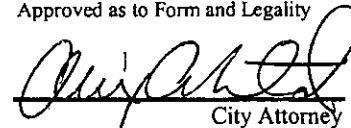


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 JUL 16 PM 3:58

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

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

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.

**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.

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

**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.

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

**WHEREAS**, 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.).

**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.

**WHEREAS**, at 6:00 p.m. on July 21, 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.

**WHEREAS**, at 6:00 p.m. on July 28, 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.

**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 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 July 28, 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, \_\_\_\_\_, 2009

**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**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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

2009 JUL 16 PM 3:58  
**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 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.

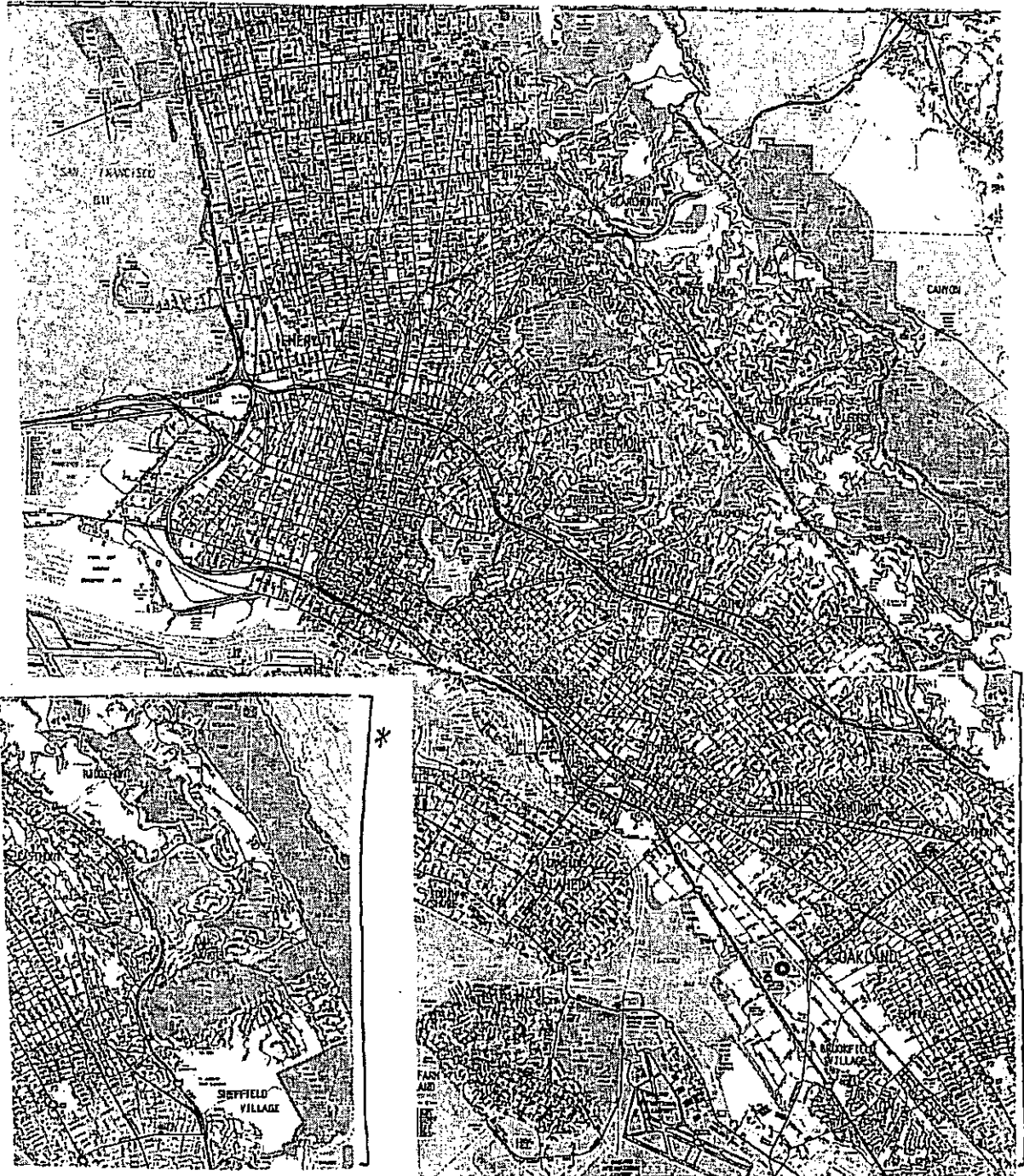
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OAKLAND

EXHIBIT B

OTBID MAP

2009 JUL 16 PM 3:58

City of Oakland



Legend

The City of Oakland is depicted in White.

\* inset refers to south-eastern portion of city