

**SECOND AMENDMENT TO THE
TOURISM BUSINESS IMPROVEMENT DISTRICT
MANAGEMENT AGREEMENT**

This Second Amendment to THE TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT AGREEMENT ("Agreement") is made and entered into as of this ____ day of ____, 2024 by and between the CITY OF HUNTINGTON BEACH, a Municipal Corporation ("City"), and the VISIT HUNTINGTON BEACH ("VHB"), a California nonprofit 501 (c)(6) corporation, hereinafter jointly referred to as the "Parties").

RECITALS

WHEREAS, the Parties pursuant to Resolution 2018-84 and the Management District Plan (the "Plan") have been collecting assessments levied by the HBTBID to fund activities and improvements described in the Plan.

WHEREAS, special assessments are collected on all lodging businesses located within the boundaries of the City of Huntington Beach.

WHEREAS, on January 22, 2019, the Tourism Business Improvement District Management Agreement was entered into between the City of Huntington Beach, a Municipal Corporation ("City") and the Visit Huntington Beach ("VHB"), a California nonprofit 501c(6) corporation.

WHEREAS, on September 25, 2023, the Agreement was amended to include the Huntington Beach Municipal Code (HBMC) Chapter 5.120 Short-Term Rentals (STRs) as lodging businesses where operators remit their HBTBID payments quarterly instead of monthly.

WHEREAS, on June 4, 2024, the City Council of Huntington Beach approved Resolution of Modification 2024-30 to increase the assessment rate from 4% to 6%. As part of the assessment increase, the Parties agree to fund an equivalent amount equal to 10% of the annual assessment budget for Tourism Enhancement Program (TEP) special projects in accordance with the Plan and this Amendment during the remainder of the HBTBID term.

NOW, THEREFORE, THE PARTIES AGREE TO AMEND THE AGREEMENT AS FOLLOWS:

1. Section 7 of the Agreement is hereby deleted in its entirety and replaced with the following:

7. TOURISM ENHANCEMENT PROGRAM SPECIAL PROJECTS

In conjunction with the increase in HBTBID assessment to six percent (6%), VHB and the City agree to fund an equivalent amount equal to 10% of the annual assessment budget for TEP special projects each fiscal year, beginning Fiscal Year 2024-2025 and continuing through June 2028. TEP projects will improve the visitor and resident experience and prepare the destination for an influx of visitors in accordance with all provisions of the Plan.

7.1 TEP Projects for Fiscal Year 2024-2025 and 2025-2026: VHB Board of Directors and the City Council shall fund programs as part of their respective budgets in accordance with Exhibit C.

7.2 TEP Projects for Fiscal Year 2026-2027 and Subsequent Years: Beginning in Fiscal Year 2026-2027, VHB and the City Manager or designated City staff shall annually develop TEP project proposals consistent with the provisions of the Plan. For each TEP project proposal, there shall be included a proposed timeline and a proposed budget. TEP project proposals shall be submitted by October 30th. As part of the TEP project development process, both Parties shall meet and reach consensus on the upcoming year's projects, as well as determine who the Responsible Party is that will fund and manage each project. Final TEP project proposals shall be presented by both City and VHB staff at a regularly scheduled meeting of VHB no later than April 30th.

7.3 Project Approval: VHB TEP projects shall be approved by the VHB Board as part of VHB's annual budget process. City TEP projects shall be approved by the City Council as part of the City's annual budget process. The TEP budget shall be ten percent (10%) of the HBTBID budget. Failure by VHB to invest entire TEP budget into TEP projects within one fiscal year from approval of the budget may be considered a breach of Agreement and its Amendments. A waiver of this requirement for one fiscal year is not a waiver of the requirement for any prior or subsequent year. The total TEP budget for fiscal year 2024-2025 is approximately \$1,000,000. A similar TEP budget is expected to apply to subsequent years. However, the TEP budget is expected to fluctuate with HBTID revenue.

- 7.4 Milestone Reports: For each TEP project, the Responsible Party shall submit quarterly milestone reports to the other Party, including progress-to-date and expenditures.
- 7.5 Joint Investment: VHB and the City may jointly invest in TEP projects. The award of any public works project contract must be done in accordance with City Charter and Municipal Code requirements.
- 7.6 Project Modifications: VHB and the City Manager and/or their designee may convene to revise TEP project proposals, including adjustments to timelines and budgets. In the event that a project concludes ahead of schedule or with a surplus or deficit in the allocated budget, any credit or shortfall shall be applied to the subsequent fiscal year for future TEP projects.
- 7.7 Force Majeure: Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control, and without the fault or negligence, of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, pandemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

2. "Exhibit C" entitled "Approved TEP Project List" is hereby added to the Agreement.
3. "Exhibit D" Resolution No. 2024-30 entitled "A Resolution of the City Council of the City of Huntington Beach Declaring Results of Majority Protest Proceedings and Modifying the Huntington Beach Tourism Business Improvement District (HBTBID)" is hereby attached to the Agreement.

IN WITNESS WHEREOF, the City and VHB have executed this Second Amendment, which shall be effective as of the day and year set next to the City Manager's signature below ("Effective Date").

VISIT HUNTINGTON BEACH, a California
nonprofit 501 (c)(6) corporation

By: Kelly Miller
ITS: Kelly Miller
President/CEO

Date: 5-30-24

By: Just D. AND
ITS: (CIRCLE ONE)
Chairman/President/Vice President

Date: 5-30-24

CITY OF HUNTINGTON BEACH, a municipal
corporation of the State of California

By: _____
Eric Parra, Interim City Manager

Date: _____

ATTEST

By: _____
Robin Estanislau, City Clerk

Date: _____

INITIATED AND APPROVED:

By: _____
Jennifer Villaseñor
Community Development Director

Date: _____

APPROVED AS TO FORM:

By: _____ CEH
Michael E. Gates, City Attorney

Date: _____

VISIT HUNTINGTON BEACH, a California
nonprofit 501 (c)(6) corporation

By: _____
ITS: Kelly Miller
President/CEO

Date: _____

AND

By: _____
ITS: *(CIRCLE ONE)*
Chairman/President/Vice President

Date: _____

CITY OF HUNTINGTON BEACH, a municipal
corporation of the State of California

By _____
Eric Parra, Interim City Manager

Date: _____

ATTEST

By _____
Robin Estanislau, City Clerk

Date: _____

INITIATED AND APPROVED:

By  _____
Jennifer Villasenor
Community Development Director

Date: _____

APPROVED AS TO FORM:

By  _____ 
Michael E. Gates, City Attorney

Date: _____

EXHIBIT C – Approved TEP Project List

VHB Initiated Tourism Enhancement Programs				
	Project	Description	FY 24 / 25	FY 25 / 26
1	Wayfinding	<u>FY 24-25:</u> Fabrication and installation of nine gateway signs. <u>FY 25-26:</u> Fabrication and installation of vehicular directional signs along major arteries. <u>Both years:</u> Annual maintenance and Pier Plaza digital kiosk software renewal.	\$300,000	\$200,000
2	Pier Sign***	<u>FY 24-25:</u> Planning/design of new HB Pier sign. <u>FY 25-26:</u> Completion of HB Pier Sign.	\$200,000	\$300,000
3	Walkability & Connectivity***	Improve the walkable connectivity of hotels to Pacific City and to Main Street with enhanced crosswalks and lighting.	\$150,000	\$125,000
4	Temporary Beach Restrooms	Seasonal beach restrooms and porter service at the HB Pier and adaptive playground locations.	\$75,000	\$75,000
5	Nighttime Ambassador Program	Support of long-term ambassador program with trained staff to supplement nighttime police presence with hospitality and de-escalation services.	\$38,000	\$40,000
6	Accessibility***	Install projects for greater pathway mobility and accessibility to the beach.	\$20,000	\$20,000
7	Bike Valet***	Infrastructure branding and marketing of bike valet in downtown or under HB Pier.	\$20,000	TBD
8	Beach Event Infrastructure***	Beach event infrastructure, including electrical, wi-fi, and removable light poles in beach parking lots.	\$50,000	TBD
9	Improved HBISM in Preparation for LA28***	Support of legacy project to improve HBISM in preparation for LA28.	TBD	TBD
		TOTAL	10% of HBTBID Budget	10% of HBTBID Budget

CITY Initiated Tourism Enhancement Programs**				
	Project	Description	FY 24 / 25	FY 25 / 26
1	Infrastructure Improvements***	Replacement of elevators/stairs to the City's downtown parking structure (Main Street Promenade)	\$700,000	*
2	Downtown Specific Plan***	Planning, schematic design, and construction estimate of downtown specific plan improvements	\$250,000	*
3	Mobility	Support of a downtown mobility enhancements (i.e., Circuit)	TBD	*
4	Accessibility***	Pedestrian Walkway Path at PCH and 6 th Street	\$65,000	*
5	Playground Improvements ***	All-inclusive playground maintenance (Pirate Park)	\$120,000	*
6	Lighting***	Bluff Top Park Lighting (new lighting between beach parking lots)	\$64,000	*
7	Maintenance	Enhanced downtown maintenance	\$198,000	\$198,000
		TOTAL	10% of HBTBID Budget	10% of HBTBID Budget

**Funding may be added in later years subject to budget approval by City Council.*

***These projects may be funded from a variety of sources including, but not limited to: City funds, grants, and other collaborative partners and agencies.*

**** These projects are NEW initiatives.*

**FIRST AMENDMENT
TOURISM BUSINESS IMPROVEMENT DISTRICT
MANAGEMENT AGREEMENT**

This First Amendment to THE TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT AGREEMENT ("Agreement") is made and entered into as of this 25th day of Sept., 2023 by and between the CITY OF HUNTINGTON BEACH, a Municipal Corporation ("City"), and the VISIT HUNTINGTON BEACH ("VHB"), a California nonprofit 501 (c)(6) corporation, hereinafter jointly referred to as the ("Parties").

RECITALS

WHEREAS, the Parties pursuant to Resolution 2018-84 and the Management District Plan (the "Plan") have been collecting assessments levied by the HBTBID to fund activities and improvements described in the Plan.

WHEREAS, special assessments are collected on all lodging businesses located within the boundaries of the City of Huntington Beach.

WHEREAS, Ordinance No. 4224 became effective on February 19, 2021 and amended the Huntington Beach Municipal Code (HBMC) by adding Chapter 5.120 Short-Term Rentals (STRs), defined as a residential dwelling unit, or portion thereof, that is offered or provided to a paying guest(s) by a short term rental host or operator for (30) or fewer consecutive nights.

WHEREAS, Short-Term Rentals are considered lodging businesses located within the City boundaries and STR operators remit their TBID payments quarterly instead of monthly.

NOW, THEREFORE, THE PARTIES AGREE TO AMEND THE AGREEMENT AS FOLLOWS:

SECTION 3. SERVICES TO BE PERFORMED

3.3 At the end of each fiscal year (defined as July 1 through June 30), VHB shall hire an independent professional audit firm to perform a Financial Statement Audit of the HBTBID with a Schedule of Notes and other information detailing the HBTBID's financial statement as needed. In addition, the City Manager or designee may require the auditors to perform certain "Agreed Upon Procedures" to determine whether the HBTBID's expenditures for the preceding year are consistent with the HBTBID's Annual Budget, establishing Resolution, the Plan, and any other applicable law, rule or regulation. A copy of said "Agreed Upon Procedures" report, along with the annual Financial Statement Audit, will be provided to the City by March 31st following the HBTBID's fiscal year end. As long as there is a separate Schedule of Notes for the HBTBID, the Financial Statement Audit may be consolidated with the Financial Statement Audit of the VHB. In addition, the City may conduct its own audit and VHB shall reimburse the City for the costs of such audit.

SECTION 5. REMITTANCE OF ASSESSMENT TO VHB

5.1 The City shall remit the amount received monthly (or quarterly for STRs) less the administrative fee to VHB for HBTBID operations. The City will remit funds in a timely manner, including the use of electronic transfer. The HBTBID funds will be remitted by the City not later than the end of the month (or within 90 days for STRs) following payment of the assessment to the City. The STR payment schedule is as follows:

- **Quarter 1** (STR rentals between January 1 - March 31). TOT and TBID due last City business day in April. City to remit by August 1.
- **Quarter 2** (STR rentals between April 1 - June 30). TOT and TBID due last City business day in July. City to remit by November 1.
- **Quarter 3** (STR rentals between July 1 - September 30). TOT and TBID due last City business day in October. City to remit by February 1.
- **Quarter 4** (STR rentals between October 1 - December 31). TOT and TBID due last City business day in January. City to remit by May 1.

In the event the City is unable to collect all or any portion of the delinquent assessment herein, the City will provide the amount collected and use reasonable efforts to collect unpaid assessments. If successfully collected, the City will remit said amount of HBTBID. The City shall incur no liability or otherwise be required to remit any funds that the City is unable to collect.

SECTION 6. ADMINISTRATIVE FEE

As provided in the Plan, the City shall be reimbursed from the collected assessments 1% of the total amount of the entire assessment, whether or not actually collected for administrative expenses. The administrative fee of 1% shall be retained monthly (or quarterly for STRs) by the City and deposited into the City General Fund account. This fee can be increased without modification of this Agreement by the City demonstrating cost to administer exceeds 1%.

IN WITNESS WHEREOF, the City and VHB have executed this First Amendment, which shall be effective as of the day and year set next to the City Manager's signature below ("Effective Date").

**VISIT HUNTINGTON BEACH, a California
nonprofit 501 (c)(6) corporation**

By: Kelly Miller
ITS: Kelly Miller
Chairman/President/Vice President
Date: 8-24-23

AND

By: Justine
ITS: (CIRCLE ONE)
Chairman/President/Vice President
Date: 8/18/23

**CITY OF HUNTINGTON BEACH, a municipal
corporation of the State of California**

INITIATED AND APPROVED:

Wanda L. Dan
Director of Community Development

APPROVED AS TO FORM:

[Signature] cc
City Attorney

REVIEWED AND APPROVED:

[Signature]
City Manager

9/25/23
Date

TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT AGREEMENT

THIS TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT AGREEMENT ("Agreement") is made and entered into as of this 22 day of January, 2019 by and between the CITY OF HUNTINGTON BEACH, a Municipal Corporation ("City"), and the VISIT HUNTINGTON BEACH ("VHB"), a California nonprofit 501(c)(6) corporation and is made with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The VHB is a California nonprofit 501(c)(6) corporation formed under the laws of California.
- C. Resolution 2018-84 was adopted on December 17, 2018, by the City Council of the City, upon the petition of the business owners in the proposed district who will pay more than fifty percent (50%) of the assessment proposed to be levied, which renewed the Huntington Beach Tourism Business Improvement District ("HBTBID") pursuant to the Property and Business Improvement District Law of 1994 contained in Streets and Highways Code 36600-36671 ("1994 Law.") A copy of the resolution and accompanying management district plan is attached hereto as Exhibit A and incorporated herein by this reference (hereinafter the "Plan").
- D. Special assessments levied by the HBTBID are earmarked solely to fund the activities and improvements described in the Plan.
- E. The Plan designates VHB, as the owner's association, if the City and VHB enter into an agreement to administer and implement the HBTBID's activities and improvements.
- F. VHB has represented to the City that it possesses the labor and professional skills and expertise to administer and implement the activities and improvements of the HBTBID described in the Plan.
- G. Resolution 2018-84 provides that the City shall be paid a fee equal to 1% of the amount of the Assessment annually for services rendered in connection with the

collection of the assessment and disbursement to the HBTBID, which can be increased in the future, but shall not exceed the actual cost to the City.

H. The purpose of this Agreement is to set forth the duties and responsibilities of the City and VHB for HBTBID operations.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. INCORPORATION OF RECITALS

The Recitals above are true and correct and constitute an enforceable provision of this Agreement.

2. TERM

The term of this Agreement shall commence on the above written date, and shall continue with all services provided for in this Agreement for the life of the HBTBID, unless terminated earlier as set forth herein.

3. SERVICES TO BE PERFORMED

VHB shall furnish the following services:

- 3.1 Administer and implement all of the activities and improvements of the HBTBID as stated, listed, or otherwise described in the Plan.
- 3.2 Provide and keep an accounting of HBTBID expenditures for each year the HBTBID is in existence to the City in a format acceptable to the City and any additional documentation and information requested by the City. This may be the same monthly accounting as is presented to the HBTBID Board at its monthly meeting provided that the City agrees in writing that the format of the report is acceptable.
- 3.3 At the end of each fiscal year (defined as July 1 through June 30), hire an independent professional audit firm to perform a Financial Statement Audit of the HBTBID with a Schedule of Notes and other information detailing the HBTBID's financial statement as needed. In addition, the City Manager or designee may require the auditors to perform certain "Agreed Upon Procedures" to determine whether the HBTBID's expenditures for the preceding year are consistent with the HBTBID's Annual Budget, establishing Resolution, the Plan, and any other applicable law, rule or regulation. A copy of said "Agreed Upon Procedures" report, along with the annual Financial Statement Audit, will be provided to the City within one hundred twenty (120) days of the HBTBID's fiscal year end. As long as

there is a separate Schedule of Notes for the HBTBID, the Financial Statement Audit may be consolidated with the Financial Statement Audit of the VHB. In addition, the City may conduct its own audit and VHB shall reimburse the City for the costs of such audit.

- 3.4 Provide City with an annual report that contains all of the information required by Section 36650 of the 1994 Law, or otherwise required by law, rule or regulation including all matters covered under this Agreement, on or 120 days after close of fiscal year. The City Council may approve the report as filed, or may modify any particular matter contained in the report and approve it as modified pursuant to 36635 and 36636 of the 1994 Law.
- 3.5 Award and administer all contracts necessary for providing the activities and improvements in the Management Plan, adhering to the following procedure when awarding a subcontract: all contracts over \$30,000.00 VHB will (1) solicit bids for the work; (2) consider the bids received before awarding the contract; and (3) make a written "Bid Record" after the contract is awarded, listing the name and amount bid for each bidder and describing the reasons for awarding the contract to the successful bidder. Unless circumstances are such that it is not feasible, all sub contracts will be awarded to lowest responsive and responsible bidder. In the event the agreement is not bid, VHB shall provide in the bid Record explanation as to why a bid process was not flowed. For any contract, upon the request of City, VHB shall provide City with a copy of the contract and the Bid Record. If the contract is listed as a Destination Product development contract, and determined by City to be a public works project, VHB shall contact the City Manager and Public Works director to establish a procedure to award and administer said contract according to the City Charter and/or any State law requirements in this regard. Any contract involving City Public Works as defined in Huntington Beach Charter Section 614 shall follow the same requirements.
- 3.6 No additional services shall be performed by VHB unless approved in advance in writing by City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the City Manager or designee; however, the means by which the work is accomplished shall be the sole responsibility of VHB.

4. TIME OF PERFORMANCE

- 4.1 Time is of the essence in the performance of services under this Agreement and VHB shall perform the services in a diligent and timely manner. VHB

shall produce all required reports and documents in the times stated in the 1994 Law and this Agreement. Deviations from time schedule may be made only with the prior written approval of the City Manager or designee. The failure by VHB to perform the services in a diligent and timely manner may result in termination of this Agreement by City as provided herein.

- 4.2 Notwithstanding the foregoing, VHB shall not be responsible for delays due to causes beyond VHB reasonable control. However, in the case of any such delay in the services to be provided under the Plan, each party hereby agrees to provide notice to the other party so that all delays can be addressed.

5. REMITTANCE OF ASSESSMENT TO VHB

- 5.1 The City shall remit the amount received monthly, less the administrative fee to VHB for HBTBID operations. The City will remit funds in a timely manner, including the use of electronic transfer. The HBTBID funds will be remitted by the City not later than the end of the month following payment of the assessment to the City. In the event the City is unable to collect all or any portion of the delinquent assessment herein, the City will provide the amount collected and use reasonable efforts to collect unpaid assessments. If successfully collected, the City will remit said amount of HBTBID. The City shall incur no liability or otherwise be required to remit any funds that the City is unable to collect
- 5.2 VHB shall maintain a separate bank/checking account for HBTBID funds. Only HBTBID funds shall be deposited in this account, and only HBTBID eligible expenditures shall be paid from this account.
- 5.3 Neither the City's general fund nor any other fund or monies of the City, other than the actual HBTBID assessment received by the City, is liable for any payment under this Agreement. The contractual or other obligations of the VHB are not a debt of the City, nor are they a legal or equitable pledge, charge, lien, or encumbrance upon any of the City's property, income, receipts, or revenues.

6. ADMINISTRATIVE FEE

As provided in the Plan, the City shall be reimbursed from the collected assessments 1% of the total amount of the entire assessment, whether or not actually collected for administrative expenses. The administrative fee of 1% shall be remitted monthly to the City General Fund account. This fee can be increased without modification of this Agreement by the City demonstrating cost to administer exceeds 1%.

7. TRANSIENT OCCUPANCY TAX SPECIAL PROJECTS

VHB and City have mutually agreed to terminate the AMENDED AND RESTATED GRANT AGREEMENT BETWEEN THE CITY OF HUNTINGTON BEACH AND HUNTINGTON BEACH MARKETING AND VISITORS BUREAU dated April 10, 2010 (Grant Agreement). The Grant Agreement provided in part that the CITY will grant to BUREAU (VHB) a sum equivalent to ten percent (10%) of CITY'S Transient Occupancy Tax (TOT) collections each month, payable monthly, following collection of same.

The Grant Agreement was scheduled to terminate on October 1, 2021, however, both the City and VHB desire to terminate the Grant Agreement in its entirety and City and VHB agree that the City will grant to VHB a sum equivalent to of the City's Transient Occupancy Tax to pay for specific projects as follows:

7.1 Fiscal Year 2019-20: Grant of \$150,000 to be used for the sole purpose of modifications to the International Surf Museum Board and \$100,000 to assist the production of the U.S. Travel Association's IPW Event.

7.2 Fiscal Year 2020-21: Grant of \$125,000 to be used for the sole purpose of modifications to the International Surf Museum and \$100,000 for the Amgen Tour Final event.

7.3 Fiscal Year 2021-22: Grant of \$100,000 to be used for the sole purpose of modification to the International Surf Museum.

The City shall only be obligated to provide three Annual Grant amounts as set forth above to VHB if VHB accomplishes the listed event/activity within the year in which the Annual Grant amounts are provided, as determined at the sole discretion of the City Manager. If the event or activity identified above does not occur and/or is not accomplished, the City will have no obligation to provide the Annual Grant for the year in which the activity is no payments will provided, unless the City Manager and HBTBID agree to a modification in timing.

Upon conclusion of the grant for FY 2021-22, the City will have no obligation, duty obligation or otherwise required to provide any Transient Occupancy Tax to VHB.

8. LATE PAYMENT PENALTIES AND INTEREST

- 8.1 Any HBTBID member failing to remit the assessment within thirty (30) days of the time required shall pay an initial mandatory penalty of ten percent (10%) of the amount of the late assessment in addition to the assessment.
- 8.2 Any HBTBID member failing to remit the assessment and the initial penalty within sixty (60) days shall be liable for a second mandatory penalty of an additional ten percent (10%).

- 8.3 In addition to the penalties imposed, any member who fails to remit the assessment that is due and owing at the rate of one and one-half percent (1-1/2%) per month for each month or portion of a month that the assessment remains unpaid exclusive of penalties.
- 8.4 Should a member's assessment become twelve months in arrears, it shall be sent to collections. Penalties, interest and the cost of collection shall become part of the assessment required to be paid.
- 8.5 Late payments, penalties, and interest shall be deposited and used in the same manner as the basic assessment. The cost of collection, if any, shall be used to pay the collections agency.

9. COMPLIANCE WITH ALL LAWS

- 9.1 VHB shall at its own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all services by VHB shall conform to applicable City, county, state and federal laws, rules regulations and permit requirements and be subject to the approval of the City Manager or designee.
- 9.2 VHB shall ensure that its board members will undertake training on the Brown Act, which may consist of self-study materials, an online course, or in-person training.

10. WORK PRODUCT, BOOK AND RECORDS

- 10.1 All plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of VHB relating to the matters covered by this Agreement shall be the property of the City, and VHB hereby agrees to deliver the same to the City upon termination of the Agreement.
- 10.2 During the term of this Agreement, and for five years after the term expires or terminates or for any longer period required by law, VHB shall maintain detailed records pertaining to the HBTBID's administration, including but not limited to ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or concerning budgeting, charges, expenditures, subcontractors (e.g., bid records,) insurance, permits, administrative expenses, and overhead. HBTBID records shall not be comingled with TOT, tax accounts or any other records of VHB. VHB

shall make all such records available to City for inspection, audit, and/or copying at all reasonable times.

- 10.3 VHB will work with the City to assure to the extent feasible each HBTBID member maintains its records in accordance with Paragraph 10.2 and that the City may perform an audit of HBTBID payments from HBTBID hotels. The City as its sole discretion shall conduct the audit and any litigation.

11. INDEPENDENT CONTRACTOR

- 11.1 It is understood that City retains VHB on an independent contractor basis and its board members and staff are not an agent or employee of the City. The VHB is not a public entity and its board members and staff are not public officials or employees of the City. The manner and means of conducting the work are under the control of VHB, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for VHB or any of VHB's employees or agents, to be the agents or employees of City. VHB shall have the responsibility for and control over the means of performing the work, provided that VHB is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give the City the right to direct VHB as to the details of the performance or to exercise a measure of control over VHB shall mean only that VHB shall follow the desires of the City with respect to the results of the services. VHB shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance for its employees.
- 11.2 In the event VHB or any board member, employee, agent, contractor, or subcontractor of VHB providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, VHB shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of VHB or its board members, employees, agents, contractors or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

12. COOPERATION

12.1 VHB agrees to work closely and cooperate fully with the City Manager or designee and any other agencies that may have jurisdiction or interest in the work to be performed. City agrees to cooperate with VHB.

12.2 VHB shall discuss and review all matters relating to policy and HBTBID direction with the City Manager or designee in advance of all critical decision points to ensure the Management Plan proceeds in a manner consistent with HBTBID's goals and policies and all applicable laws, rules and regulations. VHB shall hold quarterly meetings with the City Manager.

13. INSURANCE

Without limiting VHB indemnification of the City, and prior to commencement of work, VHB shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to the City.

13.1 **Certificates of Insurance.** VHB shall provide certificates of insurance with original endorsements to the City as evidence of the insurance coverage required herein. Insurance certificates must be approved by the City Risk Manager prior to commencement of performance of services. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement.

13.2 **Signature.** A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.

13.3 **Acceptable Insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Risk Manager.

13.4 **Coverage Requirements.**

A. Workers' Compensation Coverage. VHB shall maintain Workers' Compensation Insurance Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, VHB shall require each subcontractor to similarly maintain Workers' Compensation

Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) calendar days (or 10 calendar days written notice of non-payment of premium prior to such change. The insurer shall agree to waive all rights of subrogation against the City, its officers, agents, employees and volunteers for losses arising from work performed by VHB for the City.

- B. General Liability Coverage. VHB shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, contractual liability. If commercial general liability insurance or other form with a general aggregate limit is used, wither the general aggregate limit shall apply separately to the work to be performed under this agreement, or the general aggregate limit shall be at least twice the required occurrence limit.
- C. Automobile Liability Coverage. VHB shall maintain automobile insurance covering bodily injury and property damage for all activities of VHB arising out of or in connection with services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

13.5 Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following specific language:

- A. The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of VHB.
- B. This policy shall be considered primary insurance as respects to the City, its elected or appointed officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from VHB's operations or services provided to the City. Any insurance maintained by the City, including any self-insured

- retention the City may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.
- C. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
 - D. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees, agents and volunteers.
 - E. Any failure to comply with reporting provisions of the policies shall not effect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.
 - F. The insurance provided by this policy shall not be suspended voided, canceled, or reduced in coverage or in limits, by either party except after thirty (30) calendar days written notice (or 10 calendar days' notice of non-payment of premium) has been received by the City.
- 13.6 Timely Notice of Claims. VHB shall give the City prompt and timely notice of claim made or suit instituted arising out of or resulting from VHB's performance under this Agreement.
- 13.7 Additional Insurance. VHB shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of work.

14. INDEMNITY AND HOLD HARMLESS

- 14.1 To the fullest extent permitted by law, VHB shall indemnify, defend and hold harmless the City, its City Council boards and commissions, officers, agents, volunteers, and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner related (directly or indirectly) to the Agreement, any breach of the terms and conditions of this Agreement, any violation of any law, rule or regulation by VHB, any work performed or services provided under this Agreement including, without limitation, VHB's presence or activities conducted pursuant to this Agreement (including the negligent and/or willful acts, errors and/or omissions of VHB, its board members, principals, officers, agents, employees, vendors, suppliers, consultants,

contractors, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable for any or all of them.)

14.2 Notwithstanding the foregoing, nothing herein shall be construed to require VHB to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by VHB.

14.3 It is understood that the duty of VHB to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by the City of insurance certificates and endorsements required under this Agreement does not relieve VHB from liability under this indemnification and hold harmless clause. This indemnification and hold VHB harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply and shall survive the termination of this Agreement. By execution of this Agreement, VHB acknowledges and agrees to the provisions of this Paragraph and that it is a material element of consideration.

15. CITY'S RESPONSIBILITIES

To assist VHB in the execution of its responsibilities under this Agreement, the City agrees to, where applicable:

15.1 Provide access to, and upon request of VHB, one copy of all existing relevant information on file at the City. The City will provide all such materials in a timely manner so as not to cause delays in VHB's work schedule.

15.2 Administer annual HBTBID proceedings.

16. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the services to be provided under this Agreement shall not be assigned, transferred, contracted or subcontracted out without the prior written approval of City.

17. CONFLICT OF INTEREST

17.1 VHB or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such

persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

17.2 If subject to the Act, VHB shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. VHB shall indemnify and hold harmless the City for any and all claims for damages resulting from VHB's violation of this Paragraph.

17.3 VHB certifies that it has disclosed to the City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement. VHB agrees to advise the City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. VHB further agrees to complete any statements of economic interest required by either City ordinance or State law.

18. TERMINATION

In lieu of a bilateral termination provision without cause, Parties have negotiated and agree that the City may terminate this agreement at any time if it determines at its sole discretion that the VHB has misappropriated funds, committed malfeasance, or violated any law, rule or regulation in providing the activities and improvements described in the Plan or in otherwise administering and implementing the Plan; or has breached this Agreement in any way whether material breach or nonmaterial breach and has failed to cure the breach within 30 days after receiving the City's written demand for cure. This Agreement shall automatically terminate in the event the HBTBID is disestablished or expires without being renewed.

19. WAIVER

A waiver by either party of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

20. SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

21. CONTROLLING LAW AND VENUE

The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange.

22. AMENDMENTS

This Agreement may be modified or amended only by a written document executed by both VHB and the City and approved as to form by the City Attorney. The City Manager or designee is authorized to execute on behalf of the City, with approval of the City Attorney as to form, an amendment to Sections 3, 5, 6, 8, 11, 14 and 27.

23. INTEGRATED CONTRACT

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No oral agreement or implied covenant shall be held to vary the provisions herein.

24. INTERPRETATION

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

25. EQUAL OPPORTUNITY EMPLOYMENT

VHB represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, disability, ancestry, sex or age or other prohibited criteria.

26. NOTICES

All notices, demands, requests or approvals to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided. All notices, demands, requests or approvals from VHB to the City shall be addressed to the City at:

Attn: City Manager
City of Huntington Beach
2000 Main Street
P.O. Box 190
Huntington Beach, CA 92648

Phone: (714) 375-0465
Fax: (714) 375-5087

All notices, demands, request or approvals from City to VHB shall be addressed to VHB at:

Attn: Kelly Miller, President & CEO
Visit Huntington Beach

155 Fifth Street, Suite 111
Huntington Beach, CA 92648

Phone: (714) 969-3492
Fax: (714) 969-5592

27. AUTHORITY TO EXECUTE

The person executing this Agreement on behalf of the parties hereto warrants and represents that he/she has the authority to execute this Agreement on behalf of his/her entity and has the authority to bind that party to the performance of its obligations hereunder.

28. THIRD PARTY BENEFICIARY

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and assigns, and is made solely and specifically for their benefit. No other person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first written above.

VISIT HUNTINGTON BEACH

By: Kelly Miller
ITS: Kelly Miller
Chairman/President/Vice President

AND
By: Just
ITS: (CIRCLE ONE)
Chairman/President/Vice President

ATTEST:

Robin Estanislau
City Clerk 2/12/19 ~~22~~

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

APPROVED AS TO FORM:

William L. [Signature]
City Attorney *mr*

INITIATED AND APPROVED:

[Signature]
Deputy Director of Economic Development

REVIEWED AND APPROVED:

[Signature]
City Manager

Attachment: Exhibit A – Resolution 2019-06
Exhibit B – Management District Plan

RESOLUTION NO. 2019-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
MODIFYING THE MANAGEMENT DISTRICT PLAN OF THE HUNTINGTON BEACH
TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, on September 15, 2014 the City Council of the City of Huntington Beach ("City Council") adopted Resolution Number 2014-72 adopting the Management District Plan and establishing the Huntington Beach Tourism Business Improvement District ("HBTBID"); and

WHEREAS, the Property and Business Improvement District Law of 1994, Streets and Highways Code §36600 et seq., allows the City to modify the Management District Plan ("MDP") at the request of the owners' association; and

WHEREAS, the HBTBID owners' association, Visit Huntington Beach ("VHB"), has requested modification of the MDP; and

WHEREAS, on November 19, 2018 the City Council adopted a Resolution of Intention to Modify the Management District Plan of the Huntington Beach Tourism Business Improvement District, Resolution Number 2018-79; and

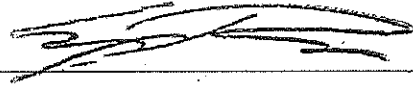
WHEREAS, the Resolution of Intention was published and mailed in accordance with Streets and Highways Code Section 36636; and

WHEREAS, a public hearing on the proposed modification was held on January 22, 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:


1. The recitals set forth herein are true and correct.
2. The City Council hereby modifies the HBTBID MDP.
3. The modification of the HBTBID MDP will modify the term of the district. The current term of the district is five (5) years, effective through September 31, 2019. The modified HBTBID shall have a term of four (4) years and three (3) months, ending on January 31, 2019.
4. This resolution shall take effect immediately upon its adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 22nd day of January, 2019.

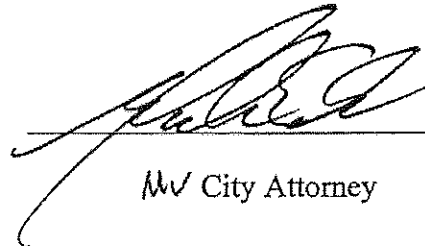


Mayor

REVIEWED AND APPROVED:


City Manager


APPROVED AS TO FORM:


City Attorney

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, ROBIN ESTANISLAU, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **Regular** meeting thereof held on **January 22, 2019** by the following vote:

AYES: Brenden, Carr, Semeta, Peterson, Posey, Delgleize, Hardy
NOES: None
ABSENT: None
RECUSE: None



City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California

2019-2028



VISIT
HUNTINGTON
BEACH
SURF CITY USA®



HUNTINGTON BEACH TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

*Prepared pursuant to the Property and Business Improvement District Law of
1994, Streets and Highways Code section 36600 et seq.*

October 9, 2018

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I. OVERVIEW

Developed by Visit Huntington Beach (VHB) and Huntington Beach lodging businesses, the renewed Huntington Beach Tourism Business Improvement District (HBTBID) is an assessment district that will continue to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed lodging businesses. The HBTBID was formed in 2014 for a five (5) year term; assessed lodging businesses now wish to renew it for an additional nine (9) years and five (5) months.

Location: The renewed HBTBID includes all lodging businesses located within the boundaries of the City of Huntington Beach, as shown on the map in Section V.

Services: The HBTBID is designed to provide specific benefits directly to payors by increasing room night sales. Tourism enhancement programs will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.

Budget: The total HBTBID annual budget for each full year of operation is anticipated to be approximately \$5,000,000. The initial “year” of operation will be a partial year consisting of five (5) months, for which the anticipated budget is \$2,083,333.

Cost: The annual assessment rate is four percent (4%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or State of California officer or employee when on official business; and stays by any officer or employee for a foreign government who is exempt by reason of express provision of federal law or international treaty.

Collection: The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the HBTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business.

Duration: The renewed HBTBID will have a nine (9) year and five (5) month life, beginning February 1, 2019 through June 30, 2028. Once per year, beginning on the anniversary of HBTBID renewal, there is a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a City Council hearing on HBTBID termination. The proposed time for implementation and completion of this Management District Plan is February 1, 2019 through June 30, 2028.

Management: Visit Huntington Beach will continue to serve as the HBTBID’s Owners’ Association. The Owners’ Association is charged with managing funds and implementing programs in accordance with this Plan, and must provide annual reports to the City Council.

II. BACKGROUND

TBIDs are an evolution of the traditional Business Improvement District. The first TBID was formed in West Hollywood, California in 1989. Since then, over one hundred California destinations have followed suit. In recent years, other states have begun adopting the California model – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TBID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TBIDs without a state law.

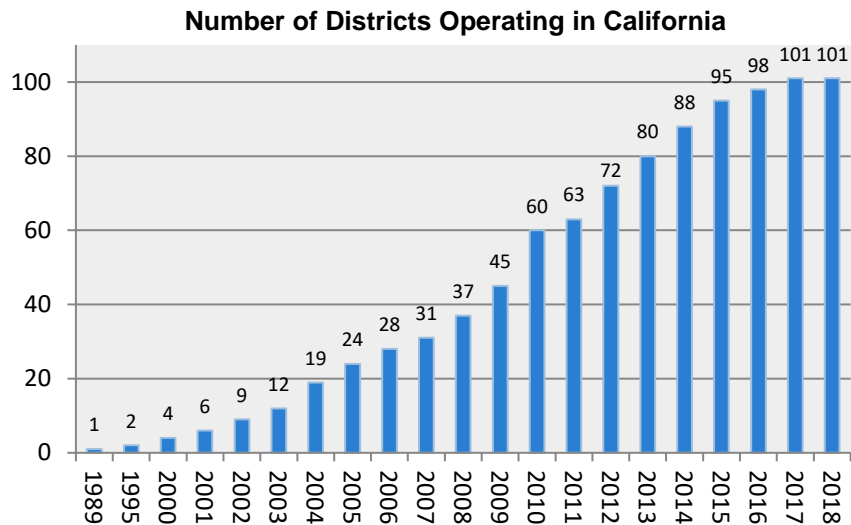
California's TBIDs collectively raise over \$250 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Huntington Beach lodging businesses continue to invest in stable, lodging-specific marketing programs.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow lodging business owners to organize their efforts to increase room night sales. Lodging business owners within the TBID pay an assessment and those funds are used to provide services that increase room night sales.

In California, TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. *The key difference between TBIDs and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to TBIDs:

- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government use;
- TBIDs are customized to fit the needs of payors in each destination;
- TBIDs allow for a wide range of services;
- TBIDs are ***designed, created and governed by those who will pay*** the assessment; and
- TBIDs provide a stable, long-term funding source for tourism promotion.



III. IMPETUS TO RENEW THE HBTBID

The existing HBTBID was established in 2014 with an assessment rate of three percent (3%) on overnight lodging revenues in Huntington Beach. While the HBTBID has been successful, there is still opportunity for growth in overnight visitation and room night sales revenue, especially during non-peak periods. Currently, the City of Huntington Beach provides VHB with funding from Transient Occupancy Tax revenues, equal to one percent (1%) of overnight lodging revenues in Huntington Beach, pursuant to an MOU between the City and VHB. The City and VHB intend to terminate the MOU and enter a new. It is the intent of VHB to develop a long-term agreement with the City that includes the City retaining 100% of all TOT revenues. The assessment rate in the renewed HBTBID will be increased to four percent (4%) to ensure that tourism promotion funding is not decreased during the term of the renewed HBTBID. There are several reasons to renew the HBTBID. The most compelling reasons are:

1. The Need to Maintain/Increase Competitiveness, Occupancy and Overall Visitation

As the number of overnight accommodations grow in Orange County, as well as in competitive California cities and counties, it is crucial that Huntington Beach maintains and increases its competitiveness, occupancy levels and visitation from targeted markets.

These goals can be accomplished by increasing the HBTBID assessment from three percent (3%) to four percent (4%), which will continue to generate approximately \$5,000,00 in dedicated HBTBID funding for improvements and activities to increase room rentals for assessed lodging businesses located within the renewed HBTBID. Additional HBTBID funds will be used to implement new Tourism Enhancement Programs above and beyond those that are currently provided with the existing funding level:

1. Increase funding for destination sales and marketing programs, which will target key visitor markets, including markets that generate substantial overnight visitation to Huntington Beach throughout the year, especially during non-peak seasons; and
2. Increase funding for the innovative HBTBID Visitor Services Enhancements program that adds new and/or repurposed projects to Huntington Beach's current brand offerings, which will increase year around overnight visitation by improving the overall HBTBID brand experience, the number of reasons for visitors to stay longer, and offer more reasons for visitors to return more often to Huntington Beach.

2. An Opportunity for Increasing City Revenues

As an indirect result of the renewed HBTBID, it is expected that as occupancy rates and overall visitation numbers increase, so too will the City's Transient Occupancy Tax revenue. Greater occupancy rates will also generate an indirect increase in sales tax revenues from tourist spending.

3. Stable Funding for Destination Marketing

The current HBTBID was formed pursuant to the Property and Business Improvement District Law of 1994. The law allows a district to be renewed for up to ten (10) years without the need for City Council's annual approval to continue levying the assessment. Stakeholders have elected to renew the HBTBID for a nine (9) year five (5) month term. The renewed term will provide stable funding for destination marketing, visitor services enhancements, and management through June 30, 2028 and

align the HBTBID's fiscal year to the City's fiscal year. This may provide stable funding for destination marketing, visitor services enhancements, and management.

Many of Huntington Beach's competitors are at or exceeding the level of funding available for destination marketing in Huntington Beach. The table below lists the funding raised by tourism improvement districts for several other competitors.

Location	Amount Raised	Assessment Rate	TOT Rate	Total Guest Charge
Costa Mesa	\$3,350,000	3% room revenue	8%	11%
Laguna Beach	\$2,040,000	2% room revenue	12%	14%
Irvine	\$3,100,000	2% room revenue	8%	10%
Anaheim	\$19,830,000	2% room revenue	15%	17%
Long Beach	\$6,000,000	3% room revenue	12%	15%
Torrance	\$1,090,000	1% room revenue	11%	12%
Santa Monica	\$4,130,000	\$1.50 - \$5.25 per night	14%	14% + \$5.25
Oceanside	\$690,000	1.5% room revenue	10%	11.5%
Santa Barbara	\$3,770,000	\$0.75 - \$4.00 per night	14%	14% + \$4.00
Newport Beach	\$8,430,000	3% room revenue	10%	13%

*As of September 2018

IV. ACCOMPLISHMENTS

Assessed Lodging Business Revenue

Assessed lodging businesses revenue has increased 45.6% since the HBTBID assessment was increased from 2% to 3% in 2014. Increases in assessed lodging business revenue by fiscal year are listed below:

- FY 14-15 9.2%
- FY 15-16 9.0%
- FY 16-17 13.3%
- FY 17-18 15.1% (Oct-Jul)

Marketing & Public Relations

- Produced the destination's most successful PR activation in 2015-16, garnering national and international media exposure for the brand and numerous "best in the travel industry" awards. Huntington Beach's "Epic Big Board Ride" campaign resulted in:
 - *Two GUINNESS WORLD RECORDS™* for "Largest surfboard" and "Most people riding a surfboard at once."
 - Total media coverage:
 - 2,017 total placements
 - 500 million impressions
 - \$9.6 million in immediate earned media value
 - 1,306 broadcast segments
- Conducted comprehensive brand perception research study in leisure and group markets in 2015-16, launched updated Surf City USA brand logo, leisure "Wonder" campaign and group "HB Collection" campaign in 2016-17 across all marketing channels – digital, print, broadcast, display, collateral, and visitor information services.
- Re-designed a national award-winning, mobile centric responsive website in 2016-17, social media integration and expansion initiative and transitioned entire media marketing strategy to a robust digital based destination marketing program. The result? Qualified visitor user sessions increased 72% from 643,365 in 2014-15 to 1,112,846 in 2017-18, with soaring hotel overnight stay market demand and revenue increases (see above hotel data).
- Granted highly valued official verification on three major social media platforms (*Facebook, Twitter, Instagram*).
- Began covering events and key destination locations live on Facebook, Instagram and Twitter, adding paid social media posting in 2017-18. Results include progressive increases in followers and engagement from 24% – 51% across these three key social media channels annually.
- Produced video content promoting the destination that is being used by assessed lodging businesses to help their sales initiatives.
- Launched *Huntington Beach Welcomes You to Dream and Do* campaign that includes videos and print collateral, as well as video promotion with Matador Media to reach 13 million adventure millennial travelers.
- Hosted over 300 journalists from top domestic and international markets from 2014-15 to 2017-18.
- Generated over \$27 million in earned media value and 620 million impressions across top travel publications (online, print and broadcast) from 2014-15 to present.
- Received numerous national and international travel industry marketing and communications awards from the US Travel Association, Hospitality Sales and Marketing Association International, Visit California and the National Web Marketing Association.

Destination Product Development

- Built the world's largest surfboard and an activation event that sparked \$10 million in global media value, as well as produced a lasting community attraction, asset and point of pride.
- Led community input sessions, which helped VHB in designing a million dollar plus communitywide comprehensive wayfinding system. The signs are currently being installed throughout Huntington Beach.
- Funded capital improvements at HB International Surfing Museum.

Sales

FY 2014-15 to present:

- Conference/Meeting leads processed by VHB: 1,832
- Definite contracted/booked room nights by VHB: 111,270
- Economic Impact of Groups to Huntington Beach: \$111.39 million
- Highlighted Group Sales Programs
 - Launch of *HB Collection* – promoting multiple hotels in Huntington Beach with their walkability aspect to groups that would traditional only consider a convention center.
 - 2016 – *Porsche Cars North America* is largest group ever booked into Huntington Beach with 3,700 contracted room nights at assessed businesses and Economic Impact of \$4.1 million.
 - 2018 – *Porsche Cars North America* in negotiations to hold multiple programs in Huntington Beach at assessed businesses for a total of 4,100 room nights in 2019

Service

- 2016 Destinations International WOW Award for Surf City USA Ambassador Program.
- 2018 Orange County Certified Tourism Ambassador (CTA) Company of the Year.
- Launched Nighttime Ambassador Program to aid the Huntington Beach Police Department on busy evenings in downtown during Spring Break and summer.
- Took over administration of Daytime Ambassador Program to provide 7 days a week roving hospitality services to guests in downtown Huntington Beach.
- Expanded Surf City USA Shuttle from events only to include summer weekends. Summer weekend Coastal Loop shuttle passenger count by year:
 - 2015: 548 passengers
 - 2016: 955 passengers
 - 2017: 639 passengers
 - 2018: 1,273 passengers (with one more weekend to go)
- Since 2014, hosted 10 Partner Information Meetings each year for a total of 140 businesses.
- In 2017, launched complimentary Event Information Booth service to provide visitor information to attendees at 20 events, including the Fastpitch Softball Tournament in Central Park, Surf City USA Marathon, Airshow, and AVP Championships. In 2017, launched the Surf City USA Volunteer Program to help staff Event Information Booths.

Advocacy & Community Support

- In 2017, launched the summer PCH Cleanup. This roadside cleanup focuses on the gateway to Huntington Beach from the south, between Brookhurst and Beach Blvd along PCH.
 - 2017 & 2018: 268 volunteers picked up 1,430 pounds of trash.
- Developed guidelines for new Community Events Sponsorship Initiative to launch 2018-19.

Administration

- Implemented the CRM (Customer Relationship Management) system for better tracking of assessed business data.
- Annually send at least one VHB employee to the Robert Mayer Huntington Beach Leadership Academy program.
- Implemented Blackbaud software for improved accounting, budgeting, and transparency.
- Established a Reserve Policy consistent with industry practices.
- Unqualified audits each year from 2014-15 to present.

V. BOUNDARY

The HBTBID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the City of Huntington Beach.

Lodging business means: any structure, or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, at a fixed location, or other similar structure or portion thereof.

The boundary, as shown in the map below, currently includes twenty-three (23) lodging businesses. A complete listing of lodging businesses within the renewed HBTBID can be found in Appendix 2.

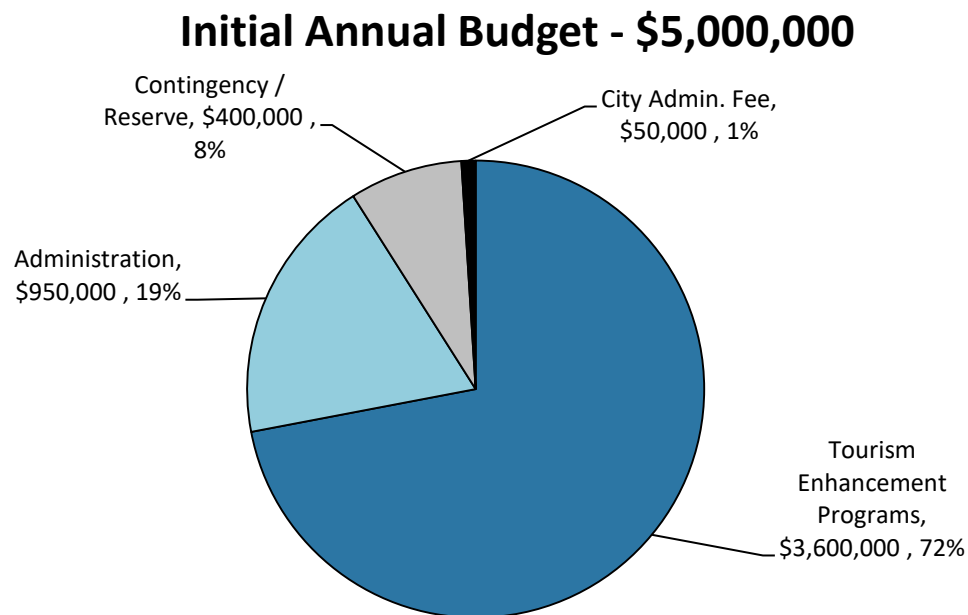


VI. BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the City of conferring the benefits or granting the privileges. The privileges and services provided with the HBTBID funds are tourism enhancement programs available only to assessed lodging businesses.

A service plan budget has been developed to deliver services that benefit the assessed lodging businesses. A detailed annual budget will be developed and approved by VHB. The table below illustrates the initial annual budget allocations. The total initial full year budget is \$5,000,000. Fiscal year 2019 covers the five (5) month period from February to June 2019, resulting in a lower budget for the first five (5) months of HBTBID operation.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the VHB Board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. Annually, VHB will meet with the City Manager and designated staff to review accomplishments and funding priorities for the following year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the HBTBID, any and all assessment funds may be used for the costs of defending the HBTBID.

Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the Tourism Enhancement Programs budget includes the cost of staff time dedicated to overseeing and implementing the tourism enhancement programs. Staff time dedicated purely to administrative tasks is allocated to the administration portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the services below will be determined by the VHB on an as-needed basis.

Tourism Enhancement Programs

The Tourism Enhancement Program will promote and provide activities and improvements to assessed lodging businesses through the implementation of two sub-programs: sales and marketing and visitor services enhancements. A summary of each sub-program is provided below:

Sales & Marketing

The sales and marketing program will promote assessed lodging businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting the Huntington Beach destination brand as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed lodging businesses, and may include the following activities which are designed to drive overnight visitation and room sales to assessed lodging businesses:

- Increased advertising and promotional programs in print, online, social media, and television targeted at potential visitors to drive overnight visitation and room sales;
- Website enhancements and updates;
- Strategic advertising and marketing agency support;
- Contract with third party marketing and sales partners;
- Public relations, sales blitzes, missions, and calls;
- Familiarization tours targeting key decision makers;
- Preparation and production of collateral promotional materials such as visitor guides, brochures, flyers, and maps;
- Video development for destination experiences and visuals;
- Attendance at professional industry conferences and affiliation events;
- Lead generation activities designed to attract tourists, leisure visitors, and group events to Huntington Beach;
- Partnerships with targeted special events that attract overnight visitors; and
- Cooperation with local agencies and film commission programs that attract overnight visitors.

Visitor Services Enhancements

The Visitor Services Enhancements (VSE) program will provide funding for programs and initiatives based on criteria to be developed by VHB and reviewed and approved with the City. The focus for the VSE program will be on the entire destination brand footprint to ensure a consistent brand experience throughout Huntington Beach. VSE may include the following programs which are designed to drive overnight visitation and room sales to assessed lodging businesses:

- A long-term ambassador and/or security program with trained staff that supplement the current level of police presence to improve the overall destination experience and encourage overnight visitation or a fulltime dedicated police officer to ensure tourism safety;
- Welcome center and kiosk improvements including new technology-driven visitor information enhancements;
- Pedestrian improvements linking the hotels and Downtown;
- Brand-centric visitor services training program for both public and private sector staff; and
- A Trolley or transportation program connecting hotels to downtown Huntington Beach, The Pier, or other attractions

Surf City USA Destination Product Development

The Destination Product Development (DPD) program will provide funding to assist in the building or financing of well-vetted capital improvement projects which attract overnight visitors to assessed businesses. The program costs may be allocated up to ten percent (10.0%) of the annual budget. Working collaboratively with the City Manager, VHB will develop specific DPD funding criteria and an award process. The City working with VHB, shall have equal input to make recommendations to the VHB Board for final project approval. Both the funding and awarding criteria will be developed in collaboration with the City Manager's office and other key community stakeholder groups. These DPD projects may include:

- Comprehensive and integrated wayfinding signage system enhancements including signage to parking decks and lots;
- Art and cultural projects, to attract overnight visitors;
- Gateway enhancements including Pacific Coast Highway, to attract overnight visitors;
- Enhancements to wetlands experiences which attract overnight visitors, such as the Bolsa Chica Ecological Reserve and the Huntington Beach Wetlands (between Newland Street and the Santa Ana River) that expose visitors to the value of the vital ecosystems;
- Improvements to existing parks and sports facilities utilized by overnight visitors;
- Safe and fun entertainment complex for young teens and adults utilized by overnight visitors;
- Live music venue which attracts overnight visitors;
- Infrastructure improvements that enhance Huntington Beach's competitive position to attract desirable special events year-round and attract overnight visitors;
- Partnership with the City on mutually agreed upon projects that promote overnight visitor stays to Huntington Beach. Examples may include: Huntington Beach International Surfing Museum, and summer beach restroom porter cleaning assistance;
- Destination product development research and master planning;
- Infrastructure improvements that enhance Huntington Beach's competitive position to attract desirable special events year-round and attract overnight visitors; and
- Improvements to the City's downtown parking deck that make the overnight visitor experience more desirable.

Administration

The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees.

Contingency/Reserve

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration, or renewal costs at the discretion of the VHB Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the VHB Board.

City Administration Fee

The City of Huntington Beach shall retain a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration.

B. Annual Budget

The total nine (9) year and five (5) month improvement and service plan budget is projected at approximately \$5,000,000 annually, or \$47,083,333 cumulatively through 2028. This amount may fluctuate as sales and revenue increase or decrease at assessed lodging businesses, but is not expected to change significantly over the term.

C. California Constitutional Compliance

The HBTBID assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.¹ Rather, the HBTBID assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the HBTBID, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

1. Specific Benefit

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”² The activities and improvements in this Plan are designed to provide targeted benefits directly to assessed lodging businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific lodging businesses within the HBTBID. The activities described in this Plan are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the HBTBID, and are narrowly tailored. HBTBID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessee. Assessment funds shall not be used to feature non-assessed lodging businesses in HBTBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this HBTBID is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in room night sales. The specific benefit of an increase in room night sales for assessed lodging businesses will be provided only to lodging businesses paying the HBTBID assessment, with tourism enhancement programs promoting lodging businesses paying the HBTBID assessment. The tourism enhancement programs will be designed to increase room night sales at each assessed lodging businesses. Because they are necessary to provide the tourism enhancement programs that specifically benefit the assessed lodging businesses, the administration and contingency/reserve programs also provide the specific benefit of increased room night sales to the assessed lodging businesses.

Although the HBTBID, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”³

¹ *Jarvis v. the City of San Diego* 72 Cal App. 4th 230

² Cal. Const. art XIII C § 1(e)(1)

³ Government Code § 53758(a)

2. Specific Government Service

The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”⁴ The legislature has recognized that marketing and promotions services like those to be provided by the HBTBID are government services within the meaning of Proposition 26⁵. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”⁶

3. Reasonable Cost

HBTBID services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by the VHB, and reports submitted on an annual basis to the City. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from HBTBID-funded activities, be featured in lodging-specific advertising campaigns, and benefit from other HBTBID-funded programs. Non-assessed lodging businesses will not receive these, nor any other, HBTBID-funded services and benefits.

The HBTBID-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-HBTBID funds. HBTBID funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incidental room nights for non-assessed businesses.

D. Assessment

The annual assessment rate is four percent (4%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or State of California officer or employee when on official business; and stays by any officer or employee for a foreign government who is exempt by reason of express provision of federal law or international treaty.

The term “gross room rental revenue” as used herein means: the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the HBTBID assessment is identified separately it shall be disclosed

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

⁶ Government Code § 53758(b)

as the “HBTBID Assessment.” As an alternative, the disclosure may include the amount of the HBTBID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the “Tourism Assessment.” The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for any purpose, including calculation of transient occupancy taxes.

Bonds shall not be issued.

E. Penalties and Interest

The HBTBID shall reimburse the City of Huntington Beach for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent HBTBID assessment are sought to be recovered in the same collection action by the City, the HBTBID shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency:* Any lodging business that fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency:* Any lodging business that fails to meet any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.
3. *Fraud:* If the City determines that the non-payment of any remittance due is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subparagraphs 1 and 2 of this subsection E.
4. *Interest:* In addition to the penalties imposed, any lodging business that fails to remit any assessment imposed shall pay interest at the rate of one-half of one percent (0.5%) per month, or fraction thereof, on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
5. *Penalties Merged with Assessment:* Every penalty imposed and such interest as accrues shall become a part of the assessment herein required to be paid.
6. *City not Responsible for Uncollected Amounts:* The City shall not be responsible for uncollected amounts.

F. Time and Manner for Collecting Assessments

The HBTBID assessment will be implemented beginning February 1, 2019 and will continue for nine (9) years and five (5) months through June 30, 2028. The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The City shall take all reasonable efforts to collect the assessments from each lodging business. The City shall forward the assessments collected to VHB.

VII. GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the HBTBID as defined in Streets and Highways Code §36612. The City Council has determined that Visit Huntington Beach will continue to serve as the Owners' Association for the HBTBID, upon execution of a renewed contract between the City and VHB.

B. Brown Act and California Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the VHB board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

C. Annual Report

The VHB shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

APPENDIX 1 – LAW

*** THIS DOCUMENT IS CURRENT THROUGH THE 2018 SUPPLEMENT ***
(ALL 2017 LEGISLATION)

STREETS AND HIGHWAYS CODE DIVISION 18. PARKING PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

- (a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
- (b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
- (c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.
- (d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.
- (e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:
 - (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
 - (2) Job creation.
 - (3) Business attraction.
 - (4) Business retention.
 - (5) Economic growth.
 - (6) New investments.
- (f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.
- (g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.
- (h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.
 - (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.
 - (2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the

incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. “Activities”

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. “Assessment”

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. “Business”

“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. “Property-based assessment”

“Property-based assessment” means any assessment made pursuant to this part upon real property.

36614.7. “Property-based district”

“Property-based district” means any district in which a city levies a property-based assessment.

36615. “Property owner”; “Business owner”; “Owner”

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. “Special benefit”

“Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

36616. “Tenant”

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law

36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board

of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
 - (1) A map showing the boundaries of the district.
 - (2) Information specifying where the complete management district plan can be obtained.
 - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
 - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

- (e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.
- (f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.
- (g) The time and manner of collecting the assessments.
- (h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.
- (i) The proposed time for implementation and completion of the management district plan.
- (j) Any proposed rules and regulations to be applicable to the district.
- (k)
 - (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.
 - (2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.
- (l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.
- (m) In a property-based district, the total amount of general benefits, if any.
- (n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.
- (o) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

- (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.
- (b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay

50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36626. Resolution establishing district

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in Section 36625.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments

36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

- (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may

classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

- (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
- (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500))

or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

- (a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
- (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

- (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:
 - (1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
 - (2) During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.
- (b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

- (a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.
- (b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – ASSESSED BUSINESSES*

Business Name	Address	City, State, ZIP
777 Motor Inn	16240 Pacific Coast Hwy.	Huntington Beach, CA 92649
Beach Inn Motel	18112 Beach Blvd.	Huntington Beach, CA 92648
Best Western Harbour Inn & Suites	16912 Pacific Coast Hwy.	Sunset Beach, CA 90742
Best Western Surf City	19360 Beach Blvd.	Huntington Beach, CA 92648
Comfort Suites Huntington Beach	16301 Beach Blvd.	Huntington Beach, CA 92647
Extended Stay America	5050 Skylab Rd.	Huntington Beach, CA 92647
Hotel Europa	7561 Center Ave. #46	Huntington Beach, CA 92647
Huntington Beach Inn	800 Pacific Coast Hwy.	Huntington Beach, CA 92648
Huntington Suites	7971 Yorktown Ave.	Huntington Beach, CA 92648
Huntington Surf Inn	720 Pacific Coast Hwy.	Huntington Beach, CA 92648
Hyatt Regency Huntington Beach Resort and Spa	21500 Pacific Coast Hwy.	Huntington Beach, CA 92648
Kimpton Shorebreak Hotel	500 Pacific Coast Hwy.	Huntington Beach, CA 92648
Ocean Surf Inn & Suites	16555 Pacific Coast Hwy.	Sunset Beach, CA 90742
Oceanview Motel	16196 Pacific Coast Hwy.	Huntington Beach, CA 92649
Pasea Hotel & Spa	21080 Pacific Coast Hwy.	Huntington Beach, CA 92648
Quality Inn & Suites Huntington Beach	17251 S. Beach Blvd.	Huntington Beach, CA 92647
Springhill Suites by Marriott	7872 Edinger Ave.	Huntington Beach, CA 92647
Starlight Inn	18382 Beach Blvd.	Huntington Beach, CA 92648
Sun n Sands Inn	1102 Pacific Coast Hwy.	Huntington Beach, CA 92648
Surf City Inn	16220 Pacific Coast Hwy.	Huntington Beach, CA 92649
The Hotel Huntington Beach	7667 Center Ave.	Huntington Beach, CA 92647
The Waterfront Beach Resort, a Hilton Hotel	21100 Pacific Coast Hwy.	Huntington Beach, CA 92648
Travelodge Ocean Front	17205 Pacific Coast Hwy.	Sunset Beach, CA 90742

*As of September 2018