ensuring transparency and accessibility of financial information for city officials, ratepayers and the general public.
- Plan for developing and maintaining a fair and accurate service charge assessment methodology as well as related requirements and procedures.

3) Service Implementation

Minimum Requirement:

Demonstrated knowledge, capacity and experience on the part of the district management entity to manage and implement the district's services.

Specific Deliverables:

- Annual operating plan describing all proposed services including detailed budget.
- Plan for implementing the annual operating plan describing who will perform the various services (e.g. employees and/or subcontractors).
- Plan for monitoring service provider performance provided by vendors and/or employees.
- Plan for ensuring all applicable local, state and federal laws related to the implementation of the district's services are adhered to.

4) Procurement Management

Minimum Requirement:

Demonstrated knowledge, capacity and experience on the part of the district management entity to manage the district's procurement activities.

Specific Deliverables:

- For work provided by subcontractors, a description of how specifications for contracted services will be developed, including, but not limited to:
 - Technical service specification development
 - Technical product specification development
 - Non scope of service provisions (e.g. insurance requirements, substandard performance, termination, etc.)
- For work provided by direct employees, description of skills and experience that will be required or training provided to properly provide the district's services.
- Plan for ensuring all goods and services are procured using fair, ethical and legal procedures and processes.
- Plan for ensuring procurement activities are transparent and ensuring all records are properly maintained.

5) Public Realm Management

Minimum Requirement:

Demonstrated knowledge, capacity and experience on the part of the district management entity to provide services within the public realm.

Specific Deliverables:

- Description of management's entity's knowledge and familiarity with the legal parameters and industry standards for working in the public realm (e.g. traffic control and safety measures, First Amendment considerations, etc.).
- Description of management's entity's knowledge and familiarity with the coordination of the district's services with private property owners.

- Description of management's entity's knowledge and familiarity with the coordination of the district's services with other public realm stakeholders including publically- and privately-owned infrastructure and utilities.

6) Ratepayer Engagement

Minimum Requirement:

Demonstrated knowledge, capacity and experience on the part of the district management entity to effectively engage and communicate with the district's ratepayers.

Specific Deliverables:

- Plan for engaging and communicating with the district's ratepayers (the property owners paying the service charge assessments) to ensure transparency and understanding of the district's activities.
- Description of management's entity's knowledge and familiarity with business improvement district industry best practices in the area of ratepayer engagement.

APPENDIX B

District Management Entity Operating Plan

No later than July 31 of each year, the District Management Entity shall submit to the City for review and approval an operating plan for the District for the following year that includes, but is not limited to, the deliverables described below.

- 1) Plan Objectives
- 2) Proposed Services and Activities Described in Detail
- 3) Proposed Expenditures (Annual Budget)
- 4) Proposed Service Charge Method of Assessment
- 5) Proposed Map of Service Areas (including any Service Sub-Areas)
- 6) Proposed Governance and Management of Services
 - a) Proposed Performance Measurements
 - b) Proposed Stakeholder Outreach and Engagement Activities