



AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Mark Sawicki

SUBJECT: Oakland Tourism Business Improvement
District 2015

DATE: March 31, 2015

City Administrator
Approval

Date

4/8/15

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Staff recommends that the City Council conduct:

A Public Hearing On April 21, 2015 To Satisfy The Public Meeting Requirement Regarding The Proposed Formation Of An Oakland Tourism Business Improvement District 2015 (OTBID) And Pursuant To California Streets And Highways Code Section 36623 And Government Code Section 54954.6.

OUTCOME

This April 21, 2015 Public Meeting is pursuant to California Streets and Highways Code Section 36623 and Government Code Section 54954.6, which require one public meeting and one public hearing to be held during the process of forming the proposed Oakland Tourism Business Improvement District 2015 (OTBID). The purpose of both the public meeting and the public hearing is to provide an opportunity for affected business owners to protest and/or to provide public testimony regarding the proposed formation of the above special assessment district.

There is no related legislation proposed for adoption by City Council at this Public Meeting.

This April 21, 2015 Public Meeting will be followed by a related Public Hearing scheduled for May 19, 2015, which is intended to provide further opportunity for additional public testimony and/or protest regarding the proposed OTBID. If, at the close of the May 19, 2015 public hearing, written protests are received from owners of affected lodging businesses who represent 50 percent (50%) or more of the estimated annual assessments to be levied, then a majority protest will exist and the OTBID shall not be established and the assessment shall not be imposed.

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If, however, there is insufficient protest to stop formation, then the district may be formed by adopting a resolution to form the district which will be presented at the May 19, 2015 public hearing, resulting in the assessment taking effect on June 1, 2015 and ending on May 31, 2020.

EXECUTIVE SUMMARY

On March 31, 2015, City Council adopted a Resolution of Intention to form the proposed OTBID, supported by the fact that a weighted 53.82% of potentially affected businesses have submitted petitions in favor of formation, as required by Streets and Highways Code section 36621(a). Pursuant to adoption of the above Resolution of Intention, this April 21, 2015 Public Meeting provides an opportunity for affected businesses to protest or provide public testimony regarding the proposed formation of the OTBID. On May 19, 2015, a related Public Hearing will also be held to provide further opportunity for public protest and/or testimony. If, at close of the May 19, 2015 Public Hearing, no majority protest exists (as defined above), then the proposed district may be formed. If formed, the district anticipates generating revenues of \$3.4 million per year, or, approximately \$17 million over a proposed five (5) year term beginning June 1, 2015 and ending May 31, 2020.

The proposed assessment is \$2.50 per occupancy per night for lodging businesses with eight (8) or more rooms located within the City of Oakland with specific exemptions described above.

Monies generated will be administered by Visit Oakland, acting as the OTBID's Owners' Association, to coordinate and to provide enhanced special benefit marketing, advertising, sales and special events intended to increase room occupancy for assessed lodging businesses by at least three percent (3%) over the proposed five (5) year term of the district.

BACKGROUND/LEGISLATIVE HISTORY

Tourism Improvement Districts (TBIDs) are an evolution of the traditional Business Improvement District. The first TBID was formed in West Hollywood, California in 1989. Since then, over 80 California destinations have followed suit, resulting in California's TBIDs collectively generating over \$150 million per year for local destination marketing. In recent years other U.S. cities and states have adopted—or are in process of adopting --their own TBID legislation based on the California model (e.g. Washington, Montana and Texas).

In California, Streets and Highways code section 36600 *et seq.* (Property and Business Improvement District Law of 1994) is the latest legislation that allows for TBIDs to be established undertaking a range of special benefit services, independent from government, to support the economic viability of affected commercial areas.

In 1999, the Oakland City Council also authorized initiation of a Neighborhood Business Improvement District Program (Resolution No. 75323 C.M.S.) to assist business and property owners in their attempts to form such business improvement districts.

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Accordingly, in November 2008, a Resolution of Intention to form a citywide TBID was adopted by City Council (Resolution No. 81641 C.M.S.); however, related formation efforts were later withdrawn due to the inclusion of Measure C on the local ballot. Measure C (which passed in July 2009 and became effective in January 2010) provided for one half of a three percent (3%) increment to the local Transient Occupancy Tax to fund Oakland Convention and Visitors Bureau operations. Currently, this funding source generates approximately \$1.5 to \$1.9 million per year. However, in early 2014, with the hope of keeping pace with increasingly better-funded marketing initiatives in neighboring Bay Area jurisdictions, local hotel industry stakeholders decided to revisit the effort to form a TBID in Oakland. Accordingly, with assistance from Civitas, a Sacramento-based private consultant firm, educational outreach to affected lodging businesses began. In July 2014, based on initial supportive feedback, industry representatives approached the City for assistance with renewed TBID formation efforts. Consequently, in February 2015, a proposed OTBID 2015 Management District Plan was finalized (*Attachment A* to this report) and, in March 2015, -- pursuant to Streets and Highways Code Section 36621 (a) - -petitions duly endorsed by affected business owners representing more than 50 percent (more than 50%) of the total value of assessments that would be imposed if the OTBID is established were submitted to the City.

On March 31, 2015, City Council adopted a related Resolution of Intention to form the proposed OTBID, scheduling a public meeting for April 21, 2015 (not less than 10 days after giving notice thereof is given) and a public hearing for May 19, 2015 (not less than 45 days after notice thereof is given). Per legislative requirements, such notice (of both the public meeting and the public hearing) was mailed to each affected business on or before April 3, 2015. Pursuant to Streets and Highways Code Section 36623(b) and Government Code Section 54954.6 the notice included:

- The proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the amount of assessment to be levied;
- A description of the special benefits that the assessment will fund;
- The address to which business owners may mail a protest against the assessment;
- The telephone number and address of an individual, office or organization that interested persons may contact to receive more information about the assessment;
- A statement that a majority protest will cause the assessment to be abandoned; and,
- The dates, times and locations of the public meeting and public hearing described above.

As mentioned, should a majority protest exist at the close of the public hearing (currently proposed for May 19, 2015), the OTBID shall not be established and the assessment shall not be imposed. If, however, no majority protest exists, then City Council may consider whether or not to form the proposed district by adopting a resolution to form the district which will be presented at the May 19, 2015 public hearing.

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If the district is formed it will generate approximately \$3.4 million per year, or, \$17 million of special assessment revenues over the proposed five (5) year term of the district.

The proposed assessment is \$2.50 per occupancy per night for lodging businesses with eight (8) or more rooms located within the City of Oakland. Exemptions to the assessment include the portion of stays that exceed thirty (30) consecutive days, stays by any officer or employee of a foreign or domestic government agency--provided billing is made directly to and payment is received from the government agency qualifying for this exemption, and room occupancies resulting from stays pursuant to contracts executed prior to June 1, 2015.

Currently, there are seventy-one (71) businesses that would be affected. A list of those businesses appears in Appendix 2 of the OTBID 2015 Management District Plan (*Attachment A* to this report).

Funds generated will be used to pay for special benefit marketing, advertising, sales and special events intended to increase room occupancy for affected lodging businesses by at least three percent (3%)--from seventy-five percent (75%) to seventy-eight percent (78%)--over the term of the district.

Details of the OTBID's proposed service plan can be found in Section V.A. of the OTBID Management District Plan (*Attachment A* to this report).

Visit Oakland will act as the OTBID's Owners' Association to administer the district.

If the proposed OTBID is formed it would be the sixteenth (16th) business improvement district/community benefit district (BID/CBD) to be formed in Oakland. Other local BIDs/CBDs include:

- Lakeshore BID (formed in 1997, renewed in 2002 and 2012);
- Rockridge BID (formed in 2000);
- Fruitvale BID (formed in 2001, renewed in 2006 and 2011);
- Montclair BID (formed in 2001);
- Temescal/Telegraph BID (formed in 2004, renewed in 2014);
- Laurel BID (formed in 2005);
- Koreatown/Northgate Community Benefit District (CBD) (formed in 2007);
- Downtown Oakland CBD (formed in 2008);
- Lake Merritt/Uptown CBD (formed in 2008); and,
- Jack London Improvement District (formed in 2013).

Collectively, Oakland's ten (10) existing business and property-based BIDs/CBDs generate approximately \$4.4 million per year to pay for special services (e.g. cleaning, private security, and marketing), which--similar to the proposed OTBID--aim to proportionally benefit assessed

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business and property owners. Such special benefit services also enhance the overall economic development climate of affected commercial neighborhoods.

ANALYSIS

Oakland’s funding ranks tenth out of eleven Bay Area Visitors and Convention Bureaus. Accordingly, in early 2015 the San Francisco Business Times published the following data regarding eleven of the largest convention bureaus in the Greater Bay Area:

Organization Name	2013 Revenue
1. San Francisco Travel	\$29,500,000
2. Monterey County Convention and Visitors Bureau	\$ 6,313,000
3. Sonoma County	\$ 5,711,727
4. Team San Jose	\$ 4,500,000
5. Visit Napa Valley	\$ 4,252,000
6. San Mateo County/Silicon Valley Convention and Visitors Bureau	\$ 2,800,000
7. Visit Tri-Valley	\$ 2,500,000
8. Santa Clara Convention and Visitors Bureau	\$ 2,289,642
9. Santa Cruz County Conference and Visitors Council	\$ 1,905,565
10. Visit Oakland	\$ 1,500,000
11. Visit Berkeley	\$ 735,000

Additionally, all of Oakland’s major competitors in Northern California, including, Sacramento, San Jose, Santa Clara, San Francisco, Berkeley, Richmond, and Walnut Creek have implemented Tourism Business Improvement Districts.

To remain competitive with neighboring and (frequently) better funded Bay Area Visitors and Convention Bureaus, Oakland lodging industry stakeholders (as evidenced by the endorsed petitions described above) seek to generate additional marketing funds of their own, by way of the proposed OTBID assessment.

Given current tightening of municipal budgets, the proposed OTBID represents a unique opportunity for the City to create a viable, cost neutral funding source to increase key marketing services for the lodging sector of the local tourism industry.

Since OTBID formation efforts are driven by district stakeholders themselves, and the proposed district will be self-funded (by the proposed special assessment) and self-administered (by the OTBID Owner’s Association), the formation proposal also represents a positive step towards community self-empowerment as well as an opportunity for the City to develop more public-private partnerships for achieving mutual economic development goals, all of which may merit the City’s support.

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PUBLIC OUTREACH/INTEREST

For the proposed OTBID to be formed enabling legislation does not require City staff to conduct public outreach other than mailing of the above notice required by Streets and Highways Code Section 36623(b) and Government Code Section 54954.6 and the required posting of related hearings by the Office of the City Clerk. District stakeholders also performed outreach necessary to secure the requisite number of business owner petitions to have qualified for City Council's adoption of the March 31, 2015 Resolution of Intention to form the proposed OTBID.

COORDINATION

The City Controller Bureau of the Finance and Management Agency, the Office of the City Attorney, and the Revenue Management Bureau of the Finance and Management Agency were consulted in the preparation of this report and/or its attachments and exhibits.

COST SUMMARY/IMPLICATIONS

Formation of the proposed OTBID is anticipated to be cost neutral to the City's general fund.

The cost of City staff time to provide technical assistance to the OTBID formation effort and to ongoing administration of the citywide BID Program is already included in the City's approved fiscal year 2014-2015 budget and will be included in the development process for the City's fiscal year 2015- 2017 Proposed Policy Budget as well as in future budget development processes.

If the OTBID levy is approved, the City's Revenue Management Bureau will collect the assessment (on a monthly, semi-annual or annual basis) and remit the amount collected to Visit Oakland, less a three percent (3%) City cost recovery administrative fee. The three percent (3%) administrative fee is estimated to total approximately \$100,000 per year and will be deposited into the General Purpose Fund (1010) primarily to offset the cost of staffing support from the City's Revenue Management Bureau and the Economic and Workforce Development Department. This arrangement is pursuant to the OTBID Management Plan (*Attachment A* to this report) and a written agreement to be executed between the City and Visit Oakland, the OTBID's designated Owners' Association.

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SUSTAINABLE OPPORTUNITIES

Economic: The proposed levy will fund activities aimed at increasing room sales of affected lodging businesses. Increased room sales could, in turn, increase job opportunities within the local lodging sector.

Environmental: No specific environmental opportunities were identified in the preparation or in the adoption of the attached Resolution of Intention.

Social Equity: Representatives of assessed lodging businesses themselves will sit on the board of the OTBID's Owner's Association (Visit Oakland) and be responsible for administering district revenues. This model is consistent with social equity goals.

For questions regarding this report, please contact Maria Rocha, BID Program Coordinator, at 510-238-6176.

Respectfully submitted,



Mark Sawicki, Director
Economic and Workforce Development Department

Prepared by:
Maria Rocha, BID Program Coordinator

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MANAGEMENT DISTRICT PLAN



OAKLAND TOURISM BUSINESS IMPROVEMENT DISTRICT 2015

*Formed pursuant to the Property and Business Improvement District Act of 1994
(Street and Highways Code §36600 et seq.)*

Revised: February 17, 2015

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1. OVERVIEW

The Oakland Tourism Business Improvement District 2015 (OTBID) is an assessment district proposed to provide specific benefits directly to assessed lodging businesses, by funding efforts to increase room night sales for assessed lodging businesses. This approach has been used successfully in other destination areas throughout the country.

Name: The name of the proposed business improvement district shall be the "Oakland Tourism Business Improvement District 2015."

Location: The proposed OTBID includes all lodging businesses (as defined in Section IV below) with eight (8) or more rooms, located within the boundaries of the City of Oakland.

Services: The OTBID is designed to provide specific benefits directly to assessed lodging businesses by increasing room night sales. Marketing and advertising, sales, and special events will increase overnight tourism and market assessed lodging businesses as tourist, meeting and event destinations, thereby increasing room night sales. OTBID services will not duplicate services of other Business Improvement Districts (BIDs) or Community Benefit Districts (CBDs) in Oakland. However, the OTBID may partner with other BIDs or CBDs for promotional efforts.

Management: Visit Oakland will serve as the OTBID's Owners' Association as detailed in Section VI. A. below. 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.

Budget: The total OTBID annual budget for the initial year of its five year operation is anticipated to be approximately \$3,400,000. This budget is expected to fluctuate as room sales do, but is not expected to significantly change over the OTBID's term.

Assessment: The annual assessment rate is two dollars and fifty cents (\$2.50) per occupancy (as defined herein) per night. "Occupancy" means the compensated use of, or the unexercised right to use, a room in an assessed lodging business. Assessments will not be collected on the portion of stays that exceed thirty (30) consecutive days, nor on stays by any officer or employee of a foreign or domestic government on official business, provided billing is made directly to and payment is received from the government agency qualifying for this exemption. Assessments pursuant to the OTBID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to June 1, 2015.

Collection: The assessment is payable on a quarterly, monthly, or annual basis as described in Section V E. Any business which fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment. Nonpayment of any assessment due is the result of fraud, shall be assessed a penalty of twenty-five

percent (25%) of the amount of the assessment in addition to the penalties. The City will be responsible for receipt and disbursement of payments of the assessment from each affected lodging business. Visit Oakland, the designated OTBID Owners' Association, shall be responsible for pursuing any delinquent payments, including related penalties and interest.

Duration: The proposed OTBID will have a five-year life, beginning June 1, 2015 through May 31, 2020. Once per year beginning on the anniversary of district formation there is a 30-day period in which owners paying more than fifty percent (50%) of the assessment may protest and initiate a City Council hearing on district disestablishment.

II. IMPETUS

There are several reasons why now is the right time to form a TBID in Oakland and secure stable funding for tourism promotion; the information below provides statistics on Visit Oakland's levels of funding and marketing programs:

1. Current Funding

Visit Oakland is currently funded by a dedicated hotel tax, Measure C, which was passed by voters in 2009. The Measure C funds provide Visit Oakland with 1.5% of all Oakland gross hotel revenues that are subject to the Transient Occupancy Tax. Dependent on the occupancy, the annual budget for Visit Oakland ranges from \$1.5 million to \$1.9 million. The current average occupancy rate for lodging businesses with 8 or more rooms in Oakland is seventy-five percent (75%). The goal of the OTBID is to raise the average occupancy rate for lodging businesses with eight or more rooms by three percent (3%) to seventy-eight percent (78%) within five years. Transient Occupancy Taxes raise \$18.1 million currently. The goal of the OTBID is to increase that amount by one to two percent annually resulting in an eight percent (8%) increase at the end of the five year term.

2. Advertising, Marketing PR & Sales

Visit Oakland produces a complete strategic plan and annual report. All details on current marketing, sales and PR programs can be found at visitoakland.org/partner. Below are some key highlights of what has been accomplished with the limited funding:

- New destination website launched spring 2014
- New destination branding & advertising campaign spring 2014
- Press tours with over 60 journalists from 74 media outlets
- Secured positive Oakland stories with over 11 million in media circulation
- 1.7 million requested room nights and 263 leads for group business
- Attended 10 tradeshow per year, hosted multiple large FAM tours
- Produced Oakland Restaurant Week: over 50 participating restaurants and over 2 million consumers reached.

3. Additional Funding

It takes money to compete against other better-funded destination marketing efforts in the Bay Area. Out of the eleven Convention & Visitors Bureaus (CVBs) in the San Francisco Bay Area, Visit Oakland is ranked as #10 in funding. The top five CVBs are listed below:

Funding of Top Five Convention and Visitors Bureaus in the San Francisco Bay Area

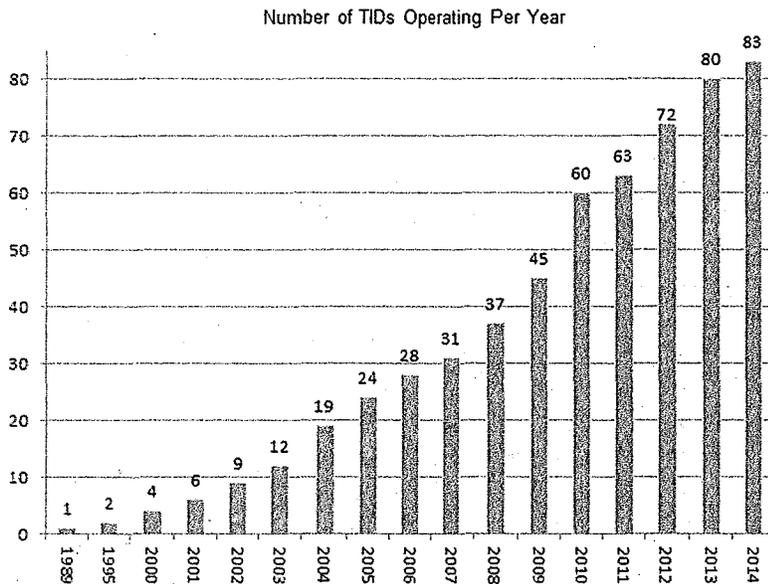
San Francisco Travel	\$29,500,000
Monterey County CVB	\$6,313,000
Sonoma County	\$5,711,727

Team San Jose	\$4,500,000
Visit Napa Valley	\$4,252,000

Oakland's current funding is inadequate and not competitive in the marketplace. Sales and advertising dollars are needed to reach the leisure visitor, business traveler and group planners (international tour, meeting, convention planners and sports planners).

III. BACKGROUND

TBIDs are an evolution of the traditional Business Improvement District. The first TBID was formed in West Hollywood, California in 1989. Since then, over eighty California destinations have followed suit. In recent years, other states have begun adopting the California model – Washington, Montana, and Texas have adopted TBID laws. Several other states are in the process of adopting their own legislation. And, some cities, like Portland, Oregon, have utilized their charter powers to create TBIDs without a state law.



California's TBIDs collectively raise over \$150 million for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Oakland lodging businesses invest in stable, lodging-specific marketing programs.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow lodging business owners to

organize their efforts to increase room night sales. Lodging business owners within the TBID pay an assessment and those funds are used to provide services that increase room night sales.

In California, TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area.

There are many benefits to OTBID:

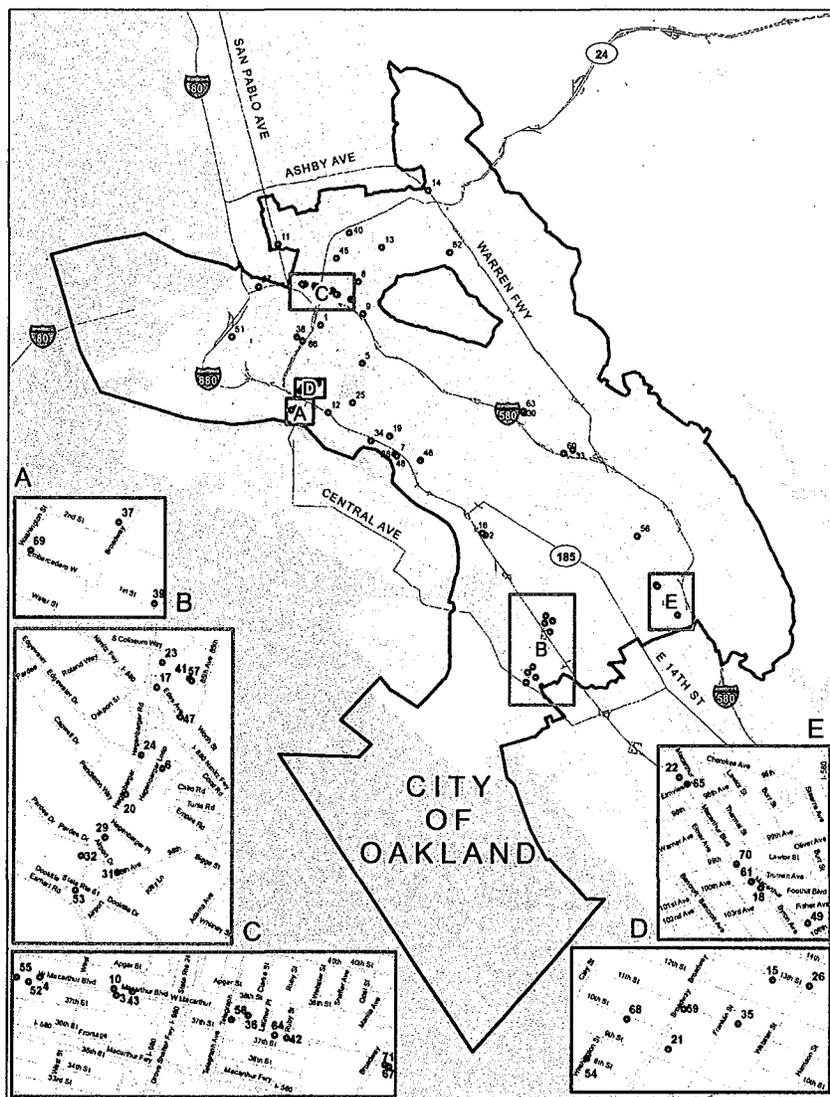
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of assessed lodging businesses in each destination;
- They allow for a wide range of services;
-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

IV. BOUNDARY

The OTBID will include all lodging businesses with eight (8) or more rooms, existing and in the future, available for public occupancy within the boundaries of the City of Oakland. Lodging businesses fitting this description that come in to existence after the OTBID's formation will be subject to the assessment.

As used herein the term "lodging business" means any public or private space or structure for living therein, including but not limited to any: inn, hostelry, tourist home or house, motel rooming house, mobile home or other living place, offering the right to use such space for sleeping or overnight accommodations wherein the owner or operator thereof, for compensation, furnishes such right of occupancy to any transient.

The boundary, as shown in the map below, currently includes seventy-one (71) lodging businesses. A complete listing of lodging businesses within the proposed OTBID can be found in Appendix 2. A map showing current business locations can be found in Appendix 3.



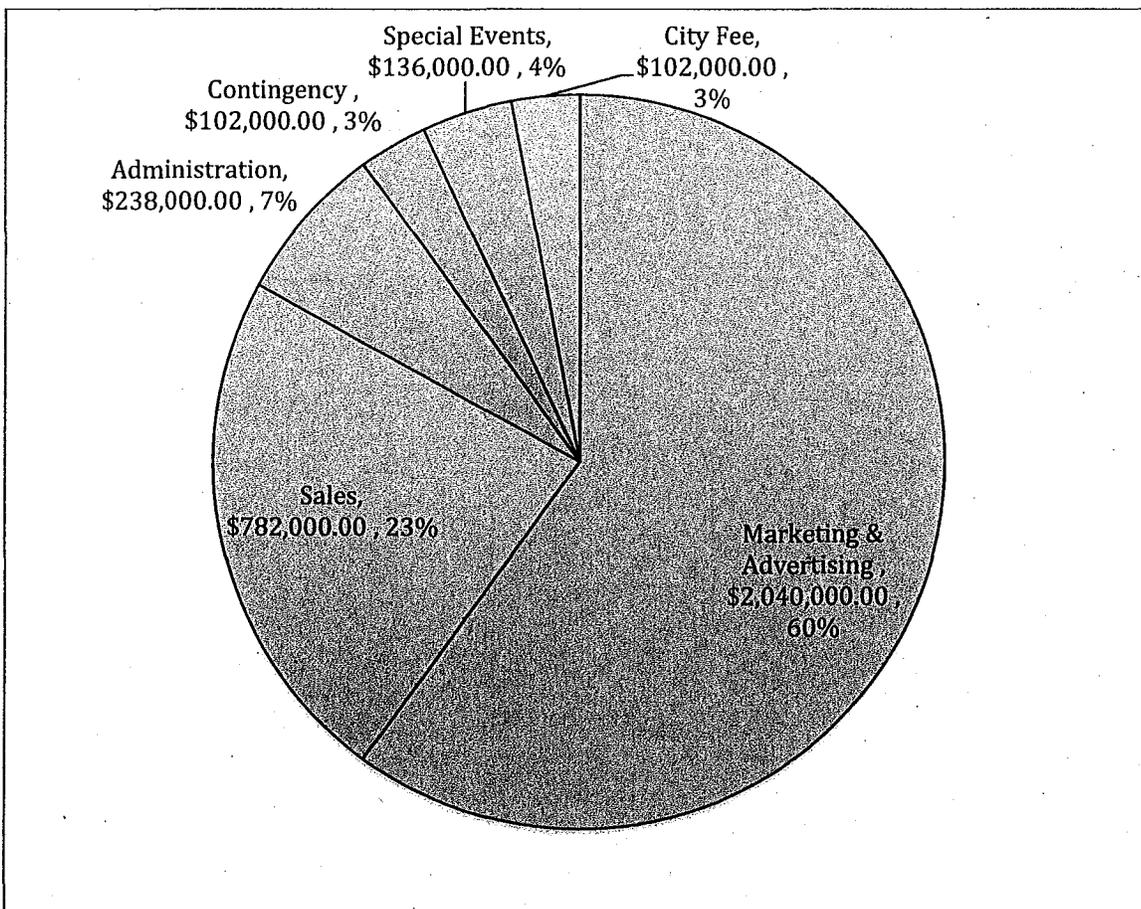
V. BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the assessed lodging businesses that are not provided to those not charged, and which do not exceed the reasonable cost of conferring the benefits or granting the privileges. The privileges and services provided with the OTBID funds are marketing, advertising, and sales available only to Assessed lodging businesses.

A service plan budget has been developed to deliver services that provide a specific benefit to Assessed lodging businesses throughout the OTBID. A detailed annual budget will be developed by the Owners' Association for Oakland City Council approval. The chart below illustrates the initial annual budget allocations.

Initial Year Estimated Budget - \$3,400,000



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. Within any given year, and with the exception of the 3% City fee, adjustments may be made to any service category by the Owners' Association up to ten percent (10%) of the total annual budget for all services. Any adjustments in excess of 10% of the annual

budget must also be approved by the Oakland City Council and may require modification of this Management District Plan. No reallocation of service category funds may cause a category to be eliminated. The Visit Oakland board may annually recommend changes to the budget based upon service needs and such changes shall be included in the annual report submitted to the City for Oakland City Council approval (Streets and Highways Code section 36650). 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 to the OTBID, the Board of Directors may authorize the expenditure of OTBID funds for the costs of defense.

Marketing and Advertising

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

- Assessed lodging businesses will have the benefit of being on the Visit Oakland website with a call to action to book through our booking engine;
- Assessed lodging businesses will be included in all sales and marketing materials for leisure and corporate bookings—driving room night bookings;
- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed lodging businesses;
- Print ads in magazines and newspapers targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Television ads targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring Assessed lodging businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed lodging businesses; and
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed lodging businesses.

Sales

The sales program will be designed to secure direct bookings at assessed lodging businesses. Sales activities may include:

- Sales blitzes for assessed lodging businesses;
- Assessed lodging business will be included in Visit Oakland hosted familiarization tours and media visits;
- Sales staff dedicated to generating room night sales via group and event business;
- Attendance of trade shows to promote assessed lodging businesses; and

- Lead generation activities designed to attract tourists and group events to assessed lodging businesses.

Administration and Operations

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

Contingency/Renewal

A prudent portion of the budget will be allocated to a contingency fund, to account for lower than anticipated collections. The contingency line item is designed as a buffer in case of uncollected assessments. If there are contingency funds collected they may be used for unanticipated program costs, and near the expiration of the district, if there are contingency funds remaining, and business owners wish to renew the district, the contingency funds may be used for renewal costs. If the renewed district includes businesses that are not in this district, the portion of the cost of renewal attributable to those new businesses may not be paid for from the contingency fund.

The Owners' Association may also establish a separate program reserve, pursuant to policies determined by the Owners' Association.

Special Events

The special events portion of the budget will be used to obtain and promote special events that draw overnight visitors to assessed lodging businesses. Assessed lodging businesses shall be the only lodging businesses given the opportunity to sponsor these events and to receive direct booking opportunities.

City Administration Fee

The City of Oakland shall be paid a fee equal to three (3%) of the amount of assessment received to cover its ordinary administrative costs.

B. Determination of Specific Benefit

State law requires that assessment funds be expended on specific benefits conferred directly to the assessed businesses that are not provided to those not charged, and which do not exceed the reasonable cost of conferring the benefits. The services in this OTBID Plan are designed to provide targeted benefits directly to assessed lodging businesses. These services are tailored not to serve the general public, but rather to serve the specific lodging businesses within the OTBID, e.g., the proposed activities are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the OTBID, and are narrowly tailored. OTBID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessed lodging businesses. For example, non-assessed businesses will not be featured in OTBID programs and will not receive sales leads. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed lodging businesses.

Further, the assessment may be utilized to provide specific government services directly to the

assessed businesses that are not provided to those not charged, and which do not exceed the reasonable costs of providing the services. The legislature has recognized that marketing and promotions services like those to be provided by the OTBID are, in the context of assessment districts, government services. Further, the amount of the assessment is no more than necessary to cover the reasonable costs of the proposed activities, and the manner in which the costs are allocated to a business owner bear a fair share or reasonable relationship to the businesses' benefits received from the proposed activities. A specific benefit is not excluded from classification as a "specific benefit" merely because an indirect benefit to a non-assessed business occurs incidentally and without cost to assessed businesses as a consequence of providing the specific benefit to the assessed businesses. To the extent that other, non-OTBID, lodging businesses may receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-OTBID funds, such as Measure C funds. Visit Oakland is currently funded by a dedicated hotel tax, Measure C, which was passed by voters in 2009. The Measure C funds provide Visit Oakland with 1.5% of all Oakland gross hotel revenues that are subject to the Transient Occupancy Tax. Dependent on the occupancy, the annual budget for Visit Oakland ranges from \$1.5 million to \$1.9 million. These funds are available to contribute to any proposed activity that includes benefit to non-assessed lodging businesses, ensuring that assessments will not be used to provide benefit to non-payers.

OTBID assessments shall not exceed the costs of conferring the benefits and granting privy leges described in this Plan. Funds will be managed by the Owners' Association. The Owners' Association shall submit reports on an annual basis to the City as required by Streets & Highways Code section 36650. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed lodging businesses will not receive these, nor any other, district-funded specific services and benefits.

C. Assessment

The assessment rate is two dollars and fifty cents (\$2.50) per occupancy per night. "Occupancy" means the compensated use of, or the unexercised right to use, a room in an assessed lodging business. The assessment rate is a fixed amount, levied upon all assessed businesses at the same rate. Assessed businesses will receive the same level of OTBID services irrespective their location or size. Smaller assessed businesses will cumulatively pay less annually into the TID fund versus larger assessed businesses based on occupancy and available inventory. Assessments will not be collected on the portion of stays that exceed thirty (30) consecutive days (which are also exempt from Transient Occupancy Tax), nor on stays by any officer or employee of a foreign or domestic government on official business, provided billing is made directly to and payment is received from the government agency qualifying for this exemption. Assessments pursuant to the OTBID shall not include room rental revenue resulting from stays pursuant to contracts executed prior to June 1, 2015.

The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. The assessment shall be disclosed as the "OTBID Assessment." The assessment shall not be considered revenue for any purposes, including calculation of transient occupancy taxes.

Bonds shall not be issued.

D. Penalties and Interest

1. Any business which fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. If the City determines that the nonpayment of any assessment due is the result of 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 subsection 1 of this section.
3. In addition to the penalties imposed, any business which fails to remit any assessment imposed shall pay interest at the rate of one half of one percent (0.50%) per month or fraction thereof on the amount of the assessment, inclusive of penalties, from the date on which the assessment first became delinquent until paid.
4. Every penalty imposed and such interest as accrues under the provisions of this section shall become part of the assessment herein required to be paid.
5. The City has the power to impose the penalties described above, and the power to take legal action to collect all delinquent assessments and penalties. However, the City does not have the obligation to take such legal action. The OTBID Owner's Association will have the primary responsibility for pursuing delinquent assessments and for taking legal action for such amounts, as the City may authorize. If the City takes collection or legal action on delinquent assessments and penalties, it will be entitled to compensation for its costs and expenses.

E. Time and Manner for Collecting Assessments

The OTBID assessment will become effective beginning June 1, 2015 and will continue for five years through May 31, 2020. The City will be responsible for receiving and redistributing on-time and late payments of the assessment from effected lodging businesses located in the boundaries of the OTBID (including any penalties and interest). The City has the power to impose the penalties described above, and the power to take legal action to collect all delinquent assessments and penalties. However, the City does not have the obligation to take such legal action here. The OTBID Owner's Association will have the primary responsibility for pursuing delinquent assessments and for taking legal action for such amounts. If the City takes collection or legal action on delinquent assessments and penalties, it will be entitled to compensation for its costs and expenses. The City will be responsible for receiving and redistributing on-time and late payments of the assessment from effected lodging businesses located in the boundaries of the OTBID (including any penalties and interest). The assessment shall be due on a quarterly, monthly, or annual basis depending on business revenue. Each business which received one hundred thousand dollars (\$100,000) in gross receipts during the previous calendar year shall on or before the tenth (10th) day following each month submit the amount of the assessment due. Each business which received between five thousand dollars (\$5,000) and ninety-nine thousand nine hundred ninety-nine dollars (\$99,999) in gross receipts during the previous calendar year shall on or before the last day of the month following the close of each calendar quarter submit the amount of the assessment due. Each business which received under five thousand dollars (\$5,000) in gross receipts during the previous calendar year shall, on or before January 31st of each year, submit the amount of the assessment due. The City shall forward the assessments collected, less the City's

fee, to the Owners' Association pursuant to the terms and conditions outlined in a written agreement to be executed between the City and the Owners' Association.

F. Annual Budget

The total five-year improvement and service plan budget is projected at approximately \$3,400,000 annually, or \$17,000,000 through 2020. This amount may fluctuate as sales and revenue increase at assessed lodging businesses, but is not expected to change significantly over the term.

VI. GOVERNANCE

A. Owners' Association

The Owners' Association of the OTBID as defined in Streets and Highways Code section 36614.5 will be the Oakland Convention and Visitors Bureau, doing business as Visit Oakland. The corporation is a private, not-for-profit, 501(c)(6) organization, which currently has an 18-member board of directors and 10 full time staff. Nine of the current Directors are hoteliers, as required by the Visit Oakland bylaws. In addition to the OTBID funds, Visit Oakland is supported by a dedicated hotel tax, Measure C, which was passed by voters in 2009. The mission of Visit Oakland is to increase tourism's economic impact to Oakland through destination development and brand management. Pursuant to a written agreement to be signed with the City, Visit Oakland will provide the services for the OTBID.

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 is considered a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Visit Oakland board and certain committees, to the extent OTBID business is heard, discussed, or conducted, 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

Visit Oakland shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code section 36650 (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 amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

D. Proposed Rules and Regulations

The following rules and regulations will be employed in the administration of the district.

Competitive Bidding

Visit Oakland will use a competitive bidding process to secure any contracted services for the OTBID.

Conflict of Interest

Any member of the Board of Directors of Visit Oakland shall recuse him or herself from any vote in which a potential conflict of interest is apparent. Such potential conflicts include, but are not limited to, prioritizing projects which result in special benefit to specific business owners, prioritization of series to benefit a particular business owner or group of business owners, and hiring or selecting contractors.

Open Meetings

Meeting of the Board of Directors of Visit Oakland shall be open to all business owners that are paying into the district as well as the general public according to the Ralph M. Brown Act and any other applicable legislation. All OTBID-related reports shall be available for review by any business owner in the district.

STREETS AND HIGHWAYS CODE

Division 18. Parking

Part 7. Property and Business Improvement District Law of 1994

Cal Sts & Hy Code Div. 18, Pt. 7 Note (2015)

*** This document is current through the 2015 Supplement ***
(All 2014 legislation)

36600. Citation of part

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

36601. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Businesses located and operating within 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 businesses in a business district are not taxes for the general benefit of a city, even if property 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.

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

36611. "Management district plan"; "Plan"

Oakland Tourism BID

Management District Plan

February 17, 2015

“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.

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

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

36620. Establishment of property and business improvement district

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

36620.5. Requirement of consent of city council

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

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

(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

(b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:

- (1) A map showing the boundaries of the district.
- (2) Information specifying where the complete management district plan can be obtained.
- (3) Information specifying that the complete management district plan shall be furnished upon request.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed 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.

(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 of the city shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

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

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

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, 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.

36631. Time and manner of collection of assessment; 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; Modification of improvements and activities by adoption of resolution after public hearing

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

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.

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 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.

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.

36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assesses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the area who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

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

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

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

APPENDIX 2 - ASSESSED LODGING BUSINESSES

The list below is current as of the date of this plan.

	Name	Address
1	AVONDALE HOTEL	540 28TH ST
2	BAY BREEZE INN	4919 COLISEUM WAY
3	BAY BRIDGE INN	683 W MACARTHUR BLVD
4	BAY VIEW MOTEL	864 W MACARTHUR BLVD
5	BELLEVUE CLUB	525 BELLEVUE AVE
6	BEST WESTERN AIRPORT INN & SUITE	170 HEGENBERGER LOOP
7	BEST WESTERN PLUS BAYSIDE HOTEL	1755 EMBARCADERO
8	BROADWAY MOTEL	4140 BROADWAY
9	BUDGET INN	55 MACARTHUR BLVD
10	CAPRI MOTEL	722 W MACARTHUR BLVD
11	CHAPARRAL MOTEL	5425 SAN PABLO AVE
12	CIVIC CENTER LODGE MOTEL	50 6TH ST
13	CLAREMONT COUNTRY CLUB	5295 BROADWAY TER
14	CLAREMONT HOTEL CLUB & SPA	41 TUNNEL RD
15	CLARION HOTEL OAKLAND	375 13TH ST
16	COLISEUM MOTEL LLC	4801 COLISEUM WAY
17	COMFORT INN & SUITES	8452 EDES AVE
18	COMMODORE MOTEL	10100 MACARTHUR BLVD
19	CONTINENTAL LODGE/UMKAR PARTNERSHIP	1424 INTERNATIONAL BLVD
20	COURTYARD OAKLAND AIRPORT	350 HEGENBERGER RD
21	COURTYARD OAKLAND DOWNTOWN	988 BROADWAY
22	CROWN LODGE MOTEL	9899 MACARTHUR BLVD
23	DAYS HOTEL OAKLAND AIRPORT	8350 EDES AVE
24	ECONO LODGE INN & SUITES/GATEWAY HOTEL	10 HEGENBERGER RD
25	ECONOMY INN	122 E 12TH ST
26	EMPYREAN TOWERS LLC	1300 WEBSTER ST
27	ESA P PORTFOLIO OPERATING LESSEE INC	3650 MANDELA PKWY
28	EXECUTIVE INN EMBARCADERO COVE	1755 EMBARCADERO
29	HEGENBERGER CAPITAL LLC	150 HEGENBERGER RD
30	HIGHLANDER MOTEL	3255 MACARTHUR BLVD
31	HOLIDAY INN EXPRESS HOTEL AND SUITES	66 AIRPORT ACCESS RD
32	HOLIDAY INN HOTEL & SUITES	77 HEGENBERGER RD
33	HOME OF PEACE OF OAKLAND	4700 DAISY ST
34	HOMWOOD SUITES OAKLAND	1103 EMBARCADERO
35	HOTEL TRAVELERS	392 11TH ST

36	IMPERIAL INN	490 W MACARTHUR BLVD
37	INN AT THE SQUARE	233 BROADWAY
38	ISABELLA MOTEL	839 ISABELLA ST
39	JACK LONDON INN	444 EMBARCADERO W
40	JUDITH A BELCHER	5400 CLAREMONT AVE
41	LA QUINTA INN	8465 ENTERPRISE WAY
42	MACARTHUR BROADWAY MOTOR INN	430 W MACARTHUR BLVD
43	MACARTHUR MOTEL	669 W MACARTHUR BLVD
44	MARRIOTT OAKLAND CITY CENTER	1001 BROADWAY
45	MAYA MOTEL	4715 TELEGRAPH AVE
46	MITCHELL HOTEL	2317 INTERNATIONAL BLVD
47	MOTEL 6 #1015	8480 EDES AVE
48	MOTEL 6 #1080	1801 EMBARCADERO
49	MOTEL HARRIS	10400 MACARTHUR BLVD
50	MURRAY SILVERMAN AND MARTHA SLOSS	6457 BENVENUE AVE
51	NEW BEA'S HOTEL	1755 16TH ST
52	NIGHTS INN MOTEL	874 W MACARTHUR BLVD
53	OAKLAND AIRPORT HILTON	1 HEGENBERGER RD
54	OLD OAKLAND HOTEL	801 WASHINGTON ST
55	PALMS MOTEL	829 W MACARTHUR BLVD
56	PARKLANE MOTEL	8100 MACARTHUR BLVD
57	QUALITY INN	8471 ENTERPRISE WAY
58	REGENCY INN	3720 TELEGRAPH AVE
59	ROCKRIDGE BUNGALOW	5351 BROADWAY
60	SAGE MOTEL	4844 MACARTHUR BLVD
61	STARLITE MOTEL	10000 MACARTHUR BLVD
62	THE HILLS BED & BREAKFAST	5247 HARBORD DR
63	THE OAKS MOTEL	3250 MACARTHUR BLVD
64	TOWNHOUSE TRAVEL INN	444 W MACARTHUR BLVD
65	TRAVIS LODGE	9610 MACARTHUR BLVD
66	TWIN PEAKS HOTEL	2333 SAN PABLO AVE
67	VALUE INN ALC NO. 1829483	370 W MACARTHUR BLVD
68	WASHINGTON INN	495 10TH ST
69	WATERFRONT PLAZA HOTEL	10 WASHINGTON ST
70	WELCOME INN	9920 MACARTHUR BLVD
71	WEST WIND LODGE	336 W MACARTHUR BLVD

APPENDIX 3 - MAP

