

2025-2035



NAPA VALLEY TOURISM IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

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

June 5, 2024

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I. OVERVIEW

Developed by Napa Valley lodging businesses, the Napa Valley Tourism Improvement District (NVTID) is an assessment district which provides specific benefits to payors, by funding marketing and sales promotion efforts for assessed lodging 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 payors. The NVTID was created in 2010 for a five (5) year term and was subsequently renewed in 2015 for a ten (10) year term. The NVTID has reached the end of this term, and lodging owners now wish to renew the NVTID for a ten (10) year term.

Location: The NVTID includes all lodging businesses, existing and in the future, available for public occupancy located within the boundaries of the cities of American Canyon, Calistoga, Napa, and St. Helena, the Town of Yountville, and the unincorporated area of the County of Napa (jurisdictions), as shown on the map in Section IV of this Management District Plan (Plan).

Services: The NVTID is designed to provide specific benefits directly to payors by increasing awareness and demand for room night sales. Valley-wide marketing and sales and local jurisdiction destination marketing initiatives will increase demand for overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing demand for room night sales.

Budget: The total NVTID annual assessment budget for the initial year of its ten (10) year operation is anticipated to be approximately \$11,000,000. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do, as lodging businesses open and close, and if the assessment rate is increased pursuant to this Plan.

Cost: The annual assessment rate is two percent (2%) of gross short-term (30 days or less) sleeping room rental revenue. In years three (3), six (6) and nine (9) of the NVTID's term, the assessment rate may be recommended to be increased by the Visit Napa Valley (VNV) Board of Directors and then brought to the Napa Valley Tourism Corporation (NUTC) Board for final approval. The maximum increase in years three (3), six (6) and nine (9) shall be one half of one percent (0.5%). The total assessment rate may not exceed three percent (3%) of gross short-term (30 days or less) sleeping room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Stays by government employees on government business shall not be subject to assessment. "Government employee" shall mean foreign or domestic government employees subject to exemption from transient occupancy tax pursuant to each municipality's municipal/county code.

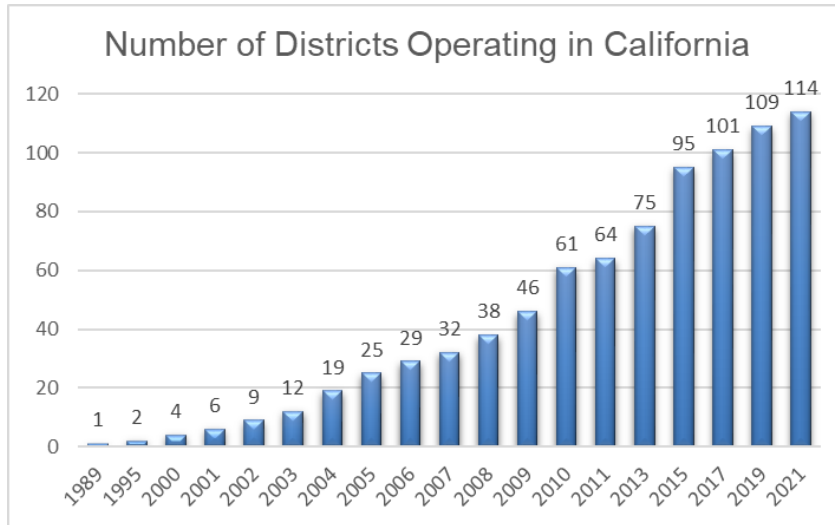
Collection: Assessment collection shall mirror the collection of transient occupancy tax (including any delinquencies, penalties and interest) and shall be collected from each lodging business located in the boundaries of the NVTID on all gross short-term sleeping room rental revenue, as defined in each jurisdiction's municipal/county code. Each jurisdiction shall take all reasonable efforts to collect the assessments from each assessed lodging business.

Duration: The NVTID will have a ten (10) year life, beginning June 16, 2025 or as soon as possible thereafter, and ending ten (10) years from its start date. After ten (10) years, the NVTID may be renewed pursuant to the Property and Business Improvement District Law of 1994 (94 Law) if lodging business owners support continuing the NVTID programs.

Management: The Napa Valley Tourism Corporation (NVTC) shall continue to serve as the NVTID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan and must provide annual reports to the Board of Supervisors.

II. BACKGROUND

TIDs are an evolution of the traditional Business Improvement District. The first TID was formed in West Hollywood, California in 1989. Since then, over 100 California destinations have followed suit. In recent years, other states have begun adopting the California model – Massachusetts, Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TID. Additionally, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TIDs without a state law.



California's TIDs collectively raise over \$300 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Napa Valley lodging businesses continue to invest in stable, commerce-specific marketing programs.

TIDs utilize the efficiencies of private sector operation in the market-based promotion of

tourism districts. Tourism business owners within the TID pay an assessment and those funds are used to provide services that increase commerce for assessed businesses.

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

There are many benefits to TIDs:

- 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 payors 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.

III. ACCOMPLISHMENTS

More Dollars for Our Community: Since the creation of the Tourism Improvement District (TID), annual transient occupancy tax (TOT) collections have grown more than 155%.

- In FY2011, TOT collections totaled \$27M.
- FY2023 finished at \$69M, which is \$14M over FY2019 (the previous highest collection), exhibiting recovery and growth from the post-pandemic economy.

A Sustained & Competitive Budget for Marketing the Napa Valley: Since the inception of the TID, NVTC has contracted with Visit Napa Valley to carry out the programs and services of the TID. Prior to the establishment of the TID, Visit Napa Valley operated with a budget of less than \$500,000 to market the region and was readily outspent by competitors. Today, Visit Napa Valley operates with a budget of approximately \$8M, generated by the TID assessment, (a 1500% increase from 2011) to market the valley as a whole and \$2M in TID revenue stays within the local jurisdictions for destination marketing efforts managed by each of those jurisdictions. Local marketing efforts complement, and do not conflict or compete with, the valley-wide promotion effort.

Napa Valley is a Desirable Place to Invest in Hospitality: Since 2010, Napa County hotel revenue has increased nearly 2.5 times.

- 2010 Hotel Revenue = \$179M; 2023 Hotel Revenue = \$512M (186% increase).
- This compels investment opportunities for new and existing lodging properties.
- Record setting real estate transactions in 2021-2023 underscore Napa Valley as a good investment opportunity.

Resilient in the Face of Adversity: Due to the strength of the Napa Valley brand, cultivated by Visit Napa Valley's marketing and sales efforts, Napa Valley's hospitality community has weathered crisis, natural disasters, and the pandemic and exceeded recovery expectations after each critical event.

- Visit Napa Valley maintains a fully funded Cash Reserve (50% of annual operating budget) in order to continue efforts in lean times.
- Visit Napa Valley is a trusted contributor to community communication efforts during natural disaster crises (floods, fires, earthquakes) and pandemic (COVID-19).

A Trusted Source of Destination Insights and Inspiration: Key audiences look to Visit Napa Valley to effectively curate content that inspires the destinations key audiences (Consumers, Travel Trade, Meetings & Incentive Planners, and the Tourism and Hospitality Industry).

- NVTID funds have been effectively utilized to implement a variety of programs that ultimately increase room night sales.
- Created the "Cabernet Season" campaign to proactively brand the slower "shoulder season" (typically November through March) to benefit hospitality partners. Today, "Cabernet Season" is a recognized and effective tool for hospitality partners to promote the valley and their own businesses.
- Created annual campaigns such as Restaurant Week and Mustard Season during Cabernet Season to promote visitation during that slower time.
- Visit Napa Valley responds to current trends and pain points in the industry which led to the creation of the "Approachable Luxury" campaign. This showed visitors the breadth and depth of hospitality offerings available in Napa Valley, helping visitors to discover their version of luxury - illustrating experiences that fit budget and needs, without specifically calling out price.

- Visit Napa Valley has avidly promoted all 5 towns (Calistoga, St. Helena, Yountville, the City of Napa, American Canyon) and the Unincorporated Napa County through all marketing and sales efforts in all channels, including paid media (ads), owned media (website, social channels, blog, newsletter), and earned media (active public relations and press opportunities).
 - The Towns-Specific Campaign feature an integrated program consisting of both paid media along with activations on owned channels.
- Annual Visit Napa Valley Engagement Metrics:
 - 2 million Visitors to the www.VisitNapaValley.com website, resulting in nearly 1 million clicks to websites of Napa Valley hospitality businesses.
 - The Visit Napa Valley website is frequently cited as the #1 or #2 referral url for most partners who invest with Visit Napa Valley.
 - Group leads equated to more than 200,000 potential room nights, with a potential economic impact of \$88 Million.
 - The Napa Valley Welcome Center, promoting the entire Napa Valley greets over 110,000 people and makes over 35,000 direct referrals to valley-wide hospitality businesses.
- Robust sales team drives overnight stays from transient / leisure travelers as well as business and incentive groups. Business development efforts grow lead generation with meeting professionals, with key focus on incentive, corporate C-Suite and association markets, to increase group business to Napa Valley during weekdays, off-peak season and need periods.
- Partnerships with visitor-serving businesses have increased from just six at the onset of the TID to more than 500 investor partners. This serves as testament to the confidence our constituency has in our mission, strategies and programs supporting the hospitality industry in Napa Valley.
- Numerous valuable trade relationships have been established and nurtured, including Visit California, CalTravel, US Travel, Brand USA, San Francisco Travel, Napa Valley Vintners, and the Napa County Farm Bureau. All partnerships are leveraged to bring in overnight group and event business, in addition to leisure travelers. Partnerships with meeting planner associations have been formed to bring additional overnight groups to the Napa Valley.

Transparent and Accuracy in Reporting: Carrying out the valley-wide marketing and sales efforts, Visit Napa Valley performs under best practices and processes that meet or exceed industry standards.

- Visit Napa Valley is subject to an annual audit conducted by an independent CPA firm that is approved by the County of Napa Auditor Controller and the VNV Board of Directors Audit Committee.
- Since inception of the TID in FY2011, Visit Napa Valley has received nothing less than the highest score, with clean annual audits (with no findings) for 14 years and counting.
- The Napa Valley Tourism Corporation Board meetings are governed by the Brown Act and Public Records Act.
- Annual Reports are presented to the Napa County Board of Supervisors offices.
- Annual Operating Plans are produced yearly, with approval by NVTC and VNV Boards of Directors.
- Long Range Planning cycles with input from stakeholders and final approval by both NVTC and VNV Boards of Directors.

Delivering Results for the Community: These efforts have paid off and delivered return on investment for assessed businesses. Since the inception of the TID in 2010, lodging revenue has grown every year (with the exception of 2020 pandemic impacts). Average daily room rates have

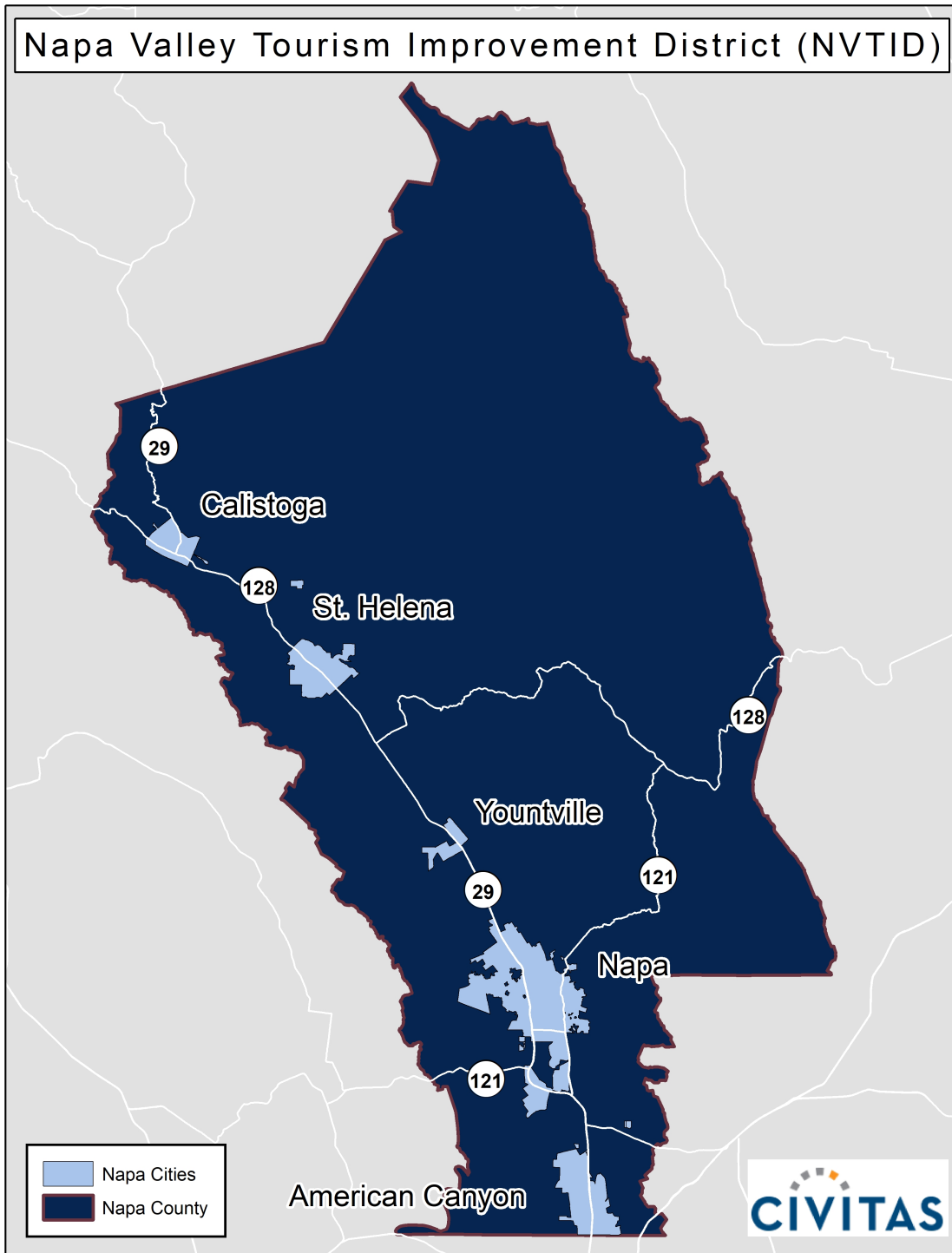
also increased, as have occupancy rates during mid-week and shoulder seasons. Napa Valley led the way in travel recovery for the state of California, winning back more than our fair share of visitors. Strategic priorities on the horizon ahead include embracing destination stewardship and sustainability. Growth in TID revenue fuels an upward spiral of TOT revenue to each jurisdiction in Napa Valley - contributing significantly to the general fund of each town (in Calistoga, St. Helena, Yountville, the City of Napa and American Canyon), as well as the Unincorporated Napa County. This significantly enhances quality of life for our residents.

IV. BOUNDARY

The NVTID shall include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the cities of American Canyon, Calistoga, Napa, and St. Helena, the Town of Yountville, and the unincorporated area of the County of Napa (“jurisdictions”), as shown in the map below.

Lodging business means: any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes, but is not limited to, all hotels, motels, inns, vacation rentals and short-term rentals. Notwithstanding the prior sentence, lodging business does not include campgrounds, mobile homes, or traditional space-rental only R.V. parks.

A complete listing of lodging businesses within the NVTID can be found in Appendix 2. The lodging business list was compiled from records provided by each jurisdiction. The list was developed with the most reliable information provided by the jurisdictions. Some discrepancies may appear due to any of the following reasons: 1) Vacation rentals and short term rentals may cease operation with little or no notice, and may no longer be operating as a vacation rental or short-term rental; and 2) the lodging business list was compiled based on the date shown on the cover page of this Plan, and may not include lodging businesses that began operation after the dates listed.

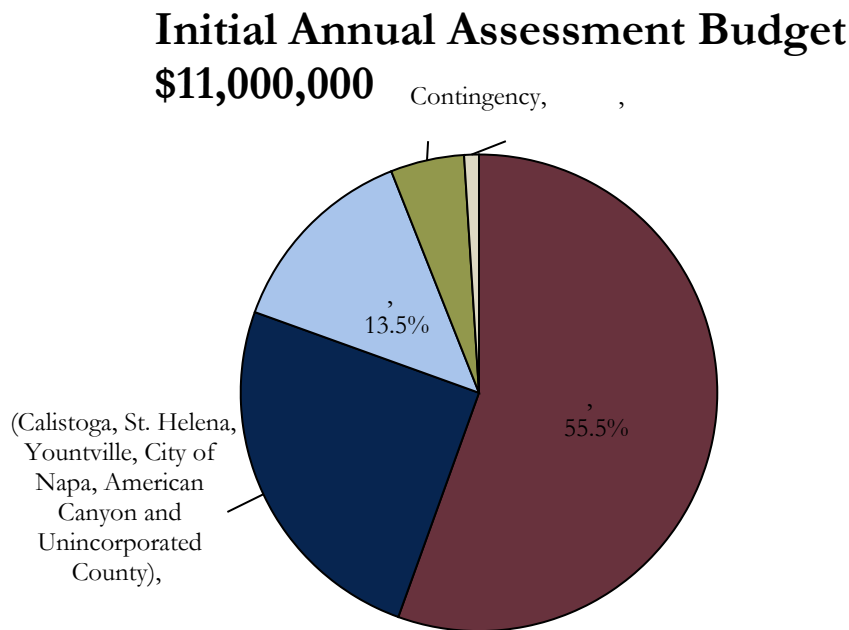


V. ASSESSMENT BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the jurisdictions of conferring the benefits or granting the privileges. The privileges and services provided with the NVTID funds are valley-wide and local jurisdiction destination marketing and sales programs, available only to assessed lodging businesses.

A service plan assessment budget has been developed to deliver services that benefit the assessed lodging businesses. A detailed annual report and assessment budget will be developed and approved by the NVTC and submitted to the Board of Supervisors. The table below illustrates the initial annual assessment budget allocations. These activities and allocations will also apply in subsequent years. The total initial annual assessment budget is \$11,000,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the County and the NVTC Board shall have the authority to adjust budget allocations between the Valley-Wide Marketing and Sales, Administration, and Contingency categories by no more than ten percent (10%) of the total assessment budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the NVTID, any and all assessment funds may be used for the costs of defending the NVTID.

Each budget category includes all costs related to providing that service. For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories.

Valley-Wide Marketing and Sales

Funding from the assessment will be applied to marketing and sales programs that promote tourism in the valley and will encourage overnight stays in Napa Valley. Valley-wide marketing and sales programs are designed to promote, encourage, and support tourism and hospitality in Napa Valley and may include, but are not limited to:

Paid Media (Advertising) such as:

- Online/digital advertising
- Print advertising
- Out-of-home advertising (billboards, roadside signage, kiosks, banners)
- Radio advertising
- Events sponsorship and activations
- Production costs for advertising assets

Owned Media (Channels/Platforms) such as:

- Napa Valley website
- Napa Valley social media channels
- Napa Valley newsletters, blogs, content
- Marketing materials (brochures, pamphlets, branded collateral)
- Industry tradeshow, conferences, and activations
- Distribution and fulfillment of marketing and sales materials
- Operation of Valley-Wide visitor information center (located at Napa Valley Welcome Center in Downtown Napa)

Earned Media (Public Relations & Press) such as:

- Public relations outreach (including press bulletins/releases and media leads, crisis communications, etc.)
- Press educational and familiarization trips

Sales (Group and Travel Trade) Programs such as:

- Lead Generation
- Trade Shows
- Sales Missions
- Familiarization Tours

Special Projects and Programming for:

- Destination stewardship programs and initiatives including, but not limited to:
 - Sustainability
 - Hospitality Workforce Development
 - Heritage Tourism
 - DEI&A

Organizational Initiatives in Support of Tourism and Hospitality including:

- Industry research, analytics, seminars
- Stakeholder engagement and meetings
- Partner and industry relations
- Global outreach and engagement, such as Great Wine Capitals, Sister City Programs, etc.

- Professional/industry association affiliation
- Communications and advocacy activities to inform and educate the public and local government officials
- Software platforms and applications for business management
- Administrative costs associated with these activities

Local Jurisdiction Destination Marketing

Each local jurisdiction (the Cities of American Canyon, Calistoga, Napa, St. Helena, the Town of Yountville, and the unincorporated County of Napa) shall retain 25% of the total assessment collected within that local jurisdiction to fund eligible programs and activities as described below.

Each jurisdiction shall form a local governing committee which shall be responsible for the administration of the destination marketing efforts within their respective jurisdiction. Jurisdiction-specific destination marketing funding is designed to support initiatives which promote and enhance local, jurisdiction-based tourism and hospitality and is aligned with valley-wide promotional effort.

Local jurisdiction destination marketing funding is designed to support to local activities which promote and enhance locally based tourism efforts, including but not limited to:

- Locally specific market niche advertising and marketing efforts that complement, and do not conflict with or compete with, the valley-wide promotion effort.
- Tourism marketing and promotional information: including website, print and other collateral material and technology applications.
- Local special event programming, underwriting and promotion.
- Operation of local visitor information center.
- Community and cultural arts programming activities, such as music on the plaza, movie nights, sculpture walks, film festivals, etc.
- Tourism related streetscape enhancement and maintenance or visitor-serving improvements.
- Seasonal and other tourism and visitor related programs.
- Local tourism shuttle or other visitor transportation programs.
- Seed funding for community-based programs which support or enhance tourism.
- Trails, pedestrian paths, signage, bike paths, etc. which enhance and improve upon the visitor experience and access to lodging properties.
- Enhanced maintenance and custodial municipal services to tourism-related areas.
- Administrative costs associated with these activities.

Administrative and Operations

The administrative and operations portion of the budget, thirteen- and one-half percent (13.5%), shall be utilized for administrative staffing costs, office costs, and other general administrative costs such as audits, insurance, legal, and accounting fees. Information on audits is included herein in Section VI(E).

Contingency

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other programs, administration, or renewal costs. The NVTC Board of Directors shall set the policy with respect to the NVTC reserve.-

County/City Collection Fees

Each jurisdiction tax collector shall retain a fee of up to one percent (1%) of the amount of the assessment collected prior to remitting funds to the county, within their respective jurisdictions, to cover their costs of collection and administration.

B. Annual Budget

The total ten (10) year assessment budget is projected at approximately \$11,000,000 annually, or \$145,750,000 through 2036 if maximum assessment rates are adopted. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do, as businesses open and close, and if the assessment rate is increased pursuant to this Plan.

The annual assessment rate is two percent (2%) of gross short-term (30 days or less) sleeping room rental revenue. In years three (3), six (6) and nine (9) of the NVTID's term, the assessment rate may be recommended to be increased by the VNV Board of Directors and then brought to the NVTC Board for final approval. The maximum increase in years three (3), six (6) and nine (9) shall be one half of one percent (0.5%). The total assessment rate may not exceed three percent (3%) of gross short-term (30 days or less) sleeping room rental revenue. Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Stays by government employees on government business shall not be subject to assessment. "Government employee" shall mean foreign or domestic government employees subject to exemption from transient occupancy tax pursuant to each municipality's municipal/county code.

The table below demonstrates the estimated maximum budget with the assumption that the assessment rate will be increased to the maximum rate authorized in this Plan at the earliest opportunity as it is a required disclosure, it is not the anticipated course of action. Alternate courses of action may be taken in regard to implementing the assessment rate increase other than what is demonstrated in the chart below, within the parameters of this Plan.

Estimated Annual Budget if Maximum Assessment Rates are Adopted

Year	Valley-Wide Marketing and Sales	Local Jurisdiction Destination Marketing	Administration	Contingency / Renewal	County/City Collection Fee	Total
2025/2026	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2026/2027	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2027/2028	\$7,631,250	\$3,437,500	\$1,856,250	\$687,500	\$137,500	\$13,750,000
2028/2029	\$7,631,250	\$3,437,500	\$1,856,250	\$687,500	\$137,500	\$13,750,000
2029/2030	\$7,631,250	\$3,437,500	\$1,856,250	\$687,500	\$137,500	\$13,750,000
2030/2031	\$9,157,500	\$4,125,000	\$2,227,500	\$825,000	\$165,000	\$16,500,000
2031/2032	\$9,157,500	\$4,125,000	\$2,227,500	\$825,000	\$165,000	\$16,500,000
2032/2033	\$9,157,500	\$4,125,000	\$2,227,500	\$825,000	\$165,000	\$16,500,000
2033/2034	\$9,157,500	\$4,125,000	\$2,227,500	\$825,000	\$165,000	\$16,500,000
2034/2035	\$9,157,500	\$4,125,000	\$2,227,500	\$825,000	\$165,000	\$16,500,000
Total	\$80,891,250	\$36,437,500	\$19,676,250	\$7,287,500	\$1,457,500	\$145,750,000

The chart below demonstrates the estimated maximum budget with the assumption that the assessment rate will not be increased during the NVTID's term.

Estimated Annual Budget if Maximum Assessment Rates Are Not Adopted

Year	Valley-Wide Marketing and Sales	Local Jurisdiction Destination Marketing	Administration	Contingency / Renewal	County/City Collection Fee	Total
2025/2026	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2026/2027	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2027/2028	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2028/2029	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2029/2030	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2030/2031	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2031/2032	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2032/2033	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2033/2034	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
2034/2035	\$6,105,000	\$2,750,000	\$1,485,000	\$550,000	\$110,000	\$11,000,000
Total	\$61,050,000	\$27,500,000	\$14,850,000	\$ 5,500,000	\$1,100,000	\$110,000,000

C. California Constitutional Compliance

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

1. Specific Benefit

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”² The services in this Plan are designed to provide targeted benefits directly to assessed lodging businesses, and are intended only to provide benefits and services directly to those lodging businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific lodging businesses within the NVTID. The activities described in this Plan are specifically targeted to increase demand for room night sales for assessed lodging businesses within the boundaries of the NVTID and are narrowly tailored. NVTID funds will be used exclusively to provide the specific benefit of increased demand for room night sales directly to the assesses. Assessment funds shall not be used to feature non-assessed lodging businesses in NVTID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed lodging businesses. Nothing in this Plan limits the ability of the Owners’ Association to enter into private contracts with non-assessed lodging businesses for the provision of services to those businesses.

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

² Cal. Const. art XIII C § 1(e)(1)

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

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

2. Specific Government Service

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

3. Reasonable Cost

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

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

³ Government Code § 53758(a)

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

⁶ Government Code § 53758(b)

D. Assessment

The annual assessment rate is two percent (2%) of gross short-term (30 days or less) sleeping room rental revenue. In years three (3), six (6) and nine (9) of the NVTID's term, the assessment rate may be recommended to be increased by the VNV Board of Directors and then brought to the NVTC Board for final approval. The maximum increase in years three (3), six (6) and nine (9) shall be one half of one percent (0.5%). The total assessment rate may not exceed three percent (3%) of gross short-term (30 days or less) sleeping room rental revenue.

Based on the benefit received, assessments will not be collected on stays of more than thirty (30) consecutive days. Stays by government employees on government business shall not be subject to assessment. "Government employee" shall mean foreign or domestic government employees subject to exemption from transient occupancy tax pursuant to each municipality's municipal/county code.

The assessment was calculated based on the total cost of the activities to be provided for the benefit of the lodging businesses within the NVTID with costs allocated based on the proportional benefit conferred to each lodging business. Activities funded by the NVTID are specifically targeted to increase demand for room nights at assessed lodging businesses. All room night sales do not represent the same benefit to the payors. For example, a higher priced room night is of greater benefit than a lower priced room night because the assessee derives greater revenue. To account for this benefit differential and to make sure the benefits are proportional, an assessment formula based on a percentage of revenue has been selected. The proposed formula accurately reflects greater benefit to assessed lodging businesses with higher priced room nights.

The term "gross short-term sleeping room rental revenue" as used herein means: the consideration charged, whether or not received, for the occupancy of space in an assessed lodging business, as defined in Section IV of this Plan. The assessment shall not be considered a part of lodging businesses revenue for any purposes, including but not limited to collection of transient occupancy taxes. Gross short-term sleeping room rental revenue shall not include, and therefore the assessment shall not be charged upon, any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the NVTID assessment is identified separately it shall be disclosed as the "NVTID Assessment." As an alternative, the disclosure may include the amount of the NVTID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the "Tourism Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for calculation of transient occupancy taxes.

Bonds shall not be issued.

E. Penalties and Interest

Each jurisdiction is authorized to collect penalties and interest on delinquent assessments.

F. Time and Manner for Collecting Assessments

The NVTID assessment will be implemented beginning June 16, 2025, or as soon as possible thereafter, and will continue for ten (10) years. The city and county tax collectors will be responsible for collecting the assessment on a monthly or quarterly basis (including any delinquencies, penalties, and interest) from each lodging business located in the boundaries of the NVTID in accordance with each jurisdiction's procedures for collecting transient occupancy taxes. The tax collectors shall take all reasonable efforts to collect the assessments from each lodging business. The tax collectors shall forward 74% of the assessment collected to Napa County, who will forward the funds to the NVTIC. The remaining 25% of the funds shall be retained by each jurisdiction for tourism-related expenditures in accordance with this Plan. Each tax collector shall deduct from the assessment a fee up to 1% of the assessment collected for their services in collecting and forwarding the assessment funds.

VI. GOVERNANCE

A. Owners' Association

The Board of Supervisors, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the NVTID as defined in Streets and Highways Code §36612. The Board of Supervisors has determined that the NVTC will continue to serve as the NVTID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan and must provide annual reports on activities and expenditures.

The NVTC shall be managed by a fourteen (14) member Board of Directors. Seven (7) board members shall be representatives of assessed lodging businesses. Six members of the board will each represent one of the included municipalities and Napa County, with each jurisdiction having one representative. Each of these jurisdiction representatives shall be appointed by their respective City or Town Council or Board of Supervisors. Jurisdiction representatives may be elected or appointed officials, staff, or chamber of commerce officials. One board member shall be a representative of Visit Napa Valley (VNV). Each member of the board shall have one vote.

Each jurisdiction retaining funds for local destination marketing programs shall form a local governing committee in accordance with the provisions in this Plan. Each local governing committee and the NVTC will be subject to the requirements of the Ralph M. Brown Act and the California Public Records Act in accordance with the 94 Law. Each local governing committee shall submit a progress report at each quarterly NVTC meeting, as well as a fiscal year-end report, as detailed below in subsection D.

B. Brown Act and California Public Records Act Compliance

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

C. Annual Report

The NVTC shall present an annual report at the end of each year of operation to the Board of Supervisors pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report will include details of NVTID revenues received and expenditures for all governing entities, including the local governing committees. The revenues and expenditures of each governing committee shall be listed separately.

The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.

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

D. Local Governing Committees

Each jurisdiction retaining funds for local destination marketing programs shall form a local governing committee in accordance with the provisions below. Each local governing committee will be subject to the requirements of the Ralph M. Brown Act and the California Public Records Act in accordance with the 94 Law. Each local governing committee shall submit a progress report at each quarterly NVTC board meeting, as well as a fiscal year-end report. Included in the reports, each committee must provide NVTC with a detailed account of the specific NVTID funds allocated to their jurisdiction and provide information on how these funds have been spent. Local governing committees will provide the fiscal year-end reports to the NVTC Board for incorporation into the annual report to the Napa County Board of Supervisors pursuant to Streets and Highways Code §36650, no later than September 30 of each calendar year. Jurisdiction-specific destination marketing funding is designed to support initiatives which promote and enhance local, jurisdiction-based tourism and hospitality and is aligned with valley-wide promotional effort.

1. Calistoga, St. Helena & Yountville

The cities of Calistoga and St. Helena, and the Town of Yountville shall each form a seven (7) member local governing committee that will manage the individual destination marketing funds. The local governing committees will be comprised of:

- Four (4) members selected by eligible lodging property members within the local jurisdiction
- One (1) member from the local Chamber of Commerce (can be either appointed staff or a board member of the Chamber in the local jurisdiction)
- One (1) member who is an elected official from the local jurisdiction.
- One (1) member who is the City/Town Manager or designee from the local jurisdiction.

The local governing committee shall be responsible for the following activities:

- Development and approval of an annual work plan and budget.
- Periodic meetings as necessary to provide oversight of the expenditures to ensure consistency with approved annual work plan and budget consistent with this Plan. Preparation of a quarterly progress report and annual year-end progress report which will be provided to the NVTC.

2. City of Napa

Disbursement of the local assessment retained by the City of Napa shall be pursuant to an annual work plan and associated annual budget, which shall be developed and recommended to the Napa City Council by the local governing committee, which will be comprised of the following:

- Up to five (5) representatives of assessed lodging businesses selected by lodging businesses.
- One (1) representative of city staff or a city council member designated by the Napa TID Committee.

- One (1) representative of a visitor-serving or destination-marketing entity designated by the Napa TID Committee.

To the extent that the Napa City Council approves the recommendation of the local governing committee, that recommendation shall be presented to the NVTC Board for incorporation into the annual report to the Napa County Board of Supervisors pursuant to Streets and Highways Code §36650. To the extent that the Napa City Council chooses not to approve in part, or in whole, the recommendation of the local governing committee, the Napa City Council may propose an alternative annual work plan and budget for those funds, and the NVTC Board shall determine which plan and budget elements to incorporate into the annual report to the County Board of Supervisors for disposition of funds to support local marketing and tourism enhancements in the City of Napa.

The local governing committee shall be responsible for the following activities:

- Development and approval of an annual work plan and budget.
- Periodic meetings as necessary to provide oversight of the expenditures to ensure consistency with approved annual work plan and budget consistent with this Plan.
- Preparation of a quarterly progress report and annual year-end progress report which will be provided to the NVTC.

3. American Canyon

The City of American Canyon shall form a seven (7) member local governing committee, which will manage the local destination marketing funds. The local governing committee will be comprised of:

- Three (3) representatives of assessed lodging businesses selected by lodging businesses.
- One (1) representative of a local business selected by lodging businesses. In the event a fourth lodging business subject to assessment opens in American Canyon, this representative may instead be from another lodging business.
- One (1) member from the local Chamber of Commerce (can be either appointed staff or a board member of the Chamber in the local jurisdiction).
- One (1) member who is an elected city official.
- One (1) member who is the City Manager or designee from the local jurisdiction.

The local governing committee shall be responsible for the following activities:

- Development and approval of an annual work plan and budget.
- Periodic meetings as necessary to provide oversight of the expenditures to ensure consistency with approved annual work plan and budget consistent with this Plan.
- Preparation of a quarterly progress report and annual year-end progress report which will be provided to the NVTC.

4. County of Napa

Napa County shall form a seven (7) member local governing committee, which will manage the local destination marketing funds for the unincorporated portion of the county. The local governing committee shall be composed of:

- Four (4) members selected by eligible lodging property members in the unincorporated area.
- One (1) member who is a member of the Board of Supervisors.
- One (1) member who is the County Executive Officer or that Officer's designee.
- One (1) member who is selected by the Napa Valley Vintners.

The Napa County local governing committee shall be responsible for the following activities:

- Development and approval of an annual work plan and budget.
- Periodic meetings as necessary to provide oversight of the expenditures to ensure consistency with approved annual work plan and budget consistent with this Plan.
- Preparation of a quarterly progress report and annual year-end progress report which will be provided to the NVTC.

E. Audits and Accounting

The Napa County Auditor-Controller (ACO) shall be allowed to review the financial records of the NVTC, jurisdictions, and local governing committees at the end of each fiscal year. Memorandums of Understanding (MOU) between the Napa County ACO and the six (6) individual jurisdictions document the accounting processes for the NVTID and shall remain in full force and effect for the term of the NVTID. The accounting processes in the MOUs detail the documentation required in the collection, allocation, and reporting required to demonstrate compliance with this Plan. These annual financial reports outlined in the MOUs must be submitted to the Napa County ACO no more than four (4) months after the fiscal year ends.

NVTC shall engage either an independent certified public accountant or the Napa County ACO to conduct annual audits. Any independent certified public accountant selected shall be subject to approval of the Napa County ACO, and their audit report must be submitted to the Napa County ACO no more than six (6) months after the fiscal year ends.

APPENDIX 1 – LAW

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

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

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

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

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

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

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

36602. Purpose of part

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

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

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

36603.5. Part prevails over conflicting provisions

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

36604. Severability

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

ARTICLE 2. Definitions

36606. “Activities”

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

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

36606.5. “Assessment”

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

36607. “Business”

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

36608. “City”

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

36609. “City council”

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

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

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

36610. “Improvement”

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

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

36611. “Management district plan”; “Plan”

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

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

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

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

36614.6. “Property-based assessment”

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

36614.7. “Property-based district”

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

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

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

36615.5. “Special benefit”

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

(b) “Special benefit” also includes, for purposes of a property-based district, a particular and distinct benefit provided directly to each assessed parcel within the district. Merely because parcels throughout an assessment district share the same special benefits does not make the benefits general.

36616. “Tenant”

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

ARTICLE 3. Prior Law

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

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

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

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

36620.5. Requirement of consent of city council

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

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

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

36622. Contents of management district plan

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

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

and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against their property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k)

(1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(3) In a property-based district, properties throughout the district may share the same special benefits. In a district with boundaries that define which parcels are to receive improvements, maintenance, or activities over and above those services provided by the city, the improvements, maintenance, or activities themselves may constitute a special benefit. The city may impose assessments that are less than the proportional special benefit conferred, but shall not impose assessments that exceed the reasonable costs of the proportional special benefit conferred. Because one or more parcels pay less than the special benefit conferred does not necessarily mean that other parcels are assessed more than the reasonable cost of their special benefit.

(l) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

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

36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be

mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

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

36624. Changes to proposed assessments

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

36625. Resolution of formation

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

- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.
- (2) The number, date of adoption, and title of the resolution of intention.
- (3) The time and place where the public hearing was held concerning the establishment of the district.
- (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
- (5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.
- (6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the

district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

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

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

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

36627. Notice and assessment diagram

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

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

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

36628.5. Assessments on businesses or property owners

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

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

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

36630. Expiration of district; Creation of new district

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

CHAPTER 3. Assessments

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

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

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

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

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

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

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in an action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36625. An appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

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

36635. Request to modify management district plan

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

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

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

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

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

36637. Reflection of modification in notices recorded and maps

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

CHAPTER 3.5. Financing

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

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

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

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

CHAPTER 4. Governance

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

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

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

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

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

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

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

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district

plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

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

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

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

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

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

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

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – ASSESSED BUSINESSES

will be inserted