

## CITY OF LONG BEACH



DEPARTMENT OF PUBLIC WORKS

333 West Ocean Boulevard 9<sup>th</sup> Floor • Long Beach, CA 90802 • (562) 570-6383 • Fax (562) 570-6012

May 21, 2013

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Adopt the attached Resolution of Intention to establish the Andy Street Property and Business Improvement District; set the date for a Public Hearing for July 16, 2013; receive the petition and designate the Administrative Board. (District 9)

**DISCUSSION**

The Andy Street Multi-Family Improvement District (AMID) was created in 2007 to address issues of major and minor crime, particularly graffiti, illegal dumping, prostitution, and vandalism. At the time, the area was experiencing a significant amount of major crimes, including violent crimes against persons, with the Police department received an average of 55 calls for service every month. Residents and property owners seeking a change worked with the City to create the AMID.

Over the past five years, the AMID funds have been used to reduce crime, improve safety, and improve the economic vitality of the District. The Andy Street Community Association managed the District funds and programs. The AMID's security programs have been highly successful in improving the Andy Street area. Calls for service to the Police department have been reduced approximately 80 percent (e.g., in May 2012 there were 16 calls, June also had 16 calls, and July had 12). Notably, the incidence of major violent crimes has been nearly eliminated.

The AMID expired as of October 1, 2012, and in accordance with State Law, Multi-Family Improvement Districts require a majority of two-thirds vote in support of re-establishment. That threshold was not met for the AMID re-establishment and, therefore, the AMID was formally dis-established by the City Council on March 19, 2013.

The State of California Property and Business Improvement District Law of 1994 (Section 33600 et seq. of the California Streets and Highways Code) and Article XIID of the California Constitution (Proposition 218) enables the City to create a property-based assessment district allowing property owners to voluntarily assess themselves for various services beyond those provided by the City, including public safety and beautification programs. All properties located within the boundaries of the proposed Andy Street Property and Business Improvement District (APBID) that receive special benefits as determined by the Engineer's Report must be allocated a proportional share of the assessment.

This proposed new APBID will provide clean and safe programs to benefit assessed Andy Street property owners for an initial period of five years. Developed by a coalition of property and business owners, the APBID is a benefit assessment district whose goal would be to improve the Andy Street area and will build upon the prior success of the AMID. The APBID is a modernization and replacement of the former AMID. If established, the properties within the new District would be levied an assessment beginning in January 2014 for an initial period of five years, and ending December 31, 2018, in accordance with the methodology detailed in the Management Plan and Engineer's Report.

Establishment of the APBID is accomplished through a majority vote of at least 50 percent of the property owners in favor of the proposed assessment for the new term. Pursuant to the California Constitution, the vote on a proposed special assessment must be weighted according to the proportional financial obligation of the affected properties. The assessment is based upon the special benefits each individual parcel receives as determined by an independent Engineer's Report prepared pursuant to State law.

In order for the APBID to be established, petitions were delivered to each individual parcel owner within District. Signed petitions that were returned have met the threshold of more than 50 percent of the proposed assessment to be levied. Therefore, the City Council may initiate proceedings to form the District by the adoption of a Resolution of Intent (ROI) to establish the District, and to set public hearings and issue ballots to each individual parcel owner.

The APBID annual budget for the initial year of its five-year operation is anticipated to be \$94,500. The budget may be subject to an annual assessment rate increase of up to four percent (4%) per year. The annual assessment rate for parcels is based on parcel square footage and parcel use. Annual assessment rates for the initial year are:

<b>Parcel Type</b>	<b>Annual Assessment Rate (Initial Year)</b>
Parcels with Multi-family Residential Uses	\$0.66 per parcel square foot
Parcels Owned & Utilized by Non-Profit Entities	\$0.01 per parcel square foot

Bonds will not be issued as part of this APBID.

The APBID includes all parcels fronting Andy Street, and Assessor's parcel number 7121-008-008. A detailed map of the District is included in the Management District Plan attached to the Resolution as Exhibit A.

If the City Council adopts the ROI, a formal vote of the property owners will be conducted in accordance with State law. This will include written notice of the proposed assessment to the record owners of all assessed parcels, a voting ballot, and a statement that a majority protest vote will prevent the assessment's passage. The City will conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice to the record property owners, will consider all protests against the proposed assessment, and will tabulate the ballots. In tabulating the ballots, the ballots

HONORABLE MAYOR AND CITY COUNCIL

May 21, 2013

Page 3

shall be weighted according to the proportional financial obligation of the affected property. The results of this special election shall be announced at the public hearing on July 16, 2013. The Resolution also appoints the Andy Street Community Association (ASCA) Board as the owners' association for the APBID.

This matter was reviewed by Assistant City Attorney Charles Parkin on March 29, 2013 and Budget Management Officer Victoria Bell on April 12, 2013.

TIMING CONSIDERATIONS

City Council action is required by May 21, 2013, to allow timely completion of the balloting process and submittal of the levy to the Los Angeles County Assessor before August 9, 2013 in order for the proposed new assessment to become effective in calendar year 2014.

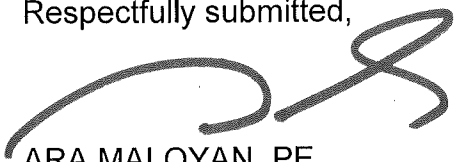
FISCAL IMPACT

The FY 14 assessment is estimated to be \$94,500 and will be fully offset by revenue from properties within the APBID. If the APBID is established, FY 14 revenue and expenditures will accrue in the Parking and Business Area Improvement Fund (SR 132) in the Department of Public Works (PW). An appropriation increase is not requested at this time, but will be requested as part of FY 14. There is no fiscal impact to General Fund. Approval of the recommendation will result in a positive local job impact.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



ARA MALOYAN, PE  
ACTING DIRECTOR OF PUBLIC WORKS

AM:VSG:jstf  
Andy St PBID ROI.05.21.13 v4.doc

Attachment – Resolution

APPROVED:



PATRICK H. WEST  
CITY MANAGER

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO.

A RESOLUTION OF INTENTION OF THE CITY  
COUNCIL OF THE CITY OF LONG BEACH DECLARING  
THE INTENTION OF THE CITY COUNCIL TO ESTABLISH  
THE ANDY STREET PROPERTY AND BUSINESS  
IMPROVEMENT DISTRICT, FIXING THE TIME AND  
PLACE OF A PUBLIC HEARING THEREON AND GIVING  
NOTICE THEREOF

WHEREAS, a proposal has been submitted for the creation of a property  
and business improvement district pursuant to California Streets and Highways Code  
Section 36600 et seq. by certain property owners located within that area of the City of  
Long Beach more particularly described in Exhibit "A" to this resolution (the "Andy Street  
Property and Business Improvement District"); and

WHEREAS, the City Council of the City of Long Beach has received a  
petition, signed and acknowledged, of property owners in the Andy Street Property and  
Business Improvement District who will pay more than fifty percent of the assessments  
proposed to be levied in said District, requesting that such district be formed;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
follows:

Section 1. That the City Council hereby declares its intention to establish  
a property and business improvement district under and pursuant to the Property and  
Business Improvement District Law of 1994 (California Streets and Highways Code,  
Section 36600, et seq.)

Section 2. The management plan for said District, which is attached as  
Exhibit "A" hereto, is hereby approved.

Section 3. Notice is hereby given that a public hearing will be held

1 concerning this matter on July 16, 2013, at the hour of 5:00 p.m., in the Council  
2 Chambers of the City Council in the Long Beach City Hall, by the City Council to consider  
3 the establishment of the property and business improvement district as herein proposed  
4 and described and to hear any and all protests thereto. Any property owner within the  
5 proposed and described district or any other interested person having any objection to  
6 the establishment of said property and business improvement district or to any other  
7 action proposed herein may file a written protest with the City Clerk of said City not later  
8 than the hour so fixed for hearing.

9           Section 4. The Department of Public Works is hereby directed to mail  
10 notices to the record owners of parcels within the property and business improvement  
11 district, which notices shall contain the time and date of the public hearing, the proposed  
12 assessment, the total amount thereof charged to the whole district, the amount  
13 chargeable to the owner's parcel, the duration of the payments, the reason for the  
14 assessment and the basis for the calculation thereof. A ballot shall be included with said  
15 notice, which shall permit the parcel owner to indicate his or her name, identification of  
16 the parcel and support or opposition to the assessment.

17           Section 5. At the public hearing, the results of the election described in  
18 Section 4 above shall be announced.

19           Section 6. The City Council hereby appoints the Andy Street Community  
20 Association Board, as the owner's association for the District.

21           Section 7. This resolution shall take effect immediately upon its adoption  
22 by the City Council, and the City Clerk shall certify to the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2013, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

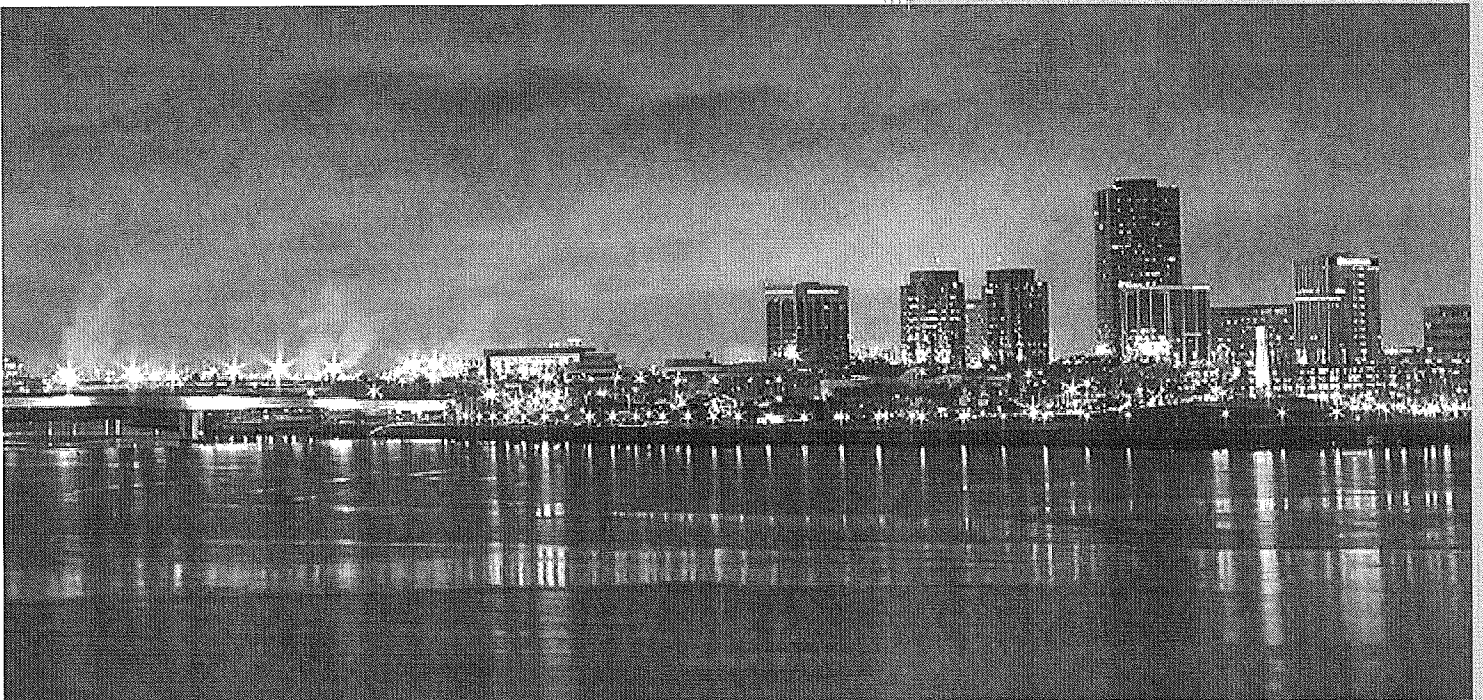
\_\_\_\_\_

City Clerk

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

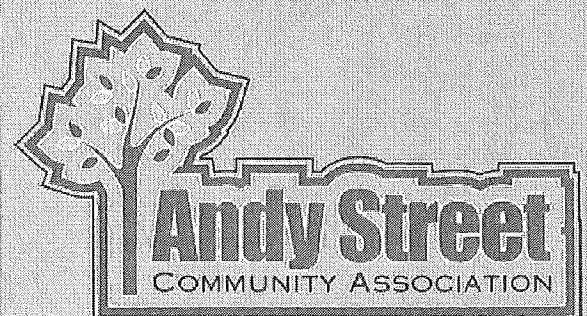
**2014 -  
2018**

**Management District Plan**



**Andy Street Property and  
Business Improvement  
District**

April 30, 2013



**EXHIBIT A**

**ANDY STREET PBID  
MANAGEMENT DISTRICT PLAN**

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Prepared by



www.civitasadvisors.com  
(800)999-7781



## I. INTRODUCTION AND OVERVIEW

Developed by a coalition of property and business owners, the Andy Street Property and Business Improvement District (APBID) is a benefit assessment district whose goal is to improve the Andy Street area. The District is a modernization and replacement of the Andy Street Multi-Family Improvement District (MID).

**Location:** The APBID includes all parcels fronting Andy Street in Long Beach, west of Downey Avenue, as well as Assessor's Parcel Number 7121-008-008. See the boundary map in Section III for more detail.

**Services:** Clean and safe efforts including programs to increase safety, beautification, and related administration to benefit parcels within the District.

**Budget:** The APBID annual assessment budget for the initial year of its five-year operation is anticipated to be \$94,475.35. This amount may be subject to an annual assessment rate increase of up to four percent (4%) per year. The assessment will be supplemented by non-assessment funds so that the annual service plan budget for the initial year of the District's five-year operation is anticipated to be \$104,994.26.

**Cost:** The annual assessment rate for parcels in the APBID is based on parcel square footage and parcel use. Annual assessments rates for the initial year are:

Parcel Type	Annual Assessment Rate (Initial Year)
Parcels with Multi-family Residential Uses	\$0.66 per parcel square foot
Parcels Owned & Utilized by Non-Profit Entities	\$0.01 per parcel square foot

Assessment rates may be subject to an increase of no more than four percent (4%) per year. Bonds will not be issued as part of this APBID.

**Formation:** APBID formation requires submittal of petitions from property owners representing at least fifty percent (50%) of the total assessment, followed by City Council hearings and an owner ballot and protest process.

**Duration:** The APBID will have a five-year life, beginning January 1, 2014 and ending December 31, 2018. After five years, the petition process, ballot process, and City Council hearing process must be repeated for the APBID to be re-established.

**Name:** The name of the District will be "Andy Street Property and Business Improvement District."

**Governance:** The District funds will be managed, and programs implemented by, the Andy Street Community Association. The Association will serve as the District's Owners' Association.

## II. HISTORY AND GOALS

The Andy Street MID was created in 2007 to address issues of major and minor crime, particularly graffiti, illegal dumping, prostitution, and vandalism. At the time, the area was experiencing a significant amount of major crimes, including murder, manslaughter, rape, and assault. The police department received an average of between 50 and 60 calls for service every month, and would only enter the area with backup on hand. Residents and property owners seeking a change worked with the City to create the MID.

Over the past five years, the MID funds have been used to reduce crime, improve safety, and improve the economic vitality of the District. The Andy Street Community Association has carefully managed the District funds and programs. Although the MID allowed for an increase to the assessment rate each year, and despite increases to the cost of living, the assessment rate was only increased once in five years. In most years, the Association's careful budget management led to a surplus amount being carried over to fund additional services in the next year. Any remaining funds from the MID will be refunded to property owners.

The MID's security programs have been highly successful in improving the Andy Street area. Calls for service to the police department have been reduced approximately 80 percent: in May 2012 there were 16 calls, June also had 16 calls, and July had 12. Notably, the incidence of major violent crimes has been nearly eliminated.

This new PBID will continue providing clean and safe programs to benefit assessed Andy Street property owners. The MID's security patrols and clean-up services have been instrumental in improving the area over the past five years – the new PBID will continue and build upon this success.

### III. BOUNDARIES

The APBID includes all parcels fronting Andy Street in Long Beach, west of Downey Avenue, as well as Assessor's Parcel Number (APN) 7121-008-008.

Specifically, the District boundary is as follows:

Beginning at the northwest corner of APN 7121-008-008 (Map Key 1), then east along the south edge of East 59<sup>th</sup> Street to Downey Avenue. South along the east edge of Downey Avenue, across East Andy Street to the southeast corner of APN 7121-009-033 (Map Key 24). West along the southern boundary of parcels fronting the south edge of East Andy Street to the southwest corner of APN 7121-009-022 (Map Key 13). North along the western boundary of said parcel, north across East Andy Street, and continuing north along the western boundary of APN 7121-009-010 (Map Key 2) to the northwest corner of said parcel. East along the northern boundary of parcels fronting the north edge of East Andy Street to a point opposite the southwest corner of APN 7121-008-008 (Map Key 1). North along the eastern boundary of said parcel to the northwest corner, the point of beginning.

The service area includes 25 parcels. The APBID boundary is illustrated by the boundary map on the following page. Parcels in the map are identified by Map Key numbers corresponding to the Assessor's Parcel Numbers, which can be found in Appendix 2. A larger map is available on request by calling (916)325-0604 or (800)999-7781.

It is the intent of this Engineers Report that each parcel included in the District can be clearly identified. Every effort has been made to ensure that the parcels included in the District are consistent in the boundary description, the District Boundary Map (on the following page), and the Assessment Calculation Table (included as Appendix 2). However, if inconsistencies arise; the order of precedence shall be: 1) the Assessment Calculation Table, 2) the District Boundary Map, and 3) this boundary description.

If the ownership, size, or use of a parcel changes during the term of this District, the assessment calculation may be modified accordingly.

# Andy Street Property & Business Improvement District



E 59TH STREET

1

2 25 3 4 5 6 7 8 9 10 11 12


E ANDY STREET

13 14 15 16 17 18 19 20 21 22 23 24

N OBISPO AVE

DOWNNEY AVE

E SOUTH STREET

 = Parcel's Map ID Number (Map Key)

## IV. SERVICE PLAN AND BUDGET

### A. Services

The APBID will provide services which specially benefit assessed parcels within its boundaries. The services provided are targeted specifically and provided directly to assessees. Services will not be provided directly to the public-at-large or outside the District boundaries.

#### 1. Clean and Safe

The primary purpose of establishing the PBID is to provide enhanced security in the area. Since MID establishment, property and business owners have benefitted from an increased level of security provided by private patrols and property and business owner training and involvement programs. The PBID will continue these services, which will be supplemental to and complement the efforts of the Long Beach Police Department (LBPB).

A private security company will be hired to provide services to the District. Patrols will make rounds to properties on a regular basis, and work with the LBPB to prevent and respond to criminal activity, such as illegal trespassing, incidents of graffiti, loitering, public nuisance, illegal dumping and similar activity negatively impacting assessed parcels. The patrols will not respond to criminal activity, but rather will act as observation units that alert the LBPB when responses are necessary. Patrols may be vehicular or on foot; regardless of the form they will be clearly identifiable as private security. Patrol routes and schedules will be established and modified as the District's needs change, but will only be provided to assessed parcels.

Beautification efforts are intended to create an attractive, pleasant environment which will increase commercial activity for the benefit of assessed parcels. Beautification efforts will include cleaning and landscaping. Cleaning services will be provided as needed to address illegal dumping, graffiti, litter, dirty sidewalks and gutters, and similar conditions throughout the District. Landscaping will also be provided as needed, and include watering, trimming, weed abatement, and similar services.

#### 2. Administration

The APBID will facilitate a strong and organized voice to represent the property owners in the District. Administration, with guidance from the Board of Directors, will provide for the day-to-day operations of the District programs. The administration budget will include administrative staff costs, insurance, legal and accounting costs, dues, costs for meeting space, office expenses (postage, copying, phone, etc.), and operational expenses such as assessment roll updates.

#### 3. Contingency Reserve

The budget includes a prudent fiscal reserve. Changes in data and other issues may change the anticipated revenue and expenses. In order to buffer the organization for unexpected changes in revenue, and/or allow the APBID to fund other overhead or renewal costs, the reserve is included as a budget item. At the end of the District's five-year term, if owners wish to renew and there are contingency funds remaining, those funds may be used for the renewal effort.

**B. Budget**

**1. Annual Operating Budget Summary**

The annual assessment budget for the initial year of operation is expected to be \$94,475.35. Parcel owners will contribute this amount through annual assessments. The assessment will be supplemented by non-assessment funds so that the annual service plan budget for the initial year of operation is expected to be \$104,994.26. The annual budget will be allocated to the various services in the percent proportions below.

Annual Operating Budget Summary (Initial Year)				
Category	%	Total Budget	Assessment Funds	Outside Funds
Clean & Safe	77.5%	\$81,370.56	\$73,218.40	\$8,152.16
Administration	20.0%	\$20,998.85	\$18,895.07	\$2,103.78
Contingency	2.5%	\$2,624.85	\$2,361.88	\$262.97
<b>Total Assessment</b>	<b>100.0%</b>	<b>\$104,994.26</b>	<b>\$94,475.35</b>	<b>\$10,518.91</b>

**2. Allocation Adjustments**

Although revenues may fluctuate from year to year, the proportional allocation of revenues shall remain consistent, except that funds can be reallocated between services by up to fifteen percent (15%) of the total budget each year.

**3. Maximum Annual Assessment Fund Budget**

To account for increased costs in providing services, assessment rates may be subject to an increase of no more than four percent (4%) per year. The chart below represents the maximum annual assessment fund budget, assuming the maximum four percent (4%) annual increase and no adjustments to categorical expenditures per Paragraph 2 above.

Year	Annual Assessment Fund Budget			
	Clean & Safe	Administration	Contingency	Total
%	77.5%	20.0%	2.5%	100.0%
2014	\$ 73,218.40	\$ 18,895.07	\$ 2,361.88	\$ 94,475.35
2015	\$ 76,147.13	\$ 19,650.87	\$ 2,456.36	\$ 98,254.36
2016	\$ 79,193.01	\$ 20,436.91	\$ 2,554.61	\$ 102,184.53
2017	\$ 82,360.73	\$ 21,254.38	\$ 2,656.80	\$ 106,271.91
2018	\$ 85,655.16	\$ 22,104.56	\$ 2,763.07	\$ 110,522.79

**4. Surplus**

Funds not spent in any year may be carried over to the next year and spent on security, beautification and administrative services in accordance with the provisions of this Plan, or added to the contingency reserve.

## **V. GOVERNANCE**

### **A. Owners' Association**

The District shall be governed by the Andy Street Community Association. The Andy Street Community Association shall serve as the Owners' Association described in Streets and Highways Code section 36651.

The Board of Directors of the Andy Street Community Association must be comprised of a majority of parcel owners paying the assessment. In addition, the Board of Directors must represent a variety of interests within the APBID and respond to the needs of property owners within the APBID.

The Board of Directors shall act in the best interests of all of the properties within the APBID. The diverse representation described above ensures that the interests of all of the properties in the APBID shall be fairly represented.

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

The Andy Street Community Association is considered a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the Andy Street Community Association board must be held in compliance with the public notice and other requirements of the Brown Act. Records must also be kept and disclosed in compliance with the California Public Records Act, Government Code §6250 et seq.

### **C. Annual Report**

The Andy Street Community Association shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code section 36650 (see Appendix 1).

## VI. ENGINEER'S REPORT

### A. Assessment Methodology

#### 1. Base Formula

Property owners have emphasized that an assessment formula for the APBID be fair, balanced, and commensurate with benefits received. The annual assessment rate for parcels is based on parcel square footage and type. The initial year's annual assessments rates are:

Parcel Use	Annual Assessment Rate (Initial Year)
Parcels with Multi-family Residential Uses	\$0.66 per parcel square foot
Parcels Owned & Utilized by Non-Profit Entities	\$0.01 per parcel square foot

At the time of formation, all parcels within the District boundaries include the two land uses shown above. If the ownership or use of a parcel changes during the term of this District, the assessment calculation may be modified accordingly. A list of parcels to be assessed and the initial assessment amounts is included in Appendix 2. Assessment rates may be subject to an increase of no more than four percent (4%) per year. If you would like more information about assessments, please call Civitas at (916)325-0604 or (800)999-7781.

#### 2. Multi-Family Residential Parcels

The services provided by the APBID are designed to benefit parcels with multi-family residential uses. These parcels will receive, and benefit from, the District's security and administrative services. These services are designed to increase safety and cleanliness on the parcels, which will help retain and attract tenants. These parcels will be assessed commensurate with the special benefit they receive.

The value of the special benefit services to be provided to these parcels is \$93,638.82 per year. These parcels have a cumulative total of 141,877 parcel square feet. Thus, parcels with multi-family residential uses will be assessed an initial rate of \$0.66 per parcel square foot per year ( $\$93,638.82 \div 141,877$  square feet).

#### 3. Non-Profit Entities

Parcels owned and utilized by non-profit entities will receive benefit from a small portion of the District's security and beautification services. Because these parcels are not commercial in nature, they do not receive the same level of services or benefit as the parcels with multi-family residential uses. Thus, these parcels will be subject to a lower parcel assessment rate, which is commensurate with the benefit they receive. It is estimated that these parcels will benefit from 1.5% of services, and thus will be assessed an initial rate of \$0.01 per parcel square foot per year ( $\$0.66 \times 0.015$ ).

#### 4. Bonds

Bonds will not be issued as part of this APBID.

### B. Special and General Benefit

#### 1. Introduction

The assessment will be imposed in accordance with the provisions of Article XIII D of the California Constitution. The services to be provided by the District are supplemental services provided directly to



assessed parcels, above and beyond those services provided by the City of Long Beach. The District's services will provide a "direct advantage"<sup>1</sup> to each individually assessed parcel and "affect the assessed property in a way that is particular and distinct from [their] effect on other parcels and that real property in general and the public-at-large do not share."<sup>2</sup> The special benefit to parcels from the APBID exceeds the total amount of the assessment.

Assessment law provides that the expenses of the APBID shall be apportioned in proportion to the benefit received by each parcel. In addition, the law requires that the assessment on an individual parcel may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The law provides that only special benefits are assessable, and requires the City to separate the general benefits from the special benefits conferred on a parcel. A special benefit is a particular and distinct benefit over and above general benefits conferred on the public-at-large, including real property within and surrounding the APBID. Services provided to the public by the City are considered general benefit; the general enhancement of property value does not constitute a special benefit.

The total value of the proposed services, and therefore the total APBID budget for 2014 is \$104,994.26. The apportionment of the budget between special benefits (\$94,475.35), general benefits to the public-at-large (\$3,149.83), and general benefits to surrounding parcels (\$7,369.08), is explained below.

## 2. Determination of Special Benefit

The services provided by the APBID are all "over and above those already provided by the City within the boundaries of the PBID. And they are particular and distinct benefits to be provided only to the parcels within the PBID, not to the public-at-large"<sup>3</sup> Each and every parcel assessed within the APBID receives a particular and distinct benefit from the improvements and activities of the APBID, over and above general benefits conferred by the general activities of the City. The APBID services themselves constitute special benefits to all of the assessed parcels. The proposed security and beautification programs will improve safety, cleanliness, and commercial activity within the APBID, thereby benefiting all assessed parcels within the APBID. These services are intended to increase cleanliness and safety on assessed parcels, thereby increasing commercial activity. Studies have found that "businesses consider quality-of-life issues to be more important factors in choosing a location than they do tax rates and real-estate prices;"<sup>4</sup> and that "customers and residents may feel more comfortable and safer within BIDs that have less obvious signs of litter, graffiti, and abandoned cars. A stronger sense of place that accompanies cleaner streets encourages...patronage and has increasingly positive repercussions in a BID."<sup>5</sup> Following these studies, the District's services are designed to address some parcel specific quality-of-life issues to increase tenant retention and attraction.

The services will be provided directly to the assessed parcels, and will not be provided to parcels outside the District. For example, the private security patrol will only be provided within the District boundaries and will only observe and report on incidents occurring at assessed parcels. Research has found that "BID areas experienced greater, on average, yearly reductions in the number of robbery, violent, and total crimes that non-BID areas do."<sup>6</sup> This suggests that BID-funded security services are able to provide benefit directly, and only, to the assessed parcels which they serve. Landscape and cleaning

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<sup>1</sup> *Tiburon v. Bonander* (2009) 180 Cal.App.4th 1057, 1077.

<sup>2</sup> *Silicon Valley Taxpayers' Association Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431, 452.

<sup>3</sup> *Dahms v. Downtown Pomona* (2009) 173 Cal.App.4th 1201.

<sup>4</sup> RAND Corporation; Neighborhood Effects on Crime and Youth Violence: The Role of Business Improvement Districts in Los Angeles (2009) p. 8

<sup>5</sup> RAND Corporation; Neighborhood Effects on Crime and Youth Violence: The Role of Business Improvement Districts in Los Angeles (2009) p. 40

<sup>6</sup> RAND Corporation; Neighborhood Effects on Crime and Youth Violence: The Role of Business Improvement Districts in Los Angeles (2009) p. 80

services will only be provided to public areas surrounding and impacting assessed parcels. These services, provided directly to assesses, constitute a special benefit to all of the assesses.

Security services like those to be provided by the APBID have long been recognized as a special benefit to assesses. Studies have found that every \$10,000 spent on security activities by PBIDs reduces the average number of crimes by 3.37 and leads to 1.65 fewer arrests. That study concluded “BIDs clearly pass a cost-benefit test.”<sup>7</sup> Another study noted that there is a “statistically significant relationship between lower incidence of property crimes and the presence of BID security...BIDs in the City of Los Angeles were associated with 6 to 10-percent reductions in official crime.”<sup>8</sup>

Assessment law also requires the determination of the proportionate special benefit derived by each parcel in relationship to the entirety of the cost of improvement(s) or the maintenance and operation expenses or the cost of the parcel-related service being provided. In addition, no assessment may exceed the reasonable cost of the proportional special benefit conferred on parcel(s). As explained throughout this Engineer’s Report, the proportionate special benefit to each parcel has been allocated based on the lot size and zoning of each parcel, thus the total amount to be assessed will not exceed the estimated reasonable cost of the activities and improvements to be provided, and no assessment will exceed the reasonable cost of the proportional special benefit conferred on the parcel.

Although the total value of the proposed services is \$104,994.26, the assessment will only fund that portion of the value which represents special benefits. Special benefits are the value of the proposed services reduced by the value of the general benefits, as detailed below. In this Engineer’s determination, the value of the special benefit to be provided by the proposed services is \$94,475.35 (\$104,994.26 - \$10,518.91).

### 3. Determination of General Benefit

Unlike special benefits, a general benefit is “derivative and indirect”<sup>9</sup> and “conferred on real property located in the District or to the public-at-large.”<sup>10</sup> Existing City services, which are provided to every person and parcel, everywhere within the City, are an example of a general benefit. Although the District’s programs have been carefully designed to provide special benefits, it is acknowledged that there may be an indirect general benefit created as a result of the District’s programs.

#### *General Benefits to the Public At Large*

Although the APBID programs are narrowly designed and carefully implemented to benefit the assessed parcels, and are only provided directly to assessed parcels, they may generate a general benefit to the public-at-large within the District. Surveys conducted in similar districts have found that 99% of pedestrian traffic within PBID boundaries is engaged in business with assessed parcels within the District, while approximately 1% is simply passing through<sup>11</sup>. As a result, it is estimated that 1% of the benefit created by the District’s programs is provided to the public at large passing through the District. Based on calls for security services from the previous MID, it is estimated that 2% of the APBID services are to the general public. Therefore, this general benefit to the public-at-large is **\$3,149.83**, which is 3% of the total value of the proposed services (\$104,994.26 x 0.03). To ensure that parcel

<sup>7</sup> Cook, Phillip and John MacDonald. “Public Safety through Private Action: An Economic Assessment of BIDs.” (May 2011) 121 The Economic Journal pp. 445-462.

<sup>8</sup> RAND Corporation; Neighborhood Effects on Crime and Youth Violence: The Role of Business Improvement Districts in Los Angeles (2009) p. 9

<sup>9</sup> *Tiburon v. Bonander* (2009) 180 Cal.App.4th 1057, 1077.

<sup>10</sup> Cal. Const., art. XIII D, §2(i)

<sup>11</sup> Farrand Research, Downtown Long Beach Proposed Property Based Business Improvement District Visitor Survey (April 2012)  
PMZ Research, Downtown San Jose Property-Based Business Improvement District Survey (March 2012)

assessments do not fund general benefits to the general public, the portion of the cost of services benefiting the general public will be paid for with funds not obtained through parcel assessments.

***General Benefits to Surrounding Parcels***

The Andy Street PBID services will not be provided directly to parcels outside the District boundaries. One study examining property values in BID areas found “no evidence of spill-over impacts (either good or bad) on commercial properties located just outside the BID’s boundaries.”<sup>12</sup> It is, however, reasonable to conclude that increased safety on Andy Street may have a derivative and indirect impact on parcels immediately adjacent to the District boundaries.

A review of the boundaries reveals that the District is surrounded by 16 parcels with various zoning as follows: institutional (1), light industrial (7), community commercial (5), and single-family (3). The single-family residential parcels have been conclusively presumed not to benefit from services provided through PBID assessments, therefore residential parcels outside the District will not receive general benefit from the proposed services.

The remaining parcels surrounding the District, not zoned exclusively for residential uses, can reasonably be assumed to receive a general benefit as a result of the APBID security services. It is estimated that parcels outside the District will receive a general benefit equal to 15% of the special benefit received by parcels within the District. Therefore, the general benefit to surrounding parcels is **\$7,369.08** as shown below.

<b>Parcel Type</b>	<b>No. of Parcels</b>	<b>Benefit Factor<sup>1</sup></b>	<b>Benefit Units<sup>2</sup></b>	<b>Benefit Percent<sup>3</sup></b>	<b>Benefit Value<sup>4</sup></b>
Special Benefit - Non-Residential	25	1.00	25.00	92.764%	\$94,475.35
General Benefit - Non-Residential	13	0.15	1.95	7.236%	\$7,369.08
General Benefit - Public-at-Large					\$3,149.83
<b>TOTAL DISTRICT BUDGET</b>					<b>\$104,994.26</b>
<sup>1</sup> Benefit Factor = The benefit ratio described above <sup>2</sup> Benefit Units = The number of parcels multiplied by the benefit factor <sup>3</sup> Benefit Percentage = Benefit unit divided by the total benefit units <sup>4</sup> Benefit Value = The total budget multiplied by the benefit percentage					

***Total General Benefit***

Based upon previous evaluations, in this Engineer’s estimation, the total value of general benefit, provided to the public-at-large and parcels surrounding the District, is \$10,518.91.

General Benefit to Public-at-Large	\$3,149.83
General Benefit to Surrounding Parcels	\$7,369.08
<b>Total General Benefit</b>	<b>\$10,518.91</b>

The APBID will receive non-assessment funding in the form of grants, corporate sponsorships, and other miscellaneous funds. These funding sources are anticipated to equal or exceed the amount of general benefit conferred by the District services (\$10,518.91). These non-assessment funds will be used to pay for these general benefits provided by District programs. The level of outside funding ensures that parcel assessments are only used to provide special benefits.

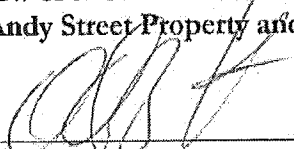
<sup>12</sup> Furman Center for Real Estate & Urban Policy; The Impact of Business Improvement Districts on Property Values: Evidence from New York City (2007) p. 4

**C. Time and Manner for Collecting Assessments**

As provided by State Law, the APBID assessment will appear as a separate line item on annual property tax bills prepared by the County of Los Angeles. The County of Los Angeles shall distribute funds collected to the City of Long Beach and then to the APBID pursuant to the authorization of this Plan. Existing laws for enforcement and appeal of property taxes apply to the APBID assessments.

An assessment notice will be sent to owners of each parcel outlined in the Boundary Description and Map (Section III) and included in the Assessment Calculation Table (Appendix 2) of this Management District Plan. The assessment notice provides an estimated assessment based upon the parcel's size and use.

**Review of this APBID Management District Plan and preparation of this Engineer's Report for the Andy Street Property and Business Improvement District was completed by:**

  
\_\_\_\_\_  
Orin N. Bennett, PE  
State of California  
Registered Civil Engineer No. 25169  
  
April 30, 2013  
\_\_\_\_\_  
Date



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*This Engineer's Report is intended to be distributed as a part of the Management District Plan in its entirety, including the Boundary Description and Map(Section III) and the Assessment Calculation Table (Appendix 2). Reproduction and distribution of only Section VI of this Management District Plan violates the intent of this stamp and signature.*

## APPENDIX 1 – 1994 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 – ASSESSMENT CALCULATION TABLE

Map Key	Assessor's Parcel Number (APN)	Parcel Size (sqft) <sup>1</sup>	Initial Annual Assessment Rate (\$/sqft/yr)	Initial Assessment (\$/yr)	Land Use <sup>2</sup>
1	7121008008	83,653	0.01	\$ 836.53	NP
2	7121009010	5,664	0.66	\$ 3,738.24	MF
3	7121009012	5,733	0.66	\$ 3,783.78	MF
4	7121009013	5,965	0.66	\$ 3,936.90	MF
5	7121009014	5,799	0.66	\$ 3,827.34	MF
6	7121009015	5,826	0.66	\$ 3,845.16	MF
7	7121009016	6,009	0.66	\$ 3,965.94	MF
8	7121009017	5,553	0.66	\$ 3,664.98	MF
9	7121009018	5,956	0.66	\$ 3,930.96	MF
10	7121009019	5,800	0.66	\$ 3,828.00	MF
11	7121009020	5,923	0.66	\$ 3,909.18	MF
12	7121009021	6,381	0.66	\$ 4,211.46	MF
13	7121009022	5,802	0.66	\$ 3,829.32	MF
14	7121009023	5,931	0.66	\$ 3,914.46	MF
15	7121009024	5,850	0.66	\$ 3,861.00	MF
16	7121009025	5,895	0.66	\$ 3,890.70	MF
17	7121009026	6,094	0.66	\$ 4,022.04	MF
18	7121009027	5,643	0.66	\$ 3,724.38	MF
19	7121009028	6,020	0.66	\$ 3,973.20	MF
20	7121009029	5,794	0.66	\$ 3,824.04	MF
21	7121009030	6,104	0.66	\$ 4,028.64	MF
22	7121009031	5,779	0.66	\$ 3,814.14	MF
23	7121009032	6,168	0.66	\$ 4,070.88	MF
24	7121009033	6,308	0.66	\$ 4,163.28	MF
25	7121009045	5,880	0.66	\$ 3,880.80	MF
	<b>TOTAL</b>	<b>225,530</b>		<b>\$ 94,475.35</b>	

**Notes:**

<sup>1</sup> Assessed parcel size was determined by others.

<sup>2</sup> The following notations apply to the land use:

NP: Parcels owned and utilized by non-profit entities will be assessed an initial rate of \$0.01 per parcel square foot per year.

MF: Parcels with multi-family residential uses will be assessed an initial rate of \$0.66 per parcel square foot per year.