



north lake tahoe

Chamber | CVB | Resort Association

## MEMORANDUM

Date: 1/30/20

TO: NLTRA Board of Directors

FROM: Rob Kautz

RE: Tourist Business Improvement District (TBID) Management District Plan (MDP)

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### **Action Requested:**

Board approval of MDP

### **Background:**

A key component of our TBID initiative is the Agreement between NLTRA and Placer County related to the direction and uses of the \$4 million of TOT funds which will be freed up when the TBID is formed. At their January 28, 2020 board meeting the County of Placer Board of Supervisors approved the Agreement. Per the terms of the agreement, and once the TBID is formed, \$4 million of TOT dollars will be utilized to fund work force housing and transportation programs and initiatives in the North Lake Tahoe region. Completing the Agreement with the County was essential to securing the support for the TBID from many North Tahoe businesses, including several large ones.

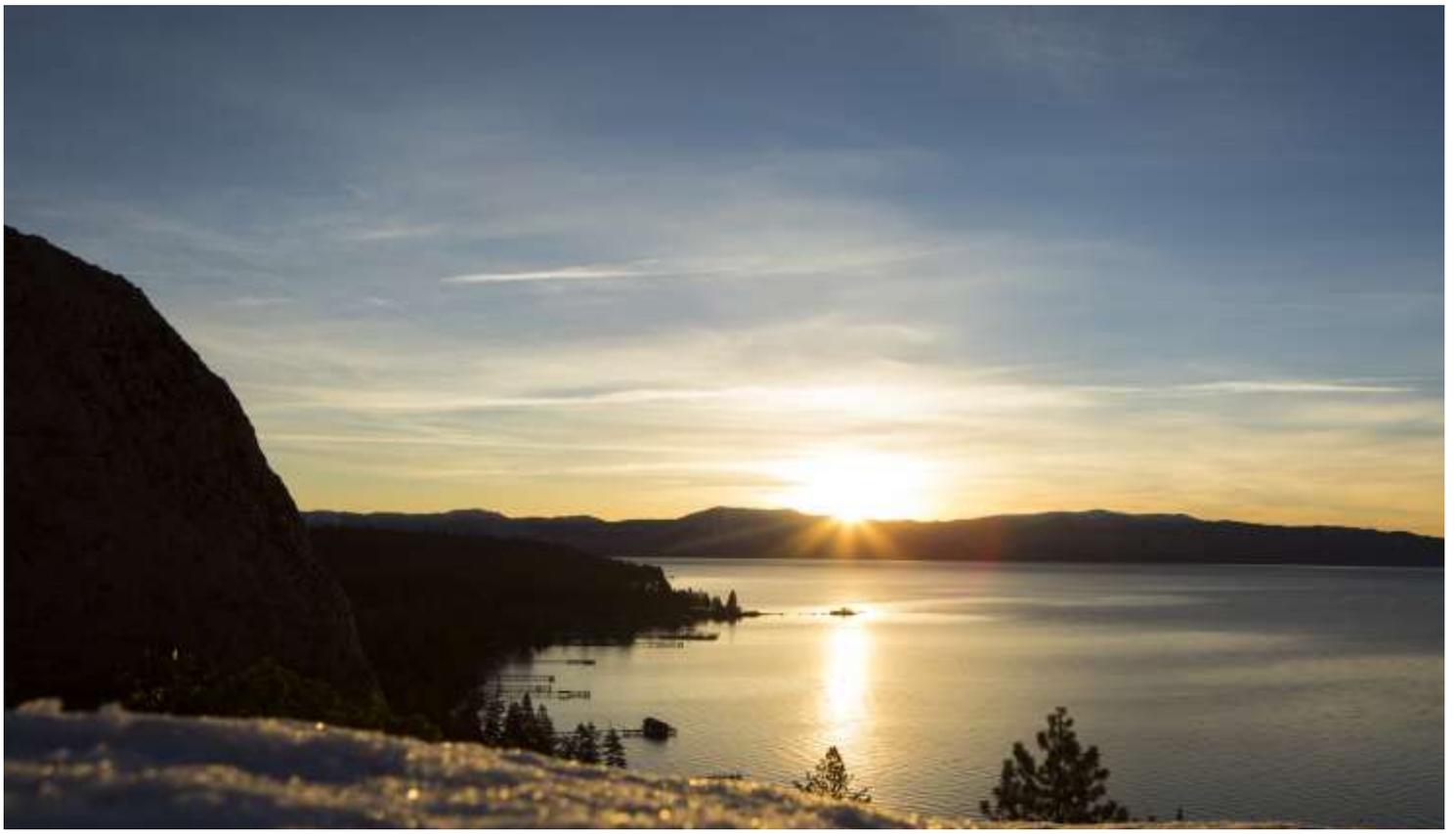
In order to move forward with the TBID Petition Drive the MDP (the governing document for the TBID) must be finalized and approved by the NLTRA Board. After extensive review and many edits our consultant, Civitas, is satisfied with the MDP. I am also satisfied with the MDP, so I am recommending the Board's approval of it. Compared to the version provided to you in November the primary changes are: Smaller businesses are assessed at a flat fee, season pass revenues are excluded, the budget has been revised (now \$6 million) and John Lambeth has reviewed and made several changes to insure the MDP complies with state legislation related to TBIDs. One of the edits which John made was striking the language on Page 5 of the red-lined version of the MDP, which states, "It is the intention of the NLTRA and the business owners supporting this plan, that if Placer County raises the Transient Occupancy Tax from its current level, that the NLTTBID be disestablished." John was concerned that this provision could imply the purpose of the TBID is more aligned as a tax rather than an assessment. He also stated the that the goal of the provision could be achieved by the TBID member businesses by utilizing the 'Disestablishment of District' provisions contained in the state law governing TBIDs. Assesses may, once each year, request the disestablishment of the District, which requires businesses who pay 50% or more of the assessments levied to support disestablishment.

Next Steps: Before the Petition Drive can commence, and in addition to the NLTRA Board's approval of the MDP, County Counsel must deem the MDP and Petition Documents adequate. County Counsel has received both documents and it is anticipated that she will review the documents quickly, so we are planning to begin the Petition Drive the week of February 10<sup>th</sup>.

### **Attachment:**

TBID Management District Plan

2020-2025



**NORTH LAKE TAHOE TOURISM & BUSINESS IMPROVEMENT DISTRICT  
MANAGEMENT DISTRICT PLAN**

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

January 28, 2020

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Prepared by  
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## I. OVERVIEW

Developed by the North Lake Tahoe Resort Association, Inc. (the Association), the North Lake Tahoe Tourism & Business Improvement District (NLTTBID) is an assessment district proposed to provide specific benefits to payors, by funding marketing, promotions, and special events; visitor services & visitor centers; business support and advocacy; economic development and transportation; and sustainability and mitigation of tourism impacts programs for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional business sales directly to payors.

*Location:* The proposed NLTTBID includes all lodging, restaurant, retail, activities and attractions businesses located within the boundaries of the eastern portion of unincorporated Placer County, as shown on the map in Section III. Please see the discussion on page five (5) for more detail.

*Services:* The NLTTBID is designed to provide specific benefits directly to payors by increasing business sales and improving business conditions. Marketing, promotions, and special events; visitor services & visitor centers operations; business support and advocacy; economic development and transportation; and sustainability and mitigation of tourism impacts programs will be provided to assessed businesses, thereby increasing business sales.

*Budget:* The total NLTTBID annual budget for the initial year of its five (5) year operation is anticipated to be approximately \$6,000,000. This budget is expected to fluctuate as business sales fluctuate

*Cost:* Based on the benefits received, the assessment rate will be structured as indicated below.

Lodging businesses will be assessed two percent (2%) of gross short-term room rental revenue in benefit zone 1 and one percent (1%) of gross short-term room rental revenue in benefit zone 2. Lodging businesses are assessed at the retail, restaurant, and activities and attractions tourism businesses (RRAA businesses) rate for their tier for sales or rentals of non-lodging goods and services.

RRAA businesses are divided into three (3) tiers:

- Tier 1 RRAA businesses are those with \$150,000 or more in annual gross revenue and receive at least half of that annual gross revenue from visitors;
- Tier 2 RRAA businesses are those with more than \$50,000 but less than \$150,000 in annual gross revenue, or which have \$150,000 or more in annual gross revenue but do not receive at least half of that annual gross revenue from visitors; and
- Tier 3 RRAA businesses are those with \$50,000 or less in annual gross revenue.

Businesses located within other businesses, such as restaurants located within a hotel, will be assessed at the rate for that business type and not at the rate of the other

business in which they are located. Businesses that receive 20% or less of their revenues from visitors shall not be assessed. A visitor is defined as any individual whose length of stay within the NLTTBID is thirty (30) consecutive days or less. Non-profit corporations and internet or wholesale businesses shall not be assessed based on the benefit received, as described in Section IV D.

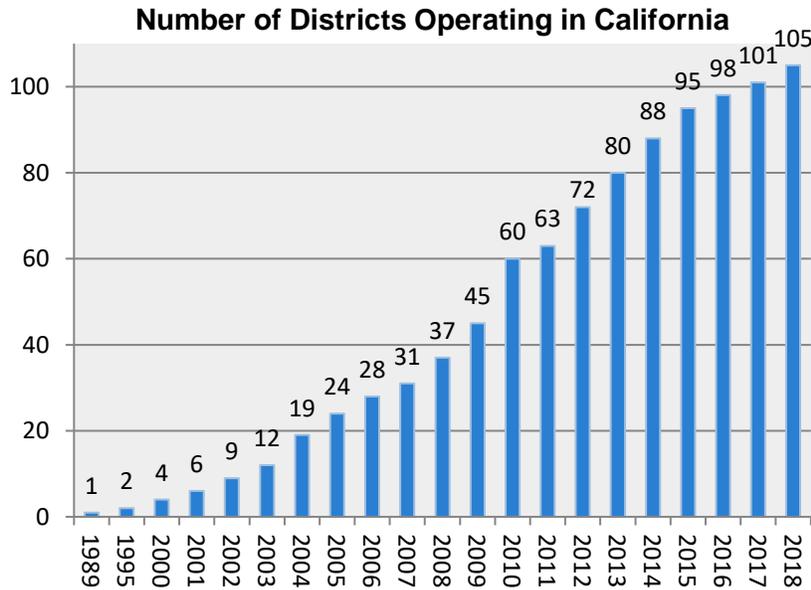
*Collection:* The County will be responsible for collecting the assessment on a monthly or quarterly basis (including any delinquencies, penalties and interest) from each assessed business located in the boundaries of the NLTTBID. The County shall take all reasonable efforts to collect the assessments from each assessed business.

*Duration:* The proposed NLTTBID will have a five (5) year life, beginning July 1, 2020, or as soon as possible thereafter and end five years from its start date. Once per year, beginning on the anniversary of NLTTBID formation, there shall be a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a Board of Supervisors hearing on NLTTBID termination.

*Management:* The North Lake Tahoe Resort Association, Inc. will serve as the NLTTBID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs in accordance with this Plan and must provide annual reports to the Board of Supervisors.

## II. BACKGROUND

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



California’s TBIDs collectively raise over \$275 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that North Lake Tahoe visitor serving businesses invest in stable programs designed to attract and retain visitors for the benefit of the visitor serving businesses.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow business owners to organize

their efforts to increase business sales. Business owners within the TBID pay an assessment and those funds are used to provide services that increase room night sales and other tourism related business revenue.

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

There are many benefits to TBIDs:

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

### III. BOUNDARY

The NLTTBID will include all lodging, restaurant, retail, and activities and attractions businesses, existing and in the future, subject to the details discussed in Section IV (D), available to the public generally within the boundaries of the eastern portion of unincorporated Placer County. The NLTTBID boundary is the same as the Eastern Placer County boundary to the north, east, south and south west. The north western most portion of the NLTTBID boundary is bounded by longitude 120°18'44"W, as shown on the map below. The boundary separating Zone 1 and Zone 2 is the boundary line of the Tahoe National Forest. Zone 1 includes lodging businesses on the Lake Tahoe lakeshore and zone 2 includes lodging businesses within the mountain resort areas of the NLTTBID.

Lodging business means: any structure, or any portion of any structure which is provided by the operator and occupied, intended, or designed for occupancy by transients for dwelling, lodging or sleeping purposes and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer, tent, teepee, or yurt at a fixed, temporary or semi-permanent location or other similar structure or portion thereof.

Restaurant business means: a business selling ready-to-eat food and/or beverages (including alcoholic beverages) for on- or off-premises consumption. Restaurant business includes establishment where customers are served from a walk-up ordering counter for either on- or off-premises consumption; and establishment where customers are served food at their tables for on-premises consumption that may also provide food for take-out. Restaurant business includes bars, micro-breweries, wine tasting rooms, and distilleries, and catering businesses or bakeries that have a storefront retail component.

Retail business means: any commercial establishment and/or vendor that is located within or doing business within the geographical limits of the NLTTBID boundary and sells perishable or nonperishable goods including, but not limited to, clothing, food, recreational goods, and personal items directly to the customer that may be used on or off the retail business premises.

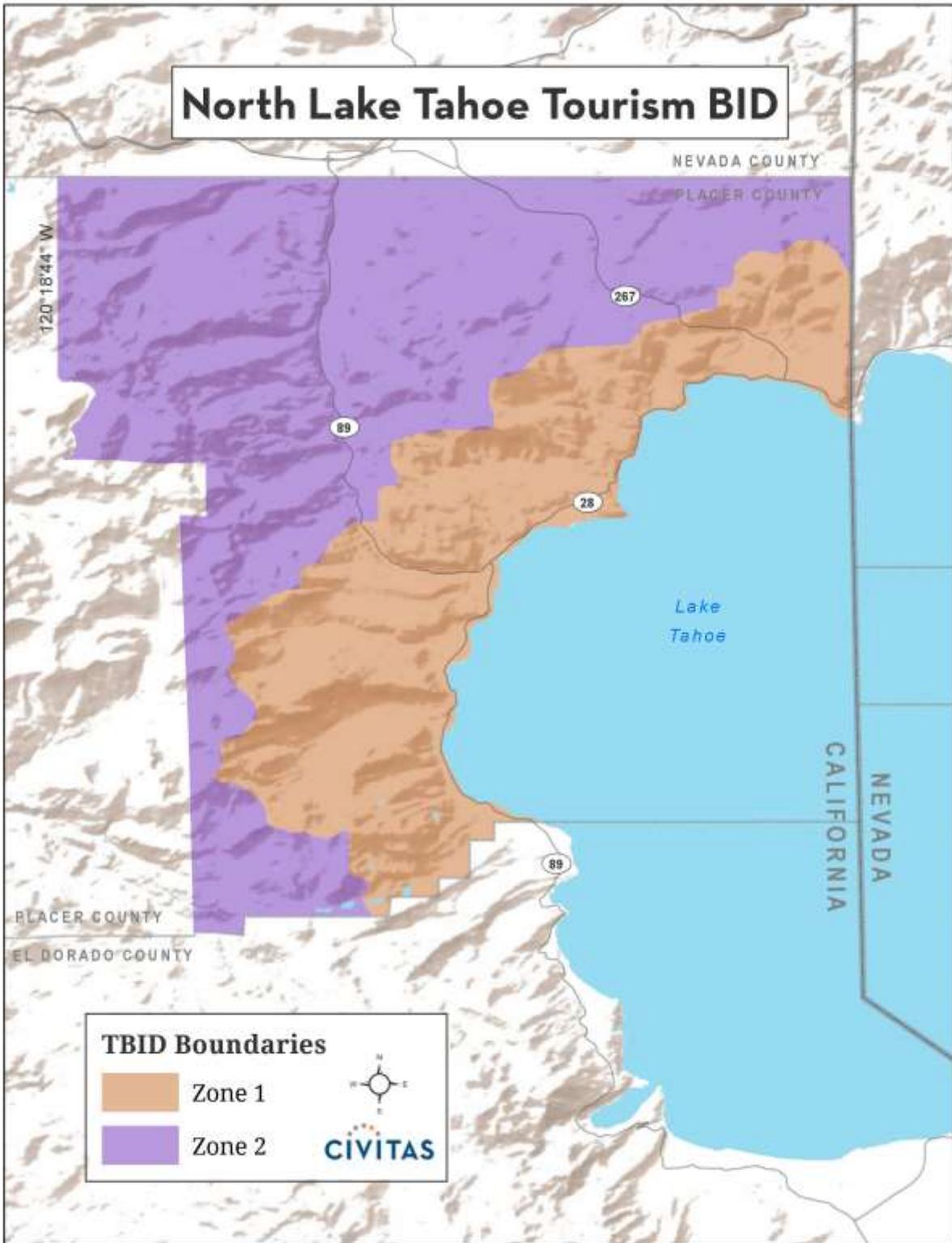
Activities and attractions business means: any commercial establishment and/or vendor, including ski resorts, that is located within or doing business within the geographical limits of the NLTTBID boundary and sells experiences including, but not limited to, excursions, daily and multi-day tickets and packaged products that are valid only within the NLTTBID boundaries, guided tours, lessons, or the right of access to facilities, or similar services, or rents recreational goods including, but not limited to, ski & snowboarding equipment, snow mobiles, kayaks, rafts, bicycles, boats, watercrafts, stand up paddle boards, camping equipment or similar goods. NLTTBID programs are not designed to benefit the following activities and products and will not be assessed: season passes (such as golf, skiing, trails, parking, etc.), season rentals (such as lockers, buoys, boat slips, etc.) and club memberships (such as golf, fitness, ski team, other amenity, HOA, homeowners service fees, etc.).

In an effort to make meaningful distinctions between businesses, NLTRA has done extensive research on businesses and business types. Further, NLTRA has removed businesses that are not linked to the tourism industry. To create a well-defined standard for differentiating between businesses we have turned to two existing and external classification systems; (1) the North American Industry Classification System (NAICS) and (2) Placer County's business license types. To estimate revenues, we have used sales tax data obtained from HdL Companies. Revenue data for service businesses was not available, in which NLTRA estimated income for the service businesses proposed to be assessed.

Restaurant, retail, activities, and attractions businesses include businesses with North American Industry Classification System (NAICS) codes: 4243, 4451, 4453, 4481, 4483, 7224, 33991, 42391, 42448, 44511, 44512, 44611, 44711, 44719, 44811, 44813, 44814, 44815, 44819, 44831, 45111, 45112, 45221, 45322, 45392, 45439, 53211, 71151, 71391, 71399, 72111, 72112, 72231, 72232, 72233, 441310, 445110, 445291, 445299, 446191, 448190, 451110, 452319, 453220, 485111, 488390, 512131, 531210, 532284, 561110, 561520, 713920, 713990, 721110, 721191, 722320, 722410, 722511, 722513 and 722515.

Restaurant, retail, activities, and attractions businesses include the following businesses license types from Placer County: Apartments/Motels, Bakeries, Bars/Taverns, Bicycle Rentals/Sales/Service, Boat Rentals, Business Services, Clubs/Lodges/Resorts, Convenience Store, Department Stores – Retail, Drug Stores, Equipment Sales/Rentals, Food Markets, Galleries, Gift Shops – Antiques, Internet Sales, Liquor Stores – Retail, Rafting, Real Estate, Recreation, Rentals, Retail Sales, Salesperson/Sales, Service Stations – Gasoline, Shuttle Service, Ski Shops/Bike/Rentals/Sales, Sporting Goods, Sports Accessories, Tattoo/Body Piercing, Taxi Cab Company, Taxi Cab Driver, Transportation and Water Sports Rentals

The boundary, as shown in the map on the following page, currently includes 5,200 assessed businesses. A complete listing of assessed businesses within the proposed NLTTBID can be found in Appendix 2.

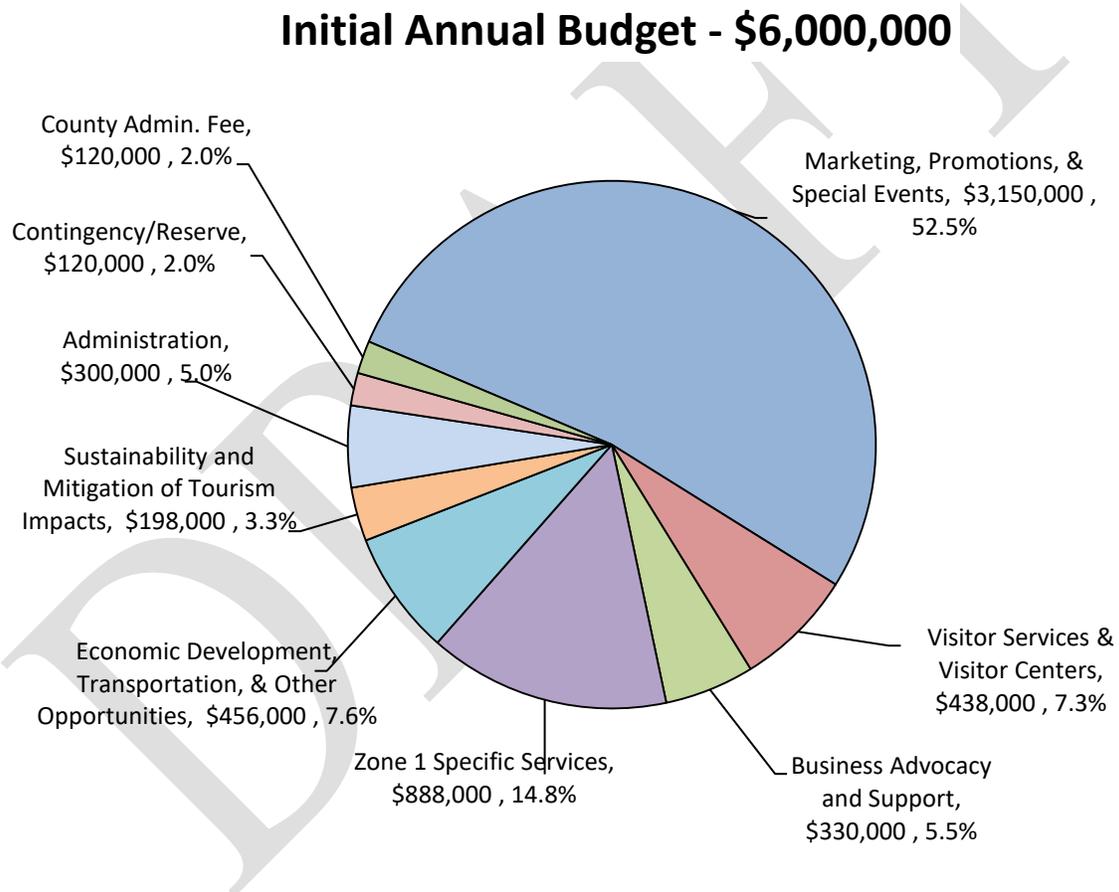


## IV. BUDGET AND SERVICES

### A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the County of conferring the benefits or granting the privileges. The privileges and services provided with the NLTTBID funds are marketing, promotions, and special events; visitor services and visitor centers; business support and advocacy; economic development and transportation; and sustainability and mitigation of tourism impacts programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit the assessed businesses. A detailed annual budget will be developed and approved by the Association. The table below illustrates the initial annual budget allocations. The total initial budget is \$6,000,000.



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

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

### **Marketing, Promotions, & Special Events**

A comprehensive marketing, promotions, and special events program will support and stimulate visitation to assessed businesses within the NLTTBID. Through a central theme of promoting the North Lake Tahoe region as a diverse, exciting four-season destination, the program will have the goal of increasing overnight visitation to lodging businesses, and visits to restaurants, retail, and recreational activities at assessed businesses, especially during mid-week and non-peak seasons. These efforts will increase tourism, economic vitality, and community stability for the assessed businesses within the NLTTBID. To accomplish these goals, the following activities and services may be undertaken:

- Partnerships with state and local organizations to promote the North Lake Tahoe region throughout the United States and the world;
- Development of effective marketing efforts to promote the region across paid, owned, and earned channels to increase awareness and generate website traffic to drive tourism and commerce at assessed businesses;
- Paid advertising efforts will include, but are not limited to, print ads in magazines and newspapers, social media and online digital ads, billboards, video, television ads, and radio ads targeted at potential visitors to drive tourism and commerce at assessed businesses;
- Utilizing social media channels and partner's social media to increase awareness and engagement with assessed businesses;
- Ensuring representatives are provided the opportunity to attend trade shows, meetings, industry conferences, and events to promote assessed businesses;
- Supply and coordination of media relations and communications via press releases, announcements, media placements, and social sharing to drive tourism and commerce at assessed businesses;
- Coordination of familiarization tours with travel trade, media, and influencers to assessed businesses;
- Working with travel trade to increase destination awareness and product offerings and highlighting assessed businesses on an international level – specifically targeting the United Kingdom, Australia, and Canada, and other viable markets such as China, India, and Mexico;
- Preparing and producing collateral promotional materials such as brochures, flyers, and maps featuring assessed businesses;
- Development of lead generation activities designed to attract tourists and group events to assessed businesses;
- Tracking and analyzing results to inform the strategic direction and effectiveness of the marketing and promotional work;
- Sponsorship and promotion of special events during non-peak seasons to expand the diversity of activities and encourage longer destination visitation; and
- Administration and operation of the marketing, promotions, and special events programs.

### **Zone 1 Specific Services**

Funds raised by the additional one percent (1%) levied on Zone 1 lodging businesses will go toward funding the Zone 1 Specific Services category. The Zone 1 specific services funds will be utilized for local, Zone 1 activities which may include any and all services and activities outlined within the other service categories (marketing, promotions, and special events; visitor services and visitor centers; business support and advocacy; economic development and transportation; and sustainability and mitigation of tourism impacts). The purpose of this category is to provide benefit to those assessed lodging businesses in Zone 1, whose assessment rate is one percent (1%) higher than those lodging businesses in Zone 2.

### **Visitor Services & Visitor Centers**

To further strengthen the visitor experience while in the North Lake Tahoe region, innovative services will include special events and activities, and information programs. Visitor information centers operation services will ensure that visitors to the region have access to information for assessed business services. The program may provide the following services:

- Providing staffing;
- Developing materials and technologies to expand visitor information at various locations throughout the region;
- Providing comprehensive in-market visitor information including business referrals to assessed businesses;
- Tracking and analyzing information on the origin, destination, demographics, and interests of visitors to the region; and
- Administration and operation of the visitor information centers operations program.

### **Businesses Support and Advocacy**

The businesses support and advocacy program will strengthen the local economy by gathering and analyzing economic data, providing information on opportunities and resources, supporting new business development, and advocating on behalf of the assessed businesses. The program may undertake the following services:

- Tracking and analyzing economic indicators for the North Lake Tahoe region;
- Advocating for business-supportive policies with local and regional government agencies;
- Providing consolidated business advocacy for workforce housing in the North Lake Tahoe region of Placer County;
- Providing consolidated business advocacy for workforce transportation services in the North Lake Tahoe region of Placer County;
- Providing market research, data, resources, education, and forums to address assessed businesses' needs;
- Development and maintenance of a comprehensive website as a resource for assessed businesses;
- Providing timely and regular communications and information for assessed businesses including reports, newsletters, social media, and email;
- Financial support for the tourism-based activities provided by the Tahoe City Downtown Association and the North Tahoe Business Association; and
- Administration and operation of the business support and advocacy programs.

## **Economic Development, Transportation, & Other Opportunities**

To improve the visitor experience, improve economic vitality, and to improve the labor market for the assessed businesses, programs and projects such as those listed may be identified and supported:

- Transportation/Transit programs, to support initiatives such as:
  - Additional point-to-point shuttle services to key destinations
  - Advocate for more direct flights into Reno
  - Shoulder bus lanes on Highway 267 and 89
  - Year-round transit
  - Free farebox
  - More frequent headways
  - Extended hours
  - Improved connectivity between regions
  - Dial a Ride, regional micro transit systems
  - Park and Ride lots
- Traffic Mitigation
  - Development and funding traffic management programs, addressing increased traffic during peak periods and in congested areas
- Tourism Infrastructure

## **Sustainability and Mitigation of Tourism Impacts**

Provide financial support to offset impacts of tourist visitation within the TBID. Intention of this budget item is that projects and programs are generally small grants, including grass roots based requests, brought forward by the members of the TBID. Projects or service examples may include, but are not limited to the following:

- Additional trash collection during peak business periods on beaches, trails, parks and public parking areas;
- Installation and servicing of more dog waste stations;
- Erosion control and rehabilitation of damaged habitat by tourists;
- Additional maintenance and servicing of public restrooms;
- Pedestrian crossing management to reduce traffic back up during peak periods;
- Enhanced snow removal on year round trails;
- Additional bike racks at public parks;
- Additional maintenance on trails and bike paths; and
- Tourism infrastructure

## **Administration**

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

## **County Administration Fee**

The County of Placer shall be paid a fee up to two percent (2%) of the amount of assessment collected to cover its costs of collection and administration. The amount of the County administration fee shall not exceed the actual costs to the County to administer collection of the assessment.

## **Contingency/Reserve**

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

## **B. Annual Budget**

The total five (5) year improvement and service plan budget is projected at approximately \$6,000,000 annually, or \$30,000,000 through June 30, 2025. This amount may fluctuate as sales do at assessed businesses.

## **C. California Constitutional Compliance**

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

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

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”<sup>2</sup> The services in this Plan are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the NLTTBID. The activities described in this Plan are specifically targeted to increase sales for assessed businesses within the boundaries of the NLTTBID, and are narrowly focused on the included businesses. NLTTBID funds will be used exclusively to provide the specific benefit of increased business sales directly to the assessees. Assessment funds shall not be used to feature non-assessed businesses in NLTTBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this NLTTBID is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in business sales for the assessed businesses. The specific benefit of an increase in business sales and improvement of business conditions for assessed businesses will be provided only to businesses paying the NLTTBID assessment, with NLTTBID programs promoting businesses paying the NLTTBID assessment. The NLTTBID programs will be designed to increase business sales and

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

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

improve business conditions at each assessed business. Because they are necessary to provide the marketing, promotions, and special events; visitor services and visitor centers; business support and advocacy; economic development and transportation; and sustainability and mitigation of tourism impacts programs that specifically benefit the assessed businesses, the administration and operations and contingency/reserve services also provide the specific benefit of increased business sales and improved business conditions to the assessed businesses.

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

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

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

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

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

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

## **D. Assessment**

A business which engages in multiple activities will be assessed at the applicable rate for each activity as described below. For instance, if a benefit zone 1 business engages in lodging and lift ticket sales, it will pay a two percent (2%) assessment on lodging revenue and a one percent (1%) assessment on

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

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

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

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

lift ticket revenue. The assessment shall not be considered revenue for any purpose, including calculation of transient occupancy taxes and sales taxes.

### **1. Lodging Businesses**

The term “gross room rental revenue” as used herein means: the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Gross room rental revenue does not include any additional items not related to occupancy that are included in a special package rate such as ski passes, other recreational activity, or additional non-room related services. All room-related items and non-room related items must be separately itemized in the operator’s accounting records. If additional benefits or services are not separately itemized as indicated above, the entire amount paid by the transient shall be presumed to be gross room rental revenue. Required and collected amounts for room-related fees and services are subject to the assessment. Resort fees and similar charges shall be included in gross room rental revenue. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes. Complimentary products, services, and stays and stays pursuant to contracts executed prior to July 1, 2020 shall not be assessed.

The term “lodging business operator” as used herein means: means the person who is proprietor of the lodging business, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs its functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both, unless the principal collects gross room rental revenue outside of the managing agents’ defined agreement in which case said principal shall be subject to all the provisions of this Plan. Lodging businesses shall be permitted to combine the assessment disclosure with other taxes, fees, and/or assessments.

#### Benefit Zone 1

The annual lodging business assessment rate is two percent (2%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or state officer or federal credit union employee when on official business; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays pursuant to rooms donated or paid by the Red Cross or other charitable organization for the express purpose of providing temporary emergency shelter; complimentary stays where no rent is received; stays by the owner of a timeshare estate occupying a room or rooms in a timeshare project, as defined in Business and Professions Code Section 11212 or its successor statute; and stays by the owner of a membership camping contract as defined in Civil Code Section 1812.300. Lodging businesses that sell or rent goods or services in addition to room rentals shall be assessed at the applicable RRAA rate for such goods and services.

## Benefit Zone 2

The annual lodging business assessment rate is one percent (1%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or state officer or federal credit union employee when on official business; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays pursuant to rooms donated or paid by the Red Cross or other charitable organization for the express purpose of providing temporary emergency shelter; complimentary stays where no rent is received; stays by the owner of a timeshare estate occupying a room or rooms in a timeshare project, as defined in Business and Professions Code Section 11212 or its successor statute; and stays by the owner of a membership camping contract as defined in Civil Code Section 1812.300. Lodging businesses that sell or rent goods or services in addition to room rentals shall be assessed at the applicable RRAA rate for such goods and services.

### **2. RRAA Businesses – Tier 1**

Tier 1 RRAA businesses are those with \$150,000 or more in annual gross revenue and receive at least half of that gross revenue from visitors. The annual assessment rate for tier 1 RRAA businesses is one percent (1%) of gross sales, including equipment and vehicle rentals. Assessments will not be collected on non-taxable food items for human consumption, ski resort season passes (as defined on page five), gasoline, diesel, propane, or other heating products or utilities sales. Any RRAA business owner who believes their business should be categorized as a tier 1 business may request a hearing with the Association's appeals committee as outlined in Appendix 3.

In any instance where a ski resort consigns lift tickets to third party partners (such as lodging businesses) with the intent that those partners will resell those lift tickets within the NLTTBID boundary, the ski resort shall be assessed for the total consigned priced from the third party partner based on the negotiated price of the consigned lift ticket.

The term "gross revenue" as used herein means the amount of the consideration charged or chargeable to the customer for the purchase or rental of goods and services (including food and beverages at restaurants) valued in money, goods, labor, or otherwise, including the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross revenue shall not include any federal, state, or local taxes collected. Complimentary products and services shall not be assessed.

### **3. RRAA Businesses – Tier 2**

Tier 2 RRAA businesses are those with more than \$50,000 but less than \$150,000 in annual gross revenue, or which have \$150,000 or more in annual gross revenue but do not receive at least half of that annual gross revenue from visitors. The annual assessment rate for tier 2 RRAA businesses is \$250 per year. Any RRAA business owner who believes their business should be categorized as a tier 2 business may request a hearing with the Association's appeals committee as outlined in Appendix 3.

In any instance where a ski resort consigns lift tickets to third party partners (such as lodging businesses) with the intent that those partners will resell those lift tickets within the NLTTBID boundary, the ski resort shall be assessed for the total consigned priced from the third party partner based on the negotiated price of the consigned lift ticket.

The term “gross revenue” as used herein means the amount of the consideration charged or chargeable to the customer for the purchase or rental of goods and services (including food and beverages at restaurants) valued in money, goods, labor, or otherwise, including the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross revenue shall not include any federal, state, or local taxes collected. Complimentary products and services shall not be assessed.

#### **4. RRAA Businesses – Tier 3**

Tier 3 RRAA businesses are those with \$50,000 or less in annual gross revenue. The annual assessment rate for tier 3 RRAA businesses is \$50 per year. Any RRAA business owner who believes their business should be categorized as a tier 3 business, or believes their business should not be assessed, may request a hearing with the Association’s appeals committee as outlined in Appendix 3.

In any instance where a ski resort consigns lift tickets to third party partners (such as lodging businesses) with the intent that those partners will resell those lift tickets within the NLTTBID boundary, the ski resort shall be assessed for the total consigned priced from the third party partner based on the negotiated price of the consigned lift ticket.

The term “gross revenue” as used herein means the amount of the consideration charged or chargeable to the customer for the purchase or rental of goods and services (including food and beverages at restaurants) valued in money, goods, labor, or otherwise, including the full value of receipts, cash, credits, property, or services of any kind or nature, without any deduction whatsoever. Gross revenue shall not include any federal, state, or local taxes collected. Complimentary products and services shall not be assessed.

#### **5. Non-Tourist Businesses**

Lodging businesses, retail businesses, restaurants and activities and attractions businesses which can conclusively demonstrate that they receive twenty percent (20%) or less of their revenue from visitors, and therefore do not receive a specific benefit from the NLTTBID activities, may be exempted from the assessment by requesting a hearing with the NLTTBID appeals committee as outlined in Appendix 3.

#### **6. Nonprofit Organizations**

The NLTTBID activities are designed to increase commerce at tourist businesses within the boundaries of the NLTTBID. Because nonprofit organizations do not typically have a commercial component, they will not specifically benefit from NLTTBID activities and will not be assessed. Any entity which believes they should be categorized as a nonprofit organization may request a hearing with the NLTTBID appeals committee as outlined in Appendix 3.

#### **7. Internet Sales Businesses**

The NLTTBID activities are designed to increase commerce at tourist businesses within the boundaries of the NLTTBID. Because internet sales businesses, or the internet portion of a business that is otherwise assessed, do not consummate sales from in person customers (tourists), they will not specifically benefit from NLTTBID activities that are designed to increase physical customers within the boundaries of the NLTTBID and will not be assessed. Any business owner who believes their business should be categorized as an internet sales

business may request a hearing with the NLTTBID appeals committee as outlined in Appendix 3.

### **8. Wholesale Businesses**

The NLTTBID activities are designed to increase commerce at tourist businesses within the boundaries of the NLTTBID. Because wholesale businesses, or the wholesale portion of a business that is otherwise assessed, do not consummate sales from in-person retail customers (tourists), they will not specifically benefit from NLTTBID activities that are designed to increase physical customers within the boundaries of the NLTTBID and will not be assessed. Any business owner who believes their business should be categorized as a wholesale business may request a hearing with the NLTTBID appeals committee as outlined in Appendix 3.

### **9. Disclosure of the Assessment**

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

Bonds shall not be issued.

### **E. Penalties, Interest, & Appeals**

The NLTTBID shall reimburse the County of Placer for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent NLTTBID assessment are sought to be recovered in the same collection action by the County, the NLTTBID shall bear its pro rata share of such collection costs. If a business can demonstrate that earnest efforts were made to implement procedures and systems to collect and pay NLTTBID assessments, then penalties or interest charges shall not be levied for late payment of assessments in the first year of operation of the NLTTBID. Otherwise, assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency:* Any assessed business that fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency:* Any assessed business that 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 percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.
3. *Fraud:* If the County determines that the nonpayment of any remittance is fraudulent, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added in addition to the penalties stated in paragraphs 1 and 2 above.
4. *Interest:* In addition to the penalties imposed, any assessed business that fails to remit any assessment imposed shall pay interest at the rate of one and one-half percent (1.5%) per month

or fraction thereof on the amount of the assessment, exclusive of penalties from the date on which the remittance first became delinquent until paid.

5. *Penalties Merged with Assessment:* Every penalty imposed and such interest as accrues shall become a part of the assessment herein required to be paid.
6. *Appeal to the Association:* Any assessed business that wishes to contest its status to be reclassified as a non-assessable business or otherwise wishes to appeal its classification may appeal its classification to the Association's appeals committee. Details on the appeals process are provided in Appendix 3.

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

The NLTTBID assessment will be implemented beginning July 1, 2020 or as soon as possible thereafter and will continue for five (5) years. The County will be responsible for collecting the assessment on a monthly or quarterly basis (including any delinquencies, penalties and interest) from each assessed business. The County shall take all reasonable efforts to collect the assessments from each assessed business. The County shall forward the assessments collected to the Owners' Association.

## V. GOVERNANCE

### A. Owners' Association

The Board of Supervisors, 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 NLTTBID as defined in Streets and Highways Code §36612. The Board of Supervisors has determined that North Lake Tahoe Resort Association (NLTRA), Inc. will serve as the Owners' Association for the NLTTBID.

After formation of the NLTTBID, the Association's Board of Directors will form a NLTTBID advisory committee, which shall be comprised of seven (7) to nine (9) members, with a majority of members being assessed businesses owners or assessed business owner representatives. There shall be three (3) designated seats: one (1) from the Squaw Valley/Alpine Meadows region, one (1) from the Northstar region, and one (1) from the Zone 1 region. This advisory committee will advise the Board on the implementation of the Management District Plan.

Additionally, the Association's Board of Directors will form a Zone 1 advisory committee, comprised of five (5) to seven (7) members, with a majority of members being assessed lodging business owners in Zone 1 or their duly appointed representatives. The Zone 1 advisory committee will make recommendations to the NLTTBID Board on the uses and implementation of funds allocated to the Zone 1 specific services budget category.

The composition of the North Lake Tahoe Resort Association board of directors shall be as follows:

Six (6) Seats Nominated by:

1. Squaw/Alpine Meadows Ski Area
2. Northstar, California
3. Homewood Mountain Resort
4. Resort at Squaw Creek
5. Ritz Carlton Lake Tahoe
6. The Placer County Board of Supervisors

Ten (10) Seats with the following designations

1. Representing North Shore Lodging/Property Management
2. Representing West Shore Lodging/Property Management
3. At Large, representing Activity businesses
4. At-Large, representing Food & Beverage businesses
5. Tahoe City Downtown Association, designee selected by its board of directors
6. North Tahoe Business Association, designee selected by its board of directors
7. Squaw Village Business Association, designee selected by its board of directors
8. Northstar Business Association, designee selected by its board of directors
9. At-Large
10. At-Large

All board of director seats shall be elected by the NLTRA members.

Zero (0) to Three (3) Non-voting Advisors:

1. Placer County CEO or designee

2. Representative with transportation expertise
3. Representative with workforce housing expertise

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

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

### **C. Annual Report**

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

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

# APPENDIX 1 – LAW

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 2019 SUPPLEMENT \*\*\*  
(2019 LEGISLATION)

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

### CHAPTER 1. General Provisions

#### ARTICLE 1. Declarations

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

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

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

The Legislature finds and declares all of the following:

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

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

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

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

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

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

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

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

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

### **36604. Severability**

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

## **ARTICLE 2. Definitions**

### **36606. “Activities”**

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

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

### **36606.5. “Assessment”**

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

**36607. “Business”**

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

**36608. “City”**

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

**36609. “City council”**

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

**36609.4. “Clerk”**

“Clerk” means the clerk of the legislative body.

**36609.5. “General benefit”**

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

**36610. “Improvement”**

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

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

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

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

**36612. “Owners’ association”**

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

**36614. “Property”**

“Property” means real property situated within a district.

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

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

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

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

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

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

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

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

**36615.5. “Special benefit”**

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

**36616. “Tenant”**

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

**ARTICLE 3. Prior Law**

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

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

**CHAPTER 2. Establishment**

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

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

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

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

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

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

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

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

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

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

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

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against 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) (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

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

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

(m) In a property-based district, the total amount of general benefits, if any.

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

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

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

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

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that

the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

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

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

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

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

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

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

- (8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.
- (b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

**36627. Notice and assessment diagram**

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

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

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

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

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

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

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

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

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

**CHAPTER 3. Assessments**

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

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

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

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

classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

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

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

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

The validity of an assessment levied under this part shall not be contested in 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. Reflection of modification in notices recorded and maps**

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

- (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
- (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

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

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

## **CHAPTER 3.5. Financing**

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

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CHAPTER 6. Disestablishment**

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

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

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

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

**APPENDIX 2 – ASSESSED BUSINESSES**

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## APPENDIX 3 – APPEALS PROCESS

The appeals process described below outlines the appeals process that will be adopted by the Association Board. The Association Board may modify this process in the future as it deems necessary. Modification of this process is not considered a modification of this Plan for purposes of Streets and Highways Code section 36636.

*a. Appeal Panel Criteria*

The Appeals Committee shall be an ad hoc committee of the Association Board. The Appeals Committee will consist of three (3) Directors designated by the Chair of the Association Board. The Chair will consider any potential conflicts of interest relative to the members of the Appeals Committee. The Association Executive Director shall be present as staff at all Appeal Committee meetings to share information provided by appealing businesses. All Appeals Committee decisions shall be final.

*b. Criteria for NLTTBID Appeal Consideration*

*i. NAICS Code Appeal*

Businesses with NAICS codes that are not identified as an assessable business or are explicitly excluded from being assessed shall be collectively referred to herein as “exempted NAICS business”. If a business has been misidentified with an incorrect NAICS code and believes that they should not be considered an assessed NAICS business, such a business may appeal their NAICS code classification before the Appeals Committee. If successfully appealed, the exempted NAICS business shall be refunded any assessment paid during the period in which it should have classified as an exempted NAICS business.

*ii. Non-Assessable Business Appeal*

The following businesses are exempt from paying the NLTTBID assessment and are collectively referred to herein as “non-assessable businesses”. The definitions of each type of non-assessed businesses can be found in Section IV, subsection D. If any of the businesses listed are currently being assessed, such a business may appeal their classification before the Appeals Committee. If successfully appealed, a non-assessed business shall be refunded any assessment paid during the period in which it should have been classified as a non-assessed business.

The following business categories shall be considered non-assessable businesses:

- Non-tourist businesses (as defined on page fifteen of this Management District Plan)
- Nonprofit Organizations (as defined on page fifteen of this Management District Plan)
- Internet Sales Businesses (as defined on page fifteen of this Management District Plan)
- Wholesale Businesses (as defined on page sixteen of this Management District Plan)

*c. Process and Protocol*

- i. Requests:* Requests for an appeal can be made by emailing [info@gotahoenorth.com](mailto:info@gotahoenorth.com).

- ii. Timeline for Appeals: Appeals shall be heard between May 1 and June 30 each year.
- iii. Annual Appeal: If a business successfully appeals their status as an exempted NAICS business or a non-assessable business they will need to re-appeal every year to confirm their status in the ensuing year. The appealing business' assessment shall not be exempted until a successful appeal is heard during the May 1 through June 30 annual appeal period.
- iv. Appeal Documentation for Exempted NAICS Business: An appealing business must provide verifiable records to conclusively demonstrate that the appealing business's NAICS code is either not identified as an assessable business or is explicitly excluded from being assessed.
- v. Appeal Documentation for Non-Assessable Business: An appealing business must provide verifiable records to conclusively demonstrate their status as one or more of the categories of non-assessable businesses.
  - a. Non-Tourism Businesses:  
If a non-tourist business appeals their status to be classified as a non-assessable business, they must provide verifiable documentation to confirm that they receive twenty percent (20%) or less of their revenue from tourists.
  - b. Private Nonprofit Tax-Exempt Organizations:  
If a private nonprofit tax exempt organization appeals their status to be classified as a non-assessable business, they must provide verifiable documentation that they are a tax-exempt corporation.
  - c. Internet Sales Business:  
If an internet sales business appeals their status to be classified as a non-assessable business, they must provide verifiable documentation to confirm that they do not receive any sales from in-person retail customers (tourists).
  - d. Wholesale Business:  
If a wholesale business appeals their status to be classified as a non-assessable business, they must provide verifiable documentation to confirm that they do not receive any sales from in-person retail customers (tourists).

*d. New Businesses*

All new businesses that commence operations within the NLTTBID shall collect and remit NLTTBID assessments each month for at least one year (first full tax year they are in business) before being eligible for appeal to their status to either an exempted NAICS business or a non-assessable business. If a business is reclassified as an exempted NAICS business or a non-assessable business, the business will be refunded any assessments paid.