

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2008 DEC 19 PM 12:33

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Samee Roberts, Marketing Manager  
DATE: January 6, 2009

RE: **A Public Meeting and Public Hearing on a Report and Recommendation from the City Administrator's Office Regarding a Proposed Resolution Establishing the Oakland Tourism Business Improvement District (OTBID) as Proposed by the Oakland Convention & Visitors Bureau, to Declare the Results of the Majority Protest Proceedings and to Authorize the City Administrator to Negotiate and Enter into a Professional Services Agreement with the Oakland Convention & Visitors Bureau to Operate the OTBID.**

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**SUMMARY**

A resolution has been prepared pursuant to the Property and Business Improvement District Law of 1994 (the 1994 Act, California Streets and Highways code section 36600 et seq) to establish the Oakland Tourism Business Improvement District, to declare the results of the majority protest proceedings, to authorize the City Administrator to negotiate and enter into a professional services agreement with the Oakland Convention & Visitors Bureau and to direct filing of the proposed assessment district boundary description.

At a public meeting scheduled for January 6, 2009, and a public hearing scheduled for January 20, 2009, City Council will consider adoption of the above resolution. Public testimony will be heard and the petition results will be presented. Signed written petitions totaling more than 51 percent of the assessments proposed to be levied have been signed and were presented to City Council on November 3, 2008, when the Resolution of Intent (Resolution No. 81641 C.M.S.) was passed. Given the majority (50% or more) of those impacted have submitted a written petition in favor of the assessment, the City Council may adopt the resolution to establish the proposed district.

The assessment rate will be \$2.00 per occupied room per night for each lodging business with 75 or more rooms and \$1.50 per occupied room night for each lodging business with 20 to 74 rooms. The total estimated annual assessment for year one of the district is estimated at \$1,557,577. The assessed rate will be adjusted at the beginning of each calendar year on January 1 in accordance with the Consumer Price Index (CPI) for the San Francisco Bay Area. Monies generated will be used to promote the lodging industry and attract additional visitors to Oakland via enhanced marketing and expanded communications and public relations efforts as outlined in the Management District Plan. The enabling legislation allows for a five-year term unless

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renewed pursuant to Streets and Highways Code section 36600. If approved by City Council, collection of OTBID assessments would begin on June 1, 2009.

## **FISCAL IMPACT**

The assessments will be collected by the City and transferred to the OCVB. However, any expenses incurred by the City from the collection process will be reimbursed through a deduction of Oakland TBID assessments.

Unlike property-based BID assessments that are collected by the County and revenues through the City, the OTBID assessments will be collected by the City of Oakland's Finance and Management Agency.

Collection of OTBID revenue is a self-assessment process, meaning each participant must file a declaration with the City's Finance and Management Agency indicating the number of room nights subject to an assessment of \$2.00 or \$1.50 per night depending on the lodging business size. The assessed rate will be adjusted at the beginning of each calendar year on January 1 in accordance with the Consumer Price Index (CPI) for the San Francisco Bay Area. Participants will be sent instructions and assessment notices to be used prior to filing their quarterly declarations. Participants that have Group Business contracts signed and dated prior to June 1, 2009, will be allowed to exclude these occupied rooms from their assessment calculation, and participants will be reminded of this with their first quarterly mailing from the City. Assessments will be due on or before the last day of the month following the close of each calendar quarter. Payments made beyond the due date will be considered delinquent.

The initial filing for the one month period of June 2009 will be treated as a one month quarter; therefore, assessments for this one month quarter will be due by July 31, 2009. A special one month assessment declaration will be submitted to participants to use for this one-time partial quarter. Delinquent payments for the special one quarter remittance will not be subject to penalty and interest charges provided they are paid by October 31, 2009. However, delinquent payments for any quarter after June 1, 2009, will be subject to penalty and interest calculations.

Because OTBID participants are filing quarterly and have one month beyond the quarter to remit their assessment, delinquent payments will be subject to a 25 percent penalty if not paid prior to the last day of the month following the close of each calendar quarter. For example, a payment received on October 31, 2009, for the July-to-September 2009 quarter would not be subject to the 25 percent penalty. However, if this same payment were made on November 1, 2009, the assessment would be subject to the penalty. In addition, OTBID participants that fail to remit any assessment imposed by this Resolution shall pay interest at the rate of one percent per month or fraction thereof of the amount of the assessment, inclusive of penalties, from the date on which the remittance first became delinquent until paid.

The City's Finance and Management Agency will send delinquent participants a delinquency notice to remind them of their unpaid status and advise them of their increased assessment due to penalty and interest accruals. Participants who fail to pay their delinquent notice within 15 calendar days of the notice will be identified as being non-compliant. All non-complying

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participants will be timely reported to the OCVB for internal handling including, but not limited to, collections.

The City's Finance and Management Agency will collect a 2 percent fee to help defray the costs of administering the program. In addition, there will be a \$5,000 formation fee and 0.2 percent deducted from the first year and 0.1% deducted for each subsequent year to help defray the cost of legal services.

The City's Finance and Management Agency will disburse the collected assessment funds to the Oakland Convention & Visitors Bureau in the manner as outlined in the Professional Services Agreement to be negotiated by the City Administrator.

## **BACKGROUND**

The OCVB was a City funded program to promote Oakland as a travel and meeting destination with the primary goal of attracting overnight visitors, which contributes to a healthy tourism economy. The OCVB's funding level for FY2008-09 was reduced from \$650,000 to \$325,000 during the Mid-Year Budget Revisions approved in October 2008.

Without an additional funding source, it will be difficult to effectively market Oakland at this reduced level. Consequently, there is a need to establish a secure funding source that is controlled by the industry for the industry.

When faced with similar issues, cities and counties throughout California have implemented TBIDs to protect their investment, to market their destination and lodging facilities, and to be more competitive in the marketplace. Oakland competes with other cities for group and convention business. At this time, all of Oakland's major competitors in Northern California have implemented or are in the process of implementing a TBID. Examples of some of the cities with TBID's include: Sacramento, San Jose, Santa Clara, San Mateo and the Tri Valley. San Francisco recently announced their intention to form a TBID as well, to enhance their CVB's marketing effort.

There are two statutes in California that allow for the creation of a TBID. The Parking and Business Improvement Area Law of 1989 (The 1989 Act, California Streets and Highways code section 36500 et seq) allows for assessments on businesses to fund additional and special services. The 1989 Act only assesses businesses for a one-year term, so the district must renew each year requiring it survive a majority protest vote. The Property and Business Improvement District Law of 1994 (the 1994 Act, California Streets and Highways code section 36600 et seq) allows for a TBID to be established for up to five years and renewed up to an additional ten years. Because this is a longer term, the California legislature created an additional threshold to formation. Unlike the 1989 Act, the 1994 Act requires businesses paying more than 50 percent of the assessments to sign petitions in support of the TBID, prior to City Council adopting the Resolution of Intention.

In 2005 the first conversations began about the benefits of the creation of a TBID in Oakland. In July 2007, talks resumed about the creation of a TBID for Oakland, and the OCVB began

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conducting one-on-one meetings with the general managers of Oakland lodging facilities to discuss a TBID. In each case, the purpose was two-fold: to allow the OCVB to share its ideas and information about the possibility of bringing a TBID to Oakland, and to provide each lodging business a chance to ask questions, give feedback, and provide input regarding benefits it would like to see specific to its lodging business. Overall, the opinions expressed at these meetings indicated the support level of the lodging businesses for the TBID as very high. In fact, 95 percent of those at the meetings indicated they were "Supportive" or "Leaning toward Supportive."

Given these encouraging numbers, the OCVB conducted a series of General Managers Meetings over a six-month timeframe, inviting all lodging businesses within the city limits to meet and discuss the formation of the OTBID. The 1994 Act was chosen by the hotels that will participate in the OTBID, so they would create a district that would be in existence for at least five years and a Management District Plan (MDP) was drafted.

On March 6, 2008, all lodging facilities were invited to participate in discussions about the formation of the OTBID and review a draft MDP. At this meeting 66 percent of Oakland's lodging owners/managers participated and expressed their unanimous support for the plan. The OCVB was instructed to make revisions on the draft MDP for their review and approval. The MDP is included as **Attachment A**.

Since the MDP was approved by the lodging industry, the OCVB met with City staff, including the City Attorney's Office, the City Administrator and other staff to discuss the formation process. Additionally, on April 1, 2008, the OCVB began the required petition drive by sending a petition package to all hotels within the assessment district. The package included a petition, an MDP, a Summary, and a map. The map is **Attachment B**. As of September 18, 2008, the OCVB has gathered 103 percent of the required signed petitions (i.e., businesses representing more than 51 percent of the proposed assessments have signed the petition). This satisfies the requirements of the 1994 Act. A spreadsheet showing signed petitions is **Attachment C**. A sample petition packet is included as **Attachment D**.

Pursuant to the Streets and Highways Code, on November 3, 2008, the City Council adopted Resolution No. 81641 C.M.S., the resolution of intention to form the Oakland Tourism Business Improvement District, including granting preliminary approval of the management plan, directing the notification of all impacted business owners, and scheduling a public meeting for January 6, 2009, and a public hearing for January 20, 2009. At the public hearing, after receiving public testimony, the City Council will decide whether or not to establish the proposed district.

#### **KEY ISSUES, IMPACTS AND SPECIAL BENEFITS**

There is no anticipated adverse impact associated with the formation and operation of the OTBID. The augmented marketing efforts supported by the OTBID should result in additional overnight business for Oakland hotels thereby increasing the City of Oakland's Transient Occupancy Tax (TOT) revenue. The impact of the TBID on TOT should be positive. In general OTBID monies go toward marketing and advertising of hotels in a specific area which will help increase the amount of stays and room revenue. This will help to increase the overall amount of

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TOT collected. The TBID will have no impact on the percentage of TOT charged, only the amount collected.

The formation of the OTBID will have a positive impact because it will create a stable source of revenue for the OCVB which will be used solely for the promotion of the Oakland lodging industry. This plan will enhance the OCVB's current marketing efforts to promote Oakland as a travel and meeting destination and create a true public/private partnership.

The primary goal will be to generate overnight business. Currently, Oakland is losing its competitive edge with other California cities and destinations. While the OCVB is working to meet the demand and requirements of the City, it is challenged to achieve its requirements due to an inconsistent budget, heightened expectations and market conditions. Major competitors of Oakland have created TBIDs. These TBIDs provide stable funding mechanisms to pursue emerging markets, develop stronger public relations campaigns, ensure a balanced market segment, enhance the current sales and marketing program, and implement new technologies.

This is the best time to form the district because the lodging industry is supportive of the program, economic conditions have changed, and it will help contribute to a healthy tourism economy for Oakland. Oakland hotels have expressed their concern about current economic conditions, Oakland's image and the impact this is having on their business. The hotels have asked the OCVB to step up its sales, marketing and public relations efforts in order to assist them in attracting more overnight visitors. In-turn, they have offered to assess themselves to provide the necessary funding to increase the OCVB marketing effort. There is a concern that Oakland will lose market share to other cities if the current tourism marketing efforts are not enhanced.

A special benefit is defined as a particular and distinct benefit over and above general benefits conferred on the public at large. Conversely, a general benefit is a benefit to businesses in the surrounding community or a benefit to the public in general resulting from the improvement, activity, or service to be provided by the assessment levied. Many general benefits to the public at large are conveyed by municipal services such as fire protection, police services, and public transit services. These services are targeted to serve the public at large and do not confer special benefits on particular businesses.

The services in OTBID's Management District Plan are designed to provide targeted services to lodging businesses. These services are tailored not to serve the general public, but rather to serve the specific lodging businesses within the District, e.g., the proposed tourism promotion program is specifically targeted to increase tourism within the boundaries of the District and is narrowly tailored to benefit the lodging businesses assessed.

The services paid for from assessment revenue are lodging business services creating special benefit to those businesses. In addition, these services are not for the benefit of the general public and do not provide general benefit as defined above. All general benefits (if any) to the surrounding community and general public are intangible and unquantifiable. It is appropriate that these special business-related benefits be funded through business assessments.

The OCVB will develop an annual program of work and sales and marketing plan to coincide with the projected budget and needs and requests of the assessed businesses. The plan will be updated annually to reflect changes in travel trends, market conditions and economics. A special sales and marketing committee will be created consisting of representatives exclusively from the assessed businesses to help develop the plan and make recommendations to the OCVB Board of Directors. Fifty percent (50%) of the OCVB Board of Directors will consist of hotel owners or managers who are assessed within the OTBID to approve the final budget and plan.

Benefits provided to all the assessed business include:

- Group and convention leads – the larger hotels paying the highest assessment will benefit the most from this representation as they have the space, services and product that convention planners are seeking. The smaller hotels will benefit from the compression. It's a win-win for everyone.
- Bid proposals and group support – the larger hotels will benefit the most from this support
- Media and public relations - all assessed businesses will benefit
- Familiarization tours, site visits, sales blitzes and sales call services will be provided to all assessed businesses
- Image development – the larger hotels have expressed an interest in improving Oakland's image and have the most to lose if we don't
- Website representation – free link, listing and marketing support
- Electronic Marketing – free service offered to all assessed businesses
- Trade Show representation
- Destination Oakland – free listing
- Publications
- Tour Group Development – benefit small to mid-size properties with more affordable rates

## **PROGRAM DESCRIPTION**

The proposed OTBID covers all overnight lodging facilities with 20 or more rooms located within Oakland. Lodging stays of more than 30 consecutive days will be exempt from the OTBID assessment. Rooms occupied by airline crews and government employees as well as group business that was contracted prior to June 1, 2009, will be exempt from the assessment.

### ***Management District Plan***

The OTBID will extensively promote and market the lodging industry of Oakland to attract overnight visitors. In achieving this goal, a Management District Plan (MDP) was created. This MDP (**Attachment A**) is a comprehensive document, which describes the formation process of the TBID and the services that will be provided. In part, the MDP was developed through information gathered through numerous lodging business outreach meetings. These ideas were added to better serve its constituents.

The MDP proposes to generate revenues by assessing the lodging businesses located within City boundaries. These assessment rates are based upon \$2.00 per occupied room per night for each

lodging business with 75 or more rooms and \$1.50 per occupied room per night for each business with 20 – 74 rooms. Collection of these assessments will begin June 1, 2009. The assessed rate will be adjusted at the beginning of each calendar year on January 1<sup>st</sup> in accordance with the Consumer Price Index (CPI) for the San Francisco Bay Area.

The total annual assessment collected for the first and second year will be approximately \$1,557,577 each year. The annual assessment is expected to generate approximately \$1.7 to \$2 million thereafter after exemptions. The initial OTBID has a five-year term limit. The Plan provides exclusions to the assessment for Airline Crew Rooms, Government Rooms, Vacation Rentals, Complimentary or non-revenue rooms and Group Contracts signed prior to June 1, 2009. Group contracts signed after June 1, 2009, will be assessed, thereby increasing the amount of the assessment in years 3 – 5. The budget is an estimate that multiplies the assessment rate and the expected room occupancy for each hotel. For example, if a hotel has 500 rooms and its occupancy rate is 80 percent then it rents 146,000 rooms per year. That hotel will pay two dollars for each room rented with an estimated annual assessment of \$292,000.

#### ***Administration and Governance***

The OCVB will serve as the non-profit management corporation contracted to handle the OTBID operations. The OCVB Board of Directors will act as the Board of Directors of the OTBID. The OCVB Board will serve as the owner's association that will provide the improvements or activities described in the plan, and will submit the annual report. At least 50 percent of the voting members of the OCVB Board of Directors will consist of hotel owners or managers who are assessed within the OTBID as outlined in the MDP. The OCVB shall enter into an agreement with the City of Oakland to administer the district on behalf of the hotels. The OTBID governing body will be subject to the Ralph M. Brown Act of 1953, the California Public Records Act, and the City of Oakland's Sunshine Ordinance of 1997 and all meetings will be held in accordance with these provisions.

#### ***Budget***

The majority of the OTBID funds (72 percent) will be used for sales, marketing and public relations as outlined in the budget below and in the MDP.

**Oakland Tourism BID  
 Annual Budget, Year One**

Services Provided	Descriptions	Total
<b>SALES and MARKETING</b>	<p>Sales and Marketing programs and activities will be designed to attract overnight groups. These activities may include:</p> <ul style="list-style-type: none"> <li>• Lead Generation</li> <li>• Trade Shows</li> <li>• Sales Blitzes</li> <li>• Familiarization Tours</li> <li>• Advertising</li> <li>• Collateral</li> <li>• Marketing Programs</li> <li>• Local Property Visits</li> <li>• Director of Sales Meetings</li> <li>• General Manager Meetings</li> <li>• Professional Industry Conferences / Affiliation Events</li> <li>• Technology</li> <li>• Staffing Costs</li> </ul>	<b>\$709,310</b>
<b>COMMUNICATIONS and PUBLIC RELATIONS</b>	<p>Communications and Public Relations activities and services will build greater awareness of Oakland businesses and the City of Oakland as a tourism, meeting, and event destination. These activities may include:</p> <ul style="list-style-type: none"> <li>• Public, Community and Media Relations</li> <li>• Familiarizations Tours</li> <li>• CVB Events</li> <li>• Membership Solicitation / Maintenance</li> <li>• Local Trade Shows and Events</li> <li>• CVB Web Site and Electronic Newsletter</li> <li>• CVB Newsletter</li> <li>• Oakland Visitor Guide</li> <li>• Speaking Engagements</li> <li>• Visitor Information / Servicing</li> <li>• Staffing Costs</li> </ul>	<b>\$400,000</b>
<b>ADMINISTRATIVE/OPERATIONS</b>	<ul style="list-style-type: none"> <li>• Office Administrative/Operational Expenses</li> <li>• Staffing Costs</li> </ul>	<b>\$300,000</b>
City of Oakland formation fee - 1 <sup>st</sup> year only		<b>\$5,000</b>
Bid Collection Fee to City of Oakland - 2.2%		<b>\$34,267</b>
Reimburse OCVB for OTBID implementation costs		<b>\$35,000</b>
Contingency / OTBID Renewal (2%)		<b>\$74,000</b>
	<p>This prudent fiscal reserve is to buffer the organization for any unexpected revenue changes and/or allow the District to fund OTBID renewal costs.</p>	
<b>Total Tourism District Budget</b>		<b>\$1,557,577</b>

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**BUDGET ALLOCATIONS BY PERCENT**

- **Sales & Marketing** 46%
- **Communications and Public Relations** 26%
- **Administration/Operations** 19%
- **City Assessment Collection Fee** 2%
- **TBID Formation Reimbursement** 2%
- **Contingency and TBID Renewal** 5%

***District Improvement and Marketing Plan***

Based on the input from the Oakland hotel owners and managers, the OCVB has developed the following plan of suggested programs and projects to be funded by the OTBID general line items. The majority of the funds will be allocated to Sales and Marketing (46 percent) and Communications and Public Relations (26 percent) with the remaining funds allocated to operations, services and fees. The funds will complement the OCVB's current marketing program and provide the necessary resources to implement new sales and marketing strategies. Each year the strategies and tactics may change due to changes in travel patterns, new technologies and trends, however the funding allocations to each category will remain consistent as outlined in the budget. This serves as an overview of the suggested plan and programs to be implemented.

All of the improvements and activities detailed below, are provided only to hotels as being defined within the boundaries of the District and provide special benefit to the business owners and managers of those properties within the district. No improvements or activities are provided to properties or businesses outside the District boundaries. All benefits derived from the assessment outlined in the MDP fund services directly benefiting the hotels.

The categories listed below reflect the priorities of the business owners for the OTBID. The categories of the special benefit services provide enough clarity to business owners to understand the intent of the budget category, however it provides the OCVB the flexibility it needs to allocate services based upon the changing needs of the district from year-to-year within each budgeted category.

The total improvement and marketing plan budget for fiscal year 2009-10, which is funded entirely by business assessments, is projected at \$1,557,577.

**Sales & Marketing** **\$709,310** **46%**

The proposed programs and marketing strategies listed below will compliment the OCVB's current sales, marketing and public relations efforts and in many cases provide funding for new promotions, enhanced programs and to replace some marketing and PR efforts that are no longer covered by OCVB's baseline funding. Examples of the special benefit services include, but are not limited to:

- *Advertising – Expanded - Print, Electronic - Leisure, Tour and Convention.*
- *Trade Shows – new: (e.g. National Tour Association, Pow Wow, World Travel Mart, Washington, D.C. and Chicago Executive Associations)*
- *Tour Business Development – new market segment*
- *Corporate Travel Development - enhanced*
- *State Association Meeting Development – enhanced*
- *National Association Meetings Market – new permanent position*
- *Leisure – new – Conduct marketing that will enhance weekend, holiday and summer travel. Enhance Internet presence to generate more interest in Oakland as a leisure travel destination*
- *International Marketing – Foreign Independent Travel – new market segment for Oakland*
- *California Travel & Tourism Commission - cooperative marketing partnership – trade development, tour & travel, internet marketing and advertising – new and enhanced*
- *Website – updates, improvements, upgrades, enhancements, special promotions, new technologies. Website updates are continuous and require consistent upgrades, changes, and improvement to remain valid and effective*
- *Internet – enhanced exposure, improved technology, expand outreach - new*
- *Image Development – expanded – further develop destination image with a focus on hotels, meeting and convention facilities*
- *Trade Associations –New Associations, meeting planner, tour operator and lead generation*
- *International leisure travel – new market segment. With a soft dollar, inbound international travel is an opportunity for Oakland in the next five years*
- *Bid proposals – enhance group and convention bids when competing with other cities, develop sponsorships, provide host services*
- *Client appreciation –new - sales blitzes, coordinated client days, tours, events and promotions*
- *Staff*

**Communications & Public Relations** **\$400,000** **26%**

- *Public Relations Campaign - new*
- *Technology – expanded and enhanced*
- *Website – continue to enhance*
- *Brand Development - enhance*
- *Marketing/Communications – continue and expand*
- *Newsletters – expand electronic format, distribution and frequency*
- *Database Development – leisure travel and tour operators - new*

- *Publications – maps, hotels and meeting facilities – augment existing materials*
- *California Travel & Tourism Commission – media, internet, press tours, events and outreach*
- *Public Relations – Enhance, New – develop and fund a pro-active strategy*
- *Media Blitzes and media interactions – events, blitzes, shows, familiarization tours etc. increase activity*
- *Press Visits – focus on individual, however consider themed group tours for local, regional and national media*
- *Electronic Media – expand effort to include new technologies*
- *Internet – expand Oakland’s exposure throughout the Internet*
- *Freelance Writers – story development, fams, research*
- *Image Enhancement – photos, video, vodcasts, podcasts, blogs, print, etc.*
- *Staff*

<b>Administration and Operations</b>	<b>\$300,000</b>	<b>19%</b>
<ul style="list-style-type: none"> <li>• <i>Supplies</i></li> <li>• <i>Media Materials - new</i></li> <li>• <i>Equipment – new</i></li> <li>• <i>Fulfillment – expanded</i></li> <li>• <i>Postage</i></li> <li>• <i>Services</i></li> <li>• <i>Operating and Administrative Expenses to support new programs</i></li> <li>• <i>Staff</i></li> </ul>		
<b>Contingency &amp; TBID Renewal</b>	<b>\$74,000</b>	<b>5%</b>
<b>TBID Formation Reimbursement</b>	<b>\$35,000</b>	<b>2%</b>
<b>City Assessment Collection Fee</b>	<b>\$34,267</b>	<b>2.2%</b>

**SUSTAINABLE OPPORTUNITIES**

**Economic:** The proposed assessment will fund activities intended to promote overnight business for Oakland Hotels. The City of Oakland will benefit from the increase in Transient Occupancy Taxes collected as a result of increased overnight visitors. By attracting additional visitors, the OCVB’s marketing activities indirectly provide entry-level to executive-level employment opportunities for Oakland residents at hotels, restaurants, attractions and other service industry sectors.

**Environmental:** All printed materials produced using OTBID funds will be printed on recycled paper stock. OTBID staff will actively recycle waste. The use of Internet and e-mail promotions will help reduce the use of paper promotional materials.

***Social Equity:*** Oakland's TBID members will produce a proactive business community reflecting the best interests of the lodging industry. Administration of the cash flow generated by the district contributes to local entrepreneur self empowerment and provides enhanced services for the overall physical and economic betterment of the district. The TOT revenue generated by the OTBID's marketing activities is part of the City's General Fund budget which supports vital community services. The OTBID will make a voluntary good faith effort to subscribe to the City of Oakland's Contracting Policies.

#### **DISABILITY AND SENIOR CITIZEN ACCESS**

The authorization of assessments for the OTBID has no direct implications for disability and senior access. However, the OTBID's efforts toward revitalization may encourage businesses to continue to abide by applicable state, federal and local codes and legislation regarding disability and senior access.

#### **RECOMMENDATION(S) AND RATIONALE**

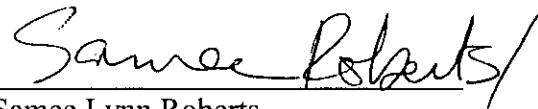
Staff recommends that the Oakland City Council adopt the Resolution establishing the Oakland Tourism Business Improvement District and authorize the City Administrator to negotiate and enter into an agreement with the OCVB to operate the OTBID.

The creation of the OTBID is supported by the lodging industry that would be subject to the assessment because they anticipate that the funds raised will attract additional overnight visitors to their lodging facilities, enhance their current client base and draw more visitors to the City of Oakland. The community and City also stand to benefit from the increase of overnight visitors.

**ACTION REQUESTED OF THE CITY COUNCIL**

The staff recommends that the Oakland City Council adopt the Resolution to establish the Oakland Tourism Business Improvement District, to declare the results of the majority protest proceedings and to direct filing of the proposed assessment district boundary description.

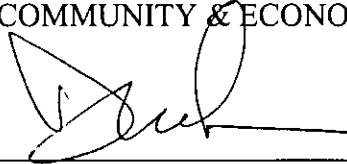
Respectfully submitted,



Samee Lynn Roberts  
Cultural Arts & Marketing Department

Prepared by:  
Samee Lynn Roberts, Marketing Manager  
Cultural Arts & Marketing Department

APPROVED AND FORWARDED TO THE  
COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE:



Office of the City Administrator

**ATTACHMENTS**

- A: Management District Plan
- B: OTBID Map
- C: Spreadsheet of signed petitions
- D: Cover Letter and Sample Petition

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**OAKLAND  
TOURISM BUSINESS  
IMPROVEMENT DISTRICT  
MANAGEMENT DISTRICT PLAN**

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*Submitted to the*

*Oakland Convention & Visitors Bureau*

Proposed to be updated January 20, 2009

By

**Downtown Resources**



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January 6, 2009

# OAKLAND TOURISM BID MANAGEMENT DISTRICT PLAN

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## ***Introduction and Overview***

Developed by a coalition of lodging business owners in conjunction with the Oakland Convention & Visitors Bureau (OCVB), the Oakland Tourism Business Improvement District (OTBID) is a benefit assessment district proposed to improve the tourism activity in the City of Oakland. The OTBID will establish various programs to increase the tourism activity in Oakland. This approach has been used successfully in other tourism and commercial areas throughout the country to increase occupancies, increase sales, promote tourism destinations and increase commercial activity.

**Location:** The approximate boundaries: The proposed OTBID includes all lodging businesses with 20 rooms or more located within the city limits of the city of Oakland.

**Services:** Marketing and promotions to increase tourism and market the Oakland area as a tourist, meeting, and event destination.

**Budget:** The total OTBID budget for year one of its five (5) year operation is a base of approximately \$1,557,577.

**Cost:** Annual assessment rates are based upon a rate of \$2.00 per occupied room per night on lodging businesses with 75 rooms or more, and \$1.50 per occupied room per night on lodging businesses with 20 to 74 rooms. The assessed rate will be adjusted each year at the beginning of the calendar year on January 1 in accordance with the Consumer Price Index (CPI) for the San Francisco Bay Area. Lodging business stays of more than 30 consecutive days are exempt from the assessment. RV Parks, complimentary rooms or occupied rooms that generate zero revenue, campgrounds and vacation rentals will be exempt from assessment, as well as stays by airline personnel and government employees on government business are also exempt from the assessment. Group business with contracts signed and dated prior to June 1, 2009 will be excluded from the assessment.

**Formation:** OTBID formation requires submittal of petitions from lodging businesses representing more than 50% of the total annual assessment followed by a City Council hearing. The assessed lodging business owners will receive notice of the public hearing by mail. If there is a majority written protest, the OTBID will not be formed.

**Duration:** The proposed District, OTBID will have a five year life. The OTBID assessment will be implemented beginning on the targeted start date of June 1, 2009 and will be in effect for five years. After five years, the petition and City Council hearing process must be repeated for the OTBID to be renewed.



## ***WHY A TOURISM BID FOR OAKLAND?***

There are several reasons why now is the right time to form a Tourism BID in Oakland:

**1. *City budgets are decreasing***

The Oakland Convention & Visitors Bureau has been fortunate to receive uninterrupted funding from the city for a number of years. However, with increased demands for money from the state and other groups, available resources are dwindling. Additionally, the Oakland CVB's funding has always been supplied from the city's General Fund (not transient occupancy tax money), and the General Fund is the same finite pool of funds the city uses to hire additional firefighters, police officers and the like. The City of Oakland can no longer assure the Oakland CVB the same or increased level of funding. The City has asked the OCVB to seek additional funding sources to augment their marketing efforts.

**2. *The need to be more self sufficient in tourism promotion***

For reasons stated above, the Oakland CVB needs to become more self-reliant when it comes to tourism promotion. In order to continue as a strong organization, the Oakland CVB needs a stable source of funding directly tied to tourism. Forming the OTBID would provide the Oakland CVB a larger, more stable budget base and allow the organization to develop a stronger more stable marketing program that serves the needs of all the lodging facilities in Oakland. This will in turn help create greater occupancy, and therefore, increase potential assessment dollars.

**3. *Need to improve and build upon existing tourism promotion***

With the formation of the OTBID the Oakland CVB, could increase its resources to help build upon existing tourism promotional efforts. The projected annual assessment would provide the funds necessary to augment Oakland CVB's sales staff and marketing efforts, both designed to increase business opportunities for Oakland lodging businesses.

**4. *Opportunity to continue public/private partnership***

The formation of the OTBID would allow the Oakland CVB to continue its successful public/private partnership between the assessed lodging businesses, and the City of Oakland. This new funding model would provide many benefits to the Oakland CVB and its hotel partners, while addressing specific needs of its funding city, making it a win-win proposal for all.

### ***What Is a TOURISM Business Improvement District?***

Tourism Business Improvement Districts (TBIDs) utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow hotel and tourism-related business owners to organize their efforts to increase tourism. Tourism-related business owners within the district fund a BID and those funds are used to provide services that the businesses desire and that benefit the lodging businesses within the District.

#### **Tourism BID services may include, but are not limited to:**

- Marketing of the Area
- Tourism Promotion Activities
- Media Relations
- Special Events and Programs

In California, TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994 (PBID Law) or the Parking and Business Improvement District Law of 1989 (BID Law). The Oakland lodging businesses have chosen to use the PBID Law in order to have a term of five years. These laws allow for the creation of a special benefit assessment district to raise funds within a specific geographic area. *The key difference between BIDs and other special benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

#### **There are many benefits to Tourism BIDs:**

- Funds cannot be diverted for other government programs;
- Tourism BIDs are customized to fit the needs of each tourism district;
- They allow for a wide range of services, including those listed above;
- Tourism BIDs are *designed, created and governed by those who will pay* the assessment;
- Requires petition support from lodging businesses paying over 50% of the annual proposed assessments (1994 PBID Law)
- They provide a stable funding source for tourism promotion.

The Property and Business Improvement District Law of 1994 (AB 3754) as amended January 1, 2008 is provided in Appendix 1 of this document.

## HISTORY OF THE OAKLAND TOURISM BUSINESS IMPROVEMENT DISTRICT

In 2005 the first conversations began about the benefits of the creation of a TBID in Oakland. In July 2007, talks resumed about the creation of a TBID for Oakland. The OCVB began conducting one-on-one meetings with the general managers of Oakland lodging facilities to further access their desire to establish a TBID in Oakland. In each case, the purpose was two-fold: to allow the Oakland CVB to share its ideas and information about the possibility of bringing a TBID to Oakland, and to provide each lodging business a chance to ask questions, give feedback, and provide input regarding benefits it would like to see specific to its lodging business. Overall, the opinions expressed at these meetings indicated the support level of the lodging businesses for the Tourism BID as very high. In fact, 95% of those at the meetings indicated they were "Supportive" or Leaning towards Supportive". Given these encouraging numbers, the Oakland CVB conducted a series of General Managers Meetings over a six month timeframe, inviting all lodging businesses within the city limits to meet and discuss the formation of the OTBID. On March 6, 2008 all lodging facilities were invited to participate in discussions about the formation of the TBID and review a draft Management District Plan. At this meeting 66% of Oakland's lodging owners/managers participated and expressed their unanimous support for the plan. The OCVB was instructed to make revisions on the draft Management Plan for their review and approval.

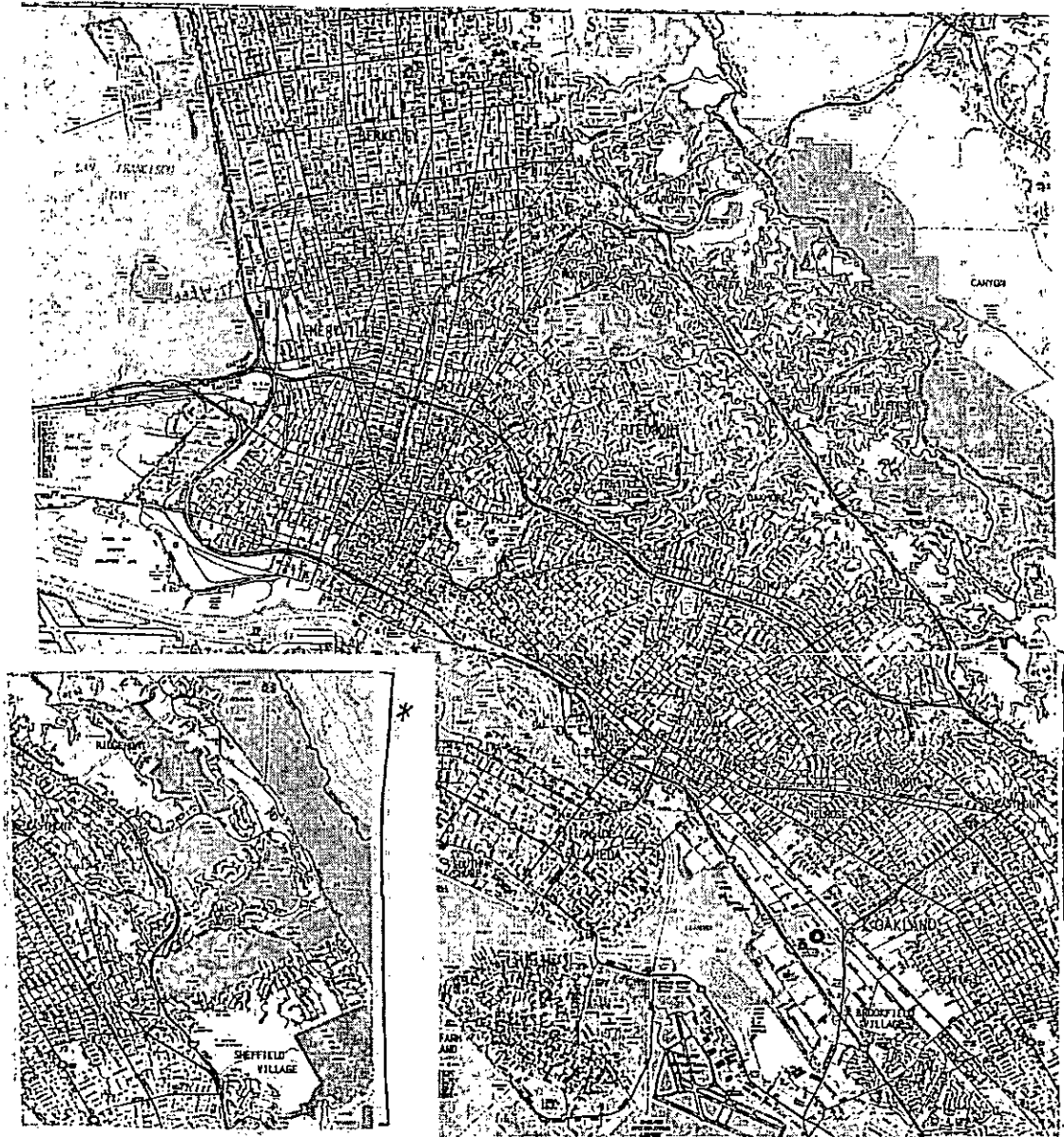
The Oakland CVB has now taken the steps to formalize a Management District Plan and hopes to gain enough voting strength to allow the proposed District to form by June 1, 2009.

### *TOURISM BID Boundaries*

The Oakland Tourism BID will include all lodging businesses, existing or in the future, with 20 or more rooms within the boundaries of the city of Oakland.

The boundaries currently include approximately 46 lodging businesses proposed to be assessed. Please see the map on the following page. A larger map is available on request by calling (510) 839-9000. Any new lodging businesses with 20 or more rooms that open during the term of the District shall also be assessed.

# City of Oakland



## Legend

The City of Oakland is depicted in White.

\* Inset refers to south-eastern portion of city

## ***SERVICE PLAN AND BUDGET***

### **History of Establishing the Service Plan**

The Oakland Convention & Visitors Bureau (OCVB) opened in October 1999 with a \$1,000,000 budget funded by the City of Oakland. Between 2000 and 2006 the OCVB budget was reduced 37%. This reduction was in response to a decline in the economy and the City's general fund and not a reflection of OCVB services. In fiscal year 2006/07 and 2007/08 the budget was augmented by an incentive payment of \$621,000 F/Y 2006/07 and \$800,899 F/Y 2007/08. These incentive payments provided the necessary funds to re-establish some of the sales and marketing activities that were discontinued as a result of the budget reduction. The contract between the City of Oakland and the OCVB was updated in 2007 increasing the economic benchmarks and making it more challenging to reach future incentive earnings.

Cities throughout California have implemented TBIDs to protect their investment, market their destination and lodging facilities and be more competitive in the marketplace.

The formation of the OTBID is being pursued to augment the current base level funding that the City of Oakland provides the OCVB for destination marketing. There is no guarantee that the City will continue to fund the OCVB at the current level, however it is the intent of the lodging industry to create this TBID in partnership with the City to help augment the current funding. If funding is decreased or eliminated, the industry may elect not to renew the TBID during the renewal period.

In fiscal year 2008/09 the budget for destination marketing provided by the City of Oakland is \$650,000. After inflation, this represents a decline in real dollars of 59% over the last eight years. It will be difficult to effectively market Oakland at this reduced level. We need to establish a secure funding source that is controlled by the industry for the industry.

The Program Budget (for FY 2009-2010) includes the following programs:

- Sales & Marketing
- Communications and Public Relations
- Administrative/Operations

In developing a service plan for the proposed OTBID, the information gathered from the lodging businesses outreach meetings was incorporated to better serve the needs of its constituents. Specifically, the proposed service plan includes greater emphasis on Sales, Marketing and Media Relations.

### **Assessment**

OTBID annual assessment rates are based upon \$2.00 per occupied room per night for each lodging business with 75 or more rooms and \$1.50 per occupied room per night for each business with 20 – 74 rooms. The assessed rate will be adjusted each year at the beginning of the calendar year on January 1 in accordance with the Consumer Price Index (CPI) for the San Francisco Bay Area. Lodging business stays of more than 30 consecutive days are exempt from the assessment. Lodging business stays of more than 30 consecutive days will be exempt from the Tourism BID assessment. Government Employees, Airline crew rooms, group business that was contracted prior to June 1, 2009 and those with 20 or less rooms will be exempt from the

assessment. RV Parks, complimentary rooms or occupied rooms that generate zero revenue, campgrounds and vacation rentals will also be exempt from assessment. Bonds will not be issued.

The amount of assessment, if passed on to each Transient, shall be 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.

### **Determination of Special Benefit**

State law provides that the expenses of the district shall be apportioned in proportion to the benefit received by assessed businesses.

A special benefit is defined as a particular and distinct benefit over and above general benefits conferred on the public at large. Conversely, a general benefit is a benefit to businesses in the surrounding community or a benefit to the public in general resulting from the improvement, activity, or service to be provided by the assessment levied. Many general benefits to the public at large are conveyed by municipal services such as fire protection, police services, and public transit services. These services are targeted to serve the public at large and do not confer special benefits on particular businesses.

The services in this Management District Plan are designed to provide targeted services to lodging businesses. These services are tailored not to serve the general public, but rather to serve the specific lodging businesses within the District, e.g., the proposed tourism promotion program is specifically targeted to increase tourism within the boundaries of the District and is narrowly tailored to benefit the lodging businesses assessed.

The services paid for from assessment revenue are lodging business services creating special benefit to those businesses. In addition, these services are not for the benefit of the general public and do not provide general benefit as defined above. All general benefits (if any) to the surrounding community and general public are intangible and unquantifiable. It is appropriate that these special business-related benefits be funded through business assessments.

The OCVB will develop and an annual program of work and sales and marketing plan to coincide with the projected budget and needs and requests of the assessed businesses. The plan will be updated annually to reflect changes in travel trends, market conditions and economics. A special sales and marketing committee will be created consisting of representatives exclusively from the assessed businesses to help develop the plan and make recommendations to the OCVB board of directors. 50 percent of the OCVB Board of Directors will consist of hotel owners or managers who are assessed within the OTBID to approve the final budget and plan.

Benefits provided to all the assessed business include:

- Group and convention leads – the larger hotels paying the highest assessment will benefit the most from this representation as they have they space, services and product the convention planners are seeking. The smaller hotels will benefit from the compression. It's a win-win for everyone.

- Bid proposals and group support – the larger hotels will benefit the most from this support
- Media and public relations - all assessed businesses will benefit
- Fam tours, site visits, sales blitzes and sales call services will be provided to all assessed businesses
- Image development – the larger hotels have expressed an interest in improving Oakland’s image and have the most to lose if we don’t
- Website representation – free link, listing and marketing support
- Electronic Marketing – free service offered to all assessed businesses
- Trade Show representation
- Destination Oakland – free listing
- Publications
- Tour Group Development – benefit small to mid-size properties with more affordable rates

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

The OTBID assessment will be implemented beginning June 1, 2009 and will continue for five years. (Note that expenditures will trail implementation of the District by approximately 6 months to allow for collection.) The City of Oakland will be responsible for collecting the assessments from each lodging business located in that city’s boundaries. Assessments shall be collected quarterly and the City of Oakland shall take all reasonable efforts to collect the assessments from each lodging business. The City of Oakland shall forward the assessments to the Oakland Convention & Visitors Bureau which will have the responsibility to manage the OTBID programs as provided in the Management District Plan.

Should a participant be delinquent in paying their assessment, the City’s Finance and Management Agency will send delinquent participants a delinquent notice to remind them of their unpaid status and advise them of their increased assessment due to penalty and interest accruals. Participants who fail to pay their delinquent notice within 15 calendar days of the notice will be identified as being non-compliant. All non-complying participants will be timely reported to the OCVB for internal handling including, but not limited to, collections.

### **Service Plan Budget and Programs to be Provided:**

#### **Fiscal Year 2008 - 2009 Service Plan Budget Summary**

The summary of the fiscal year 2008/09 (year one) service plan budget for the OTBID is provided on the following pages. The budget categories may be reallocated by 15% between each category. The total improvement and service plan budget for 2009-10 is projected at approximately \$1,557,577 after exemptions. Lodging businesses will contribute the entire amount through annual assessments. Expenditures will be made in the following program areas:

- **Sales & Marketing**

The budget for the Sales and Marketing program is \$709,310 which represents 46% of the

total District budget.

- **Communications and Public Relations**

The budget for the Communications and Public Relations program is \$400,000 which represents 26% of the total District budget.

- **Administration/Operations**

The budget for Administration/Operations including office rent, possible relocation costs, insurance, utilities, and supplies is \$300,000 which represents 19% of the total District budget.

- **BID Collection Fee to the City of Oakland**

The City of Oakland will charge a BID collection fee of 2.2% plus \$5,000 for the first year after formation and 2.1% for each subsequent year to collect assessments from lodging businesses located within the city limits. The budget for this BID collection fee is \$34,267 which represents 2.2% of the total District budget. This fee may increase in future years, however will remain at a maximum of 2.1% of the total collection for each subsequent year.

### **Annual Service Plan**

A service plan budget has been developed in conjunction with lodging businesses to deliver service levels throughout the District. An annual service plan and budget will be developed and approved by the OTBID Board. The OCVB Board of Directors will serve as the OTBID board. At least 50 percent of the voting members of the OCVB Board of Directors will consist of hotel owners or managers who are assessed within the OTBID as outlined in the MDP. This level may drop below 50% at times if turn-over in the hotels creates a vacancy. Please see the budget exhibit on the following page. The budget also includes a portion for contingencies and renewal of the District (5 %). There is also a one-time allocation to the OCVB to reimburse for costs associated with the formation of the OTBID. These funds will be re-allocated into the operating budget in year two. Should the OTBID Board approve, funds may be appropriated for the renewal effort. If there are funds remaining at the end of the District term and lodging businesses choose to renew, these remaining funds could be transferred to the renewed District. If there are funds remaining at the end of the District and lodging businesses choose not to renew, any remaining funds will be spent consistent with this Plan.



**Oakland Tourism BID  
Annual Budget, Year One**

Services Provided	Descriptions	Total
<b>SALES and MARKETING</b>	<p>Sales and Marketing programs and activities will be designed to attract overnight groups. These activities may include:</p> <ul style="list-style-type: none"> <li>• Lead Generation</li> <li>• Trade Shows</li> <li>• Sales Blitzes</li> <li>• Familiarization Tours</li> <li>• Advertising</li> <li>• Collateral</li> <li>• Marketing Programs</li> <li>• Local Property Visits</li> <li>• Director of Sales Meetings</li> <li>• General Manager Meetings</li> <li>• Professional Industry Conferences / Affiliation Events</li> <li>• Technology</li> <li>• Staffing Costs</li> </ul>	<b>\$709,310</b>
<b>COMMUNICATIONS and PUBLIC RELATIONS</b>	<p>Communications and Public Relations activities and services will build greater awareness of Oakland businesses and the City of Oakland as a tourism, meeting, and event destination. These activities may include:</p> <ul style="list-style-type: none"> <li>• Public, Community and Media Relations</li> <li>• Familiarizations Tours</li> <li>• CVB Events</li> <li>• Meetings and events</li> <li>• Local Trade Shows and Events</li> <li>• CVB Web Site and Electronic Marketing</li> <li>• CVB Newsletter</li> <li>• Oakland Visitor Guide and collateral</li> <li>• Speaking Engagements</li> <li>• Visitor Information / Servicing</li> <li>• Staffing Costs</li> </ul>	<b>\$400,000</b>
<b>ADMINISTRATIVE/OPERATIONS</b>	<ul style="list-style-type: none"> <li>• Office Administrative/Operational Expenses</li> <li>• Staffing Costs</li> </ul>	<b>\$300,000</b>
City of Oakland formation fee - 1 <sup>st</sup> year only		\$5,000
Bid Collection Fee to City of Oakland - 2.2%		\$34,267
Reimburse OCVB for OTBID implementation costs		\$35,000
Contingency / OTBID Renewal (2%)		\$74,000
	<p>This prudent fiscal reserve is to buffer the organization for any unexpected revenue changes and/or allow the District to fund OTBID renewal costs.</p>	
<b>Total Tourism District Budget</b>		<b>\$1,557,577</b>

## ***TOURISM BID Governance***

### **OTBID Corporation Governance**

The Oakland Convention & Visitors Bureau Board of Directors will act as the Board of Directors of the OTBID. The OCVB board of directors will serve as the owner's association that will provide the improvements or activities described in the plan, and will submit the annual report. At least 50 percent of the voting members of the OCVB Board of Directors will consist of hotel owners or managers who are assessed within the OTBID as outlined in the MDP. This level may drop below 50% at times if turn-over in the hotels creates a temporary vacancy. Lodging facilities in all geographic locations will be considered for inclusion on the OCVB board. Example: Oakland Hills, Downtown, Waterfront and Airport. The Executive Director of the Oakland Convention & Visitors Bureau will be charged with the day-to-day operations of the OTBID. The OCVB shall enter into an agreement with the City of Oakland to administer the district on behalf of the hotels. The OTBID Governing Board will be subject to the Ralph M. Brown Act of 1953 and all meetings will be held in accordance with its provisions.

### **Sales & Marketing Committee**

The Oakland Convention & Visitors Bureau will establish a marketing committee consisting exclusively of hotel sales and management personnel to assist in the development and recommendation of the annual sales and marketing plan utilizing the OTBID funds.

An additional marketing committee representing a broader representation of tourism related businesses such as attractions, transportation, food and beverage and retail will continue to be involved in making recommendations for the OCVB's public funds to augment the OTBID revenues.

*Appendix 1 – The Property and Business Improvement District Law of 1994*

**STREETS AND HIGHWAYS CODE  
SECTION 36600 et seq.**

*As Amended January 1, 2008*

**DECLARATIONS**

36600. This part shall be known and may be cited as the "Property and Business Improvement District Law of 1994."
36601. The Legislature finds and declares all of the following:
- (a) Businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
  - (b) It is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
  - (c) It is of particular local benefit to allow cities to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that benefits from those improvements.
  - (d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property or businesses for which the improvements and activities are provided.
36602. The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.
36603. 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. Any provision in this part that conflicts with any other provision of law shall prevail over the other provision of law.
36604. 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.

## DEFINITIONS

36606. "Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a property and business improvement district.
36607. "Business" means all types of businesses and includes financial institutions and professions.
36608. "City" means a city, county, city and county, or an agency or entity created pursuant to Article I (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.
36609. "City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.
36610. "Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:
- (a) Parking facilities.
  - (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
  - (c) Trash receptacles and public restrooms.
  - (d) Lighting and heating facilities.
  - (e) Decorations.
  - (f) Parks.
  - (g) Fountains.
  - (h) Planting areas.
  - (i) Closing, opening, widening, or narrowing of existing streets.
  - (j) Facilities or equipment, or both, to enhance security of persons and property within the area.
  - (k) Ramps, sidewalks, plazas, and pedestrian malls.
  - (l) Rehabilitation or removal of existing structures.
36611. "Property and business improvement district," or "district," means a property and business improvement district established pursuant to this part.
36612. "Property" means real property situated within a district.
36613. "Activities" means, but is not limited to, all of the following:
- (a) Promotion of public events which benefit businesses or real property in the district.
  - (b) Furnishing of music in any public place within the district.
  - (c) Promotion of tourism within the district.
  - (d) Marketing and economic development, including retail retention and recruitment.
  - (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
  - (f) Activities which benefit businesses and real property located in the district.

36614. "Management district plan" or "plan" means a proposal as defined in Section 36622.
- 36614.5. "Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all documents relating to activities of the district.
36615. "Property owner" or "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. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this subdivision requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient.
36616. "Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

#### PRIOR LAW

36617. 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.

#### ESTABLISHMENT

36620. A property and business improvement district may be established as provided in this chapter.
- 36620.5. 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. (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by

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

36622. The management district plan shall contain all of the following:

- (a) 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.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. Under no circumstances shall the boundaries of a proposed property assessment district overlap with the boundaries of another existing property assessment district created pursuant to this part. Nothing in this part prohibits 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)). Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.
- (e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.
- (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 shall also state whether bonds will be issued to finance improvements.

- (g) The time and manner of collecting the assessments.
- (h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five.  
Upon renewal, a district shall have a term not to exceed 10 years.  
Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.
- (i) The proposed time for implementation and completion of the management district plan.
- (j) Any proposed rules and regulations to be applicable to the district.
- (k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for any properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.
- (l) Any other item or matter required to be incorporated therein by the city council.

36623. 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. 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.

36624. At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements or activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. (a) If the city council, following the public hearing, decides to establish the proposed property and business improvement district, the city council shall adopt a resolution of formation that shall contain all of the following:
- (1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.
  - (2) The number, date of adoption, and title of the resolution of intention.

- (3) The time and place where the public hearing was held concerning the establishment of the district.
  - (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
  - (5) A statement that the properties or businesses in the district established by the resolution shall be subject to any amendments to this part.
  - (6) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district.
  - (7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.
- (b) The adoption of the resolution of formation and 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. If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 36625, but need not contain information about the preliminary resolution if none has been adopted.

36627. Following adoption of the resolution establishing the district pursuant to Section 36625 or 36626, the clerk of the city shall record a notice and an assessment diagram pursuant to Section 3114. If the assessment is levied on businesses, the text of the recorded notice shall be modified to reflect that the assessment will be levied on businesses, or specified categories of businesses, within the area of the district. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. 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. The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements and activities.

36629. 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 parking and business improvement area.

36630. If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and a new district established pursuant to this part.

## ASSESSMENTS

36631. 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 establishing the management district plan described in Section 36622. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part shall be charged interest and penalties.
36632. (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 parcels 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. 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. 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. 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. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed

modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

- (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.
  - (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.
- (b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. 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.

#### FINANCING

36640. (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.

#### GOVERNANCE

36650. (a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.
- (b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:
- (1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.
  - (2) The improvements and activities to be provided for that fiscal year:
  - (3) An estimate of the cost of providing the improvements and the activities for that fiscal year.
  - (4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.
  - (5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
  - (6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.
- (c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636. The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.
36651. The management district plan may, but is not required to, state that an owners' association will provide the improvements or activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

#### RENEWAL

36660. (a) Any district previously established whose term has expired, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

- (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

## DISESTABLISHMENT

36670. (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 of real property or 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. (a) Upon the disestablishment 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. 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.

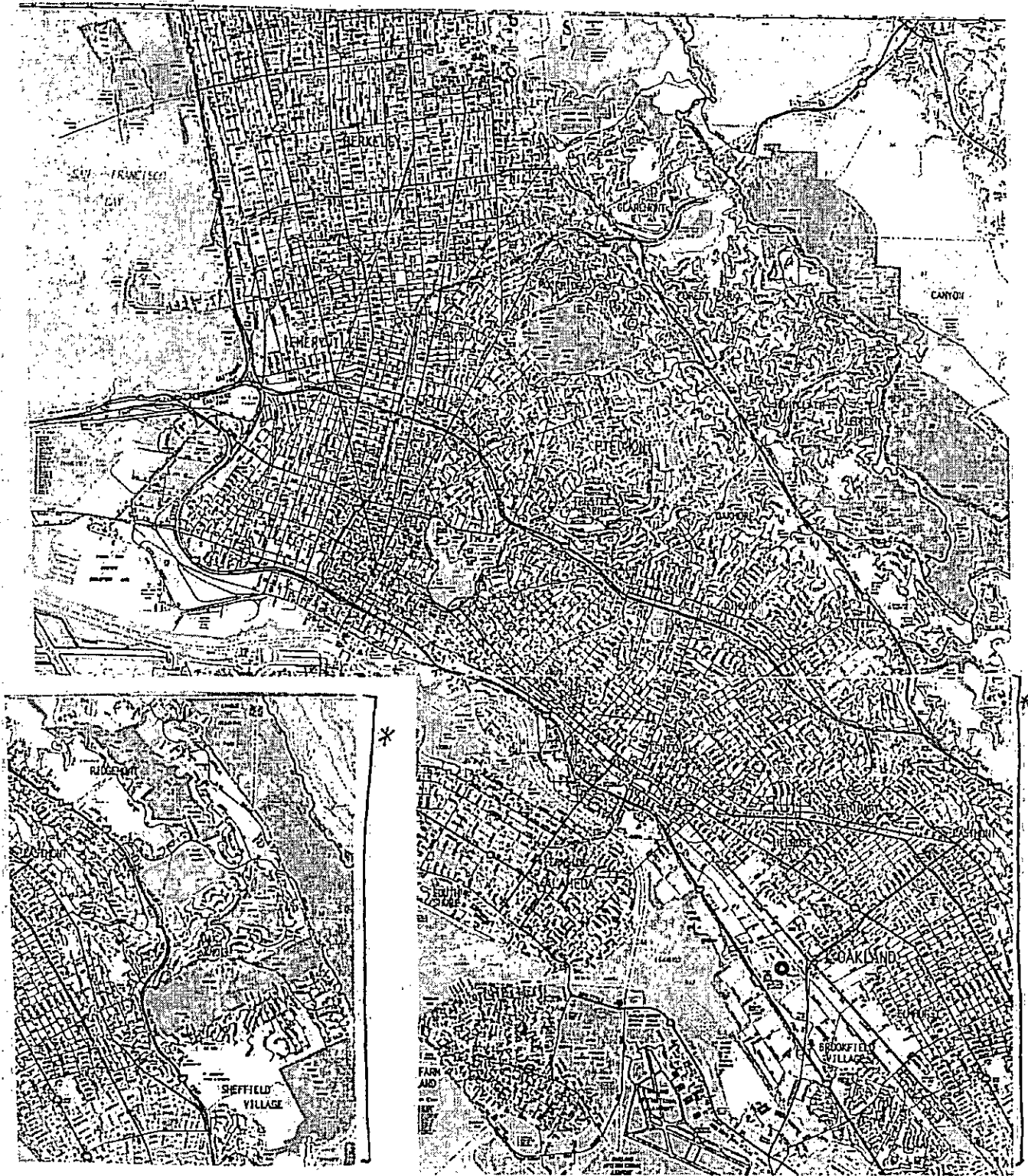
*Appendix 2 – lodging businesses to be assessed within the Oakland tourism BID:*

<u>Lodging Business Name</u>	<u>Lodging Business Address</u>
Oakland Marriott City Center	1001 Broadway
Hilton Oakland Airport	1 Hegenberger Road
Claremont Resort & Spa	41 Tunnel Road
Motel 6 Oakland Airport	8480 Edes Avenue
Executive Inn & Suites	1755 Embarcadero
Park Plaza	150 Hegenberger Road
Courtyard by Marriott Oakland Downtown	988 Broadway
Courtyard by Marriott Airport	250 Hegenberger Road
La Quinta Oakland Airport	8465 Enterprise Way
Waterfront Plaza Hotel	10 Washington Street
Days Inn Oakland Airport	8350 Edes Avenue
Holiday Inn Hotel & Suites	77 Hegenberger Rd.
Homewood Suites Oakland Waterfront	1103 Embarcadero
Jack London Inn	444 Embarcadero
Fairfield Inn by Marriott Oakland Airport	8452 Edes Avenue
Inn at the Square	233 Broadway
Motel 6 Oakland Embarcadero	1801 Embarcadero
Quality Inn	8471 Enterprise Way
Holiday Inn Express Hotel and Suites	66 Airport Access Road
Best Western Airport Inn & Suites	170 Hegenberger Road
Bay Breeze Inn	4919 Coliseum Way
Gateway Hotel	10 Hegenberger Rd.
Economy Inn	122 E. 12 <sup>th</sup> St.
Washington Inn	495 Washington St.
Extended Stay America #8644	3650 Mandela Parkway
Coliseum Way	4801 Coliseum Way
Budget Inn Motel	55 MacArthur Blvd.
Townhouse Travel Inn	444 W. Mac Arthur Blvd.
Imperial Inn	490 W. Mac Arthur Blvd.
Civic Center Lodge	50 6 <sup>th</sup> St.
Capri Motel	722 MacArthur Blvd.
Holiday Motel	4474 Mac Arthur Blvd.
Continental Lodge Motel	1424 International Blvd.
Bay Bridge Inn	683 W. Mac Arthur Blvd.
Westwind Lodge	336 W. Mac Arthur Blvd.
Mills Motel	4550 Mac Arthur Blvd.
Sleepy Hollow Motel	544 W. Mac Arthur Blvd.
Broadway Motel	4140 Broadway
Crown Lodge Motel	9899 Mac Arthur Blvd.
National Lodge.....	1711 International Blvd.....
Parkland Motel	8100 Mac Arthur Blvd.
Regency Inn	3720 Telegraph Ave.
Welcome Inn	9920 Mac Arthur Blvd.
MB Motel	430 Mac Arthur Blvd.
Motel Harris	10400 Mac Arthur Blvd.

Updated 8/5/08

# City of Oakland

ATTACHMENT B  
OTBID MAP



## Legend

The City of Oakland is depicted in White.

\*inset refers to south-eastern portion of city

Oakland Hotels by size		TBID Calculations - 20 or more rooms					ATTACHMENT C				
updated: September 18, 2008											
	Contact			SIGNED	x 365 days	x Occ %	Actual	X Per.Rm	Total	Signed	
NAME	GM	ADDRESS, OAKLAND	#RMS	PETITION	Total Rms		Based on	Rate	Est.	Petitions	
				Rooms			Occupancy		Assessment	Value	
Oakland Marriott City Center	Eli Khoury	1001 Broadway	486	486	177,390	73%	129,495	\$ 2.00	\$ 258,989	\$ 258,989	
Hilton Oakland Airport	Mark Clement	1 Hegenberger Rd.	364	364	132,860	81%	107,617	\$ 2.00	\$ 215,233	\$ 215,233	
Claremont Resort & Spa	Bruce Carlton	41 Tunnel Rd.	279		101,835	78%	79,431	\$ 2.00	\$ 158,863		
Motel 6 Oakland Airport	Dora Muriz	8480 Edes Ave	284		103,660	61%	63,233	\$ 2.00	\$ 126,465		
Executive Inn & Suites	Jim Coleman	1755 Embarcadero	228	228	83,220	73%	60,751	\$ 2.00	\$ 121,501	\$ 121,501	
Park Plaza	Ram Jaerdy	150 Hegenberger Rd.	190	190	69,350	55%	38,143	\$ 2.00	\$ 76,285	\$ 76,285	
Courtyard by Marriott Oakland Downtown	Monica Starosky	988 Broadway	162	162	59,130	73%	43,165	\$ 2.00	\$ 86,330	\$ 86,330	
Courtyard by Marriott Airport	Juan Carlos Medina	350 Hegenberger Rd.	156	156	56,940	87%	49,538	\$ 2.00	\$ 99,076	\$ 99,076	
La Quinta Oakland Airport	Sajid Dadabhora	8465 Enterprise Way	152		55,460	61%	33,843	\$ 2.00	\$ 67,686		
Extended Stay America #8644		3650 Mandela Parkway	149		54,385	61%	33,175	\$ 2.00	\$ 66,350		
Waterfront Plaza Hotel	Greg Mauldin	10 Washington St	143		52,195	61%	31,839	\$ 2.00	\$ 63,678		
Days Inn Oakland Airport	Amit Motawala	8350 Edes Ave	142	142	51,830	82%	42,501	\$ 2.00	\$ 85,001	\$ 85,001	
Holiday Inn Hotel & Suites (New)	Eveyn Whalen	New - No Occ % Yet	140		51,100	61%	31,171	\$ 2.00	\$ 62,342	\$ 62,342	
Homewood Suites Oakland Waterfront	Jason Olivares	1103 Embarcadero	132		48,180	78%	37,580	\$ 2.00	\$ 75,161		
Jack London Inn	Frank Maggi	444 Embarcadero	110		40,150	61%	24,492	\$ 2.00	\$ 48,983		
Fairfield Inn by Marriott Oakland Airport	David Mack	8452 Edes Ave	104		37,960	61%	23,156	\$ 2.00	\$ 46,311		
The Inn at Jack London Square	Sam Nassif	233 Broadway	100		36,500	61%	22,265	\$ 2.00	\$ 44,530	\$ 44,530	
Motel 6 Oakland Embarcadero	Scott Barber	1801 Embarcadero	97	NO	35,405	61%	21,597	\$ 2.00	\$ 43,194		
Quakty Inn	Dan Kerki	8471 Enterprise Way	97		35,405	61%	21,597	\$ 2.00	\$ 43,194		
Holiday Inn Express Hotel and Suites	Sima Patel	66 Airport Access Rd.	95	95	34,675	73%	25,313	\$ 2.00	\$ 50,626	\$ 50,626	
Bay Breeze Inn	Jim - no resp	4919 Coliseum Way	87		31,755	61%	19,371	\$ 2.00	\$ 38,741		
Best Western Airport Inn & Suites	Tony Patel	170 Hegenberger Rd.	76		27,740	61%	16,921	\$ 2.00	\$ 33,843		
Motel Harris		10400 Mac Arthur Blvd.	20		7,300	61%	4,453	\$ 1.50	\$ 6,680		
Gateway Hotel		10 Hegenberger Rd.	72		26,280	61%	16,031	\$ 1.50	\$ 24,046		
Economy Inn		122 E 12th St.	60		21,800	61%	13,359	\$ 1.50	\$ 20,039		
Coliseum Way		4601 Coliseum Way	55		20,075	61%	12,246	\$ 1.50	\$ 18,369		
Washington Inn	Raj Hameed	495 10th St. at Broadway	47		17,155	64%	10,979	\$ 1.50	\$ 16,469	\$ 16,469	
Budget Inn Motel		55 Mac Arthur Blvd.	45		16,425	61%	10,019	\$ 1.50	\$ 15,029		
Townhouse Travel Inn		444 W. MacArthur Blvd.	40		14,600	61%	8,906	\$ 1.50	\$ 13,359		
Imperial Inn		490 W MacArthur Blvd.	35		12,775	61%	7,793	\$ 1.50	\$ 11,690		
Civic Center Lodge		50 6th St.	33		12,045	61%	7,347	\$ 1.50	\$ 11,021		
Capn Motel - No Answer x 3		722 W. MacArthur Blvd	26		10,220	61%	6,234	\$ 1.50	\$ 9,351		
Continental Lodge Motel		1424 International Blvd.	28		10,220	61%	6,234	\$ 1.50	\$ 9,351		
Bay Bridge Inn		683 W. MacArthur Blvd	27		9,855	61%	6,012	\$ 1.50	\$ 9,018		

ATTACHMENT C  
 SPREADSHEET OF  
 SIGNED PETITIONS

Westwind Lodge		338 W Macarthur Blvd.	26	9490	61%	5789	\$ 1.50	\$ 8,683	
Mills Motel		4550 Mac Arthur Blvd.	26	9490	61%	5789	\$ 1.50	\$ 8,683	
Sleepy Hollow Motel		544 W, Mac Arthur Blvd.	26	9490	61%	5789	\$ 1.50	\$ 8,683	
Broadway Motel		4140 Broadway	26	9,490	61%	5,789	\$ 1.50	\$ 8,683	
Holiday Motel		4474 Macarthur Blvd.	24	8760	61%	5344	\$ 1.50	\$ 8,015	
Crown Lodge Motel		9899 Macarthur Blvd.	24	8,760	61%	5,344	\$ 1.50	\$ 8,015	
National Lodge		1711 International Blvd.	24	8760	61%	5344	\$ 1.50	\$ 8,015	
Parkland Motel		8100 Mac Arthur.	22	8030.	61%	4893	\$ 1.50	\$ 7,347	
Regency Inn		3720 Telegraph Ave	21	7,665	61%	4,676	\$ 1.50	\$ 7,014	
Welcome Inn		9920 Mac Arthur Blvd.	20	7,300	61%	4,453	\$ 1.50	\$ 6,680	
MB Motor Inn		430 W. Mac Arthur Blvd.	20	7,300	61%	4,453	\$ 1.50	\$ 6,680	
<b>TOTAL PROPERTIES</b>		<b>Rooms</b>	<b>4522</b>	<b>1823</b>				<b>\$ 2,163,301</b>	<b>\$ 1,116,382</b>
<i>Stats: Total 45 properties representing 4522 rooms</i>									
<i>22 properties with 75+ rooms = \$1,912,381 or 88% of total assessment</i>									
<i>23 properties with 74 or less rooms = \$250,920 or 12% of total assessment</i>									
<i>Exemptions to the total assessment expect to decrease the budget by approximately 18%</i>									
	<b>BUDGET LONG TERM</b>								
Total Assessment w/o exemptions	\$ 2,163,301								
Less 18% for standard exemptions	-389,394								
<b>Total Estimated Budget</b>	<b>\$ 1,773,907</b>	<i>Year three and beyond</i>							
<b>ESTIMATED BUDGET 1ST YEAR</b>									
Total Assessment	\$ 2,163,301								
Less standard exemptions 18%	\$ (389,394)								
Less 1 & 2nd year contracts	\$ (216,330)	<i>minimum/could be more</i>							
<b>Estimated annual operating budget</b>	<b>\$ 1,557,577</b>	<i>Year one and two</i>							
<i>file: tbid petitions 20 rooms</i>									
<i>updated: 9/18/08</i>									



**ATTACHMENT D  
COVER LETTER AND  
SAMPLE PETITION**

April 1, 2008

X  
X  
X

Re: Tourism Business Improvement District

Dear xxx

After many months of discussion and collaborative input from Oakland's Hotel community, it is the consensus to establish a Tourism Business Improvement District (TBID) in Oakland to provide Sales and Marketing programs designed to attract overnight visitors.

Enclosed is the Management District Plan and Petition requiring the signature of the owner or owner representative for your hotel. Please review the enclosed documents, retain the Management Plan for your records. Sign and return the Petition to the Oakland Convention & Visitors Bureau by April 28, 2008. We must secure signatures over 50% of Oakland's hotel inventory prior to presenting this request to City Council. Your prompt return of this form is appreciated.

If you have any questions contact Manette Belliveau, President/CEO of the OCVB at 510-208-0526 or John Lambeth, Attorney at 800-999-7781.

Sincerely,

Manette Belliveau  
President/CEO

## Exhibit A

### *Summary of the Management District Plan*

*The Management District Plan provides for the provision of tourism promotions and marketing for the Oakland area. The Oakland Tourism BID shall be established for 5 years and will raise approximately \$1,490,000 per year in assessments.*

Approximate Boundaries: The Oakland Tourism BID will provide tourism promotions and marketing for the lodging businesses located within the city limits of the City of Oakland. The Tourism BID will only include lodging businesses with 20 rooms or more. A detailed map is attached.

*Services the Oakland Tourism BID will provide include Sales and Marketing programs and activities designed to attract overnight groups, and Communications and Public Relations activities and services to build greater awareness of the City of Oakland as a tourist, meeting, and event destination.*

Annual assessments on lodging businesses located within the boundaries described above are based on the special benefit the business receives from the proposed services. The assessment rates shall not exceed \$2.00 per occupied room per night. Lodging business with 20 to 74 rooms shall be charged \$1.50 per occupied room per night and lodging business with 75 rooms or more shall be charged \$2.00 per occupied room per night. The assessed rate will be adjusted each year at the beginning of the calendar year on January 1 in accordance with the Consumer Price Index (CPI) for the San Francisco Bay Area. Lodging business stays of more than 30 consecutive days are exempt from the assessment. Government Employees, Airline crew rooms, group business that was contracted prior to July 1, 2008 and those with 19 or less rooms will also be exempt from the assessment, as well as RV Parks, campgrounds and vacation rentals.

A complete Management District Plan can be obtained by contacting the Oakland Convention & Visitors Bureau at the address or phone number below. A complete Management District Plan shall be furnished upon request. If you have any questions please contact us at:

Oakland Convention & Visitors Bureau  
463 11th Street  
Oakland, CA 94607  
Phone: (510) 839-9000  
Fax: (510) 839-5924  
[manette@oaklandcvb.com](mailto:manette@oaklandcvb.com)

***PETITION TO THE CITY OF OAKLAND***  
**TO CREATE A TOURISM BUSINESS IMPROVEMENT DISTRICT**

We petition you to initiate special assessment proceedings to create a Tourism Business Improvement District in accordance with the Property and Business Improvement District Law of 1994, Streets and Highways Code Section 36600 et seq., for the purpose of undertaking and implementing the Tourism BID as described in the attached summary of the Management District Plan attached hereto as Exhibit A.

**Lodging Establishment**

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**Business Owner**

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Owner Representative/Owner Name (printed)

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Owner/Representative Signature                      Date

FILED  
ICE OF THE CITY CLERK  
OAKLAND  
008 DEC 19 PM 12:34

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

RESOLUTION No. \_\_\_\_\_ C.M.S.

*Coral Kornde*  
City Attorney

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION TO ESTABLISH THE OAKLAND TOURISM BUSINESS IMPROVEMENT DISTRICT (OTBID) PROPOSED BY THE OAKLAND CONVENTION & VISITORS BUREAU, DECLARE THE RESULTS OF THE MAJORITY PROTEST PROCEEDINGS, AND AUTHORIZE THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE OAKLAND CONVENTION & VISITORS BUREAU TO OPERATE THE OTBID.**

**WHEREAS**, the Property and Business Improvement District Law of 1994 (Streets and Highways Code § 36600 et seq.), a copy of which is attached hereto as Exhibit A, authorizes cities to establish property and business improvement districts upon petition by a weighted majority of the lodging business owners located within the boundaries of the District; and

**WHEREAS**, a majority of the lodging business owners subject to assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the Oakland Tourism Business Improvement District (OTBID) have petitioned the City Council to establish the OTBID; and

**WHEREAS**, the lodging business owners who signed the petitions will pay more than fifty (50) percent of the proposed assessment; and

**WHEREAS**, included with the petitions was a management district plan summary that describes the proposed assessment to be levied on lodging businesses within the OTBID to pay for marketing activities, and those other improvements set forth in Streets and Highways Code §36610; and

**WHEREAS**, the lodging businesses within the OTBID will be benefited by the activities and improvements set forth in the Management District Plan; and

**WHEREAS**, at 6:00 p.m. on November 3, 2008, at One Frank Ogawa Plaza, Oakland, California 94612, the City Council adopted a Resolution of Intention (Resolution No. 81641 C.M.S.); and

**WHEREAS**, the public meeting and public hearing to consider the formation of the OTBID has been properly noticed in accordance with Streets

and Highways Code §36623; and

**WHEREAS**, at 6:00 p.m. on January 6, 2009, at One Frank Ogawa Plaza, Oakland, California 94612, the City Council held a public meeting regarding the establishment of the OTBID, and the City Council heard and received objections and protests to the establishment of the OTBID and the levy of the proposed assessment; and

**WHEREAS**, at 6:00 p.m. on January 20, 2009, at One Frank Ogawa Plaza, Oakland, California 94612, the City Council held a public hearing regarding the establishment of the OTBID, and the City Council heard and received all objections and protests to the establishment of the OTBID and the levy of the proposed assessment; and

**WHEREAS**, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the proposed area which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; now therefore be it

**RESOLVED:** by the City Council of the City of Oakland that:

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.
2. The Oakland Tourism Business Improvement District (OTBID) is hereby established for a five (5) year term that will expire on June 30, 2014.
3. The assessments levied for the OTBID shall be applied towards sales and marketing activities, communications and public relations, and those other improvements set forth in the MDP.
4. The revenue from the levy of the assessments on lodging businesses within the OTBID may not be used to provide for activities or improvements outside the OTBID or for any purpose other than those specified herein and the Resolution of Intention.
5. Assessments levied on lodging businesses pursuant to this Resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.
6. Annual assessment rates are based upon a rate of \$2.00 per occupied room per night on lodging businesses with 75 rooms or more, and \$1.50 per occupied room per night on lodging businesses with 20 to 74 rooms. Because of little or no benefit, lodging businesses with fewer than 20

rooms shall not be assessed. The assessed rate may be increased each year at the beginning of the calendar year on January 1 by no more than the Consumer Price Index (CPI) for the San Francisco Bay Area. Lodging business stays of more than 30 consecutive days shall not be assessed. RV Parks, campgrounds, non-revenue or complimentary rooms and vacation rentals shall not be assessed, as well as stays by airline personnel and government employees on government business also shall not be assessed. Group business with contracts signed and dated prior to June 1, 2009, shall not be assessed. The assessments for the entire District will total approximately \$1,557,577 in year one.

7. The activities and improvements set forth will be funded by the levy of an assessment on lodging businesses within the OTBID, as described in the Management District Plan that is on file with the City Clerk.
8. No bonds shall issue to fund the OTBID.
9. The boundaries of the OTBID shall be the boundaries of the City of Oakland. Please see the attached map, incorporated herein as Exhibit B.
10. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which OTBID assessments are levied as long as they are used consistent with the requirements set forth herein.
11. Collection of the OTBID revenue is a self-assessment process, meaning each participant must file a declaration with the City's Finance and Management Agency indicating the number of room nights subject to the assessment. Assessments will be due on or before the last day of the month following the close of each calendar quarter. Payments made beyond the due date will be considered delinquent. Delinquent participants will receive a delinquency notice to remind them of their unpaid status and advise them of their increased assessment due to penalty and interest accruals. All non-complying participants will be timely reported to the OCVB for internal handling including, but not limited to, collections. The City's Finance and Management Agency will disburse the collected assessment funds to the Oakland Convention & Visitors Bureau in the manner as outlined in the Professional Services Agreement to be negotiated by the City Administrator. The assessments to fund the activities and improvements for the OTBID will be collected in accordance with Streets and Highways Code § 36631.
12. The Oakland Convention and Visitors Bureau (OCVB) shall be the Owners Association pursuant to Streets and Highways Code §36614.5.
13. The OCVB, pursuant to Streets and Highways Code § 36650, shall cause

to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The first report shall be due after the first year of operation of the district.

14. Business in the OTBID established pursuant to this resolution will be subject to any amendments to the Property and Business PBID Law of 1994 (California Streets and Highways Code Section 36600 *et seq.*).
15. The City Clerk, or her designee, is directed to take all necessary actions to complete the establishment of the OTBID and to levy the assessments.
16. The City Clerk is directed to record a notice and assessment diagram, as required by Streets and Highways Code § 36627. The text of the recorded notice shall state that the assessment is levied only against lodging businesses within the area of the OTBID.
17. The City Administrator is hereby authorized to enter into a professional services agreement with the Oakland Convention & Visitors Bureau to perform the sales and marketing activities, communications and public relations functions, and those other improvements set forth in the MDP.
18. This resolution shall take effect immediately upon its adoption by the City Council.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## EXHIBIT A

### The Property and Business Improvement District Law of 1994

#### STREETS AND HIGHWAYS CODE SECTION 36600 et seq.

*As Amended January 1, 2008*

#### DECLARATIONS

36600. This part shall be known and may be cited as the "Property and Business Improvement District Law of 1994."
36601. The Legislature finds and declares all of the following:
- (a) Businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
  - (b) It is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
  - (c) It is of particular local benefit to allow cities to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that benefits from those improvements.
  - (d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property or businesses are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property or businesses for which the improvements and activities are provided.
36602. The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.
36603. 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. Any provision in this part that conflicts with any other provision of law shall prevail over the other provision of law.
36604. 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.



## DEFINITIONS

36606. "Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties or businesses located within a property and business improvement district.
36607. "Business" means all types of businesses and includes financial institutions and professions.
36608. "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.
36609. "City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.
36610. "Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:
- (a) Parking facilities.
  - (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
  - (c) Trash receptacles and public restrooms.
  - (d) Lighting and heating facilities.
  - (e) Decorations.
  - (f) Parks.
  - (g) Fountains.
  - (h) Planting areas.
  - (i) Closing, opening, widening, or narrowing of existing streets.
  - (j) Facilities or equipment, or both, to enhance security of persons and property within the area.
  - (k) Ramps, sidewalks, plazas, and pedestrian malls.
  - (l) Rehabilitation or removal of existing structures.
36611. "Property and business improvement district," or "district," means a property and business improvement district established pursuant to this part.
36612. "Property" means real property situated within a district.
36613. "Activities" means, but is not limited to, all of the following:
- (a) Promotion of public events which benefit businesses or real property in the district.
  - (b) Furnishing of music in any public place within the district.
  - (c) Promotion of tourism within the district.
  - (d) Marketing and economic development, including retail retention and recruitment.
  - (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
  - (f) Activities which benefit businesses and real property located in the district.
36614. "Management district plan" or "plan" means a proposal as defined in Section 36622.

- 36614.5. "Owners' association" means a private nonprofit entity that is under contract with a city to administer or implement activities and improvements specified in the management district plan. An owners' association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners' association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners' association shall comply with the Ralph M. Brown Act (Chapter 9 commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all documents relating to activities of the district.
36615. "Property owner" or "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. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this subdivision requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient.
36616. "Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

#### PRIOR LAW

36617. 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.

#### ESTABLISHMENT

36620. A property and business improvement district may be established as provided in this chapter.
- 36620.5. 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. (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or

business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
  - (1) A map showing the boundaries of the district.
  - (2) Information specifying where the complete management district plan can be obtained.
  - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
  - (1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.
  - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. The management district plan shall contain all of the following:

- (a) 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.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. Under no circumstances shall the boundaries of a proposed property assessment district overlap with the boundaries of another existing property assessment district created pursuant to this part. Nothing in this part prohibits 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)). Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.
- (e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.
- (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 shall also state whether bonds will be issued to finance improvements.
- (g) The time and manner of collecting the assessments.

- (h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five.  
Upon renewal, a district shall have a term not to exceed 10 years.  
Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.
- (i) The proposed time for implementation and completion of the management district plan.
- (j) Any proposed rules and regulations to be applicable to the district.
- (k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for any properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.
- (l) Any other item or matter required to be incorporated therein by the city council.

36623. 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. 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.

36624. At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements or activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. (a) If the city council, following the public hearing, decides to establish the proposed property and business improvement district, the city council shall adopt a resolution of formation that shall contain all of the following:
- (1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement about whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.
  - (2) The number, date of adoption, and title of the resolution of intention.
  - (3) The time and place where the public hearing was held concerning the establishment of the district.
  - (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

- (5) A statement that the properties or businesses in the district established by the resolution shall be subject to any amendments to this part.
  - (6) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments *within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district.*
  - (7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.
- (b) The adoption of the resolution of formation and 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. If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 36625, but need not contain information about the preliminary resolution if none has been adopted.

36627. Following adoption of the resolution establishing the district pursuant to Section 36625 or 36626, the clerk of the city shall record a notice and an assessment diagram pursuant to Section 3114. If the assessment is levied on businesses, the text of the recorded notice shall be modified to reflect that the assessment will be levied on businesses, or specified categories of businesses, within the area of the district. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. 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. The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements and activities.

36629. 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 parking and business improvement area.

36630. If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and a new district established pursuant to this part.

## ASSESSMENTS

36631. 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 establishing the management district plan described in Section 36622. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part shall be charged interest and penalties.
36632. (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 parcels 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. 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. 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. 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. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all

other public meetings and public hearings pursuant to this section shall comply with both of the following:

- (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.
  - (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.
- (b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. 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.

### FINANCING

36640. (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.

### GOVERNANCE

36650. (a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district,

the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

- (b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:
  - (1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.
  - (2) The improvements and activities to be provided for that fiscal year.
  - (3) An estimate of the cost of providing the improvements and the activities for that fiscal year.
  - (4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.
  - (5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
  - (6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.
- (c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636. The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. The management district plan may, but is not required to, state that an owners' association will provide the improvements or activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

#### RENEWAL

36660. (a) Any district previously established whose term has expired, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
  - (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

#### DISESTABLISHMENT

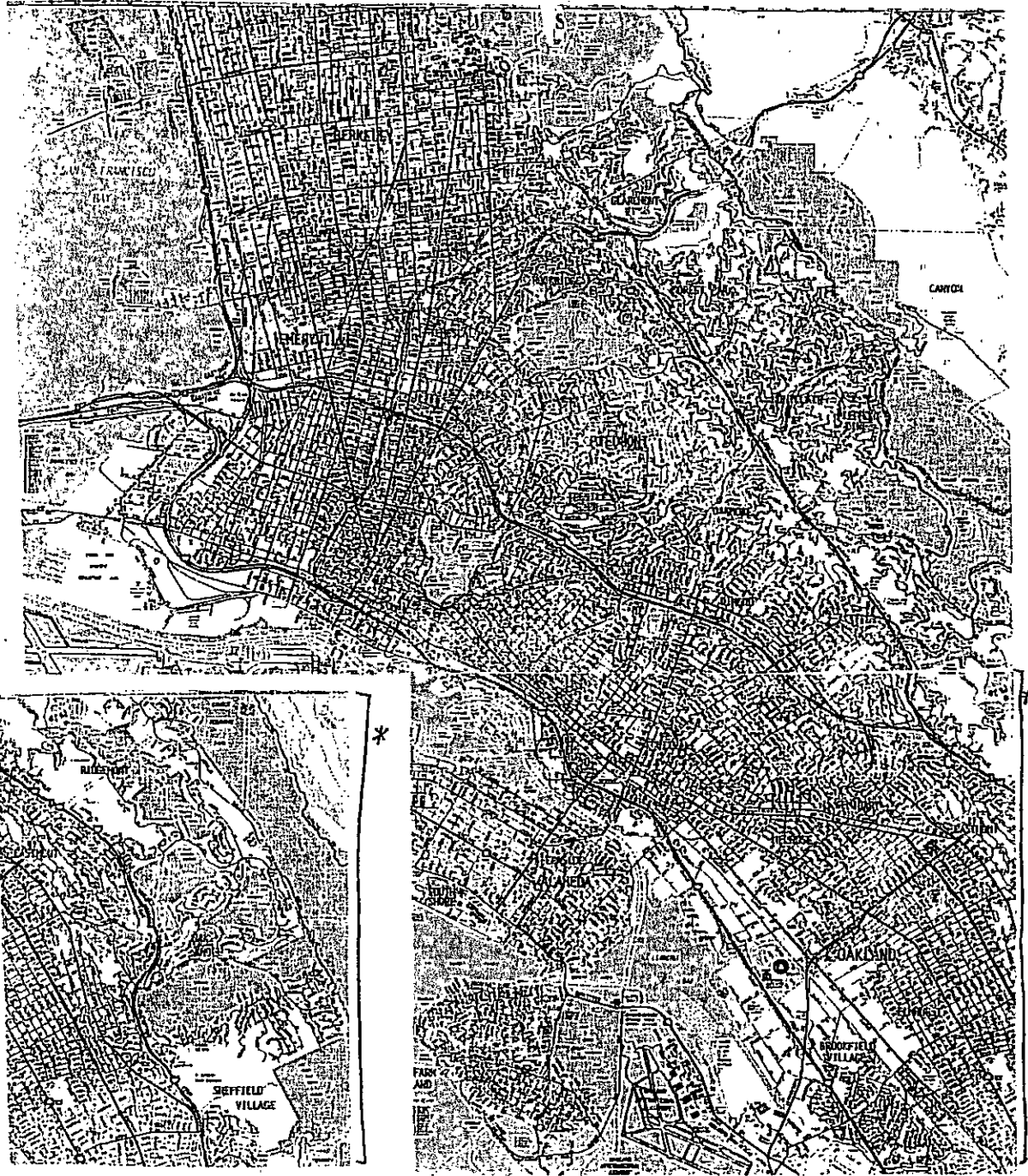


36670. (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:
- (1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
  - (2) During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property or 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. (a) Upon the disestablishment 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. 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.

EXHIBIT B

OTBID MAP

City of Oakland



**Legend**

The City of Oakland is depicted in White.

\* inset refers to south-eastern portion of city