

REPORT TO CITY COUNCIL

DATE: JULY 8, 2015

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER *GR*

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER *hgt*

SUBJECT: CONDUCT A PUBLIC HEARING TO CONSIDER TESTIMONY REGARDING THE PROPOSED INTENTION TO MODIFY THE MANAGEMENT DISTRICT PLAN OF THE CONEJO VALLEY TOURISM IMPROVEMENT DISTRICT

At the June 10, 2015, meeting of the City Council, Resolution No. 15-1788 was approved, which established hearing dates to consider a modification to the Conejo Valley Tourism Improvement District (CVTID). This public hearing is being conducted in accordance with Government Code 54954.6; to allow for testimony by those within the CVTID who are affected by the proposed changes to the Management District Plan. A written notice was provided to the owners of all businesses currently paying the assessment in the District. This process provides a 45-day period in which owners may protest the modification.

The CVTID includes all lodging businesses located within the boundaries of the cities of Agoura Hills and Thousand Oaks, with the City of Agoura Hills serving as the implementing agency. The adopted Management District Plan; includes the boundary of the district, a service plan, budget, a means of governance, and identifies the Greater Conejo Valley Chamber of Commerce as the District Owner's Association. The changes to the Management District Plan do not affect the expiration date of the District, which will still remain through July 31, 2018, with the opportunity to extend the life of the District.

The proposed change is to increase the assessment rate from \$1.00 per paid-occupied-room per night to two percent of gross short-term (stays less than 31 days) room rental revenue. If approved, the modified assessment would be effective starting January 1, 2016. The current fiscal year revenues of the District are estimated to be \$500,000. With the proposed increase, it is anticipated that the revenue for the following fiscal year would be approximately \$750,000 and could increase to approximately \$1,000,000 in the future, based on an anticipated growth in the overnight stays at the lodging businesses. The increase in revenue would be utilized for sales and marketing programs, and the remainder would be applied to administrative costs and a contingency renewal fund for the District.

A final public hearing will be scheduled to take place on August 12, 2015, to consider adopting a resolution of modification. If there are more than 50% of the assessment district that protest the change to the Management District Plan, then no change can occur, and no further proceedings would be allowed to take place to consider the modification for one year from the date of finding of a majority protest by the City Council. It should be noted that the hoteliers within the district have unanimously approved this proposed modification that is being considered and is being brought forth at their request. The City's Community Development staff has been involved with the CVTID Board activities and has no opposition to this request.

The City Attorney's Office has been consulted on this proposed modification and has confirmed the procedural process.

RECOMMENDATION

It is recommended the City Council conduct a public hearing and take any public comments in regards to the proposed modification of the Management District Plan of the Conejo Valley Tourism Improvement District, considering the modifications to the assessment fee.

Attachment: 1) CVTID Management District Plan

2013 -
2018



[MANAGEMENT DISTRICT PLAN]

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

**CONEJO VALLEY
TOURISM IMPROVEMENT DISTRICT
MANAGEMENT DISTRICT PLAN**

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I. OVERVIEW

Developed by local lodging businesses, the Conejo Valley Tourism Improvement District (CVTID) is a benefit assessment district proposed to help fund marketing and sales promotion efforts which provide a specific benefit to assessed Conejo Valley lodging businesses. This approach has been used successfully in other destination areas throughout the country to drive additional room night sales at assessed businesses via increased tourism.

Location: The exterior boundaries of the proposed CVTID are the boundaries of the cities of Agoura Hills and Thousand Oaks (collectively, the “Cities”). The proposed CVTID includes all lodging businesses located within the boundaries of the Cities.

Services: Marketing and sales promotions that provide a specific benefit and government service directly to assessed businesses by improving room night sales. Programs are designed to provide a specific benefit by directly marketing assessed Conejo Valley lodging businesses as tourist, meeting and event destinations.

Budget: The total CVTID annual budget was approximately \$450,000 in year one and approximately \$500,000 in year two. Due to the modified assessment rate, the total CVTID annual budget for year three is expected to be approximately \$750,000 and approximately \$1,000,000 in years four and five.

Assessment: The initial annual assessment rate is \$1.00 per paid occupied room per night. This Management District Plan has been modified to increase the assessment rate to two percent (2%) of gross short-term (stays less than 31 days) room rental revenue. The modified assessment rate is effective from January 1, 2016 until the end of the District’s term. Because programs will not aim to attract these types of stays, assessments will not be collected on stays of more than thirty (30) consecutive days, nor stays pursuant to contracts executed prior to August 1, 2013.

Formation: The City of Agoura Hills will act as the lead jurisdiction in forming the CVTID. A city council may initiate proceedings to form the CVTID upon the submission of a written petition signed by business owners (or their authorized representatives) who will pay more than 50% of the total annual assessment. If the city council proposes to levy an assessment in proposed district, the city council must hold a noticed meeting and a subsequent public hearing at which each business that would be subject to the assessment may submit a written protest. The business owners will receive notice of the meeting and public hearing by mail. If written protests are received from the owners or authorized representatives of businesses in the CVTID that will pay 50% or more of the assessment to be levied, the city Council may not take any further proceedings to levy the proposed assessment against such businesses for a period of one year from the date of the finding of the majority protest. The city council may form the district within the territorial jurisdiction of another city with the consent of the city council of such other city.

Duration: The proposed CVTID will have a five-year life. The CVTID assessment will be implemented beginning August 1, 2013 through July 31, 2018. Once per year beginning on the anniversary of the formation of the district there is a 30-day period

in which owners paying more than 50% of the assessment may petition the city council to terminate the CVTID.

Collection: The Cities will collect the assessment from each lodging business within their respective boundaries at the same time and in the same manner as they collect transient occupancy taxes.

Operation: The Greater Conejo Valley Chamber of Commerce (Chamber) will serve as the owners' association and be responsible for implementing programs. The Chamber will carefully manage programs to ensure that the specific benefit of room night sales is provided directly and only to assessed businesses.

II. PURPOSE

There are several reasons why now is the right time to form a TID in Conejo Valley.

1. The Need to Increase Occupancy

The formation of the CVTID is a proactive effort to provide services that specially and specifically benefit assessed lodging businesses. The funding will ensure that adequate financing exists for the investment required to increase occupancy in the lodging industry and be competitive in the conference segment of the tourism market. The investment will cover a new marketing and promotional budget needed to reach this market segment.

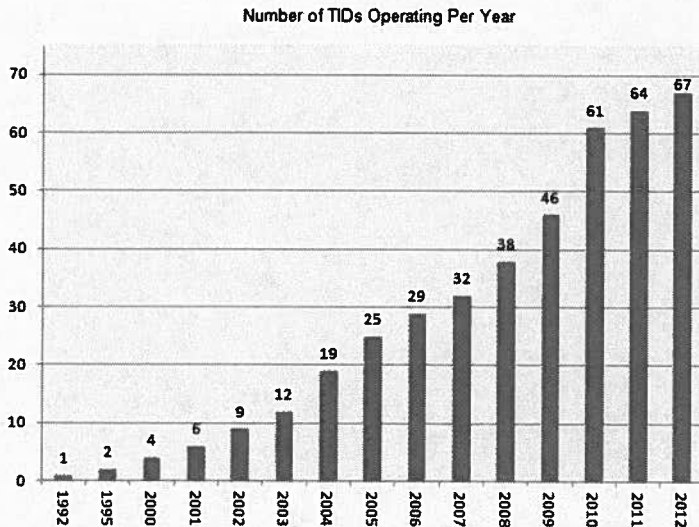
2. Stable Funding for Tourism Promotion

The CVTID will provide a stable source of funding for consistent tourism promotion efforts featuring the assessed businesses. The CVTID will provide funding for tourism promotion free of the political and economic circumstances that can reduce or eliminate government funding for tourism promotion.

III. BACKGROUND

Tourism Improvement Districts (TIDs) are an evolution of the traditional Business Improvement District. The first TID was formed in West Hollywood, California in 1992. Since then, nearly eighty California destinations have followed suit. In recent years, other states have begun adopting the California model – Washington, Montana, and Texas have adopted TID laws. Several other states are in the process of adopting their own legislation. And, some cities, like Portland, Oregon,

have utilized their charter powers to create TIDs without a state law.



California's TIDs collectively raise \$150 million for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that the Conejo Valley lodging businesses continue their investment in stable, lodging-specific marketing programs.

TIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TIDs allow lodging

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

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

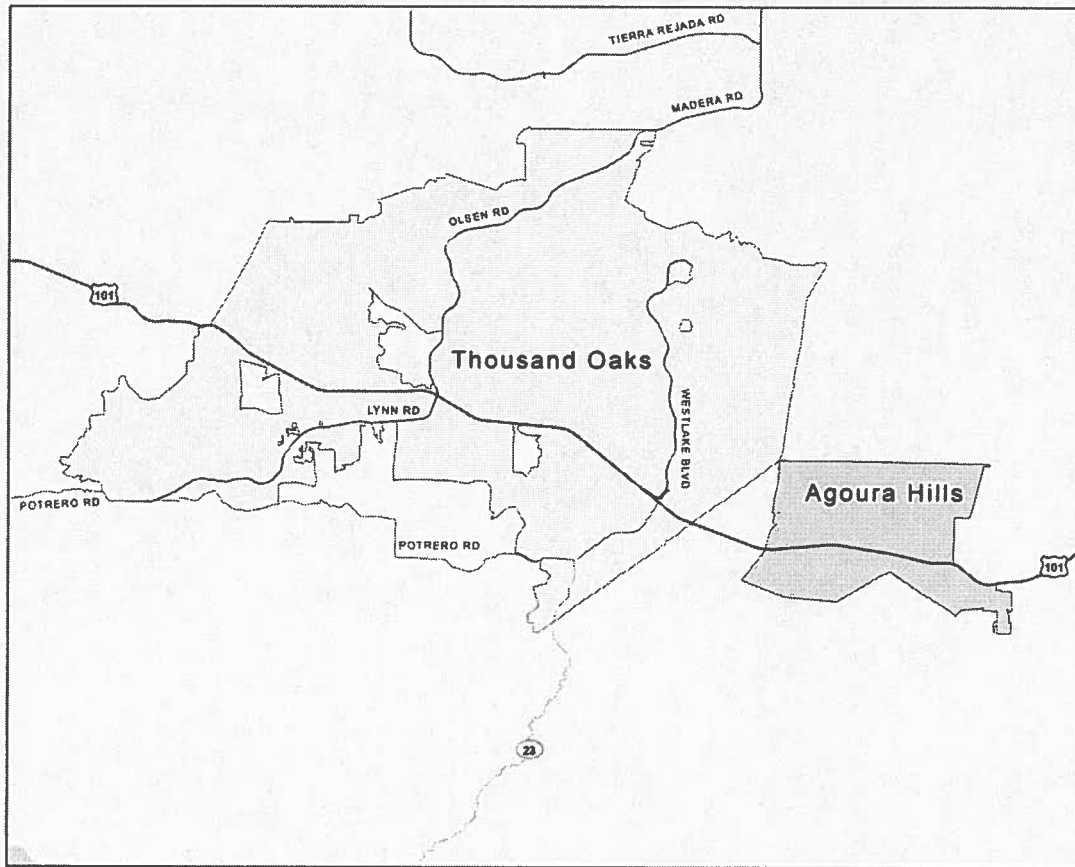
There are many benefits to Tourism Improvement Districts:

- 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 each assessed business;
- They allow for a wide range of services, including those listed above;
- They are **designed, created and governed by those who will pay** the assessment; and
- They provide a stable funding source for tourism promotion to benefit assessed businesses.

IV. BOUNDARY

The CVTID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the cities of Agoura Hills and Thousand Oaks.

The boundary currently includes 14 lodging businesses. Please see the map below. A complete listing of lodging businesses within the proposed CVTID can be found on Appendix 2 of this Plan.



V. SERVICE PLAN AND BUDGET

A. Assessment

The initial annual assessment rate is \$1.00 per paid occupied room per night. This Management District Plan has been modified to increase the assessment rate to two percent (2%) of gross short-term (stays less than 31 days) room rental revenue. The modified assessment rate is effective from January 1, 2016 until the end of the District's term. Because programs will not aim to attract these types of stays, assessments will not be collected on stays of more than thirty (30) consecutive days, nor stays pursuant to contracts executed prior to August 1, 2013.

Bonds will not be issued.

The amount of assessment, if passed on to each transient, shall be separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. The assessment shall be identified as "TBID assessment" on guest documentation.

B. Delinquencies

1. *Original delinquency.* Any business which fails to remit any assessment within the time required shall pay a penalty of ten (10) percent of the amount of the assessment in addition to the amount of the assessment.

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

3. *Fraud.* If the City determines that the nonpayment of any remittance is due to fraud, a penalty of twenty-five (25) percent of the amount of the assessment shall be added thereto in addition to the penalties stated in paragraphs 1 and 2 above.

4. *Interest.* In addition to the penalties imposed, any business which fails to remit any assessment shall pay interest at the rate of one-half of one (1) percent per month for each month or portion of a month that the assessment shall be delinquent on the amount of the assessment, exclusive of penalties, from the date on which the assessment first became delinquent until paid. The interest shall be computed on a monthly basis and shall not be subject to proration for any portion of a month.

5. *Penalties merged with assessment.* Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the assessment required to be paid.

C. Determination of Specific Benefit and Government Service

State law requires that assessment funds be expended on a specific benefit or service conferred directly to the payors that is not provided to those not charged, and that the assessment does not exceed the reasonable cost to the Cities of conferring the benefit or service. Further, the assessment may be utilized to provide a specific government service directly to the payors that is not provided

to those not charged, and which does not exceed the reasonable costs to the local government of providing the service.

District services will be implemented carefully to ensure the charge imposed does not exceed the reasonable cost to the cities of conferring the specific benefit described herein. Funds will be managed by the Chamber, and reports submitted on an annual basis to the City of Agoura Hills. The amount of the assessment is no more than necessary to cover the reasonable costs of the proposed activities, and the manner in which the costs are allocated to each business bears a fair share relationship to the businesses' benefits received from the proposed activities.

The services discussed in this Management District Plan are government services designed to provide a direct, specific benefit only to assessed businesses by increasing overnight room sales. These promotional services are often provided by government, and are tailored not to serve the general public, but rather to serve the specific lodging businesses within the District by increasing room night revenue. The specific benefit the district will provide directly to assessed lodging businesses, and will not provide to non-assessed lodging businesses, is room night sales. In order to provide a specific benefit and government service only to payors, the marketing and promotions services provided with the district funds will be designed specifically to drive room night sales to assessed lodging businesses. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, be featured on district-funded websites, and receive a direct specific benefit from other district-funded services. Non-assessed lodging businesses will not receive these, nor any other district-funded services.

D. Time and Manner for Collecting Assessments

The CVTID assessment will be implemented beginning August 1, 2013 and will continue for five years through July 31, 2018. The modified assessment rate of two percent (2%) of gross short-term (stays less than 31 days) room rental revenue will be effective January 1, 2016 through July 31, 2018. The Cities will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in its respective jurisdiction. The Cities shall take all reasonable efforts to collect the assessments from each lodging business. The Cities shall forward the assessments to the Chamber, which will have the responsibility of managing TID programs as provided in this Management District Plan.

E. Service Plan Budget Summary

A summary of the annual service plan budget for the CVTID is provided on the following pages. The total CVTID annual budget was approximately \$450,000 in year one and approximately \$500,000 in year two. Due to the modified assessment rate, the total CVTID annual budget for year three is expected to be approximately \$750,000 and approximately \$1,000,000 in years four and five, or \$3,700,000 through 2018.

F. 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 costs to the Cities of conferring those benefits or granting those privileges. The privileges and services provided with District funds are sales and marketing programs available only to assessed businesses. To the extent that other, non-assessed, lodging businesses may receive incremental room night sales, that portion of the program generating those room nights shall be paid with non-assessment funds.

A service plan budget has been developed to deliver services to all assessed lodging businesses. An annual service plan and budget will be developed and approved by the Chamber Board within the guidelines of this Plan. The annual service plan shall be filed with the Agoura Hills City Clerk as part of the Annual Report required by Streets and Highways Code section 36650. Please see the budget exhibit below.

	Sales and Marketing	Administration	Contingency/ Renewal	City Collection Costs	Total
Budget %	75%	20%	4%	1%	100%
FY 2013-14	\$337,500	\$90,000	\$18,000	\$4,500	\$450,000
FY 2014-15	\$375,000	\$100,000	\$20,000	\$5,000	\$500,000
FY 2015-16	\$562,500	\$150,000	\$30,000	\$7,500	\$750,000
FY 2016-17	\$750,000	\$200,000	\$40,000	\$10,000	\$1,000,000
FY 2017-18	\$750,000	\$200,000	\$40,000	\$10,000	\$1,000,000

Sales and Marketing

A sales and marketing program will promote the assessed lodging business in the Conejo Valley as tourist, event, and meeting destinations. The sales and marketing program will have a central theme of promoting Conejo Valley as a desirable place for lodging. All program elements will be provided directly to and focused entirely on assessed businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence for assessed businesses;
- Print ads in magazines and newspapers targeted at potential visitors and featuring assessed businesses;
- Television ads targeted at potential visitors and featuring assessed businesses;
- Radio ads targeted at potential visitors and featuring assessed businesses;
- Attendance of trade shows to drive room night sales to assessed businesses;
- Sales blitzes for assessed businesses;
- Familiarization tours featuring assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring and utilized by assessed businesses;
- Attendance of professional industry conferences and affiliation events to promote and serve assessed 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;
- Education of hospitality staff at assessed lodging businesses on service and safety (related to alcohol and food) designed to create a visitor experience that will bring repeat visits; and
- Education of management at assessed lodging businesses and the owners' association on marketing strategies best suited to meet those businesses' needs.

Administration and Operations

The administrative and operations portion of the budget shall be utilized for staffing costs, office costs, and other general administrative costs. Notwithstanding the above budget and categories, all assessment funds may be used for legal fees associated with defense of the district.

City Administration Fee

Each city shall be paid a fee equal to no more than 1% of the amount of assessment collected in its respective jurisdiction to cover their costs of collection and administration.

Contingency/Renewal

A prudent portion of the budget will be set aside in a contingency fund, to be used for unforeseeable costs in carrying out the sales and marketing programs. If at the expiration of the CVTID there are contingency funds remaining, and business owners wish to renew the CVTID, the remaining contingency funds may be used for renewal costs.

G. Adjustments

The Agoura Hills City-Council approved marketing plan shall remain consistent with the budget herein. Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City of Agoura Hills and the Chamber board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) per year.

H. Expiration

If there are funds remaining at the end of the CVTID term and CVTID businesses choose to renew, these remaining funds could be transferred to the renewed District. If there are funds remaining at the end of the CVTID and lodging businesses choose not to renew, any remaining funds will be spent consistent with this Plan or returned to assessed businesses in equal proportions to the assessment paid by each business.

VI. 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 CVTID as defined in Streets and Highways Code §36614.5. The City Council has identified the Greater Conejo Valley Chamber of Commerce as the body that will serve as the Owner's Association for the CVTID.

B. Brown Act and California Public Records Act Compliance

The owner's association is subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act, designed to promote public accountability. The owners' association of a TID is considered a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Chamber board and committees, to the extent they discuss and consider CVTID business, must be held in compliance with the public notice and other requirements of the Brown Act. The Owner's Association is also subject to the record keeping requirements of the California Public Records Act.

C. Annual Report

The Chamber board 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).

APPENDIX 1 – PBID LAW

Property and Business Improvement District Law of 1994

*** This document is current through the 2012 Supplement ***
(All 2011 legislation)

§ 36600. Citation of part

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

§ 36601. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Businesses located and operating within 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. Purpose of part

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. 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 in this part that conflicts with any other provision of law shall prevail over the other provision of law.

§ 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.

§ 36605. [Section repealed 2001.]

§ 36606. "Assessment"

"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"

"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.

§ 36610. "Improvement"

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

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

§ 36611. "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.

§ 36612. "Property"

"Property" means real property situated within a district.

§ 36613. "Activities"

"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"; "Plan"

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

§ 36614.5. "Owners' association"

"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"; "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.

§ 36616. "Tenant"

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

§ 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.

§ 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 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. Contents of management district plan

The management district plan shall contain 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 lands and businesses included. 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 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 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) 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, 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. 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.

§ 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 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. Resolution of formation

(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, businesses, or both 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, 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 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, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

§ 36626. Resolution establishing district

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

§ 36626.5. [Section repealed 1999.]

§ 36626.6. [Section repealed 1999.]

§ 36626.7. [Section repealed 1999.]

§ 36627. Notice and assessment diagram

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

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

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

§ 36628.5. Assessments on businesses or property owners

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

§ 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 parking and business improvement area.

§ 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 a new district established pursuant to this part.

§ 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 shall be charged interest and penalties.

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

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

district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

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

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

§ 36633. Time for contesting validity of assessment

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

§ 36634. Service contracts authorized to establish levels of city services

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

§ 36635. Request to modify management district plan

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

§ 36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention; Modification of improvements and activities by adoption of resolution after public hearing

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

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

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

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

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

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

§ 36641. [Section repealed 2001.]

§ 36642. [Section repealed 2001.]

§ 36643. [Section repealed 2001.]

§ 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 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. Designation of owners' association to provide improvements and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements 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.

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

(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.

§ 36670. Circumstances permitting disestablishment of district; Procedure

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

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

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

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

public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

§ 36671. Refund of remaining revenues upon disestablishment of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

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

APPENDIX 2 – ASSESSED BUSINESSES

Business Name	Street Address	City	State & Zip
Best Western Plus/Thousand Oaks Inn	75 W. Thousand Oaks Blvd.	Thousand Oaks	CA 91360
Courtyard by Marriott	1710 Newbury Road	Newbury Park	CA 91320
Hampton Inn & Suites- Thousand Oaks	510 N. Ventu Park Road	Newbury Park	CA 91320
La Quinta Inn & Suites	1320 Newbury Road	Thousand Oaks	CA 91320
Motel 6	1516 Newbury Road	Newbury Park	CA 91320
Palm Garden Hotel	495 N. Ventu Park Road	Newbury Park	CA 91320
TownePlace Suites by Marriott	1712 Newbury Road	Newbury Park	CA 91320
America's Best Value	2850 Camino Dos Rios	Newbury Park	CA 91320
Premier Inn	2434 W. Hillcrest Drive	Thousand Oaks	CA 91320
Quality Inn	12 Conejo Blvd.	Thousand Oaks	CA 91320
Sheraton Agoura Hills	30100 Agoura Road	Agoura Hills	CA 91301
Homewood Suites-Agoura	28901 Canwood Street	Agoura Hills	CA 91301
Hampton Inn Agoura Hills	30255 Agoura Road	Agoura Hills	CA 91301
Hyatt Westlake Plaza	880 S. Westlake Boulevard	Thousand Oaks	CA 91361