



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

March 14, 2017

**SUBJECT:** Adoption of Resolution Granting Consent to the City of Yuba City to Establish the Yuba-Sutter Tourism Improvement District (YSTID) and Include the City of Wheatland/Unincorporated Area of the County of Yuba in the YSTID.

**PREPARED BY:** Greg Greeson, City Manager

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### **Recommendation**

Adopt the attached resolution granting consent to the City of Yuba City to form the YSTID and include the City of Wheatland/unincorporated area of the County of Yuba in the YSTID.

### **Background/Discussion**

State law provides municipalities with the ability to form special benefit assessment districts for the purpose of business improvement, subject to the support of a majority of affected businesses.

The City of Yuba City is working with the Yuba-Sutter Lodging Association and local lodging businesses to form the YSTID. The City of Yuba City has requested by resolution (attached) the inclusion of the City of Wheatland/unincorporated area of the County of Yuba in the YSTID. The YSTID management district plan sets forth the assessment rate. The annual 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 officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays by any federal, state, county or city officer or employee when on official business; stays by any person occupying a room pursuant to an emergency shelter grant from the Red Cross or similar organization as a result of a natural disaster such as a fire or flood; and stays pursuant to contract executed prior to April 1, 2017. In order to form the district, a majority of the businesses paying the assessment must petition the City for district formation (by amount paid).

The recommended action, adoption of the resolution consenting to the inclusion of the City of Wheatland unincorporated area of the County of Yuba in the proposed YSTID, will enable the Yuba City City Council and Yuba-Sutter Lodging Association to move forward with the YSTID

formation process. Upon successful formation, the YSTID will be governed by the Yuba City City and the Yuba-Sutter Lodging Association, and the City of Wheatland will not have a management role.

Attached to the resolution is a map that defines the proposed boundary of the YSTID.

Additionally, the proposed Yuba-Sutter Lodging Association with support from Visit Yuba Sutter would like to open communications with City of Wheatland to discuss the opportunities for a 10% match of TOT funds in future years.

In conclusion, in order to support Yuba-Sutter lodging businesses and the tourism economy of Yuba and Sutter counties, including the cities of Yuba City, Marysville, Live Oak, and Wheatland, your support for enabling the City of Yuba City to proceed with formation of the YSTID is respectfully requested. If you have any questions, please feel free to call me.

### **Attachments**

- 1. Resolution of the City of Yuba City Requesting Consent from the City Councils of Marysville, Live Oak, and Wheatland; and the Boards of Supervisors of the Counties of Yuba and Sutter to Establish the Yuba-Sutter Tourism Improvement District**
- 2. YSTID Boundary Map**
- 3. Resolution of the City of Wheatland Granting Consent to the City of Yuba City to Form the YSTID**

RESOLUTION NO. 17-008

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
REQUESTING CONSENT OF THE CITY COUNCILS OF THE CITIES OF  
MARYSVILLE, LIVE OAK, AND WHEATLAND; AND OF THE BOARDS OF  
SUPERVISORS OF THE COUNTIES OF YUBA AND SUTTER TO ESTABLISH THE  
YUBA-SUTTER TOURISM IMPROVEMENT DISTRICT

WHEREAS, the City Council of the City of Yuba City desires to begin proceedings to establish the Yuba-Sutter Tourism Improvement District ("YSTID");

WHEREAS, certain tourism business owners have requested that the City Council (the "Council") of the City of Yuba City (the "City") establish the YSTID; and

WHEREAS, a portion of the territory proposed to be included in the YSTID lies within the boundaries of the cities of Marysville, Live Oak, and Wheatland; and the counties of Yuba and Sutter, as shown on the map attached hereto as Exhibit A and incorporated herein by such attachment; and

WHEREAS, the area of the cities of Marysville, Live Oak, and Wheatland; and the counties of Yuba and Sutter which lies within the boundaries of the proposed YSTID will, in the opinion of the Council, be benefited by the improvements and activities, and the purpose sought to be accomplished by the work can best be accomplished by a single comprehensive scheme of work;

NOW, THEREFORE, be it resolved by the City Council of the City of Yuba City that:

Section 1: The above recitals are true and correct.

Section 2: Consent of the cities of Marysville, Live Oak, and Wheatland through their City Councils; and of the counties of Yuba and Sutter through their Boards of Supervisors, is hereby requested to establish the YSTID, and to grant to the Council jurisdiction for all the purposes in connection with creation, operation and future renewals of the proposed YSTID.

Section 3: The City Clerk is hereby directed to transmit a certified copy of this Resolution to the City Clerk of the cities of Marysville, Live Oak, and Wheatland; and to the Clerk of the Board of the counties of Yuba and Sutter.

The foregoing Resolution was duly and regularly introduced, passed and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on January 17, 2017 by the following vote:

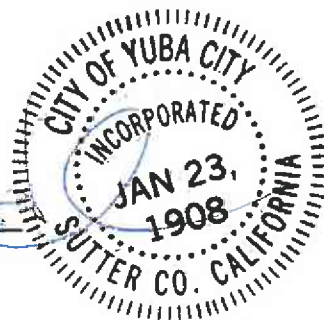
AYES: Councilmembers Buckland, Cardoza, Didbal, Harris and Mayor Cleveland

NOES: None

ABSENT: None

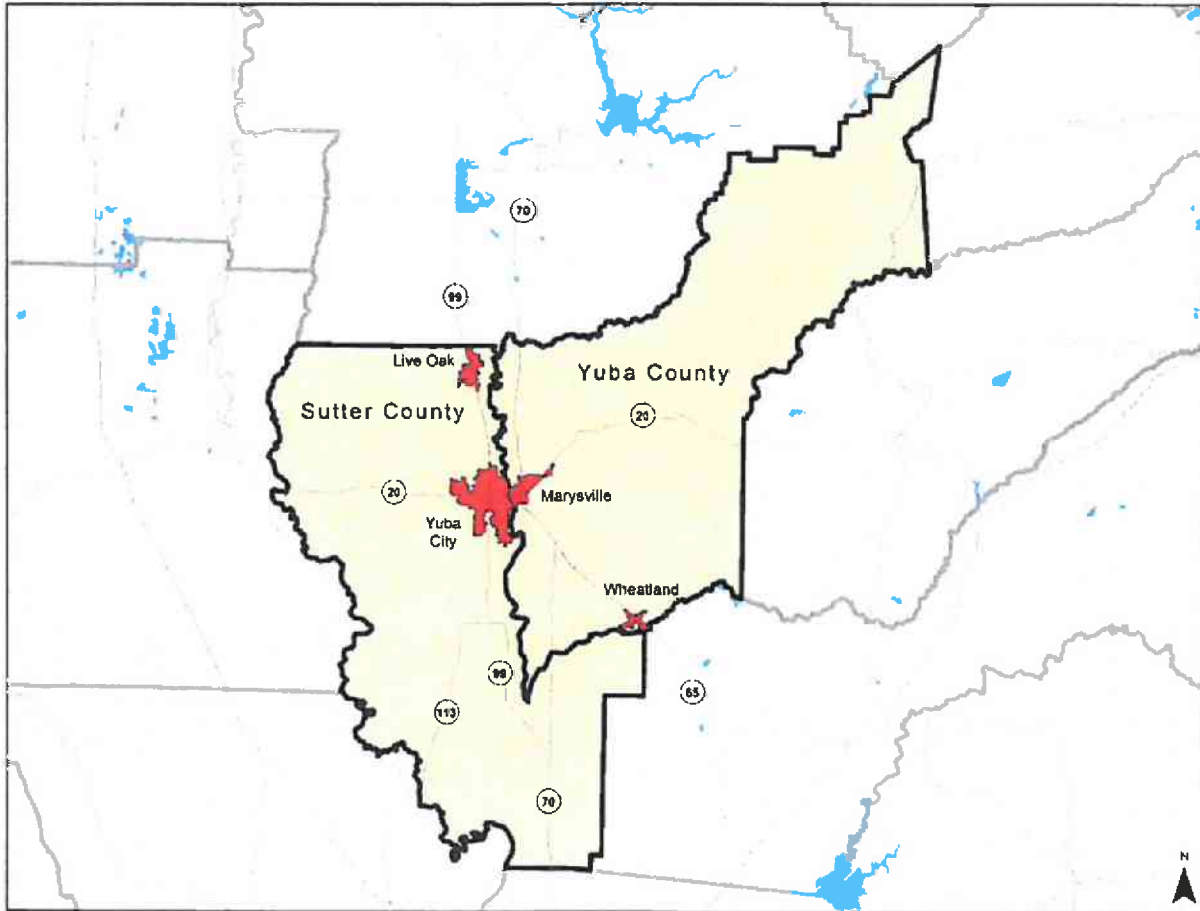
Attest:

  
Patricia Buckland, City Clerk



  
Stanley Cleveland, Jr., Mayor

**EXHIBIT A**  
**District Boundaries**



RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND,  
STATE OF CALIFORNIA, GRANTING CONSENT TO THE CITY OF YUBA  
CITY TO ESTABLISH THE YUBA-SUTTER TOURISM IMPROVEMENT  
DISTRICT (YSTID)**

**WHEREAS**, the City of Yuba City is beginning the process to establish the Yuba-Sutter Tourism Improvement District (YSTID) pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq., to promote tourism and the lodging businesses in Yuba and Sutter counties; including the unincorporated areas of the counties and all incorporated cities: Yuba City, Marysville, Live Oak, and Wheatland; and

**WHEREAS**, the City Council of the City of Yuba City has requested consent to establish the YSTID in the County of Yuba with adoption of Yuba City City Council Resolution No. 17-008, dated January 17, 2017;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Wheatland, that:

Section 1: The above recitals are true and correct.

Section 2: The City Council consents to the City of Yuba City establishing the YSTID, which District shall include the City of Wheatland.

Section 3: The City Clerk is hereby directed to transmit a certified copy of this Resolution to the Yuba City City Clerk.

Section 4: This Resolution is effective upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Wheatland, State of California, held on this 28<sup>th</sup> day of February, 2017 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

2017-2022

**YUBA-SUTTER TOURISM  
IMPROVEMENT DISTRICT  
MANAGEMENT DISTRICT PLAN**

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

October 28, 2016

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Prepared by  
Civitas



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## I. OVERVIEW

Developed by Yuba-Sutter Lodging Association (YSLA), the Yuba-Sutter Tourism Improvement District (YSTID) is an assessment district proposed to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors. Pursuant to Streets and Highways Code §36620.5, Yuba City is acting as the lead jurisdiction for forming the proposed YSTID, subject to the consent of all other jurisdictions. Yuba City will receive YSTID annual reports.

*Location:* The proposed YSTID includes all lodging businesses located within the boundaries of the cities of Yuba City, Marysville, Live Oak, and Wheatland; and the unincorporated areas of Yuba and Sutter counties, as shown on the map in Section III.

*Services:* The YSTID is designed to provide specific benefits directly to payors by increasing room night sales. Marketing and sales, sports and outdoor recreation, and transportation and visitor services programs and promotions will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.

*Budget:* The total YSTID annual budget for the initial year of its five (5) year operation is anticipated to be approximately \$250,000. This budget is expected to fluctuate as room sales do, but is not expected to significantly change over the YSTID's term.

*Cost:* The annual 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 officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays by any federal, state, county, or city officer or employee when on official business; stays by any person occupying a room pursuant to an emergency shelter grant from the Red Cross or similar organization as a result of a natural disaster such as a fire or flood; and stays pursuant to contracts executed prior to February 1, 2017.

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

*Duration:* The proposed YSTID will have a five (5) year life, beginning February 1, 2017 through January 31, 2022. Once per year, beginning on the anniversary of district formation, there is a 30-day period in which owners paying more than fifty percent (50%) of the assessment may protest and initiate a Yuba City City Council hearing on district termination.

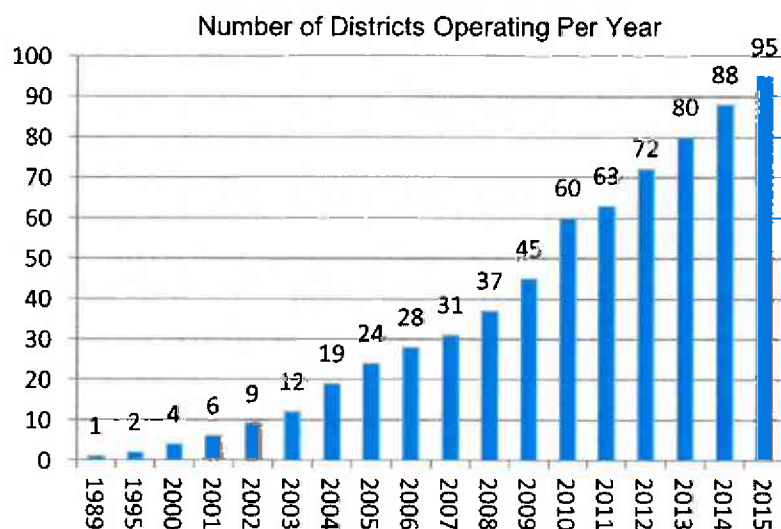
*Management:* The Yuba-Sutter Lodging Association will serve as the YSTID's Owners' Association. The Owners' Association is charged with managing funds and implementing programs



in accordance with this Plan, and must provide annual reports to the Yuba City City Council.

## II. BACKGROUND

TIDs are an evolution of the traditional Business Improvement District. The first TID was formed in West Hollywood, California in 1989. Since then, over ninety 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 TID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TIDs without a state law.



California's TIDs collectively raise over \$225 million for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Yuba-Sutter lodging businesses invest in stable, lodging-specific marketing programs.

TIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TIDs allow lodging business owners to organize their efforts to increase

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

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

There are many benefits to TIDs:

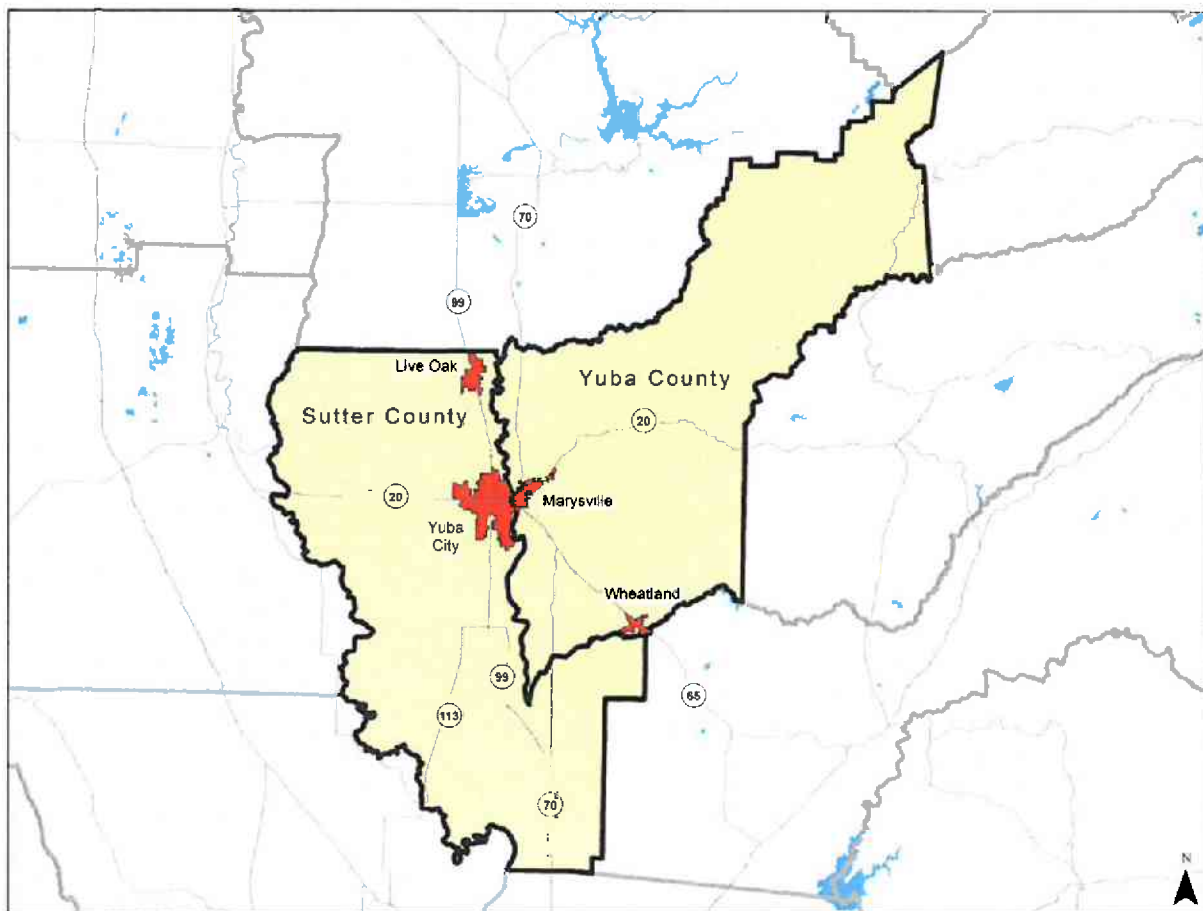
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are **designed,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

### III. BOUNDARY

The YSTID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the cities of Yuba City, Marysville, Live Oak, and Wheatland; and the unincorporated areas of Yuba and Sutter counties.

Lodging business means: any structure, or any portion of any structure, which is occupied or intended or designed for occupancy on a temporary basis for lodging or sleeping purposes. Such term includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof. Lodging business does not include the following: an organized camp, as that term is defined by Health and Safety Code § 18897; the right of an owner of a timeshare estate in a room or rooms in a timeshare project, or the owner of a membership camping contract in a camping site at a campground, or the guest of the owner, to occupy the room, rooms, or camping site, or other real property in which the owner retains that interest, as provided in Revenue and Taxation Code § 7280; any facilities operated by a local government entity; any campsite excluded from taxation pursuant to Revenue and Taxation Code § 7282; or sites in a privately owned campground or recreational vehicle park.

The boundary, as shown in the map below, currently includes twenty-one (21) lodging businesses. A complete listing of lodging businesses within the proposed YSTID can be found in Appendix 2.

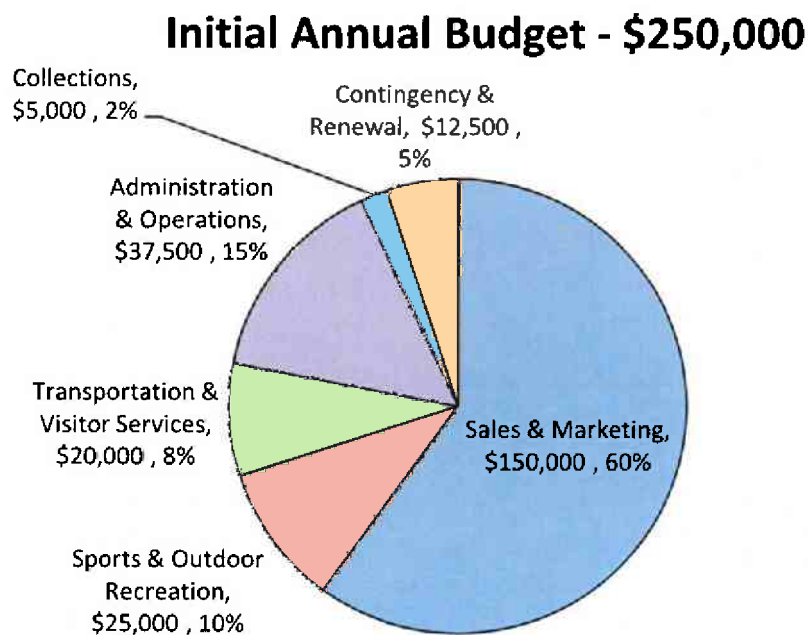


## IV. BUDGET AND SERVICES

### 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 Yuba City of conferring the benefits or granting the privileges. The privileges and services provided with the YSTID funds are sales and marketing, sports and outdoor recreation, and transportation and operations 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 YSLA. The table below illustrates the initial annual budget allocations. The total initial budget is \$250,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, Yuba City and the YSLA 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 YSTID, any and all assessment funds may be used for the costs of defending the YSTID. In the first year of operation, the costs of creating the YSTID may be repaid by deducting repayment funds proportionally from budget categories. Repayment costs shall not exceed \$55,000.

Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the services below will be determined by the YSLA on an as-needed basis.

### **Sales and Marketing**

A sales and marketing program will promote assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Yuba-Sutter as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed businesses;
- Attendance of trade shows to promote assessed businesses;
- Sales blitzes for assessed businesses;
- Familiarization tours of assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists and group events to assessed businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses;
- Development and maintenance of a website designed to promote assessed businesses;
- Education of hospitality staff on service and safety (related to alcohol and food) designed to create a visitor experience that will bring repeat visits to assessed businesses;
- Education of lodging business management and the Owners' Association on marketing strategies best suited to meet assessed businesses' needs; and
- Community organization grants to promote events and activities that target potential visitors to drive overnight visitation and room sales to assessed businesses.

### **Sports and Outdoor Recreation Marketing**

A sports and outdoor recreation marketing program will have a central theme of promoting the District as a desirable place for overnight visits by highlighting the sports and outdoor recreation opportunities in Yuba-Sutter.

### **Transportation and Visitor Services Enhancements**

The transportation and visitor services program will fund transportation and visitor services improvements designed to increase room night sales at assessed lodging businesses. Improvements may include:

- Welcome center and visitor kiosk program including a long term ambassador program and new technology-driven visitor information enhancements to drive overnight visitation and room sales to assessed businesses;
- Brand-centric visitor services training programs for both public and private sector staff designed to create a visitor experience that will bring repeat visits to assessed businesses;
- Comprehensive and integrated wayfinding signed systems including signage to parking lots and decks designed to create a visitor experience that will bring repeat visits to assessed businesses;
- Transportation programs connecting hotels and local music venues, sports venues, and other attractions, to increase overnight visitation and room sales to assessed businesses;
- Art and cultural projects, to attract overnight visitors; and

- Improvements to existing parks and sports facilities utilized by overnight visitors designed to create a visitor experience that will bring repeat visits to assessed businesses.

### **Administration and Operations**

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

### **Collection Administration Fee**

The cities and counties shall retain a fee equal to two percent (2%) of the amount of assessment collected, within their respective jurisdictions, to cover their costs of collection and administration.

### **Contingency/Reserve**

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the Owners' Association. 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 Board of Directors of the Owners' Association. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the Owners' Association. The reserve fund may be used for the costs of renewing the District.

## **B. Annual Budget**

The total five (5) year improvement and service plan budget is projected at approximately \$250,000 annually, or \$1,250,000 through 2022. This amount may fluctuate as sales and revenue increase at assessed businesses, but is not expected to change significantly over the term.

## **C. California Constitutional Compliance**

The YSTID assessment is not a property-based assessment subject to the requirements of Proposition 218. The Court has found, "Proposition 218 limited the term 'assessments' to levies on real property."<sup>1</sup> Rather, the YSTID 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 YSTID, a "specific benefit" and a "specific government service." Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

### **1. Specific Benefit**

Proposition 26 requires that assessment funds be expended on, "a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege."<sup>2</sup> The services in this Plan are designed to provide targeted benefits directly to assessed lodging businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific lodging businesses within the District. The activities described in this Plan are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the District, and are narrowly tailored. YSTID funds will

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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)

be used exclusively to provide the specific benefit of increased room night sales directly to the assesseees. Assessment funds shall not be used to feature non-assessed lodging businesses in YSTID 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 District 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 room night sales. The specific benefit of an increase in room night sales for assessed lodging businesses will be provided only to lodging businesses paying the district assessment, with marketing and sales programs promoting lodging businesses paying the district assessment. The marketing and sales programs will be designed to increase room night sales at each assessed lodging businesses. Because they are necessary to provide the marketing and sales programs that specifically benefit the assessed lodging businesses, the administration and contingency services also provide the specific benefit of increased room night sales to the assessed lodging businesses.

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

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

The assessment may also be utilized to provide, "a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product."<sup>4</sup> The legislature has recognized that marketing and promotions services like those to be provided by the YSTID 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***

District 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 YSLA, and reports submitted on an annual basis to the Yuba City City Council. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from district-funded activities, be featured in advertising campaigns, and benefit from other district-funded services. Non-assessed lodging businesses will not receive these, nor any other, district-funded services and benefits.

The District-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 lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-District funds. YSTID funds shall only be spent

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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)

to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incidental room nights for non-assessed businesses.

#### **D. Assessment**

The annual 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 officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays by any federal, state, county, or city officer or employee when on official business; stays by any person occupying a room pursuant to an emergency shelter grant from the Red Cross or similar organization as a result of a natural disaster such as a fire or flood; and stays pursuant to contracts executed prior to February 1, 2017.

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

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. The assessment shall be disclosed as the "YSTID Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for any purposes, including calculation of transient occupancy taxes.

Bonds shall not be issued.

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

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

1. *Original Delinquency:* Any lodging business which fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency:* Any lodging business which fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten 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 city or county determines that the nonpayment of any remittance due is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this section.
4. *Interest:* In addition to the penalties imposed, any lodging business which fails to remit any assessment imposed shall pay interest at the rate of one percent (1%) 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 part of the assessment required to be paid.

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

The YSTID assessment will be implemented beginning February 1, 2017 and will continue for five (5) years through January 31, 2022. The cities and counties will be responsible for collecting the assessment on a quarterly basis (including any delinquencies, penalties and interest) from each lodging business located in their respective jurisdictions. The cities and counties shall take all reasonable efforts to collect the assessments from each lodging business. The cities and counties shall forward the assessments collected to the Owners' Association.

## **V. GOVERNANCE**

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

The Yuba City City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the YSTID as defined in Streets and Highways Code §36612. The Yuba City City Council has determined that Yuba-Sutter Lodging Association (YSLA) will serve as the Owners' Association for the YSTID. The YSLA Board of Directors shall include:

- A minimum of four (4) assessed business owners or their representatives;
- The Director of Visitors Services for Visit Yuba-Sutter;
- One (1) government representative from Yuba County; and
- One (1) government representative from Sutter County.

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

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each 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 2016 Supplement \*\*\*  
(All 2015 legislation)

STREETS AND HIGHWAYS CODE  
Division 18. Parking  
Part 7. Property and Business Improvement District Law of 1994

*Cal Sts & Hy Code Div. 18, Pt. 7 (2016)*

### CHAPTER 1. General Provisions [36600 - 36617]

#### ARTICLE 1. Declarations [36600 - 36604]

##### 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 businesses in a business district are not taxes for the general benefit of a city, even if property 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 - 36616]**

### **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 businesses and real property 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 area.
- (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- 36617.]**

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

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 - 36630]***

**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 proceeding; 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.

(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.

**36626. Resolution establishing district**

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in Section 36625.

**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 - 36637]**

**36631. Time and manner of collection of assessment; 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. Modification of plan by resolution after public hearing; Adopting of resolution of intention**

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

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

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

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

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

**CHAPTER 3.5. Financing [36640- 36640.]**

**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 - 36651]**

### **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- 36660.]**

### **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 - 36671]**

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

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

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

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

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

### **36671. Refund of remaining revenues upon disestablishment 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

AMERICAS BEST VALUE INN	721 10TH ST	MARYSVILLE, CA 95901
BEST WESTERN YUBA CITY INN	894 W. ONSTOTT ROAD	YUBA CITY, CA 95991
BONANZA INN	1001 CLARK AVENUE	YUBA CITY, CA 95991
BROWNSVILLE MOTEL	8592 LA PORTE ROAD	BROWNSVILLE CA 95919
BUDGET INN	230 E STREET	MARYSVILLE, CA 95901
BUTTE STAR RANCH	8787 S BUTTE RD	SUTTER CA 95982
CALIFORNIA INN	2129 LIVE OAK BLVD.	YUBA CITY, CA 95991
COLLINS LAKE	PO BOX 300	OREGON HOSUE, CA 95962
COMFORT SUITES	1034 NORTH BEALE ROAD	MARYSVILLE, CA 95901
DAYS INN YUBA CITY	700 N PALORA AVENUE	YUBA CITY, CA 95991
ECONO LODGE INN & SUITES	730 N. PALORA AVENUE	YUBA CITY, CA 95991
HAMPTON INN & SUITES	1375 SUNSWEET BLVD.	YUBA CITY, CA 95991
HARKEY HOUSE BED & BREAKFAST	212 C STREET	YUBA CITY, CA 95991
LAKE FRANCIS	13919 LAKE FRANCIS ROAD	DOBBINS, CA 95935
LAKE OF THE SPRINGS	14152 FRENCH TOWN ROAD	OREGON HOUSE, CA 95962
LEXINGTON INN & SUITES	4228 S HIGHWAY 99	YUBA CITY CA 95991
MOTEL 6	803 E STREET	MARYSVILLE, CA 95901
NICE INN	545 COLUSA AVENUE	YUBA CITY, CA 95991
NORCAL HOSPITALITY	803 E STREET	MARYSVILLE, CA 95901
RIO INN & SUITES	899 NORTH BEALE RD	MARYSVILLE, CA 95901
SUPER 8	1078 NORTH BEALE ROAD	MARYSVILLE, CA 95901
TOWN HOUSE MOTEL	322 9TH STREET	MARYSVILLE, CA 95901
TRAVEL LODGE	965 GRAY AVENUE	YUBA CITY, CA 95991
WILLOW CREEK	17548 STATE HIGHWAY 49	CAMPTONVILLE, CA 95922