

REGULAR MEETING OF THE
Santa Ana Tourism Marketing District
BOARD OF DIRECTORS
Zoom

BOARD AGENDA
February 4, 2021

- I. CALL TO ORDER
- II. BUSINESS MATTERS
 - 1. Welcome/Introductions – (Dave E.)
 - 2. Public Comments
 - 3. Overview of Management Plan/Bylaws [pp. 1-35] – (Jonathan M.)
 - 4. Election of Officers (Dave E.)
 - a. Review Roles/Responsibilities
 - b. Elect: Chair, Vice Chair, Secretary & Treasurer
 - 5. Open Discussion
 - a. Priorities for the Santa Ana Tourism Marketing District
- III. NEXT MEETING

Next Meeting: TBA
- IV. ADJOURNMENT

**Bylaws of
Travel Santa Ana
A California Nonprofit Mutual Benefit Corporation**

**ARTICLE I
NAME AND PRINCIPAL OFFICE**

The name of the corporation is Travel Santa Ana (“TSA” or “Corporation”). The principal office for the transaction of the affairs and activities of this corporation shall be located in the City of Santa Ana. The Board of Directors may change the location of the principal office.

**ARTICLE II
PURPOSE**

The purpose of this corporation shall be to promote Santa Ana tourism through the development and operation of the Santa Ana Tourism Marketing District (SATMD) and other programs and initiatives.

**ARTICLE III
LIMITATIONS**

Section 1: Assets. This Corporation is not organized, nor shall it be operated, for pecuniary gain or profit, and it does not contemplate the distribution of gains, profits or dividends of its Directors and is organized solely for nonprofit purposes. No part of the profits or net income of this Corporation shall ever inure to the benefit of any Director, officer or to any individual. Upon the dissolution or winding up of the Corporation, after payment of, or provision for payment of, all debts and liabilities of this Corporation, the remaining assets shall be distributed to a nonprofit fund, foundation or corporation which has been formed to provide benefits or services for Santa Ana and which has established its tax exempt status under §501(c) of the Internal Revenue Code. If no such corporation as described above is in existence at the time of dissolution, then the remaining assets shall be distributed to a nonprofit fund, foundation or corporation, which has established its tax-exempt status under §501(c) of the Internal Revenue Code.

Section 2: Construction. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Mutual Benefit Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes feminine and neuter, the singular includes the plural, the plural includes the singular, and the term “person” includes both a legal entity and a natural person.

**ARTICLE IV
MEMBERS**

Section 1: Definitions. This corporation shall have no members within the meaning of the California Nonprofit Corporation Law, pursuant to Corporation Code §7332(a).

Section 2: Non-Voting Members. The Corporation’s Board of Directors may, in its discretion, admit individuals to one or more classes of non-voting members; the class or classes shall have such rights and obligations as the Board finds appropriate.

ARTICLE V DIRECTORS

Section 1: Number. The corporation shall have a minimum of eleven (11) but no more than nineteen (19) Directors. Each Director shall have one vote. A reduction in the number of Directors shall not result in any Directors being removed before his or her term of office expires.

Section 2: Tenure. Each Director of the corporation shall serve for a term of two (2) years.

Section 3: Initial Appointment. The initial Board of Directors shall have eleven (11) members, and TSA may increase the number of members in increments of two (2) to the maximum of nineteen (19) members. The initial members of the Board of Directors shall be appointed by the incorporator of the corporation.

Section 4: Criteria. Among the eleven (11) but no more than nineteen (19) directors:

- A. At least one (1) shall be a designated City of Santa Ana City Manager representative;
- B. At least two (2) Santa Ana Chamber of Commerce (“SACC”) board member representatives;
- C. At least two (2) members at large representing tourism draws to Santa Ana, including but not limited to lodging businesses, restaurants, and attractions; and
- D. All remaining seats shall be lodging representatives paying the Santa Ana Tourism Marketing District (“SATMD”) assessment, and shall at all times comprise more than half of the Directors.

Section 5: Annual Election. Election of Directors shall take place at the annual meeting of the corporation. Directors shall be elected by the Board.

Section 6: Powers. Subject to the provisions and limitations of the California Nonprofit Mutual Benefit Corporation Law, the provisions of the SATMD Management District Plan, and any other applicable laws, and subject to any limitations of the Articles of Incorporation and these Bylaws, the corporation’s activities and affairs shall be managed, and all corporate powers shall be exercised by, or under the direction of, the Board.

Section 7: Specific Powers. Without prejudice to the general powers set forth in Article V, Section 6 of these Bylaws, but subject to the same limitations, the Board shall have the power to do the following:

- A. Appoint and remove, at the pleasure of the Board, all corporate officers, agents, and employees; prescribe powers and duties for them as are consistent with the law, the Articles of Incorporation, and these Bylaws; fix their compensation; and require from them security for faithful service.

- B. Change the principal office or the principal business office in the City of Santa Ana from one location to another; cause the corporation to be qualified to conduct its activities in any other state, territory, dependency, or country; conduct its activities in or outside California; and designate a place in the City of Santa Ana for holding any meeting of the Board.
- C. Borrow money and incur indebtedness on the corporation's behalf and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidence of debt and securities.

Section 8: Occurrence of Vacancies. A vacancy or vacancies on the Board shall occur in the event of:

- A. The death, removal or resignation of any Director; or
- B. The declaration by resolution of the Board of a vacancy in the office of a Director who has been convicted of a felony, declared of unsound mind by a court order, or found by final order or judgment of any court to have breached a duty arising under Corporations Code §7238, the SATMD Management District Plan, or other applicable laws; or
- C. An increase in the authorized number of Directors; or
- D. The failure of an election to elect the number of Directors required to be elected in that election; or
- E. A Director missing two (2) meetings in a row and an affirmative vote by the remaining Directors to remove the absent Director; or
- F. A Director no longer meeting the criteria in Section 4 of this Article.

Section 9: Filling Vacancies. Vacancies on the Board may be filled by approval of the Board, or if the number of Directors then in office is less than a quorum, by either:

- A. The affirmative vote of a majority of Directors then in office at a meeting held according to the notice provisions of these Bylaws and the Ralph M. Brown Act; or
- B. A sole remaining Director.

Section 10: Resignation of Directors. Any Director may resign by giving written notice to the chair of the Board, if any, or to the Chair or the Secretary of the Board. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. If a Directors' resignation is effective at a later time, the Board may elect a successor to take office as of the date when the resignation becomes effective.

Section 11: Removal of Directors. Any Director may be removed, with or without cause, by the vote of the majority of the entire Board of Directors at a special meeting called for that purpose, or at a regular meeting, provided that notice of that meeting and of the removal questions are given as provided in Article VI.

Section 12: Compensation and Reimbursement. Directors shall serve as volunteers and shall not be compensated. Directors may be reimbursed for expenses, as the Board may establish by resolution to be just and reasonable to the corporation at the time that the resolution is adopted.

Section 13: Advisors. The Board may designate individuals to serve as advisors to the Board. Advisors shall receive notice of meetings in the same manner as Directors, but shall not be considered Directors for any purpose including voting. Advisors shall serve for such terms as determined by the Board and may be removed by the Board at any time.

Section 14: Contracts with Directors. A mere common Directorship does not constitute a material financial interest within the meaning of this Section. No contract or other transaction between the Corporation and one or more of its Directors, or between the Corporation and any domestic or foreign corporation, firm or association in which one or more of the Corporation's Directors has a material financial interest, is either void or voidable because such Director or Directors or such other corporation, business corporation, firm or association are parties or because such Director or Directors are present at the meeting of the Board or a Committee thereof which authorizes, approves or ratifies the contract or transaction if:

- A. The material facts as to the transaction and as to such Director's interest are fully disclosed or known to the Board of Directors and such contract or transaction is approved by the Board of Directors in good faith, with any membership owned by any interested Director not being entitled to vote thereon;
- B. The material facts as to the transaction and as to such Director's interest are fully disclosed or known to the Board or Committee, and the Board or Committee authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested Director or Directors and the contract or transaction is just and reasonable as to the Corporation at the time it is authorized, approved or ratified; or
- C. As to contracts or transactions not approved as provided in A or B above, the person asserting the validity of the contract or transaction sustains the burden of proving that the contract or transaction was just and reasonable as to the Corporation at the time it was authorized, approved, or ratified.

ARTICLE VI MEETINGS

Section 1: Annual Meeting. The annual meeting of the Corporation shall be held at such time in April as the Board may fix from time to time. At the annual meeting, Directors and officers shall be elected and other business may be transacted, subject to the provisions of these Bylaws. Notice of the annual meeting shall be posted at least seventy-two hours prior to the meeting in a publicly accessible location and on the Corporation's website, in accordance with the requirements of the Ralph M. Brown Act. Each notice shall state the general business to be transacted, and the day, time and place of the meeting.

Section 2: Board of Directors Regular Meetings. The Board shall meet quarterly on dates agreed upon by the Board. Notice of regular meetings shall be posted at least seventy-two hours prior to the meeting in a publicly accessible location, and on the Corporation's website, if any, in accordance with the requirements of the Ralph M. Brown Act. Each such notice shall state the general business to be transacted, and the day, time and place of the meeting. Business may be

transacted at any regular meeting of the Board in accordance with the requirements of the Ralph M. Brown Act.

Section 3: Board of Directors Special Meetings. Special meetings of the Board may be called by the Chair of the Board or any three Directors. Notice of special meetings shall be given to each Director stating the time, place, and business to be discussed at least twenty-four hours before the time of the meeting specified in the notice. Notice shall be delivered to the Board personally or by any other means pursuant to Government Code §54956. Notice shall also be posted at least twenty-four hours prior to the meeting in a publicly accessible location, and on the Corporation's website, if any, in accordance with the requirements of the Ralph M. Brown Act.

Section 4: Notice of Meetings. Notice of all meetings will be given in accordance with the provisions of the Ralph M. Brown Act, Government Code §54950 et. seq. The noticing provisions in these Bylaws shall be subject to any amendments of the Ralph M. Brown Act.

Section 5: Place of Meetings. All meetings of the Corporation shall be held at such location in the boundaries of the SATMD as may be determined by the Board.

Section 6: Telephonic Appearance. Teleconferencing, as authorized by §54953 of the Ralph M. Brown Act may be used for all purposes in connection with meetings. All votes taken during a teleconferenced meeting shall be by roll call. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to §54954.3 at each teleconference location.

Section 7: Quorum. At any meeting of the Board, majority of the Directors of the Board shall constitute a quorum. If less than a quorum is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present. There shall be no voting by proxies or voting by absentia.

ARTICLE VII OFFICERS

Section 1: Offices Held. The officers of the Corporation shall be a Chair, a Vice Chair, a Secretary, a Treasurer, and such other officers as the Board may from time to time designate. All officers shall be Directors. Any number of offices may be held by the same person.

Section 2: Election of Officers. The officers of this Corporation shall be chosen annually by the Board and shall serve at the pleasure of the Board, subject to the rights of any officer under any employment contract.

Section 3: Term. All officers shall be elected for a term of one (1) year or until their successors are elected and qualified.

Section 4: Removal of Officers. Without prejudice to the rights of any officer under an employment contract, the Board may remove any officer with or without cause.

Section 5: Resignation of Officers. Any officer may resign at any time by giving written notice to the Board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the Corporation under any contract to which the officer is a party.

Section 6: Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed by these Bylaws for normal appointments to that office. However, vacancies need not be filled on an annual basis.

Section 7: Responsibilities of Chair. The Chair shall preside at all meetings and have such other powers and duties as the Board or these Bylaws may require. Additionally, the Chair shall be authorized to sign and deposit checks, drafts, endorsements, notes and evidence of indebtedness of the Corporation issued by the Corporation.

Section 8: Responsibilities of Vice Chair. The Vice Chair shall possess the powers and discharge the duties of the Chair in the Chair's absence or disability.

Section 9: Responsibilities of Secretary. The Secretary of the Corporation shall have the following responsibilities:

- A. The Secretary shall keep or cause to be kept, at the Corporation's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings, and actions of the Board, and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, general, or special, and if special, how authorized; the notice given; the names of persons present at Board and committee meetings; and any action taken and the vote or abstention on that action of each Director present for the action.
- B. The Secretary shall keep or cause to be kept, at the Corporation's principal office, a copy of the Articles of Incorporation and Bylaws, as amended to date.
- C. The Secretary shall keep or cause to be kept, at the Corporation's principal office or at a place determined by resolution of the Board, a record of the Corporation's Directors, showing each Director's name, address, and business represented.
- D. The Secretary shall give, or cause to be given, notice of all meetings that these Bylaws require to be given. The Secretary shall keep the corporate seal, if any, in safe custody and shall have such other powers and perform such other duties as the Board or the Bylaws may require.
- E. The Secretary shall maintain, or cause to be maintained, the Corporation's records in accordance with the requirements of the California Public Records Act, Government Code §6250 et seq.

Section 10: Responsibilities of Treasurer. The Treasurer of the Corporation shall have the following responsibilities:

- A. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Corporation's properties and transactions. The Treasurer shall send or cause to be given to the Directors such financial statements and

reports as are required to be given by law, by these Bylaws, by the SATMD Management District Plan, or by the Board. The books of account shall be open to inspection by any Director at all reasonable times.

- B. The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositories as the Board may designate; shall disburse the Corporation's funds as the Board may order; shall render to the Chair and the Board, when requested, an account of all transactions as Treasurer and of the financial condition of the Corporation; and have such other powers and perform such other duties as the Board or these Bylaws may require.

Section 11: Loans. The Corporation shall not loan any money or property to, or guarantee the obligation of, any Director or officer of the Corporation. The Corporation may advance money to a Director or officer for reasonable business expenses, provided that the Director or officer is entitled to reimbursement.

ARTICLE VIII COMMITTEES

Section 1: Establishment. The Board, by resolution adopted by a majority of the Directors then in office, may create one or more committees, each consisting of two or more Directors and no one who is not a Director, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the Directors then in office. The Board may appoint one or more Directors as alternate members of such committee, who may replace any absent member at any meeting. Any such committee shall have all the authority of the Board, to the extent provided in the Board resolution, except that no committee may do the following:

- A. Fill vacancies on the Board or any committee of the Board;
- B. Fix compensation of the Directors for serving on the Board or any committee;
- C. Amend or repeal Bylaws or adopt new Bylaws;
- D. Amend or repeal any resolution of the Board that by its express terms is not so amendable or repealable;
- E. Create any other committees of the Board or appoint the members of committees of the Board; or
- F. Expend corporate funds to support a nominee for Director if more people have been nominated for Director than can be elected; or
- G. With respect to any assets held in charitable trust, approve any contract or transaction between this Corporation and one or more of its Directors or between this Corporation and an entity in which one or more of its Directors have a material financial interest, subject to the approval provisions of Corporations Code §5233(d)(3).

Section 2: Meetings and Actions of Committees. Meetings and actions of committees shall be governed by, held, and taken under the provisions of these Bylaws concerning meetings and other Board actions, except that the time for general meetings of committees and calling of special meetings of committees may be set either by Board resolution, or if none, by resolution of the committee. Notice of committee meetings, for committees subject to the Ralph M. Brown Act, will be given in accordance with the provisions of the Ralph M. Brown Act. Minutes of each meeting shall be kept and shall be filed with the corporate records, and in accordance with the

provisions of the California Public Records Act. The Board may adopt rules for governance of any committee as long as the rules are consistent with these Bylaws. If the Board has not adopted rules, the committee may do so.

Section 3: Advisory Committees. The Board may establish one (1) or more advisory committees. The members of any advisory committee may consist of Directors or non-Directors. Advisory committees may not exercise the authority of the Board to make decisions on behalf of the Corporation, but shall be limited to making recommendations to the Board or the Board's authorized representatives and to implementing Board decisions and policies. Advisory committees shall be subject to the supervision and control of the Board.

Section 3. Ad Hoc Committees. Ad hoc committees shall be appointed by the Board to serve until the final report of the work for which they were appointed has been filed. These committees may consist of Directors or non-Directors.

ARTICLE IX INDEMNIFICATION AND INSURANCE

Section 1: Indemnification.

- A. To the fullest extent permitted by law, this Corporation shall indemnify its Directors and officers, and may indemnify employees and other persons described in the Corporations Code, including persons formerly occupying such positions, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in the Corporations Code, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in the Corporations Code. "Expenses," as used in these Bylaws, shall have the same meaning as in the Corporations Code.
- B. On written request to the Board by any person seeking indemnification under the Corporations Code, the Board shall promptly decide under that code whether the applicable standard of conduct set forth has been met, and if so the Board shall authorize indemnification.
- C. To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under these Bylaws in defending any proceeding covered by these Bylaws shall be advanced by the Corporation before final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the Corporation for those expenses.

Section 2: Insurance. This Corporation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, Directors, employees and other agents, to cover any liability asserted against or incurred by any officer, Director, employee, or agent in such capacity or arising from the officer's, Director's, employee's, or agent's status as such.

ARTICLE X RECORDS

Section 1: Maintenance. This Corporation shall keep all of the following records, either in written form or in any other form capable of being converted into clearly legible tangible form or in any combination of the two:

- A. Adequate and correct books and records of account; and
- B. Minutes of the proceedings of its Board and committees.

Section 2: Inspection by Directors. Every Director shall have the absolute right, at any reasonable time, to inspect the Corporation's books, records, and documents of every kind, and to inspect the physical properties of the Corporation. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts of books, records, and documents of every kind.

Section 3: Articles and Bylaws. This Corporation shall keep, at its principal office, the original or a copy of the Articles of Incorporation and Bylaws, as amended to the current date, that shall be open to inspection by Directors at all reasonable times during office hours.

Section 4: Annual Reports. The Treasurer of the Corporation shall prepare and submit, or cause to be prepared and submitted, the following annual reports. The Treasurer shall keep, or cause to be kept, copies of all annual reports with the Corporation's records. The two reports may be combined into one all-inclusive document.

- A. SATMD Annual Report. The SATMD annual report will be prepared and submitted in accordance with the provisions of Streets and Highways Code §36650 and the SATMD Management District Plan.
- B. TSA Annual Report. The TSA annual report shall be prepared within 120 days after the end of the Corporation's fiscal year. This section shall not apply if the Corporation receives less than \$10,000 in gross revenues or receipts during the fiscal year. The report shall contain the following information in appropriate detail:
 - 1. A balance sheet as of the end of the fiscal year, an income statement, and statement of cashflows for the fiscal year, accompanied by an independent accountant's report, or if none, by the certificate of an authorized officer of the Corporation that they were prepared without audit from the Corporation's books and records;
 - 2. A statement of the place where the names and addresses of current Directors are located; and
 - 3. Any other information required by these Bylaws or the Board.

Section 5: Annual Statement. As part of the annual report, or as a separate document if no annual report is issued, the Corporation shall annually prepare and mail, deliver or send by electronic transmission to its Directors a statement of any transaction or indemnification of the kinds in subparagraph B below within 120 days after the end of the Corporation's fiscal year.

- A. The statement shall include:
 - 1. A brief description of the transaction;

2. The names of interested persons involved and their relationship to the Corporation;
 3. The nature of interested persons in the transaction;
 4. The amount of the interested persons' interest, except that in a partnership in which such person is a partner, only the partnership interest need be stated.
- B. Transactions included in the statement shall be those transactions:
1. To which the Corporation or its subsidiary was a party;
 2. Which involved more than \$50,000 or was one of a number of such transactions with the same person involving, in the aggregate, more than \$50,000; and
 3. In which either of the following interested persons had a direct or indirect material financial interest (a mere common Directorship is not a material financial interest):
 - a. Any Director or officer of the Corporation;
 - b. Any holder of more than ten percent (10%) of the voting power of the Corporation.

ARTICLE XI OPERATIONS AND ADMINISTRATION

Section 1: Fiscal Year. The fiscal year of the Corporation shall begin on January 1 and end on December 31 of each year.

Section 2: Funds. All funds of the Corporation shall be deposited in such banks, trust companies, or other reliable depositories as the Board from time to time may determine. All checks, drafts, endorsements, notes and evidence of indebtedness of the Corporation shall be signed by such officers or agents of the Corporation and in such manner as the Board may determine from time to time. Endorsements for deposits to the credit of the Corporation shall be made in such manner as the Board may determine from time to time.

Section 3: Contracts. The Chair, or any other officer or agent specifically authorized by the Board may, in the name of and on behalf of the Corporation, enter into those contracts or execute and deliver those instruments that are specifically authorized by the Board. Without the express and specific authorization of the Board, no officer or agent may enter into any contract or execution or deliver any instrument in the name of or on behalf of the Corporation.

Section 4: Brown Act Compliance. To the extent that the Corporation is subject to the open meeting requirements of the Ralph M. Brown Act, then the Board will comply with the provisions of Government Code §54950 through and including §54961. To the extent that any provisions of these Bylaws are inconsistent with the Ralph M. Brown Act, the provisions of said Act shall prevail. In the event the Corporation is not required to comply with the Brown Act, then the Board will not endeavor to meet the requirements of the Brown Act.

ARTICLE XII AMENDMENT

Except as otherwise provided herein, and subject to the power of Directors to amend or repeal the Bylaws, these Bylaws may be altered, amended or repealed and new Bylaws may be adopted by an affirmative vote of a majority of the Directors present at any regular or special meeting, a quorum being assembled, provided that written notice of such meeting, setting forth in detail the proposed revision(s) and explanation(s) therefore, be given not less than seven (7) days prior to such meeting.

CERTIFICATE OF SECRETARY

I, [Secretary Name], certify as follows:

1. I am the duly elected and acting Secretary of Travel Santa Ana, a California Nonprofit Mutual Benefit Corporation;
2. That these Bylaws, consisting of eleven (11) pages, inclusive, are the Bylaws of the Corporation as adopted by the Board of Directors on [redacted], 2020;
3. That these Bylaws have not been amended or modified since that date.

[Secretary Name], Secretary

2021-2025

**SANTA ANA
TOURISM MARKETING DISTRICT
MANAGEMENT DISTRICT PLAN**

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

March 19, 2020

CONTENTS

I.	OVERVIEW	3
II.	BACKGROUND	4
III.	BOUNDARY	5
IV.	BUDGET AND SERVICES.....	6
A.	Annual Service Plan.....	6
B.	Annual Budget	8
C.	California Constitutional Compliance	8
D.	Assessment.....	9
E.	Penalties and Interest	10
F.	Time and Manner for Collecting Assessments	11
V.	GOVERNANCE.....	12
A.	Owners' Association.....	12
B.	Brown Act and California Public Records Act Compliance	12
C.	Annual Report.....	12
	APPENDIX 1 – LAW.....	13
	APPENDIX 2 – ASSESSED BUSINESSES	24



I. OVERVIEW

Developed by Travel Santa Ana (TSA), a non-profit organization, the Santa Ana Tourism Marketing District (SATMD) is an assessment district proposed to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors.

Location: The proposed SATMD includes all lodging businesses with seventy (70) rooms or more located within the boundaries of City of Santa Ana, as shown on the map in Section III.

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

Budget: The total SATMD annual budget for the initial year of its five (5) year operation is anticipated to be approximately \$2,400,000.

Cost: The annual assessment rate is two percent (2%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays pursuant to contracts executed prior to January 1, 2021; and stays by any federal or state officer or employee while on official business only and when payment for such occupancy is made directly to the operator by duly authorized voucher payment from a governmental accounting office. This exemption does not exempt a transient who is employed by the United States government or the state or their respective instrumentalities from payment of the assessment when the payment is later to be reimbursed by the United States government or the state or their respective instrumentalities.

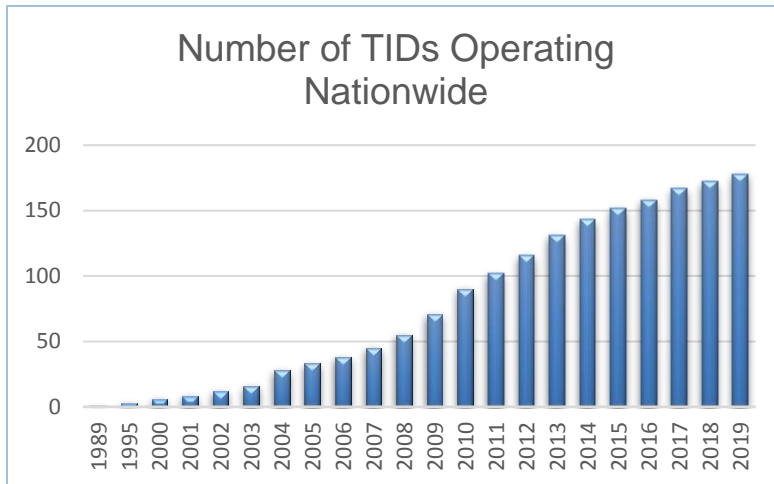
Collection: The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the SATMD. The City shall take all reasonable efforts to collect the assessments from each lodging business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

Duration: The SATMD will have a five (5) year life, beginning January 1, 2021 through December 31, 2025. Once per year, beginning on the anniversary of SATMD renewal, there is a thirty (30) day period in which owners jointly paying fifty percent (50%) or more of the total assessment may protest and initiate a City Council hearing on SATMD termination.

Management: Travel Santa Ana will serve as the SATMD's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan, and must provide annual reports to the City Council.

II. BACKGROUND

TMDs are an evolution of the traditional Business Improvement District. The first TMD 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 – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TMD laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TMDs without a state law.



California's TMDs collectively raise over \$275 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Santa Ana lodging businesses invest in stable, lodging-specific marketing programs, and promote Santa Ana as a tourist destination.

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

districts. TMDs allow lodging business owners to organize their efforts to increase room night sales and overall tourism. Lodging business owners within the TMD pay an assessment and those funds are used to provide services that increase room night sales.

In California, TMDs 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 TMDs 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 TMDs:

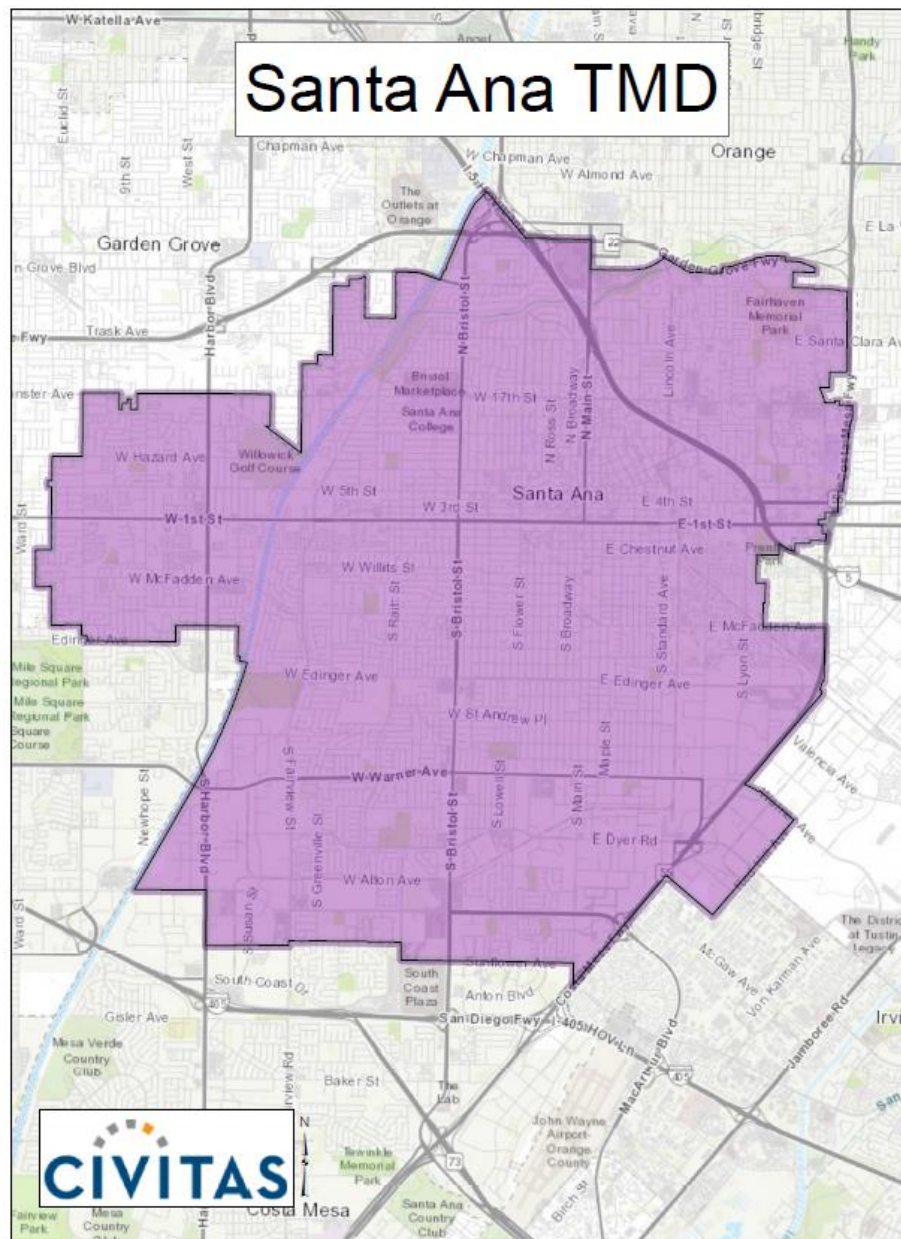
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed,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

III. BOUNDARY

The SATMD will include all lodging businesses with seventy (70) rooms or more, existing and in the future, available for public occupancy within the boundaries of City of Santa Ana.

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

The boundary, as shown in the map below, currently includes eighteen (18) lodging businesses. A complete listing of lodging businesses within the SATMD can be found in Appendix 2.

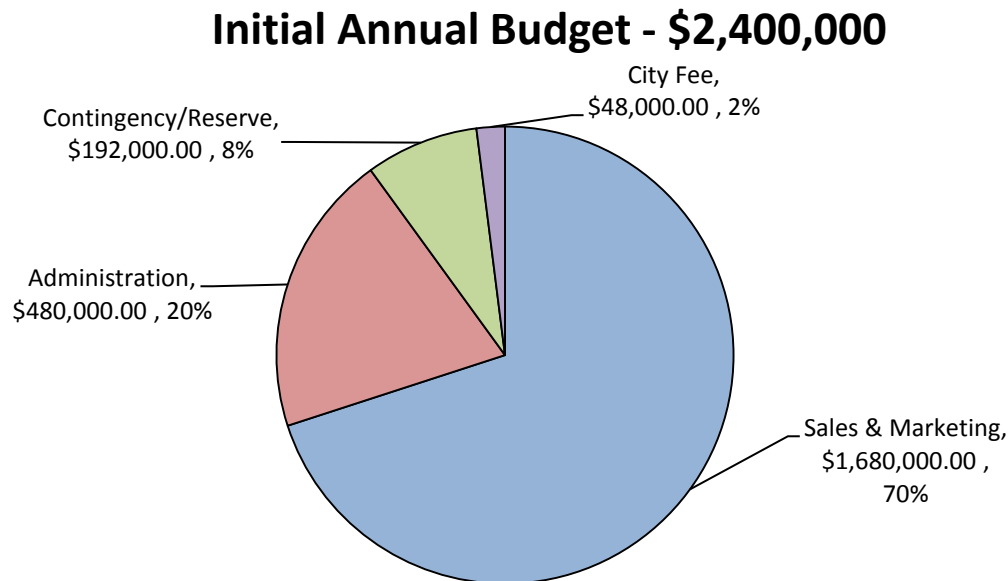


IV. BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the assessed lodging businesses. These specific benefits or privileges granted to assessed lodging businesses are not provided to non-assessed businesses and do not exceed the reasonable cost to the City of conferring the specific benefits or granting the privileges. The privileges and services provided with the SATMD funds are sales and marketing programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit the assessed businesses. A detailed annual budget will be developed and approved by TSA. The table below illustrates the initial annual budget allocations. The total initial budget is \$2,400,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the TSA board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. For example, the City and TSA may fluctuate the SATMD's budget allocation for the Sales and Marketing category from its current seventy percent (70%) to a maximum budget allocation of eighty-five percent (85%) or down to a minimum budget allocation of fifty-five percent (55%). 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 SATMD, any and all assessment funds may be used for the costs of defending the SATMD. In the first year of operation, the costs of creating the SATMD may be repaid by deducting repayment funds proportionally from budget categories.

Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). 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, as appropriate.

The staffing levels necessary to provide the services below will be determined by TSA on an as-needed basis.

Sales and Marketing

A sales and marketing program will promote assessed businesses and Santa Ana as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Santa Ana as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed businesses;
- Attendance of trade shows to promote overnight visitation to assessed businesses;
- Sales blitzes for assessed businesses;
- Familiarization tours of assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed businesses as well as all events, attractions, and reasons to visit (Stay, Shop, Dine, Play);
- Attendance of professional industry conferences and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists and group events to assessed businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses; and
- Development and maintenance of a website designed to promote overnight visitation to the city and promote Santa Ana as a tourism destination highlighting the assessed businesses, as well as all events, attractions, and reasons to visit (Stay, Shop, Dine, Play) to increase overnight visitation at assessed lodging businesses.

Administration and Operations

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

City Administration Fee

The City of Santa Ana shall be paid a fee equal to two percent (2%) of the amount of assessment collected, to cover its costs of collection and administration.

Contingency/Reserve

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the TSA Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the TSA Board. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the TSA Board. The reserve fund may be used for the costs of renewing the SATMD.

B. Annual Budget

The total five (5) year improvement and service plan budget is projected at approximately \$2,400,000 annually, or \$12,000,000 through 2025. This amount may fluctuate as sales and revenue increase at assessed businesses, but is not expected to change significantly over the term.

C. California Constitutional Compliance

The SATMD 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 SATMD 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 SATMD, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

1. Specific Benefit

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

The assessment imposed by this SATMD is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in room night sales. The specific benefit of an increase in room night sales for assessed lodging businesses will be provided only to lodging businesses paying the district assessment, with marketing and sales programs promoting lodging businesses paying the SATMD assessment. The marketing and sales programs will be designed to increase 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 room night sales to the assessed lodging businesses.

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

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

² Cal. Const. art XIII C § 1(e)(1)

³ Government Code § 53758(a)

2. Specific Government Service

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

3. Reasonable Cost

SATMD 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 TSA, and reports submitted on an annual basis to the City. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from SATMD-funded activities, be featured in advertising campaigns, and benefit from other SATMD-funded services. Non-assessed lodging businesses will not receive these, nor any other, SATMD-funded services and benefits.

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

D. Assessment

The annual assessment rate is two percent (2%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays pursuant to contracts executed prior to January 1, 2021; and stays by any federal or state officer or employee while on official business only and when payment for such occupancy is made directly to the operator by duly authorized voucher payment from a governmental accounting office. This exemption does not exempt a transient who is employed by the United States government or the state or their respective instrumentalities from payment of the assessment when the payment is later to be reimbursed by the United States government or the state or their respective instrumentalities

The term “gross room rental revenue” as used herein means: the total consideration charged to transients as shown on the guest receipt for the occupancy of space in a hotel, including charges for equipment (such as rollaway beds, cribs and television set, etc.), and in-room services (such as movies and other services not subject to state taxes), valued in money, whether received or to be received in money, goods, labor or otherwise. It shall include all receipts, cash, credit, property and services of any kind or nature without any deduction therefrom whatsoever. The costs of additional goods and services, which are not "rent," but which may be sold as a package with the room (such as meals, excursions, and recreational services), must be accounted for in accordance with the rules and

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

⁶ Government Code § 53758(b)

regulations promulgated by the City. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

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

TSA shall not issue debt of any kind; and shall only fund expenses with recurring assessment revenue collected or the reserve balance.

E. Penalties and Interest

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

1. *Original Delinquency Penalty:* Any lodging business which fails to remit any assessment within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency Compounding Penalty:* Any lodging business which fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay an additional delinquency penalty of ten percent (10%) of the amount of the assessment and the ten percent (10%) penalty first imposed. Any lodging business which fails to remit any delinquent remittance on or before a period of sixty (60) days following the date on which the remittance first became delinquent shall pay an additional delinquency penalty of ten percent (10%) of the amount of the assessment and the ten percent (10%) penalty first imposed together with the additional ten percent (10%) penalty imposed.
3. *Audit Deficiency Compounding Penalty:* If, upon audit by the City, a lodging business is found to be deficient in either its return or its remittance or both, the City shall immediately assess the lodging business the amount of the net deficiency plus an audit deficiency penalty of ten percent (10%) of the amount of the net deficiency. If said lodging business's remittance was deficient for a period of greater than thirty (30) days following the date on which remittance was first delinquent, said lodging business shall pay an additional audit deficiency penalty of ten percent (10%) of the net deficiency and the ten percent (10%) penalty first imposed. If said lodging business's remittance was deficient for a period of greater than sixty (60) days following the date on which the remittance first became delinquent, said lodging business shall pay an additional audit deficiency penalty of ten percent (10%) of the amount of the assessment and the ten percent (10%) penalty first imposed together with the additional ten percent (10%) penalty imposed

4. *Fraud:* If the City determines that the nonpayment of any remittance due under this article is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subparagraphs (1) and (2) of this section.
5. *Interest:* In addition to the penalties imposed, any lodging business who fails to remit any assessment imposed by this article shall pay interest at the rate of one and one-half percent (1.50%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
6. *Penalties Merged with Assessment:* Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the assessment herein required to be paid.

F. Time and Manner for Collecting Assessments

The SATMD assessment will be implemented beginning January 1, 2021 and will continue for five (5) years through December 31, 2025. The City shall be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The City shall take all reasonable efforts to collect the assessments from each lodging business. The City shall forward the assessments collected to the Owners' Association.

V. GOVERNANCE

A. Owners' Association

The City Council, through adoption of this 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 SATMD as defined in Streets and Highways Code §36612. By adoption of this Plan, the City Council has determined that the non-profit organization Travel Santa Ana (TSA) will serve as the Owners' Association for the SATMD and the City will contract with TSA for providing the SATMD improvements and services.

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 TSA board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners' Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

C. Annual Report

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

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

APPENDIX 1 – LAW

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

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

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

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

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

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

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

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

36602. Purpose of part

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

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

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

36603.5. Part prevails over conflicting provisions

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

36604. Severability

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

ARTICLE 2. Definitions

36606. “Activities”

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

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

36606.5. “Assessment”

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

36607. “Business”

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

36608. “City”

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

36609. “City council”

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

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

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

36610. “Improvement”

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

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

36611. “Management district plan”; “Plan”

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

36612. “Owners’ association”

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

36614. “Property”

“Property” means real property situated within a district.

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

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

36614.6. “Property-based assessment”

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

36614.7. “Property-based district”

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

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

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

36615.5. “Special benefit”

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

36616. “Tenant”

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

ARTICLE 3. Prior Law

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

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

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

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

36620.5. Requirement of consent of city council

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

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

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

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

36622. Contents of management district plan

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

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

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

36623. Procedure to levy assessment

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

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

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

36624. Changes to proposed assessments

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

36625. Resolution of formation

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

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

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

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

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

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

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

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

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

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

36626. Resolution establishing district

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

36627. Notice and assessment diagram

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

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

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

36628.5. Assessments on businesses or property owners

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

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

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

36630. Expiration of district; Creation of new district

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

CHAPTER 3. Assessments

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

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

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

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

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

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

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

36633. Time for contesting validity of assessment

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

36634. Service contracts authorized to establish levels of city services

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

36635. Request to modify management district plan

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

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

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

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

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

36637. Reflection of modification in notices recorded and maps

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

CHAPTER 3.5. Financing

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

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

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

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

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

CHAPTER 4. Governance

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 5. Renewal

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

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

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

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

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

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

APPENDIX 2 – ASSESSED BUSINESSES

ASSESSED BUSINESS NAME	ADDRESS
Embassy Suites	1325 E Dyer Rd Santa Ana, CA 92705-5615
Doubletree Hotel Santa Ana	201 E Macarthur Blvd Santa Ana, CA 92707
La Quinta Inn #2006	2721 S Hotel Terrace Dr Santa Ana, CA 92705-5603
Santa Ana California Lodge	2909 S Bristol St Santa Ana, CA 92704-6206
Country Inn and Suites John Wayne Airport	2701 S Hotel Terrace Dr Santa Ana, CA 92705
Holiday Inn	2726 S Grand Ave Santa Ana, CA 92705-5404
Doubletree Club Hotel	7 Hutton Centre Dr Santa Ana, CA 92707-5794
Holiday Inn Express & Suites Santa Ana	1600 E 1St St Santa Ana, CA 92701-6316
Courtyard by Marriott Santa Ana	8 E Macarthur Pl Santa Ana, CA 92707
South Coast Metro Courtyard	3002 S Harbor Blvd Santa Ana, CA 92704-6430
Motel 6 #1256	1717 E Dyer Rd Santa Ana, CA 92705
Best Western OC Airport North	2700 S. Hotel Terrace Dr., Sana Ana, CA 92705
Comfort Inn & Suites OC John Wayne Airport	2620 S Hotel Terrace Dr Santa Ana, CA 92705
Red Roof Inn	2600 N Main St Santa Ana, CA 92705-6601
Candlewood Suites	2600 S Red Hill Ave Santa Ana, CA 92705
Hampton Inn & Suites	2720 S Hotel Terrace Dr Santa Ana, CA 92705
Budget Inn & Suites of Santa Ana	1108 N. Harbor Blvd., Santa Ana, CA 92703-1605
Motel 6 #738	1623 E 1St St Santa Ana, CA 92701-6316