

2024-2033



# PETALUMA TOURISM IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

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

September 11, 2023

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## I. OVERVIEW

Developed by the Petaluma Lodging Association (PLA), and Petaluma lodging businesses, the Petaluma Tourism Improvement District (PTID) is an assessment district proposed to continue to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed lodging businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors. The PTID was initially created 2019 for a five (5) year term. PLA and Petaluma lodging businesses now wish to renew the PTID for a ten (10) year term.

*Location:* The renewed PTID includes all lodging businesses, existing and in the future, located within the boundaries of the City of Petaluma, as shown on the map in Section IV.

*Services:* The PTID is designed to provide specific benefits directly to payors by increasing awareness and demand for room night sales. Marketing, sales, communications, and destination development programs will increase demand for overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing demand for room night sales.

*Budget:* The total PTID annual assessment budget for the initial year of its ten (10) year operation is anticipated to be approximately \$680,000. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do, as lodging businesses open and close, and if the assessment rate increases or decreases, as detailed in Section V.

*Cost:* The annual assessment rate is two percent (2%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any officer or employee of a Federal, state, or foreign government who is exempt by reason of express provision of federal or state law or international treaty.

*Collection:* The Petaluma Lodging Association will be responsible for contracting with a service for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the PTID. The service shall take all reasonable efforts to collect the assessments from each assessed lodging business.

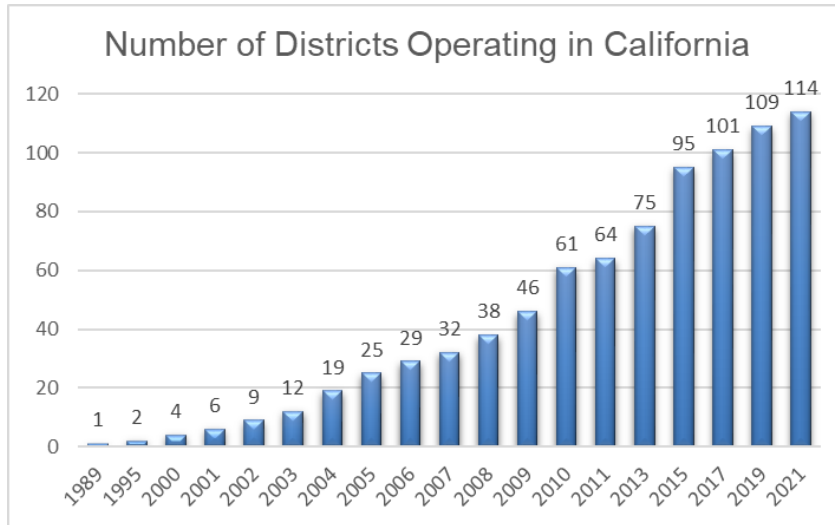
*Duration:* The PTID will have a ten (10) year life, beginning January 1, 2024 or as soon as possible thereafter, and ending ten (10) years from its start date. After ten (10) years, the PTID may be renewed pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq. (94 Law) if lodging business owners support continuing the PTID programs. Once per year, beginning on the anniversary of PTID renewal, there is a thirty (30) day period in which lodging business owners paying fifty percent (50%) or more of the assessment may protest and initiate a City Council hearing on PTID termination.

*Management:* The PLA shall continue to serve as the PTID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in

accordance with this Plan, and in accordance with the 94 Law. The PLA is also required to enter into an agreement or agreements with the City governing the administration of the PTID, and the activities specified in this Management District Plan, including administration of the Petaluma Visitors Center. The PLA must also provide annual reports to the City Council concerning the PTID in accordance with the Streets and Highways Code.

## II. BACKGROUND

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



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

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

tourism districts. TIDs allow tourism business owners to organize their efforts to increase commerce. Tourism business owners within the TID pay an assessment and those funds are used to provide services that increase commerce.

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

There are many benefits to TIDs:

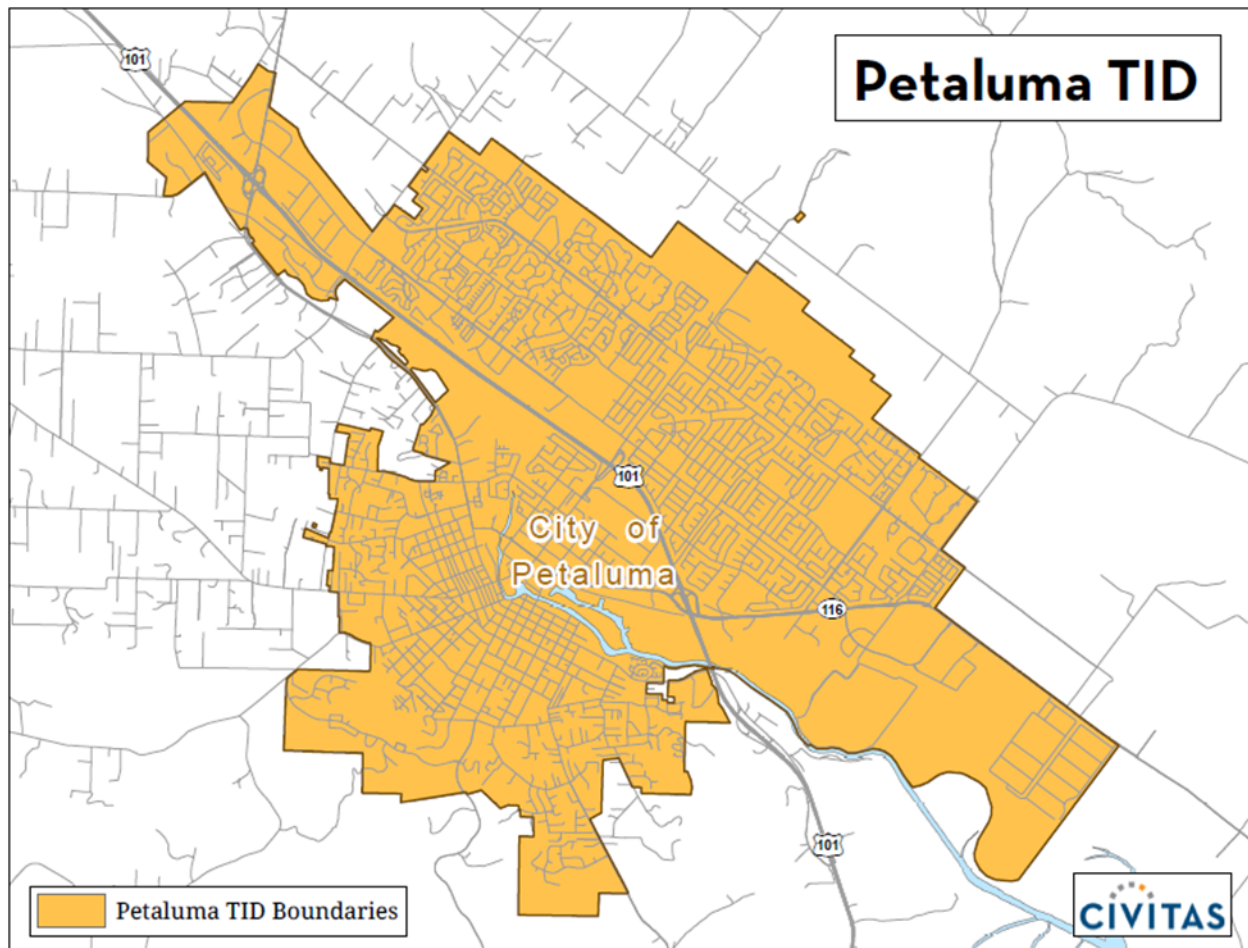
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed,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

### III. BOUNDARY

The PTID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the City of Petaluma, as shown in the map below.

Lodging business means: any structure or any portion of any structure which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, inn, motel with ten (10) or more sleeping rooms. Lodging business also includes areas or places used for a camp, for camping or for a camp meeting, or other similar structure or portion thereof.

A complete listing of lodging businesses within the PTID can be found in Appendix 2.



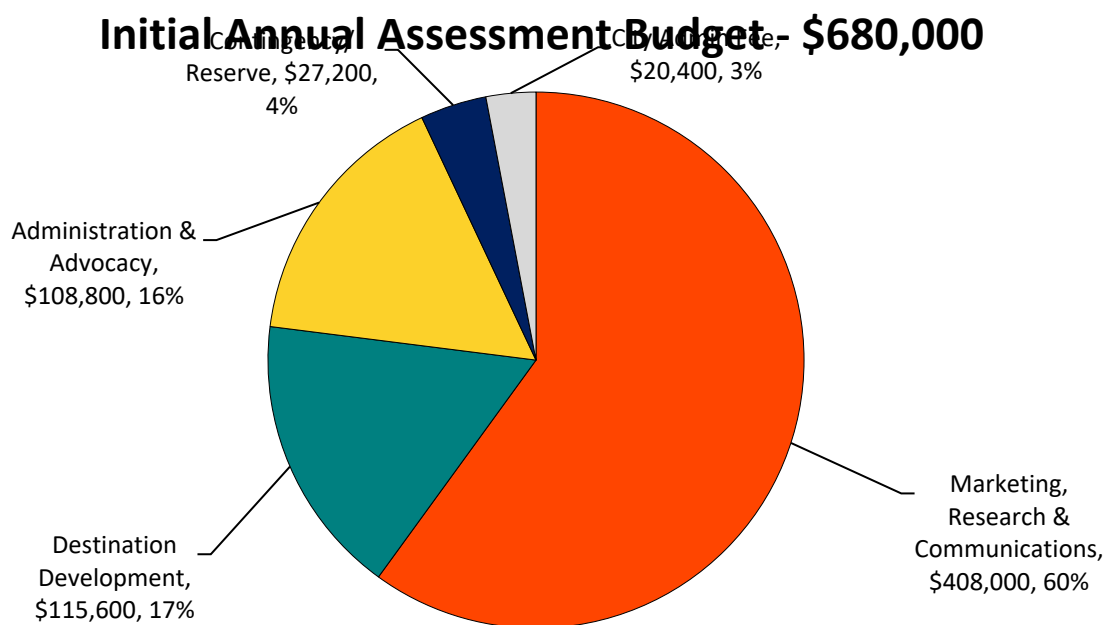


## IV. ASSESSMENT BUDGET AND SERVICES

### A. Annual Service Plan

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

A service plan assessment budget has been developed to deliver services that benefit the assessed lodging businesses. A detailed annual assessment budget will be developed and approved by PLA. The table below illustrates the initial annual assessment budget allocations. These activities and allocations will also apply in subsequent years. The total initial assessment budget is \$680,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the PLA board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the PTID, any and all assessment funds may be used for the costs of defending the PTID.

Each budget category includes all costs related to providing that service. For example, the marketing, research and communications budget includes the cost of staff time dedicated to overseeing and implementing the marketing, research and communications program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories. The staffing levels necessary to provide the services below will be determined by the PLA on an as- needed basis.

### Marketing, Research, & Communications

A marketing, research & communications program will promote assessed lodging businesses as tourist, meeting, and event destinations. The marketing, research and communications program will have a

central theme of promoting Petaluma as a desirable place for overnight visits. The program will have the goal of increasing demand for overnight visitation and room night sales at assessed lodging businesses, and may include the following activities:

- Conduct research to understand the Petaluma visitor experience, brand, primary motivators for visiting and most importantly, to develop an overall strategic marketing plan that solidifies the Petaluma brand in Sonoma County;
- Develop Return on Investment (ROI) analysis on effectiveness of TID funds to improve effectiveness and increase overnight visitation at assessed lodging businesses;
- Develop internet marketing efforts (including website and social media) to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed lodging businesses;
- Proactively work with travel writers, social media influencers, bloggers and pursue other public relations opportunities;
- Work closely with local businesses, organizations, associations and sports group to attract events and meetings that drive overnight stays;
- Promoting downtown and Citywide events that attract visitors to drive overnight visitation;
- Showcase Petaluma as a film and photography location with the goal of generating overnight stays;
- Conduct familiarization tours of assessed lodging businesses and visitor-related businesses;
- Expand our overnight demand from foreign and domestic inbound visitors from SFO (recognizing SFO as the gateway for leisure and business travel), Oakland and Santa Rosa airports;
- Work closely with other DMOs including Visit California, Sonoma County Tourism and SF Travel to expand the reach of our brand message;
- Create television / radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Create print ads in selected magazines and newspapers targeted at potential visitors to drive overnight visitation and room sales to assessed lodging businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed lodging businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed lodging businesses;
- Lead generation activities designed to attract tourists and group events to assessed lodging businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed lodging businesses;
- Development and implementation of a public relations and communications strategy, inclusive of social media outlets and press release distribution designed to increase overnight visitation at assessed lodging businesses;
- Training and support of Visitors Center staff and volunteers;
- Workforce development strategies, research and/or programs designed to improve the visitor experience and increase demand for overnight visitation and room sales to assessed businesses;
- Hospitality education and training support aimed at improving the visitor experience leading to increased demand for overnight visitation and room sales to assessed businesses;
- Fund operations and tenant improvements directly related to the operations of the Visitors Center in accordance with the license agreement; and
- Attendance of trade shows to promote assessed lodging businesses and the Petaluma brand.



### **Destination Development**

Seventeen percent (17%) of the PTID budget will be dedicated to Destination Development (DD) projects will be designed to improve the visitor experience in an effort to increase overnight visitation at assessed lodging businesses. These funds will be directed to the City of Petaluma to provide activities, projects, and improvements that benefit lodging businesses, promote tourism, and increase room rentals, consistent with the 94 Law. The City and PLA will in partnership to collaborate on the use of these monies. As the total number of rooms sold and room prices increase over time, the amount of available funds for DD projects will increase. DD projects may include:

- Destination product development programs and improvements designed to drive overnight visitation and room sales to assessed lodging businesses;
- Services designed to improve the visitors experience such as but not limited to, beautification, and/or creation of new Arts, Cultural and Educational activities;
- Other activities that increase the profile and notoriety of Petaluma as an overnight travel destination and promote greater room night sales for assessed lodging businesses.

### **Administration/Advocacy**

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

### **City Administration Fee**

The City of Petaluma shall be paid a fee equal to three percent (3%) of the amount of assessment collected to cover its costs of administration related to the agreement with the PLA for administering the PTID and agreements governing operation of the Visitors Center and other administrative activities related to the PTID.

### **Contingency/Reserve**

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

### **B. Annual Budget**

The total ten (10) year assessment budget is projected at approximately \$680,000 annually, or approximately \$6,800,000 through 2033. A similar budget is expected to apply to subsequent years, but this budget is expected to fluctuate as room sales do, as lodging businesses open and close, and if the assessment rate is increased or decreased pursuant to this Plan.

The table below demonstrates the annual improvement and service plan budget.

### **Estimated Annual Budget**

| Year  | Marketing,<br>Research &<br>Communications | Destination<br>Development | Administration<br>& Advocacy | Contingency/<br>Reserve | City Admin<br>Fee | Total       |
|-------|--|----------------------------|------------------------------|-------------------------|-------------------|-------------|
| 2024  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2025  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2026  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2027  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2028  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2029  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2030  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2031  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2032  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| 2033  | \$510,000                                  | \$115,600                  | \$108,800                    | \$27,200                | \$20,400          | \$680,000   |
| Total | \$5,100,000                                | \$1,156,000                | \$1,088,000                  | \$272,000               | \$204,000         | \$6,800,000 |

### **C. California Constitutional Compliance**

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

#### ***1. Specific Benefit***

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

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

<sup>2</sup> Cal. Const. art XIII C § 1(e)(1)

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

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

## ***2. Specific Government Service***

The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”<sup>4</sup> The legislature has recognized that marketing and promotions services like those to be provided by the PTID are government services within the meaning of Proposition 26<sup>5</sup>. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”<sup>6</sup>

## ***3. Reasonable Cost***

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

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

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<sup>3</sup> Government Code § 53758(a)

<sup>4</sup> Cal. Const. art XIII C § 1(e)(2)

<sup>5</sup> Government Code § 53758(b)

<sup>6</sup> Government Code § 53758(b)

#### **D. Assessment**

The annual assessment rate is two percent (2%) of gross short-term sleeping room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any officer or employee of a Federal, state, or foreign government who is exempt by reason of express provision of federal or state law or international treaty.

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

The term “gross sleeping room rental revenue” as used herein means: the consideration charged, whether or not received, for the occupancy of a space in a lodging business, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

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

Bonds shall not be issued.

#### **E. Penalties and Interest**

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

1. *Original Delinquency*

Any lodging business that fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.

2. *Continued Delinquency*

Any lodging business that fails to remit any delinquent assessment on or before a period of thirty (30) days following the date on which the assessment first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.

3. *Fraud*

If PLA determines that the nonpayment of any assessment is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated above.

4. *Interest*

In addition to the penalties imposed, any lodging business that fails to remit any assessment imposed shall pay interest at the rate of one-half of one percent (0.5%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the assessment first became delinquent until paid.

5. *Penalties Merged with Assessment*

Every penalty imposed and such interest as accrues under the provisions of subparagraphs 1-4 of this subsection E, shall become a part of the assessment required to be paid.

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

The PTID assessment will be implemented beginning January 1, 2024 or as soon as possible thereafter, and will continue for ten (10) years from its start date. PLA will be responsible for contracting with a service for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The service shall take all reasonable efforts to collect the assessments from each lodging business. The service shall forward the assessments collected to the Owners' Association.

# **V. GOVERNANCE**

## **A. Owners' Association**

The City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the PTID as defined in Streets and Highways Code §36612. The City Council has determined that the PLA will serve as the Owners' Association for the PTID. The PLA as Owners Association shall continue to contract with the City regarding the administration of the PTID and the Visitors Center.

## **B. Brown Act and California Public Records Act Compliance**

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

### **C. Annual Report**

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

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

## APPENDIX 1 – LAW

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 2023 SUPPLEMENT \*\*\*  
(ALL 2022 LEGISLATION)

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

#### CHAPTER 1. General Provisions

#### ARTICLE 1. Declarations

##### **36600. Citation of part**

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

##### **36601. Legislative findings and declarations; Legislative guidance**

The Legislature finds and declares all of the following:

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



Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

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

### **36602. Purpose of part**

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

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

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

### **36603.5. Part prevails over conflicting provisions**

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

### **36604. Severability**

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

## **ARTICLE 2. Definitions**

### **36606. “Activities”**

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

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

### **36606.5. “Assessment”**

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

### **36607. “Business”**

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

**36608. “City”**

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

**36609. “City council”**

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

**36609.4. “Clerk”**

“Clerk” means the clerk of the legislative body.

**36609.5. “General benefit”**

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

**36610. “Improvement”**

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

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

**36611. “Management district plan”; “Plan”**

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

**36612. “Owners’ association”**

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

**36614. “Property”**

“Property” means real property situated within a district.

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

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

#### **36614.6. “Property-based assessment”**

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

#### **36614.7. “Property-based district”**

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

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

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

#### **36615.5. “Special benefit”**

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

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

#### **36616. “Tenant”**

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

### **ARTICLE 3. Prior Law**

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

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

### **CHAPTER 2. Establishment**

#### **36620. Establishment of property and business improvement district**

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

#### **36620.5. Requirement of consent of city council**

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

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

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

### **36622. Contents of management district plan**

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

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

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

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

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

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

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

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

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

(k)

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

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

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

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

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

### **36623. Procedure to levy assessment**

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

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the

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

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

#### **36624. Changes to proposed assessments**

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

#### **36625. Resolution of formation**

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

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

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

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

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

#### **36627. Notice and assessment diagram**

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

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

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

#### **36628.5. Assessments on businesses or property owners**

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

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

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

#### **36630. Expiration of district; Creation of new district**

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

### **CHAPTER 3. Assessments**

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

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

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



- (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.
- (b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.
- (c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

#### **36633. Time for contesting validity of assessment**

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

#### **36634. Service contracts authorized to establish levels of city services**

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

#### **36635. Request to modify management district plan**

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

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

- (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:
  - (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
  - (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.
- (b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

#### **36637. Reflection of modification in notices recorded and maps**

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

### **CHAPTER 3.5. Financing**

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

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

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

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

#### **CHAPTER 4. Governance**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **CHAPTER 5. Renewal**

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

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

**CHAPTER 6. Disestablishment**

**36670. Circumstances permitting disestablishment of district; Procedure**

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

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

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

## APPENDIX 2 – ASSESSED BUSINESSES

| Business Name                        | Business Address       | City, State ZIP    |
|--------------------------------------|------------------------|--------------------|
| Best Western Petaluma Inn            | 200 S. McDowell Blvd.  | Petaluma, CA 94954 |
| Hotel Petaluma                       | 205 Kentucky St.       | Petaluma, CA 94952 |
| Hampton Inn                          | 450 Jefferson St.      | Petaluma, CA 94952 |
| San Francisco<br>North/Petaluma KOA  | 20 Rainsville Rd.      | Petaluma, CA 94952 |
| Metro Hotel                          | 508 Petaluma Blvd. S.  | Petaluma, CA 94952 |
| Motel 6                              | 1368 N. McDowell Blvd. | Petaluma, CA 94954 |
| Quality Inn                          | 5100 Montero Way       | Petaluma, CA 94954 |
| Sheraton Sonoma County –<br>Petaluma | 745 Baywood Dr.        | Petaluma, CA 94954 |
| Courtyard by Marriott                | 700 Caulfield Lane     | Petaluma, CA.94954 |
| Home 2 Suites                        | 1205 Redwood Way       | Petaluma, CA 94954 |