



# CITY OF HUNTINGTON BEACH

## INTERDEPARTMENTAL COMMUNICATION

OFFICE OF BUSINESS DEVELOPMENT

**TO:** Fred Wilson, City Manager

**FROM:** Kellee Fritzel, Deputy Director of Business Development *ef*

**DATE:** January 21, 2019

**SUBJECT:** Late Communication for January 22, 2019 Council Meeting Item #29 –  
Modification to the Huntington Beach Tourism Business Improvement District

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Attached is the redline and clean modified Management District Plan, the Plan is modified to terminate is at four (4) years and three (3) months (January 31, 2019), not the 5 years as previously adopted.

Attachments

Modified HBTBID Redline  
Modified HBTBID Clean Copy.

### SUPPLEMENTAL COMMUNICATION

Meeting Date: 1-22-2019

Agenda Item No.: 29(19-001)

*Redline  
Copy*



## MANAGEMENT DISTRICT PLAN



2014-2019

## CONTENTS

I.	OVERVIEW .....	2
II.	IMPETUS .....	<del>43</del>
III.	BACKGROUND .....	<del>76</del>
IV.	BOUNDARY .....	<del>87</del>
V.	BUDGET AND SERVICES .....	<del>98</del>
A.	Annual Service Plan .....	<del>98</del>
B.	Determination of Specific Benefit .....	<del>1140</del>
C.	Assessment .....	<del>1244</del>
D.	Penalties and Interest .....	<del>1344</del>
E.	Time and Manner for Collecting Assessments .....	<del>1342</del>
F.	Annual Budget .....	<del>1342</del>
VI.	GOVERNANCE .....	<del>1443</del>
A.	Owners' Association .....	<del>1443</del>
B.	Brown Act and California Public Records Act Compliance .....	<del>1443</del>
C.	Annual Report .....	<del>1443</del>
VII.	APPENDIX 1 – LAW .....	<del>1544</del>
VIII.	APPENDIX 2 – ASSESSED BUSINESSES .....	<del>2625</del>

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## I. OVERVIEW

The Huntington Beach Tourism Business Improvement District (HBTBID) is an assessment district proposed to provide specific benefits to assessed businesses, by funding marketing and sales as well as promotional efforts and capital improvements for the benefit of assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to assessed businesses.

**Location:** The proposed HBTBID includes all lodging businesses located within the boundaries of the city of Huntington Beach. A list of assessed businesses is included in Appendix 2.

**Services:** The HBTBID is designed to provide specific benefits directly to assessed businesses by increasing room night sales revenue, via increases in both room nights sold and room rates. The district will fund marketing, sales promotions, and destination product development to increase overnight stays in hotels. The district programs will market the assessed businesses as tourist, meeting and event destinations, thereby increasing room night sales revenue.

**Budget:** The total of the HBTBID annual assessments for the initial year of its four (4) year and three (3) month five (5) year operation is anticipated to be approximately \$2,400,000. This total is expected to fluctuate with room sales and as businesses begin or cease operating in the district, but is not expected to exceed \$5,000,000 in any year.

**Source of Financing :** The source of financing will be an assessment charged to each hotel in the district a rate of three percent (3%) of gross short-term (stays less than 31 days) room rental revenue (assessment rate). The formula will not include stays of more than thirty (30) consecutive days, or on stays by any federal or State of California officer or employee when on official business, or on stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty. Assessments will not include room rental revenue resulting from stays pursuant to contracts executed prior to October 1, 2014.

**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 at its sole discretion will use reasonable efforts to collect the assessments from each lodging business.

**Duration:** The proposed HBTBID is will have a four (4) year and three (3) month five (5) year life beginning October 1, 2014 and continuing through September 30, 2019 January 31, 2019, unless otherwise terminated. During the four (4) five year and three (3) months, the this Management District Plan will be fully implemented and then completed.

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As required by Streets and Highways Code section 36670(a)(2), during the operation of the district there shall be a 30-day period each year in which the assessed businesses may request disestablishment of the district.



*Management:* Visit Huntington Beach (VHB) will serve as the HBTBID's Owners' Association upon the execution of a contract with the City to implement this Plan including any activities and improvements contemplated herein as well as state law. In general, 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. IMPETUS TO INCREASE THE ASSESSMENT

The existing Huntington Beach Hotel/Motel Business Improvement District (HBHMBID) was established in 2002 with an assessment rate of one percent on overnight lodging revenues in Huntington Beach. The HBHMBID assessment was modified from one percent to two percent in 2010. While the HBHMBID has been successful, there is still opportunity for growth in overnight visitation and room night sales revenue, especially during non-peak periods. The new assessment district will be called the Huntington Beach Tourism Business Improvement District (HBTBID) and with creation of this new form of District, the assessment on businesses will be increased. There are several reasons to dissolve the existing HBHMBID; and create a new BID pursuant to a different state law and more importantly increase the assessment. 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 two percent (2%) to three percent (3%), which will generate an additional \$1 million in dedicated funding for new improvements and activities to increase room rentals for businesses located within the new BID. The proposed programs are estimated to generate an additional \$13 million dollars of room revenue for assessed lodging businesses – without causing price resistance.<sup>1</sup> Additional HBTBID funds will be used to implement new 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;
2. Establish an innovative Surf City USA Destination Product Development program that add new and/or repurposed capital development projects to Huntington Beach's current brand offerings, which will increase year around overnight visitation, the number of reasons for visitors to stay longer, and offer more reasons for visitors to return more often to Surf City USA;
3. Launch a Visitor Services Enhancement program that improves the overall Surf City USA brand experience for overnight visitors.

### 2. *An Opportunity for Increasing City Revenues*

As an indirect result of the new BID, 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. It is estimated that the increase in room night sales revenue will cause an indirect increase in TOT generated of up to \$3 million per year.<sup>2</sup>

<sup>1</sup> Strategic Marketing Group —Travel Spending Impact Study and Analysis

<sup>2</sup> Strategic Marketing Group—Travel Spending Impact Study and Analysis

### 3. *Stable Funding for Destination Marketing*

The current HIBHMBID was formed under the authority of the Parking and Business Improvement Area Law of 1989. The HIBHMBID must prepare an annual report to be approved by city council. This method could cause uncertainty from year-to-year by placing the the Districts funding of an ever-changing political body. The 1994 law allows a 5-year term where the assessments will be levied every year without need for City Council approval. This may provide stable funding for destination marketing, product development, visitor services enhancements and management. The modification will provide a stable source of funding for a five-year strategic sales and marketing initiatives, capital improvement projects, and visitor services enhancements. Many of Huntington Beach's competitors have undergone a similar modification to convert from the 1989 Law to 1994 Law and increase their assessment rates. The table below shows just a few examples.

District Name	Old Rate	New Rate	Old Budget	New Budget
Sacramento (2012)	\$1.50 - \$2.00 per night	1% - 3% room revenue	\$3,200,000	\$5,200,000
Fairfield (2013)	2% room rental	3% room revenue	\$400,000	\$540,000
Newport Beach (2013)	2% room revenue	3% room revenue	\$1,700,000	\$2,500,000
Stockton (2010)	2% room revenue	4% room revenue	\$500,000	\$1,000,000
West Hollywood (2013)	1.5% room revenue	3% room revenue	\$2,100,000	\$4,388,000

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
Newport Beach	\$2,500,000	3% room revenue	10%	13%
Costa Mesa	\$1,100,000	3% room revenue	8%	11%
Laguna Beach	\$950,000	2% room revenue	10%	12%
Irvine	\$1,600,000	2% room revenue	8%	10%
Anaheim	\$9,000,000	2% room revenue	15%	17%
Long Beach	\$4,000,000	3% room revenue	12%	15%
Torrance	\$630,000	1% room revenue	11%	12%
Santa Monica	\$3,350,000	\$2.25 - \$4.25 per night	14%	14% + \$4.25
Oceanside	\$472,500	1.5% room revenue	10%	11.5%
Santa Barbara	\$1,800,000	\$0.50 - \$2.00 per night	14%	14% + \$2.00

### 4. *Surf City USA Destination Product Development*

An increasing number of Destination Marketing Organizations (DMOs) such as VHB are becoming fully engaged in the planning and funding assistance for Destination Product Development (DPD). DPD was listed as one of the top priorities by DMO CEOs in 2013.

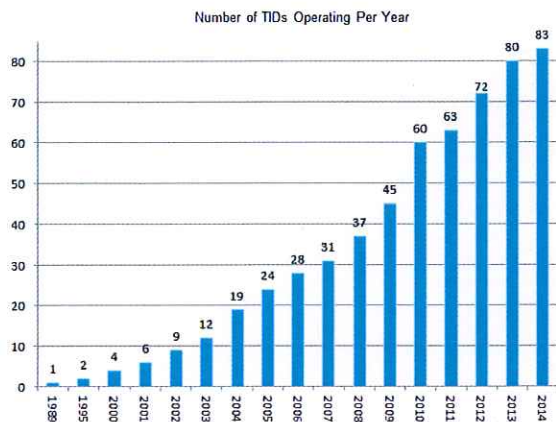
Being part of the capital planning solution, as well as providing funds to assist in the building of financing of well-vetted DPD's (new, improved or repurposed) is vital to the growth of the Huntington Beach brand. This program, which will be funded by revenue from the HIBTBID,

will help maintain Surf City USA's competitiveness and relevancy to potential and repeat overnight visitors for many years to come.

DPD will be 12.5 percent or \$300,000 of the annual HBTBID budget. As the total number of rooms sold and room prices increase over time, the amount of available funds for projects will increase. During the 5 year term of this District, a minimum of 12.5% of the TBID budget shall be used for DPD projects. If a DPD project is contemplated and set forth in this plan, part of the 12.5% could be set aside in a separate account to be used in a future to a larger DPD project. A future DPD project and associated funding must be agreed to by VHB and the City. Working collaboratively with the City Manager, VHB will develop specific DPD funding criteria. The City and VHB shall have equal input to make recommendations to the VHB Board for final project approval. However, the award of any public works project contract DPD must be done in accordance with City Charter and Municipal Code requirements. Policies and procedures acceptable to both VHB and the City will be developed to implement this DPD program.



### III. BACKGROUND



The first TBID was formed in West Hollywood, California in 1989. Since then, over eighty California destinations have followed suit.

California's TBIDs collectively raise over \$150 million for local destination marketing creation. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Huntington Beach lodging businesses 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 assess businesses within a specific geographic area.

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 programs;
- They are customized to fit the needs of assessed businesses in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.

#### IV. BOUNDARY

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

The boundary, as shown in the map below, currently includes twenty-two (22) lodging businesses. A complete listing of lodging businesses within the proposed HBTBID can be found in Appendix 2.



## V. BUDGET AND SERVICES

### A. Annual Service Plan

Assessment funds will be used to provide specific benefits conferred or privileges granted directly to the assessed businesses 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 sales, marketing, advertising, destination product development, visitor services enhancements, and promotional programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit businesses throughout the District. A detailed annual budget will be developed and approved by the Owners' Association with review from the City. The table below illustrates the initial annual budget allocations:

Category	%	\$
Sales and Marketing	54.2%	\$1,300,000
Destination Product Development	12.5%	\$300,000
Administration	19.2%	\$460,000
Visitor Services Enhancements	5%	\$120,000
Shortfall/Opportunity	8.1%	\$196,000
City Administration Fee	1%	\$24,000
<b>Total Annual Budget</b>	<b>100%</b>	<b>\$2,400,000</b>

The budget is expected to change significantly during the four (4) year and three (3) month five (5) year term as new businesses open. Any significant changes will be outlined in the annual report. Even with expected significant budget increases, the budget in any given year is not expected to exceed \$5,000,000.

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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 annually have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year; not including the amount in Destination Project Development or City Administrative Costs, those percentages cannot be decreased. A description of the proposed improvements and activities for the initial year of operation is below. The same activities and improvements 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.

#### Sales and Marketing

A sales and marketing program, created and executed by Visit Huntington Beach, will promote local assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting the Surf City USA brand and Huntington Beach location as a desirable place to visit and stay overnight for both the domestic and international markets. The goal of the program is to increase overnight visitation and room night sales at assessed businesses, and may include the following activities:

- Increased advertising and promotional programs in print, online, social media, and television targeted at potential visitors;

- Website enhancement(s) and updates;
- Strategic advertising and marketing agency support;
- Brand marketing efforts to increase awareness;
- Contracts with third party marketing and sales partners;
- Public relations and 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;
- 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, sports and film commissions' programs that attract overnight visitors.

#### **Surf City USA Destination Product Development**

Destination Product Development will be 12.5 percent or \$300,000 of the annual budget. As the total number of rooms sold and room prices increases over time, the amount of available funds for projects will increase. During the 5-year term of this District, a minimum of 12.5% of the BID budget shall be used for DPD projects. If a DPD project is contemplated and set forth in this plan, part of the 12.5% could be set aside in a separate account to be used in a future to a larger DPD project. A future DPD project and associated funding must be agreed to by VHB and the City. Working collaboratively with the City Manager, VHB will develop specific DPD funding criteria. The City and VHB shall have equal input to make recommendations to the VHB Board for final project approval. The award of any public works project contract DPD must be done in accordance with City Charter and Municipal Code requirements. Policies and procedures acceptable to both VHB and the City will be developed.

These DPD projects may include:

- Comprehensive and integrated wayfinding signage system including signage to parking decks and lots;
- Rubber tire trolley transportation program connecting hotels with downtown and other attractions, to increase room night sales;
- 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 around and attract overnight visitors; and
- Improvements to the City's downtown parking deck that make the overnight visitor experience more desirable.



### **Administration and Operations**

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

### **Visitor Services Enhancements**

The Visitor Services Enhancement (VSE) program will provide potential funding for programs and initiatives based on criteria to be developed by VIIB. The focus of the VSE program will be on the entire destination brand footprint to ensure a consistent brand experience throughout Huntington Beach. VSE may include:

- A long term ambassador program with trained staff that supplements the current level of police presence around assessed businesses and encourages overnight visitation;
- Welcome Center and Kiosk improvements including new technology-driven visitor information enhancements; and
- Brand-centric visitor services training program for both public and private sector staff.

### **Shortfall/Opportunity**

A portion of the assessment collected will be used to replace actual revenue shortfalls from previous years improvements and activities, for opportunities that may arise, or for cost increases within existing budget line items.

The utilization of these funds will be at the discretion of the Owners' Association Board of Directors but within the approved scope of services to be provided according to this Plan and the Annual Report.

The annual allocation to the contingency/shortfall fund will not exceed ten percent (10%) of the total budget; unless and until the cumulative revenue from assessments designated for the contingency shortfall fund reaches \$650,000. Once the cap is reached, any assessment revenue that would otherwise be designated for the contingency/renewal fund will instead be designated for current programs.

If at the expiration of the district, there are existing funds in the contingency/shortfall fund, and the district is proposed to be renewed, the remaining contingency/shortfall fund may be used for renewal costs.

### **City Administration Fee**

The City of Huntington Beach shall be paid a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration. This fee may be increased if the City determines that the cost of administration exceeds the 1% but shall not exceed the actual cost to the City.

### **B. Determination of Specific Benefit**

State law requires that assessment funds be expended on specific benefits conferred directly to the assessed businesses that are not provided to those not charged, (and which do not exceed the reasonable cost to the City of conferring the benefits). The services in this Management District Plan are designed to provide targeted benefits directly to assessed lodging businesses. These services are tailored not to serve the general public, but rather to serve the specific lodging businesses within the

District, e.g., the proposed activities are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the District, and are tailored to increase room night sales revenue. HBTBID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessees. For example, non-assessed businesses will not be featured in HBTBID programs and will not receive sales leads from them. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

Further, the assessment may be utilized to provide specific government services directly to the assessed businesses that are not provided to those not charged, and which do not exceed the reasonable costs to the City of providing the services. The budget will be carefully managed by VIIB to ensure services are provided such that the amount assessed will not exceed the cost to provide the services; the cost of services will be included in the Annual Report to the City. The legislature has recognized that marketing and promotions services like those to be provided by the HBTBID are, in the context of assessment districts, government services. Destination product developments like those to be provided have long been provided by government agencies. Further, the amount of the assessment is no more than necessary to cover the reasonable costs of the proposed activities and improvements, and the manner in which the costs are allocated to a business owner bear a fair share or reasonable relationship to the businesses' benefits received from the proposed activities. 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. To the extent that other, non-District, lodging businesses may receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-District funds.

District services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. Funds will be managed by the Owners' Association, and reports submitted on an annual basis to the City. Only assessed businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed businesses will not receive these, nor any other, district-funded services and benefits.

### **C. Assessment**

The annual assessment rate on hotels within the district is three percent (3%) of gross short term (stays less than 31 days) room rental revenue. Assessments will not be collected on stays of more than thirty (30) consecutive days, nor on stays by any federal or State of California officer or employee when on official business, nor on stays by any officer or employee of a foreign government who is exempt from transient occupancy taxes by reason of express provision of federal law or international treaty. Assessments pursuant to the HBTBID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to October 1, 2014.

The term "gross room rental revenue" as used herein means: the consideration charged, whether or not received, for the occupancy of space in a hotel 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 revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

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. The assessment shall be disclosed as the "HBTBID

Assessment.” The assessment shall not be considered revenue for any purposes, including calculation of transient occupancy taxes.

Bonds may not be issued.

#### **D. Penalties and Interest**

1. Any business which fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the assessment in addition to the amount of assessment.
2. Any business which fails to meet any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency 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. 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 subsections 1 and 2 of this section.
4. In addition to the penalties imposed, any business which 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. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the assessment herein required to be paid.

#### **E. Time and Manner for Collecting Assessments**

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 at its sole discretion will use reasonable efforts to collect the assessments from each lodging business.

#### **F. Annual Budget**

The total five year improvement and service plan budget is projected at approximately \$2,400,000 annually, or \$12,000,000 through 2019. This budget is expected to fluctuate as room sales do and as businesses begin and/or cease operating in the district. The budget is expected to change significantly during the ~~four (4) year and three (3) month~~ five (5) year term. Any significant changes will be outlined in the annual report. Even with expected significant budget increases, the budget in any given year is not expected to exceed \$5,000,000.



## VI. GOVERNANCE

### A. Owners' Association

The City Council, pursuant to Streets and Highways Code §36651, may identify the body that will implement the proposed improvements and activities. Visit Huntington Beach will serve as the Owners' Association for the HBTBID, upon execution of a contract between the City and VHB.

### B. Brown Act and California Public Records Act Compliance

The Owners' Association is considered 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.

### C. Annual Report

VHB shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code section 36650.

The annual report will include:

- Any proposed changes in the boundaries of the tourism 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 amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

Pursuant to Streets and Highways Code section 36650, 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 modifications made shall be pursuant to Streets and Highways Code sections 36635 and 36636.



## APPENDIX 1 – LAW

### Property And Business Improvement District Law of 1994

*Cal Sts & Hy Code § 36600 (2013)*

\*\*\* This document is current through the 2014 Supplement \*\*\*  
(All 2013 legislation)

#### § 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

The Legislature finds and declares all of the following:

(a) Businesses located and operating within the business districts 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 the business districts of its cities 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 cities to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that benefits from those improvements.

(d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property or businesses for which the improvements and activities are provided.

#### § 36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. 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 in this part that conflicts with any other provision of law shall prevail over the other provision of law.

#### § 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.

**B 36605. [Section repealed 2001.]**

**B 36606. "Assessment"**

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a property and business improvement district.

**B 36607. "Business"**

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

**B 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.

**B 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.

**B 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 area.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

**B 36611. "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.

**B 36612. "Property"**

"Property" means real property situated within a district.

**B 36613. "Activities"**

"Activities" means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses or real property in the district.
- (b) Furnishing of music in any public place within the district.
- (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) Activities which benefit businesses and real property located in the district.

**B 36614. "Management district plan"; "Plan"**

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

**B 36614.5. "Owners' association"**

"Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements 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 documents relating to activities of the district.

**B 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.

**B 36616. "Tenant"**

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

**B 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.

#### **§ 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 activities and improvements, 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. 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 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 contain 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 lands and businesses included. 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 and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements and activities proposed for each year of operation are the same, a description of the first year's proposed improvements and activities and a statement that the same improvements 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 and operations, 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) 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, including operation and maintenance.

(l) Any other item or matter required to be incorporated therein by the city council.

#### **B 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.

#### **B 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 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 or 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.

#### **B 36625. Resolution of formation**

(a) If the city council, following the public hearing, decides to establish the proposed property and business improvement district, the city council shall adopt a resolution of formation that shall contain all of the following:

(1) A brief description of the proposed activities and improvements, 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 about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. 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 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 and activities to be provided 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 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.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.

(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.

#### **B 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 paragraphs (1) to (8), inclusive, of subdivision (b) of Section 36625, but need not contain information about the preliminary resolution if none has been adopted.

**B 36626.5. [Section repealed 1999.]**

**B 36626.6. [Section repealed 1999.]**

**B 36626.7. [Section repealed 1999.]**

**B 36627. Notice and assessment diagram**

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk of the city 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.

**B 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.

**B 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 and activities.

**B 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.

**B 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 a new district established pursuant to this part.

**B 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 shall be charged interest and penalties.



**B 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.

**B 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.

**B 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.

**B 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.

**B 36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention; Modification of improvements and activities by adoption of resolution after public hearing**

(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 meetings and 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 meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, 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.

**B 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.

**B 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.

**B 36641. [Section repealed 2001.]**

**B 36642. [Section repealed 2001.]**

**B 36643. [Section repealed 2001.]**

**B 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 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 and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the 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 amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The 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 and activities**

The management district plan may, but is not required to, state that an owners' association will provide the improvements or 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.

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

(a) Any district previously established whose term has expired, 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.

**§ 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 assesses 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 area 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**

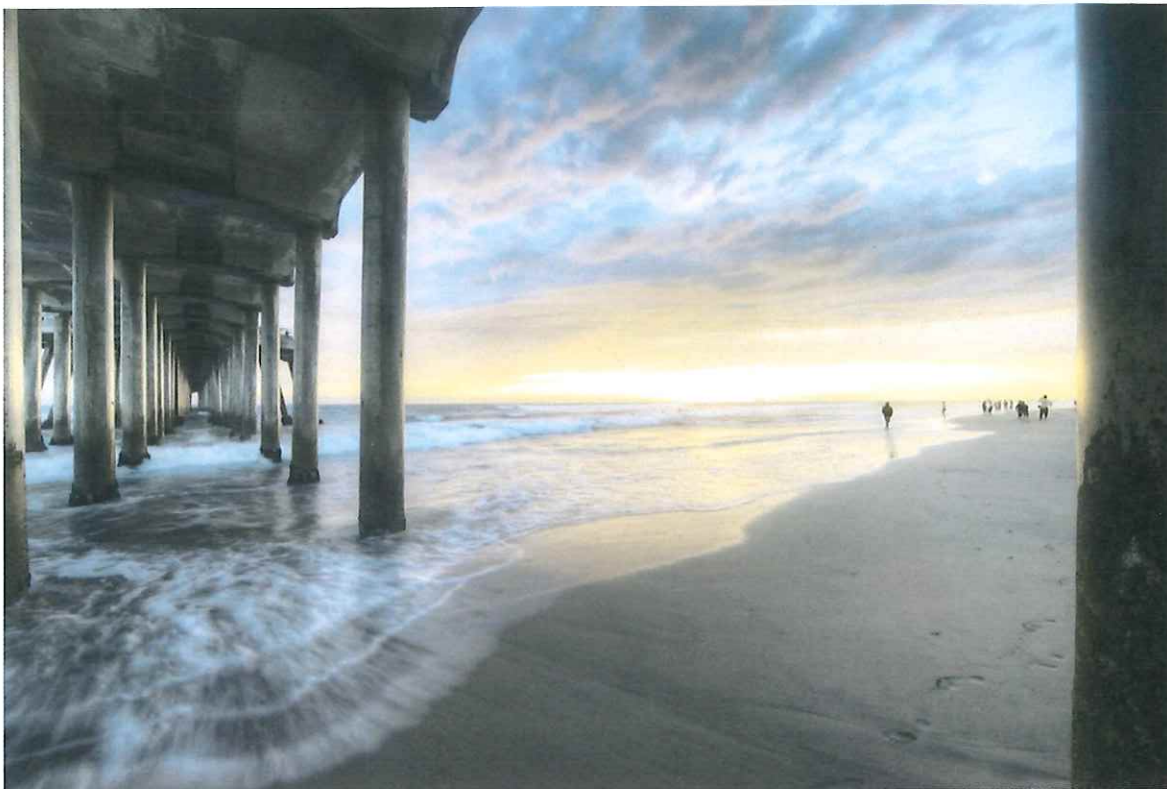
(a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to 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	ADDRESS	CITY
Beach Inn Motel	18112 Beach Boulevard	Huntington Beach
Best Western Huntington Beach Inn	800 Pacific Coast Highway	Huntington Beach
Best Western Regency Inn	19360 Beach Boulevard	Huntington Beach
Comfort Suites	16301 Beach Boulevard	Huntington Beach
Extended Stay America	5050 Skylab West Circle	Huntington Beach
Hilton Waterfront Resort	21100 Pacific Coast Highway	Huntington Beach
Hotel Europa	7561 Center Avenue #46	Huntington Beach
Hotel Huntington Beach	7667 Center Avenue	Huntington Beach
Howard Johnson Express	17251 Beach Boulevard	Huntington Beach
Huntington Suites	7971 Yorktown Avenue	Huntington Beach
Huntington Surf Inn	720 Pacific Coast Highway	Huntington Beach
Hyatt Regency Huntington Beach	21500 Pacific Coast Highway	Huntington Beach
Ocean View Motel	16196 Pacific Coast Highway	Huntington Beach
Pacific View Inn & Suites	16220 Pacific Coast Highway	Huntington Beach
Starlight Inn	18382 Beach Boulevard	Huntington Beach
Sun n' Sands Motel	1102 Pacific Coast Highway	Huntington Beach
777 Motor Inn	16240 Pacific Coast Highway	Huntington Beach
Shorebreak Hotel	500 Pacific Coast Highway	Huntington Beach
Best Western Harbour Inn Inc.	PO Box 1439	Sunset Beach
Ocean Surf Inn & Suites	PO Box 1246	Sunset Beach
Sunset Suites	16401 Pacific Coast Highway	Sunset Beach
Travelodge Ocean Front	PO Box 1188	Sunset Beach





## MANAGEMENT DISTRICT PLAN



2014-2019

## CONTENTS

I.	OVERVIEW .....	2
II.	IMPETUS .....	<del>43</del>
III.	BACKGROUND .....	<del>76</del>
IV.	BOUNDARY .....	<del>87</del>
V.	BUDGET AND SERVICES.....	<del>98</del>
A.	Annual Service Plan.....	<del>98</del>
B.	Determination of Specific Benefit .....	<del>114</del>
C.	Assessment.....	<del>124</del>
D.	Penalties and Interest .....	<del>134</del>
E.	Time and Manner for Collecting Assessments .....	<del>134</del>
F.	Annual Budget .....	<del>134</del>
VI.	GOVERNANCE.....	<del>144</del>
A.	Owners' Association.....	<del>144</del>
B.	Brown Act and California Public Records Act Compliance .....	<del>144</del>
C.	Annual Report.....	<del>144</del>
VII.	APPENDIX 1 – LAW .....	<del>154</del>
VIII.	APPENDIX 2 – ASSESSED BUSINESSES.....	<del>2625</del>

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## I. OVERVIEW

The Huntington Beach Tourism Business Improvement District (HBTBID) is an assessment district proposed to provide specific benefits to assessed businesses, by funding marketing and sales as well as promotional efforts and capital improvements for the benefit of assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to assessed businesses.

**Location:** The proposed HBTBID includes all lodging businesses located within the boundaries of the city of Huntington Beach. A list of assessed businesses is included in Appendix 2.

**Services:** The HBTBID is designed to provide specific benefits directly to assessed businesses by increasing room night sales revenue, via increases in both room nights sold and room rates. The district will fund marketing, sales promotions, and destination product development to increase overnight stays in hotels. The district programs will market the assessed businesses as tourist, meeting and event destinations, thereby increasing room night sales revenue.

**Budget:** The total of the HBTBID annual assessments for the initial year of its four (4) year and three (3) month operation is anticipated to be approximately \$2,400,000. This total is expected to fluctuate with room sales and as businesses begin or cease operating in the district, but is not expected to exceed \$5,000,000 in any year.

**Source of Financing:** The source of financing will be an assessment charged to each hotel in the district a rate of three percent (3%) of gross short-term (stays less than 31 days) room rental revenue (assessment rate). The formula will not include stays of more than thirty (30) consecutive days, or on stays by any federal or State of California officer or employee when on official business, or on stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty. Assessments will not include room rental revenue resulting from stays pursuant to contracts executed prior to October 1, 2014.

**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 at its sole discretion will use reasonable efforts to collect the assessments from each lodging business.

**Duration:** The proposed HBTBID is will have a four (4) year and three (3) month -life beginning October 1, 2014 and continuing through January 31, 2019, unless otherwise terminated. During the four (4) year and three (3) months, the this Management District Plan will be fully implemented and then completed.

As required by Streets and Highways Code section 36670(a)(2), during the operation of the district there shall be a 30-day period each year in which the assessed businesses may request disestablishment of the district.

*Management:* Visit Huntington Beach (VHB) will serve as the HBTBID's Owners' Association upon the execution of a contract with the City to implement this Plan including any activities and improvements contemplated herein as well as state law. In general, 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. IMPETUS TO INCREASE THE ASSESSMENT**

The existing Huntington Beach Hotel/Motel Business Improvement District (HBHMBID) was established in 2002 with an assessment rate of one percent on overnight lodging revenues in Huntington Beach. The HBHMBID assessment was modified from one percent to two percent in 2010. While the HBHMBID has been successful, there is still opportunity for growth in overnight visitation and room night sales revenue, especially during non-peak periods. The new assessment district will be called the Huntington Beach Tourism Business Improvement District (HBTBID) and with creation of this new form of District, the assessment on businesses will be increased. There are several reasons to dissolve the existing HBHMBID; and create a new BID pursuant to a different state law and more importantly increase the assessment. 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 two percent (2%) to three percent (3%), which will generate an additional \$1 million in dedicated funding for new improvements and activities to increase room rentals for businesses located within the new BID. The proposed programs are estimated to generate an additional \$13 million dollars of room revenue for assessed lodging businesses – without causing price resistance.<sup>1</sup> Additional HBTBID funds will be used to implement new 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;
2. Establish an innovative Surf City USA Destination Product Development program that add new and/or repurposed capital development projects to Huntington Beach's current brand offerings, which will increase year around overnight visitation, the number of reasons for visitors to stay longer, and offer more reasons for visitors to return more often to Surf City USA;
3. Launch a Visitor Services Enhancement program that improves the overall Surf City USA brand experience for overnight visitors.

### ***2. An Opportunity for Increasing City Revenues***

As an indirect result of the new BID, 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. It is estimated that the increase in room night sales revenue will cause an indirect increase in TOT generated of up to \$3 million per year.<sup>2</sup>

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<sup>1</sup> Strategic Marketing Group —Travel Spending Impact Study and Analysis

<sup>2</sup> Strategic Marketing Group—Travel Spending Impact Study and Analysis

### 3. *Stable Funding for Destination Marketing*

The current HBHMBID was formed under the authority of the Parking and Business Improvement Area Law of 1989. The HBHMBID must prepare an annual report to be approved by city council. This method could cause uncertainty from year-to-year by placing the the Districts funding of an ever-changing political body. The 1994 law allows a 5-year term where the assessments will be levied every year without need for City Council approval. This may provide stable funding for destination marketing, product development, visitor services enhancements and management. The modification will provide a stable source of funding for a five-year strategic sales and marketing initiatives, capital improvement projects, and visitor services enhancements. Many of Huntington Beach's competitors have undergone a similar modification to convert from the 1989 Law to 1994 Law and increase their assessment rates. The table below shows just a few examples.

District Name	Old Rate	New Rate	Old Budget	New Budget
Sacramento (2012)	\$1.50 - \$2.00 per night	1% - 3% room revenue	\$3,200,000	\$5,200,000
Fairfield (2013)	2% room rental	3% room revenue	\$400,000	\$540,000
Newport Beach (2013)	2% room revenue	3% room revenue	\$1,700,000	\$2,500,000
Stockton (2010)	2% room revenue	4% room revenue	\$500,000	\$1,000,000
West Hollywood (2013)	1.5% room revenue	3% room revenue	\$2,100,000	\$4,388,000

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
Newport Beach	\$2,500,000	3% room revenue	10%	13%
Costa Mesa	\$1,100,000	3% room revenue	8%	11%
Laguna Beach	\$950,000	2% room revenue	10%	12%
Irvine	\$1,600,000	2% room revenue	8%	10%
Anaheim	\$9,000,000	2% room revenue	15%	17%
Long Beach	\$4,000,000	3% room revenue	12%	15%
Torrance	\$630,000	1% room revenue	11%	12%
Santa Monica	\$3,350,000	\$2.25 - \$4.25 per night	14%	14% + \$4.25
Oceanside	\$472,500	1.5% room revenue	10%	11.5%
Santa Barbara	\$1,800,000	\$0.50 - \$2.00 per night	14%	14% + \$2.00

### 4. *Surf City USA Destination Product Development*

An increasing number of Destination Marketing Organizations (DMOs) such as VHB are becoming fully engaged in the planning and funding assistance for Destination Product Development (DPD). DPD was listed as one of the top priorities by DMO CEOs in 2013.

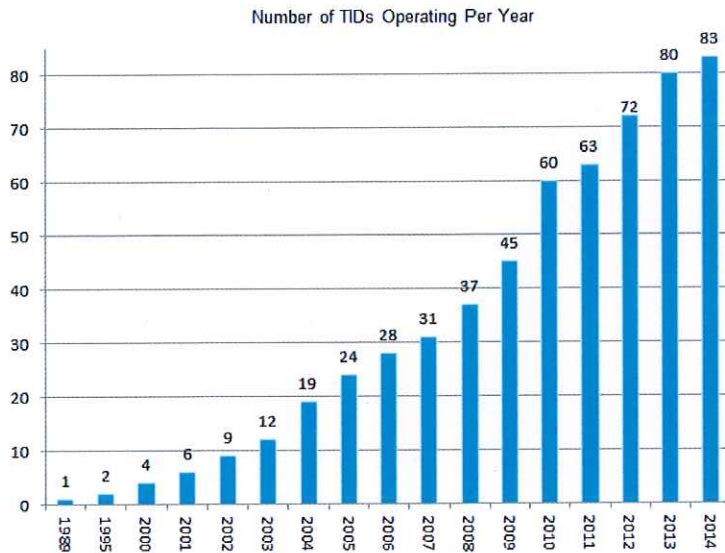
Being part of the capital planning solution, as well as providing funds to assist in the building of financing of well-vetted DPD's (new, improved or repurposed) is vital to the growth of the Huntington Beach brand. This program, which will be funded by revenue from the HBTBID,



will help maintain Surf City USA's competitiveness and relevancy to potential and repeat overnight visitors for many years to come.

DPD will be 12.5 percent or \$300,000 of the annual HBTBID budget. As the total number of rooms sold and room prices increase over time, the amount of available funds for projects will increase. During the 5 year term of this District, a minimum of 12.5% of the TBID budget shall be used for DPD projects. If a DPD project is contemplated and set forth in this plan, part of the 12.5% could be set aside in a separate account to be used in a future to a larger DPD project. A future DPD project and associated funding must be agreed to by VHB and the City. Working collaboratively with the City Manager, VHB will develop specific DPD funding criteria. The City and VHB shall have equal input to make recommendations to the VHB Board for final project approval. However, the award of any public works project contract DPD must be done in accordance with City Charter and Municipal Code requirements. Policies and procedures acceptable to both VHB and the City will be developed to implement this DPD program.

### III. BACKGROUND



The first TBID was formed in West Hollywood, California in 1989. Since then, over eighty California destinations have followed suit.

California's TBIDs collectively raise over \$150 million for local destination marketing creation. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Huntington Beach lodging businesses 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 assess businesses within a specific geographic area.

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 programs;
- They are customized to fit the needs of assessed businesses in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.



#### IV. BOUNDARY

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

The boundary, as shown in the map below, currently includes twenty-two (22) lodging businesses. A complete listing of lodging businesses within the proposed HBTBID can be found in Appendix 2.



## V. BUDGET AND SERVICES

### A. Annual Service Plan

Assessment funds will be used to provide specific benefits conferred or privileges granted directly to the assessed businesses 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 sales, marketing, advertising, destination product development, visitor services enhancements, and promotional programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit businesses throughout the District. A detailed annual budget will be developed and approved by the Owners' Association with review from the City. The table below illustrates the initial annual budget allocations:

Category	%	\$
Sales and Marketing	54.2%	\$1,300,000
Destination Product Development	12.5%	\$300,000
Administration	19.2%	\$460,000
Visitor Services Enhancements	5%	\$120,000
Shortfall/Opportunity	8.1%	\$196,000
City Administration Fee	1%	\$24,000
<b>Total Annual Budget</b>	<b>100%</b>	<b>\$2,400,000</b>

The budget is expected to change significantly during the four (4) year and three (3) month term as new businesses open. Any significant changes will be outlined in the annual report. Even with expected significant budget increases, the budget in any given year is not expected to exceed \$5,000,000.

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 annually have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year; not including the amount in Destination Project Development or City Administrative Costs, those percentages cannot be decreased. A description of the proposed improvements and activities for the initial year of operation is below. The same activities and improvements 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.

#### Sales and Marketing

A sales and marketing program, created and executed by Visit Huntington Beach, will promote local assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting the Surf City USA brand and Huntington Beach location as a desirable place to visit and stay overnight for both the domestic and international markets. The goal of the program is to increase overnight visitation and room night sales at assessed businesses, and may include the following activities:

- Increased advertising and promotional programs in print, online, social media, and television targeted at potential visitors;



- Website enhancement(s) and updates;
- Strategic advertising and marketing agency support;
- Brand marketing efforts to increase awareness;
- Contracts with third party marketing and sales partners;
- Public relations and 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;
- 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, sports and film commissions' programs that attract overnight visitors.

### **Surf City USA Destination Product Development**

Destination Product Development will be 12.5 percent or \$300,000 of the annual budget. As the total number of rooms sold and room prices increases over time, the amount of available funds for projects will increase. During the 5-year term of this District, a minimum of 12.5% of the BID budget shall be used for DPD projects. If a DPD project is contemplated and set forth in this plan, part of the 12.5% could be set aside in a separate account to be used in a future to a larger DPD project. A future DPD project and associated funding must be agreed to by VHB and the City. Working collaboratively with the City Manager, VHB will develop specific DPD funding criteria. The City and VHB shall have equal input to make recommendations to the VHB Board for final project approval. The award of any public works project contract DPD must be done in accordance with City Charter and Municipal Code requirements. Policies and procedures acceptable to both VHB and the City will be developed.

These DPD projects may include:

- Comprehensive and integrated wayfinding signage system including signage to parking decks and lots;
- Rubber tire trolley transportation program connecting hotels with downtown and other attractions, to increase room night sales;
- 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 around and attract overnight visitors; and
- Improvements to the City's downtown parking deck that make the overnight visitor experience more desirable.

### **Administration and Operations**

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

### **Visitor Services Enhancements**

The Visitor Services Enhancement (VSE) program will provide potential funding for programs and initiatives based on criteria to be developed by VHB. The focus of the VSE program will be on the entire destination brand footprint to ensure a consistent brand experience throughout Huntington Beach. VSE may include:

- A long term ambassador program with trained staff that supplements the current level of police presence around assessed businesses and encourages overnight visitation;
- Welcome Center and Kiosk improvements including new technology-driven visitor information enhancements; and
- Brand-centric visitor services training program for both public and private sector staff.

### **Shortfall/Opportunity**

A portion of the assessment collected will be used to replace actual revenue shortfalls from previous years improvements and activities, for opportunities that may arise, or for cost increases within existing budget line items.

The utilization of these funds will be at the discretion of the Owners' Association Board of Directors but within the approved scope of services to be provided according to this Plan and the Annual Report.

The annual allocation to the contingency/shortfall fund will not exceed ten percent (10%) of the total budget; unless and until the cumulative revenue from assessments designated for the contingency shortfall fund reaches \$650,000. Once the cap is reached, any assessment revenue that would otherwise be designated for the contingency/renewal fund will instead be designated for current programs.

If at the expiration of the district, there are existing funds in the contingency/shortfall fund, and the district is proposed to be renewed, the remaining contingency/shortfall fund may be used for renewal costs.

### **City Administration Fee**

The City of Huntington Beach shall be paid a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration. This fee may be increased if the City determines that the cost of administration exceeds the 1% but shall not exceed the actual cost to the City.

### **B. Determination of Specific Benefit**

State law requires that assessment funds be expended on specific benefits conferred directly to the assessed businesses that are not provided to those not charged, (and which do not exceed the reasonable cost to the City of conferring the benefits). The services in this Management District Plan are designed to provide targeted benefits directly to assessed lodging businesses. These services are tailored not to serve the general public, but rather to serve the specific lodging businesses within the



District, e.g., the proposed activities are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the District, and are tailored to increase room night sales revenue. HBTBID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessees. For example, non-assessed businesses will not be featured in HBTBID programs and will not receive sales leads from them. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

Further, the assessment may be utilized to provide specific government services directly to the assessed businesses that are not provided to those not charged, and which do not exceed the reasonable costs to the City of providing the services. The budget will be carefully managed by VHB to ensure services are provided such that the amount assessed will not exceed the cost to provide the services; the cost of services will be included in the Annual Report to the City. The legislature has recognized that marketing and promotions services like those to be provided by the HBTBID are, in the context of assessment districts, government services. Destination product developments like those to be provided have long been provided by government agencies. Further, the amount of the assessment is no more than necessary to cover the reasonable costs of the proposed activities and improvements, and the manner in which the costs are allocated to a business owner bear a fair share or reasonable relationship to the businesses' benefits received from the proposed activities. 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. To the extent that other, non-District, lodging businesses may receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-District funds.

District services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. Funds will be managed by the Owners' Association, and reports submitted on an annual basis to the City. Only assessed businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed businesses will not receive these, nor any other, district-funded services and benefits.

### **C. Assessment**

The annual assessment rate on hotels within the district is three percent (3%) of gross short term (stays less than 31 days) room rental revenue. Assessments will not be collected on stays of more than thirty (30) consecutive days, nor on stays by any federal or State of California officer or employee when on official business, nor on stays by any officer or employee of a foreign government who is exempt from transient occupancy taxes by reason of express provision of federal law or international treaty. Assessments pursuant to the HBTBID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to October 1, 2014.

The term "gross room rental revenue" as used herein means: the consideration charged, whether or not received, for the occupancy of space in a hotel 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 revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

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. The assessment shall be disclosed as the "HBTBID

Assessment.” The assessment shall not be considered revenue for any purposes, including calculation of transient occupancy taxes.

Bonds may not be issued.

#### **D. Penalties and Interest**

1. Any business which fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the assessment in addition to the amount of assessment.
2. Any business which fails to meet any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency 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. 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 subsections 1 and 2 of this section.
4. In addition to the penalties imposed, any business which 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. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the assessment herein required to be paid.

#### **E. Time and Manner for Collecting Assessments**

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 at its sole discretion will use reasonable efforts to collect the assessments from each lodging business.

#### **F. Annual Budget**

The total five year improvement and service plan budget is projected at approximately \$2,400,000 annually, or \$12,000,000 through 2019. This budget is expected to fluctuate as room sales do and as businesses begin and/or cease operating in the district. The budget is expected to change significantly during the four (4) year and three (3) month term. Any significant changes will be outlined in the annual report. Even with expected significant budget increases, the budget in any given year is not expected to exceed \$5,000,000.



## **VI. GOVERNANCE**

### **A. Owners' Association**

The City Council, pursuant to Streets and Highways Code §36651, may identify the body that will implement the proposed improvements and activities. Visit Huntington Beach will serve as the Owners' Association for the HBTBID, upon execution of a contract between the City and VHB.

### **B. Brown Act and California Public Records Act Compliance**

The Owners' Association is considered 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.

### **C. Annual Report**

VHB shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code section 36650.

The annual report will include:

- Any proposed changes in the boundaries of the tourism 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 amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

Pursuant to Streets and Highways Code section 36650, 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 modifications made shall be pursuant to Streets and Highways Code sections 36635 and 36636.

## APPENDIX 1 – LAW

### Property And Business Improvement District Law of 1994

*Cal Sts & Hy Code § 36600 (2013)*

\*\*\* This document is current through the 2014 Supplement \*\*\*  
(All 2013 legislation)

#### **§ 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**

The Legislature finds and declares all of the following:

(a) Businesses located and operating within the business districts 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 the business districts of its cities 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 cities to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that benefits from those improvements.

(d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property or businesses for which the improvements and activities are provided.

#### **§ 36602. Purpose of part**

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. 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 in this part that conflicts with any other provision of law shall prevail over the other provision of law.

#### **§ 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.

**§ 36605. [Section repealed 2001.]**

**§ 36606. "Assessment"**

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the 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.

**§ 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 area.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

**§ 36611. "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.

**§ 36612. "Property"**

"Property" means real property situated within a district.

**§ 36613. "Activities"**

"Activities" means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses or real property in the district.
- (b) Furnishing of music in any public place within the district.
- (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) Activities which benefit businesses and real property located in the district.

**§ 36614. "Management district plan"; "Plan"**

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

**§ 36614.5. "Owners' association"**

"Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements 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 documents relating to activities of the district.

**§ 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.

**§ 36616. "Tenant"**

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

**§ 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.

#### **§ 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 activities and improvements, 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. 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 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 contain 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 lands and businesses included. 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 and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements and activities proposed for each year of operation are the same, a description of the first year's proposed improvements and activities and a statement that the same improvements 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 and operations, 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) 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, including operation and maintenance.

(l) 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 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 or 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 the proposed property and business improvement district, the city council shall adopt a resolution of formation that shall contain all of the following:

(1) A brief description of the proposed activities and improvements, 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 about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. 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 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 and activities to be provided 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 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.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.

(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 paragraphs (1) to (8), inclusive, of subdivision (b) of Section 36625, but need not contain information about the preliminary resolution if none has been adopted.

**§ 36626.5. [Section repealed 1999.]**

**§ 36626.6. [Section repealed 1999.]**

**§ 36626.7. [Section repealed 1999.]**

**§ 36627. Notice and assessment diagram**

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk of the city 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 and activities.

**§ 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 a new district established pursuant to this part.

**§ 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 shall 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; Modification of improvements and activities by adoption of resolution after public hearing**

(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 meetings and 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 meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, 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.

**§ 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.

**§ 36641. [Section repealed 2001.]**

**§ 36642. [Section repealed 2001.]**

**§ 36643. [Section repealed 2001.]**

**§ 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 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 and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the 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 amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The 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 and activities**

The management district plan may, but is not required to, state that an owners' association will provide the improvements or 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.

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

(a) Any district previously established whose term has expired, 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.

**§ 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 assesses 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 area 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	ADDRESS	CITY
Beach Inn Motel	18112 Beach Boulevard	Huntington Beach
Best Western Huntington Beach Inn	800 Pacific Coast Highway	Huntington Beach
Best Western Regency Inn	19360 Beach Boulevard	Huntington Beach
Comfort Suites	16301 Beach Boulevard	Huntington Beach
Extended Stay America	5050 Skylab West Circle	Huntington Beach
Hilton Waterfront Resort	21100 Pacific Coast Highway	Huntington Beach
Hotel Europa	7561 Center Avenue #46	Huntington Beach
Hotel Huntington Beach	7667 Center Avenue	Huntington Beach
Howard Johnson Express	17251 Beach Boulevard	Huntington Beach
Huntington Suites	7971 Yorktown Avenue	Huntington Beach
Huntington Surf Inn	720 Pacific Coast Highway	Huntington Beach
Hyatt Regency Huntington Beach	21500 Pacific Coast Highway	Huntington Beach
Ocean View Motel	16196 Pacific Coast Highway	Huntington Beach
Pacific View Inn & Suites	16220 Pacific Coast Highway	Huntington Beach
Starlight Inn	18382 Beach Boulevard	Huntington Beach
Sun n' Sands Motel	1102 Pacific Coast Highway	Huntington Beach
777 Motor Inn	16240 Pacific Coast Highway	Huntington Beach
Shorebreak Hotel	500 Pacific Coast Highway	Huntington Beach
Best Western Harbour Inn Inc.	PO Box 1439	Sunset Beach
Ocean Surf Inn & Suites	PO Box 1246	Sunset Beach
Sunset Suites	16401 Pacific Coast Highway	Sunset Beach
Travelodge Ocean Front	PO Box 1188	Sunset Beach