

STREETS AND HIGHWAYS CODE

SECTION 10000 Et Seq

Municipal Improvement Act of 1913

10000. This division may be cited as the Municipal Improvement Act of 1913.

10001. Unless the context otherwise requires, the definitions contained in this part shall govern the construction of this division.

10002. "Improvement" includes all work and improvements authorized to be done under this division which are for a public purpose or which are necessary or incidental to a public purpose.

10003. "Municipality" and "city" include every city, city and county, or county, or other entity, public corporation, or agency authorized to operate under this division, including any joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code and any special district organized for the purpose of aiding in the development or improvement of navigation or commerce to, or within, the district.

10004. "Legislative body" includes any body which by law is the legislative department of government of the city, or municipality.

10005. "City treasurer" includes any person or officer who has charge and makes payments of the city or municipal funds.

10006. "Install" includes construct, reconstruct, extend, repair, and maintain.

10006.5. Subject to the limitation of Section 10204.1, "incidental expense" has the same meaning as specified in Section 5024.

10007. "Street" includes the whole or any part of one or more public streets, alleys, or other places in any municipality, and rights of way owned or held by any municipality for the purposes of this division.

10008. "Assessment district" means the district of land to be benefited by the improvement and to be specially assessed to pay the costs and expenses of the improvement and the damages caused by the improvement.

10009. The provisions of this division apply to all counties and districts, or other public corporations insofar as such corporations have the power applicable to them to make any of the improvements authorized under this division. The officers of such counties, districts, or other public corporations who have similar powers and duties as the municipal officers referred to in this division have the powers and duties given by this division to such municipal officials. Where no similar officer exists, the legislative body of the county, district, or public corporation shall by resolution appoint a person or designate an officer to perform the duties under this division.

10010. "Acquisition", or any of its variants, means and includes one or more of the following:

(a) Any works, improvements, appliances, or facilities authorized to be made, constructed, or acquired under this division and which are in existence and installed in place on or before the date of adoption of the resolution of intention for the acquisition thereof; any use or capacity rights in any of the foregoing; and any works, improvements, appliances, or facilities acquired or installed pursuant to Sections 10109 to 10111, inclusive. Any work, improvement, appliance, or facility which was not in existence and installed in place on or before that date may be acquired if it was constructed as if it had been constructed under the direction and supervision or under the authority of the municipality.

(b) Electric current, gas, or other illuminating agent for power or lighting service.

(c) Any real property, rights-of-way, easements, or interests in real property, acquired or to be acquired by gift, purchase, or eminent domain, and which are necessary or convenient in connection with the construction or operation of any work or improvement authorized to be acquired or to be made or constructed under this division, except real property, rights-of-way, easements, or interests in real property shown upon a final map filed with or submitted to the legislative body for acceptance and approval pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) and offered for dedication to public use by that map or by any separate offer of dedication.

(d) The payment in full of all amounts necessary to eliminate any fixed special assessment liens previously imposed upon any assessment parcel included in the new assessment district. The amount of the payment shall be included in the new assessment on the parcel. This subdivision is applicable only where the acquisition is incidental to other acquisitions or improvements.

10011. "Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the county recorder's office of the county in which the property is situated, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over the same for himself, or as the executor, administrator, guardian, or conservator of the owner. If the property is leased, the possession of the tenant or lessee holding and occupying such property shall be deemed to be the possession of the owner.

10012. This division shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality, and no neglect or omission of any officer, in any procedure taken under this division, which does not directly affect the jurisdiction of the legislative body to order the work or improvement, shall avoid or invalidate such proceeding or any assessment for the cost of work done thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the legislative body in accordance with the provisions of this division.

10013. Whenever any notice, resolution, order, or other matter is required to be published or posted, and the duty of posting or publishing, or procuring the same, is not specifically enjoined upon any officer or person, the clerk shall post or procure the publication or

posting thereof, as the case may be. No step in any proceeding shall be invalidated or affected by any error or mistake or departure from the provisions of this section as to the officer or person posting or publishing, or procuring the publication or posting, of any notice, resolution, order, or other matter when the same is actually published or posted for the time required.

10014. The failure of the clerk to mail any notice or the failure of any person to receive the same shall not affect in any way whatsoever the validity of any proceedings taken under this division, nor prevent the legislative body from proceeding with any hearing so noticed.

10015. No notice, nor any publication of any notice, order, resolution, or other matter, other than that expressly provided in this part or elsewhere in this division, shall be necessary to give validity to any of the proceedings provided in this division.

10016. Any resolution, notice, report, diagram, or assessment which is required to contain a description of the improvements, the boundaries of the assessment district or any zones therein, or the lines and dimensions of any parcel of land, may, for a full and detailed description thereof, refer to any plan or map which is on file with the clerk, the county auditor, or the county assessor and which is open to public inspection. The plan or map so referred to shall govern for all details of the description.

10100. Whenever the public interest or convenience requires, the legislative body of any municipality may install in or along its streets all or any of the following:

(a) Water mains, pipes, conduits, tunnels, hydrants, and other necessary works and appliances for providing water service.

(b) Lines, conduits, and other necessary works and appliances for providing electric power service.

(c) Mains, pipes, and other necessary works and appliances for providing gas service.

(d) Poles, posts, wires, pipes, conduits, lamps, and other necessary works and appliances for lighting purposes.

(e) Any works, utility, or appliances necessary or convenient for providing any other public service.

10100.1. If the written consent of the owner of the property is first obtained, work may be done on private property to eliminate any disparity in level or size between the improvement and private property, provided that the legislative body determines in the resolution of intention to order the improvement that it is in the public interest and more economical to do such work on private property than to adjust the work on public property to eliminate such disparity. The actual cost of such work may be added to the assessment of the lot on which the work is done. Nothing in this section limits or restricts the authority of the legislative body to make agreements authorized by Section 1263.610 of the Code of Civil Procedure.

10100.2. (a) (1) Whenever the public interest or convenience requires, the legislative body may use the powers of this division to pay, or make funds available to enable the owners of lots or parcels of real property within the district to pay, for either of the following:

(A) Work deemed necessary to bring real property or buildings, including privately owned real property or buildings, into compliance with seismic safety standards or regulations. The legislative body shall declare that public loans or funds to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings, or real property, pursuant to this section constitute a public purpose resulting in a public benefit. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building or the construction of a new or substantially new building may be financed pursuant to this section, except as otherwise provided in subparagraph (B). Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code). Any financing for seismic strengthening of a residential structure containing units rented by households specified in Section 50079.5 of the Health and Safety Code before strengthening shall be subject to a regulatory agreement that will ensure that the number of those units in the structure will not be reduced and will remain available at affordable rents pursuant to Section 50053 of the Health and Safety Code as long as any assessments levied pursuant to this section on the parcel on which the structure is located remain unpaid.

No lot, parcel, or building shall be included in the district without the owner's consent.

(B) Within any area which has been designated by the Governor as a disaster area or for which the Governor has proclaimed the existence of a state of emergency because of earthquake damage, work deemed necessary to repair any damage to real property directly or indirectly caused by the occurrence of an earthquake cited in the Governor's designation or proclamation, or by aftershocks associated with that earthquake, including work to reconstruct, repair, shore up, or replace any real property or building damaged or destroyed by the earthquake or by its aftershocks. Work may be financed pursuant to this subparagraph only on real property or buildings identified in a resolution of intention to establish a district adopted within seven years of the date that the Governor designates the area as a disaster area or proclaims a state of emergency in the area.

(2) Any district created to finance seismic safety work on privately owned buildings, including repair, reconstruction, or replacement of privately owned buildings pursuant to this section, shall consist only of lots or parcels on which the legislative body finds that the buildings to be worked on, repaired, reconstructed, or replaced pursuant to this section, are located or were located before being damaged or destroyed by the earthquake which is the subject of the Governor's designation or proclamation pursuant to subparagraph (B) of paragraph (1), or by the aftershocks of that earthquake.

(3) The Legislature hereby declares that the use of public funds pursuant to this section for seismic strengthening, repair, or reconstruction of privately owned real property or buildings constitutes a public purpose resulting in a public benefit. The use of funds pursuant to this section shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution.

(4) A loan or expenditure of funds made by a district pursuant this section and secured by a tax assessment or a lien, or both that assessment and lien, on private property shall not, when combined with

existing liens on the property, exceed 80 percent of the current appraised value of the property, as determined by an independent, certified appraiser, unless existing lienholders consent in writing to a higher loan-to-value ratio. Notice of the creation of a district or the authorization for the loan or expenditure of funds for the purposes set forth in this section shall be given to lienholders of record on the property included in the district at least 30 days prior to any vote of the governing body authorizing the creation of the district or the loan or expenditure of funds which could create a lien on the property.

(b) A district created to finance seismic safety or repair work pursuant to this section may include areas of territory that are not contiguous.

(c) At any time after the passage of the resolution provided for in subdivision (a) of Section 10312, the legislative body may make changes in or modify the improvements or reduce the assessment with respect to a particular lot or parcel within an assessment district created for the purposes of this section with the written consent of the owner of that lot or parcel.

(d) Any changes made within an assessment district created for the purposes of this section shall be made after notice and hearing, as provided in this division, except that changes may be made under any of the following circumstances:

(1) At the hearing on the report, changes that do any of the following:

(A) Eliminate a portion of the assessment district without increasing the amount of any assessment or substantially affecting the distribution of benefits from the improvements.

(B) Exclude territory which will not be benefited by the remaining improvements without increasing the amount of any assessment.

(C) Modify the improvements or the assessment with respect to a particular lot or parcel within the assessment district with the written consent of the owner and without increasing the assessments on any other real property.

(2) At any time after the improvements are ordered and during the pendency of the proceedings to establish the assessment district.

(3) At any time after the adoption of the resolution provided for in subdivision (a) of Section 10312, to modify the improvements or reduce the assessment with respect to a particular lot or parcel within the assessment district with the written consent of the owner.

(e) An action to determine the validity of any assessments, bonds, bond anticipation notes, contracts, or improvements for the purposes of this section may be brought by the legislative body, or by any person designated by the legislative body, pursuant to Chapter 9 (commencing with Section 860) of Title 10 of the Code of Civil Procedure. For this purpose, an improvement shall be deemed to be in existence upon its authorization and an assessment upon its confirmation.

(f) It is the intent of the Legislature that the powers conferred by this section shall be in addition and supplemental to, and not exclusive of, the powers conferred by any other law.

10100.3. (a) Whenever the public interest or convenience requires, the legislative body may use the powers of this division to pay for work or to make loans deemed necessary to bring buildings, including privately owned buildings, into compliance with fire safety standards or regulations. The legislative body shall declare that public loans or funds to owners of private buildings for fire safety improvements

pursuant to this section constitute a public purpose resulting in a public benefit.

(b) Only work certified as necessary to comply with fire safety standards or regulations by local building officials may be financed.

No project involving the dismantling of an existing building and its replacement by a new building or the construction of a new or substantially new building may be financed pursuant to this section. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(c) Any financing for fire safety improvements of a residential structure containing units that were rented by households specified in Section 50079.5 of the Health and Safety Code before making of fire safety improvements shall be subject to a regulatory agreement that will ensure that the number of those units in the structure will not be reduced and will remain available at affordable rents pursuant to Section 50053 of the Health and Safety Code as long as any portion of a loan issued pursuant to this section remains unpaid.

(d) No lot, parcel, or building shall be included in the district without the owner's consent.

(e) The Legislature hereby declares that the expenditure of public funds or making of loans to owners of private buildings pursuant to this section for fire safety improvements constitutes a public purpose resulting in a public benefit. Public funds or loans made pursuant to this section shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution.

10100.5. Whenever the public interest or convenience requires, the legislative body of any municipality may install or operate, or install and operate, in or along its streets or any public way or any easement, any of the following:

(a) Works, systems or facilities for the transportation of people, designed to serve an area of not to exceed three square miles, including rolling stock and other equipment appurtenant thereto.

(b) All other work auxiliary to any of the above, which may be required to carry out the same, including, but not limited to, terminal and intermediate stations, structures, or platforms or other facilities which may be necessary for the loading of people into and unloading of people from such transportation facilities.

(c) Acquisition of any and all property, easements, and rights-of-way which may be required to carry out the purposes of the project.

10100.6. Following the levy of an assessment pursuant to this division to pay, in whole or in part, the costs and expenses of works, system or facilities authorized by subsection (a) of Section 10100.5 or subsection (a) of Section 5101.5 upon a district benefited thereby, and annually on or before June 30th, the legislative body may prepare and approve an estimate of the expenditures required during the ensuing fiscal year for the maintenance, operation, repair and improvement of such works, system or facilities and shall deduct from such estimate the amount of revenues, if any, which the legislative body estimates will accrue during such year from the operation of such works, system or facilities and will be available to pay costs of such maintenance, operation, repair and improvement.

The legislative body may levy and collect in any year upon and against all of the taxable land and improvements within such district a special ad valorem assessment sufficient to raise a sum of money not

exceeding the net amount thus determined but the rate of assessment in any one year shall not exceed twenty-five cents (\$0.25) on each one hundred dollars (\$100) assessed value as shown on the assessment roll used by the city for city taxation.

The special ad valorem assessment shall be levied, collected and enforced at the same times, in the same manner, by the same officers, and with the same interest and penalties, as in the case of general taxes levied by the city. The proceeds of the assessment shall be placed in a separate fund of the city and shall be expended only for the maintenance, operation, repair or improvement of such works, system or facilities.

10100.7. The legislative body of any municipality which has entered into an agreement with an owner or owners of land within the municipality whereby the owner or owners have constructed or acquired water system facilities, including wells, pumps, dams, reservoirs, storage tanks, pipes, hydrants, meters or other appurtenances for supplying or distributing a domestic water supply, or sewer system facilities, including sewers, pipes, conduits, manholes, treatment and disposal plants, connecting sewers and appurtenances for providing sanitary sewer service, or capacity in these facilities, and have transferred the facilities or capacity to the municipality to be utilized by it for providing water or sewer service, or both, to the land of the owner or owners, and whereby the municipality has agreed to refund or reimburse to the owner or owners the cost of the facilities or capacity or any portion thereof out of connection fees or other revenues or funds of the municipality, including an assessment levied upon the land of the owner or owners or proceeds from the sale of bonds issued pursuant to this division, may upon obtaining the written consent of the owner or owners conduct proceedings pursuant to this division for the formation of an assessment district over and including the land of the owner or owners and levying an assessment thereon and issuing bonds as authorized by Chapter 7 (commencing with Section 10600), for the purpose of satisfying its refund or reimbursement obligation to the owner or owners. The municipality may, upon obtaining the written consent of the owner thereof, include in the assessment district, and levy an assessment upon, any land which will benefit from the water or sewer system facilities, or both, or capacity therein, whether or not the land is owned by the owner or owners who are parties to the agreement with the municipality, but may not include in an assessment district the land of any owner who does not consent in writing thereto.

10100.8. (a) Following the levy of an assessment pursuant to this division to pay, in whole or in part, the costs and expenses of constructing or substantially reconstructing works, systems, or facilities after January 1, 1985, upon a district benefited thereby, and annually on or before June 30th, the legislative body may prepare and approve an estimate of the expenditures required during the ensuing fiscal year for the maintenance, repair, and improvement of the works, systems, or facilities.

(b) The legislative body, may, by resolution adopted at a public hearing, determine to levy and collect in any year upon and against all of the taxable land and improvements within the district a special assessment sufficient to raise a sum of money not to exceed the amount estimated pursuant to subdivision (a).

(c) The special assessment shall be levied, collected, and enforced at the same time, in the same manner, by the same officers, and with the

same interest and penalties, as in the case of other special assessments levied pursuant to this division by the city. The proceeds of the assessment shall be placed in a separate fund of the city and shall be expended only for the maintenance, repair, or improvement of the works, systems, or facilities.

(d) For purposes of this section, "maintenance, repair, and improvement" shall include all expenses incurred to keep the work, system, or facility in fit operating condition which are ordinarily incurred no more frequently than every five years, except that expenses which are ordinarily incurred at lesser intervals may be included if the legislative body finds that the expenses have to be incurred in order to maintain the level of benefit to the assessed parcels and that the level of benefit would otherwise decline more rapidly than usual for other public works of the type involved because of circumstances which do not ordinarily affect these public works.

10100.9. Prior to any hearing pursuant to Section 10100.8, the clerk shall cause notice of the hearing to be published pursuant to Section 6066 of the Government Code.

10101. The legislative body may acquire any works or appliances already installed in the streets, of the municipality which are necessary or convenient to supply the municipality or its inhabitants with water, electricity, gas, or other means of heat, illumination, power, or any other public service, and any plants, lands, and rights of way, whether located within or without the municipality, which are necessary or convenient for their use and operation, or may acquire the use of any such works, appliances, and other property. The legislative body may also acquire electric current, gas, or other illuminating agent for power or lighting service pursuant to this division.

10102. Notwithstanding any other provision of this division, whenever the public interest or convenience requires, the legislative body of any municipality may pay fees or expenses or acquire or install any or all of the works and improvements authorized by, and subject to the limitations with respect to those works and improvements set out in, the Improvement Act of 1911 (Division 7 (commencing with Section 5000)), the Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18), the Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18), the Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of the Government Code), or other works and improvements of a local nature, and may acquire by gift, purchase, or eminent domain proceedings land, rights-of-way, and easements necessary for the works and improvements.

10102.1. The provisions of the Improvement Act of 1911 relating to conversion of existing overhead electric and communication facilities to underground locations, as set forth in Chapter 28 (commencing with Section 5896.1) of Part 3, Division 7 of this code, excepting Sections 5896.10, 5896.13 and 5896.15, are incorporated in this division as if fully set out herein. References in said Chapter 28 to "this division" shall be deemed to refer to Division 12. The contractor, public utility, public agency or city performing the work of conversion shall be paid therefor from the improvement fund. The agreement provided for by Section 5896.9 shall be made prior to the adoption of the resolution ordering the work. Any written request executed pursuant to Section

5896.14 shall be filed with the clerk not later than the time set for hearing on the report, provided, that the legislative body may authorize such request to be filed at any time not later than the confirmation of the assessment.

10102.2. The provisions of the Improvement Act of 1911 relating to work performed on a state highway, county road, or railroad right-of-way, as set forth in Sections 5101.7 and 5101.8, are incorporated in this division as if fully set out herein, except that references to "this division" shall be deemed to refer to Division 12 (commencing with Section 10000).

10103. The provisions of Chapter 2 (commencing with Section 5115) of Part 3 of Division 7 of this code providing for the construction of work and the levy of an assessment by a city within a county or by a county within a city, are incorporated in this division as if fully set out herein. Upon obtaining the consent required in that chapter, a city may construct improvements and levy an assessment in a county or in another city, a county may construct improvements and levy an assessment within a city, and a public corporation may construct improvements and levy an assessment outside of its boundaries either within a city or within a county. If no assessment is to be levied outside the boundaries of the city, county, or public corporation conducting the assessment proceedings, the proposed resolution of intention need not be submitted or approved and the consent required shall be obtained prior to the ordering of the improvement.

10104. When any proceeding is initiated under this division by a legislative body other than that of a city or county, and before the resolution of intention is adopted, the proposed resolution, together with a plat or map which shall indicate by a boundary line the extent of territory included in the proposed district, shall be submitted for approval of the legislative body of the city, where the land to be assessed lies within the corporate limits of any city, or of the county, where the land to be assessed lies within an unincorporated territory. When such approval has been secured, the resolution of intention may be adopted and the legislative body initiating the proceeding may thereafter take each and every step required for or suitable for the consummation of the work and the levying, collecting and enforcement of the assessments to cover the expenses thereof and the issuance and enforcement of bonds to represent unpaid assessments.

10105. As an alternative procedure for constructing any improvement authorized under the Improvement Act of 1911, the legislative body may pass a resolution of intention to do such work, which shall contain a provision that the work shall be instituted when any local, state, or national agency or authority accepts the proposed work as a project for which a contribution of labor, or labor and any portion of materials, supplies, or equipment, will be made by such agency or authority.

10106. Under the alternative procedure the work to be done by the contractor shall consist of furnishing all or any part of the labor, materials, supplies, and equipment necessary for the construction of the improvements or the work may be performed or the labor, materials, supplies, and equipment furnished in the same manner as provided in Chapter 6 of this division. Whenever the alternative procedure is

adopted, the resolution shall recite that fact, state the name of the agency or authority which is to make the contribution, the contribution which is to be made, and the work to be done by the contractor or by the city. In all other particulars the resolution shall conform to the provisions of Chapter 3 of this division. Nothing in this section prevents the acceptance of contributions not mentioned in the resolution of intention for any improvements mentioned in this section, and for that purpose Section 5125 is incorporated as part of this division as if fully set out herein.

10107. The provisions of Chapter 26 of Part 3 of Division 7 of this code are incorporated in this division as if fully set out herein. These provisions may be used in combination with the other provisions of this division.

10108. A city may form a maintenance district, in which event Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code, excepting Sections 5850 to 5853, inclusive, as now or hereafter provided, shall hereafter apply. In such event, the officers referred to therein shall be deemed to be the city officers performing the same duties.

10109. Whenever the improvement or acquisition includes the acquiring or the installation of works, appliances, or improvements authorized by this division, and the works, appliances, or improvements are, or may be, under the ownership, management, or control of any public agency other than the city making the acquisition or ordering the work done, or of a regulated public utility, the works, appliances, or improvements may be acquired or installed under the proceedings specified in this division. For purposes of this section and Sections 10110 and 10111, "regulated public utility" includes a cable television company.

10110. Before the ordering of the work, acquisitions, or improvements which are to be owned, managed, or controlled by any other public agency, regulated public utility, or mutual water company, the legislative body shall enter into an agreement with the public agency, public utility, or mutual water company which has, or may have, charge of the works, appliances, or improvements. The agreement may provide for the joint exercise of any power authorized by this division by two or more local agencies authorized to use this division if the legislative body of each participating agency adopts a resolution declaring that the joint agreement would be beneficial to the residents of the area of the agency. A local agency which is a party to the agreement may use the proceeds of any assessment or of any bonds or other indebtedness issued in conjunction with this division pursuant to the agreement to provide facilities which the local agency is otherwise authorized by law to provide, even though another agency which is a party to the agreement does not have the power to provide those facilities. Among other things, the agreement may provide for any of the following:

(a) For the supplying by the public agency, public utility, or mutual water company of plans and specifications in accordance with Chapter 5 (commencing with Section 5170) of Part 3 of Division 7.

(b) For the performance of work or service by the public agency, public utility, or mutual water agency, and the payment to the public agency, public utility, or mutual water company out of the improvement fund for the work or service. Any agreement providing for the

performance of work by a public utility or mutual water company may provide for the posting of labor, material, and performance bonds.

(c) For the acquisition by the legislative body of works or appliances already installed and for the conveyance of these works or appliances to the public agency, public utility, or mutual water company. The owner of these works or appliances may be a party to the agreement.

(d) That the agreement shall become effective after proceedings have been taken pursuant to this division and the funds are available to carry out all the terms thereof. Whenever it is proposed to annex to the public agency the territory in which the installation or acquisition is contemplated, proceedings may be taken up to and including the confirmation of the assessment as provided for in Section 10312 prior to the commencement of the annexation proceedings. If the annexation is successful, the assessment shall be recorded and other proceedings taken that may enable the parties to comply with the terms of the agreement. If the annexation proceedings fail, further proceedings under the resolution of intention are barred.

Any agreement entered into pursuant to this section, to the extent that utilities have been financed by special assessments, shall provide that no main extension refund agreement shall be entered into with a developer.

10110.1. If an agreement entered into pursuant to Sections 10109 and 10110 provides for the payment of refunds, and to the extent that the works, appliances, or improvements to which the refund payments are applicable are financed by special assessments, any amounts paid by the public agency, public utility, or mutual water company as a refund payment for the works, appliances, or improvements to be transferred to the public agency, public utility, or mutual water company under the agreement shall be deposited into a special fund to be established and administered by the city treasurer and applied as a credit upon the assessment and supplemental assessment, if any, in the same manner as provided in Section 10427.1, or shall be used to call bonds, or both. The credits shall be applied only to the assessments levied for the particular improvements for which the refund is made. Any such amounts shall be transferred to the general fund of the city if either of the following occurs:

(a) The amounts are paid later than four years from the date of recordation of the assessment and any supplemental assessment.

(b) If bonds have been issued, the amounts have been paid later than four years after the due date of the last installment upon the bonds or of the last principal coupons attached thereto.

10111. After the work, acquisitions or improvements have been completed and accepted, or conveyed to the public agency or utility, title to the works, appliances or improvements so installed, acquired or conveyed shall vest in the public agency or utility and constitute a part of its system, and shall at all times thereafter be used, operated, maintained, and managed by it as a part of such system.

10112. In the case of a proposal for a water supply system or sanitary sewers and facilities, the preliminary steps, including, but not limited to, environmental impact reports, feasibility studies, engineering plans, cost estimates, legal expenses, and elections, may, at the legislative body's discretion, be deemed to be improvements.

10120. Approval of the owners of land for any improvements specified in Section 10112 may, at the discretion of the legislative body, be secured through an election.

10121. (a) Notwithstanding any other provision of law, the election may be conducted by mailed ballot pursuant to Chapter 1 (commencing with Section 4000) of Division 4 of the Elections Code, regardless of the number of voters eligible to vote. Prior to the election, the legislative body shall provide for published notice of the election at least once a week for two weeks. Only one vote may be cast for each parcel of land within the territory proposed to be studied.

(b) If the landowner is a partnership, joint tenancy, corporation, or tenancy in common, the vote to which the landowner is entitled may be cast by any of the partners, joint tenants, or tenants in common. However, only one vote may be cast on behalf of the landowner.

(c) As used in this section:

(1) "Landowner" means any person shown on the last equalized assessment roll as the owner of land. However, if the ownership of the land is changed after the making of the last equalized assessment roll, the new owner thereof may vote upon the production of evidence of ownership of the land.

(2) "Parcel" means any parcel as identified on the last equalized assessment roll.

10122. The measure to be voted on shall include a description of the improvements proposed, a map showing the territory to be benefited by the proposed improvements and proposed to be subject to assessments, and an estimate of the costs of the improvements proposed. The measure to be voted on shall be approved by the legislative body after holding a public hearing.

10123. The proposition is approved if a majority of the voters voting approve the measure.

If the measure is approved by the voters, assessments shall be levied and collected pursuant to Chapter 5 (commencing with Section 10400). The legislative body may pay the cost of the work described in Section 10112 prior to the collection of assessments.

Any assessment imposed pursuant to this section may be collected in installments over a period not to exceed five years.

10124. Notwithstanding Section 10123, the legislative body may delay the collection of the assessments imposed by Section 10123 until the time an assessment district is created pursuant to Section 10200 to pay the costs of a water supply system project, or a sanitary sewer and facilities project, where the costs of proposed improvements for such a project have been approved pursuant to Section 10123.

10125. If an assessment district is created pursuant to Section 10200, the legislative body shall include the assessments imposed by Section 10123 with the assessments imposed by Section 10200 within an assessment district created to pay the costs of a water supply system, or a sanitary sewer and facilities project, where the costs of proposed improvements for such a project have been approved pursuant to Section 10123.

10200. Before ordering any improvement which is authorized by this division to be made, the legislative body shall adopt a resolution declaring its intention to do so, briefly describing the proposed

improvement, specifying the exterior boundaries of the assessment district, providing for the issuance of improvement bonds, if any bonds are to be issued, pursuant to Chapter 7 (commencing with Section 10600), declaring its intention to levy an assessment to maintain, repair, or improve the facility pursuant to Section 10100.8, if it intends to levy such an assessment, and providing for the disposal of any surplus remaining in the improvement fund after the completion of the improvement, as authorized in Section 10427. The descriptions do not need to be detailed and shall be sufficient if they enable the engineer to generally identify the nature, location, and extent of the improvements and the location and extent of the assessment district. The resolution of intention shall also contain a brief statement of the intention of the legislative body to enter into an agreement with any other public agency, or public utility, pursuant to Chapter 2 (commencing with Section 10100).

10201. In the resolution of intention the legislative body may order that a specified portion or percentage of the cost and expenses of the improvement shall be paid out of the treasury of the municipality from such fund as the legislative body may designate.

10201.1. As used in the chapter, "private utility damages" means the amount to which any private utility might be entitled by virtue of Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code on account of the construction of the proposed improvement.

In the resolution of intention, the legislative body, in its discretion, may order that private utility damages be included in the assessment.

10202. The proposed improvement may include any or all of the different kinds of work mentioned in this division, but the maintenance of appliances or the furnishing of electric current, gas, or other illuminating agent shall be for a period stated in the resolution of intention not exceeding two years.

10203. In the resolution of intention the legislative body shall refer the proposed improvement to the board, commission, or officer of the municipality having charge and control of the construction of public improvements of the kind described in the resolution, or to the city engineer, or to such other board or officer of the municipality, or competent person employed by the municipality for the purpose, as the legislative body may name in the resolution, and direct such board, commission, officer, or person to make and file with the clerk of the legislative body a report in writing.

10204. The report of the person or board to whom the improvement is referred by the legislative body shall contain all of the following:

(a) Plans and specifications of the proposed improvement if the improvement is not already installed. The plans and specifications need not be detailed and are sufficient if they show or describe the general nature, location, and extent of the improvements. If the assessment district is divided into zones, the plans and specifications shall indicate the class and the type of improvements to be provided for each zone. The plans or specifications may be prepared as separate

documents, or either or both may be incorporated in the report as a combined document.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement.

(c) An estimate of the cost of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement, including any cost of registering bonds. If the legislative body, in the resolution of intention, ordered that private utility damages be included in the assessment, the report shall contain an estimate of the private utility damages.

If the legislative body, in the resolution of intention, declared its intention to levy an assessment for the maintenance, repair, or improvement of the work, system, or facility, the report shall contain an estimate of the amount of this assessment for each of the first five years during which the assessment would be levied.

(d) A diagram showing, as they existed at the time of the passage of the resolution of intention, all of the following:

(1) The exterior boundaries of the assessment district.

(2) The boundaries of any zones within the district.

(3) The lines and dimensions of each parcel of land within the district.

Each subdivision, including each separate condominium interest, as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram. The diagram may refer to the county assessor's maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels.

(e) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the district in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement. In the case of an assessment for installation of planned local drainage facilities which are financed, in whole or in part, pursuant to Section 66483 of the Government Code, the assessment levied against each parcel of subdivided land may be levied on the basis of the proportionate storm water runoff from each parcel. When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the municipality, pursuant to Section 10201, the amount of that portion or percentage shall first be deducted from the total estimated cost and expenses of the improvement, and the assessment upon property proposed in the report shall include only the remainder of the estimated cost and expenses.

The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d).

(f) A proposed maximum annual assessment upon each of the several subdivisions of land in the district to pay costs incurred by the city and not otherwise reimbursed which result from the administration and collection of assessments or from the administration or registration of any associated bonds and reserve or other related funds.

10204.1. If the assessment district consists, in whole or in part, of lands subdivided or to be subdivided under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, none of the costs and expenses required for compliance with the Subdivision Map Act, including but not limited

to surveying and engineering costs incurred in the preparation of any map required by such act, shall be included in the incidental expenses of any improvement ordered to be made or acquired under this division. Incidental expenses under this division may include:

- (1) The costs and expenses of modifying any tentative or final map prepared pursuant to the Subdivision Map Act for use as the map of the assessment district or diagram; and
- (2) Any surveying or engineering expenses incurred for preparation of the plans and specifications of any improvement to be constructed under this division.
- (3) Any private utility damages.

10204.2. If improvement bonds are to be issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)), the costs and expenses of the proposed improvement may include an allowance for interest not exceeding two years' estimated interest on the bonds. The amount of the allowance for interest shall be paid into the redemption fund for the bonds upon sale and delivery of the bonds.

10204.5. In preparing the report in which assessments are apportioned pursuant to subdivision (e) of Section 10204, the person or board to whom the improvement is referred by the legislative body may presume that facilities which are required to meet the needs of future residents of an area, as indicated by a general or specific plan for the area, will benefit undeveloped and underdeveloped property within the area. If the legislative body adopts the report, that presumption shall be conclusive.

10205. The provisions of the Improvement Act of 1911 relating to contributions are incorporated in this division as if fully set out herein.

At any time either before or after the formation of the district, the legislative body may provide by ordinance that for a period specified in the ordinance, but not exceeding the term of bonds issued or to be issued, the city may contribute, from any sources of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of such revenues for the purposes set forth in such ordinance, limited to the following: the acquisition or construction of improvements, the acquisition of interests in real property and the payment of expenses incidental thereto for the use and benefit of the district. In addition, the purposes specified in the ordinance may also include the application of such revenues as a credit upon the levied assessments in the same manner as is provided in Section 10427.1. A brief statement of intention to provide such contribution of revenues shall be set forth in the resolution of intention. Such contribution shall not constitute an indebtedness or liability of the municipality. Contributions may be made from any sources of revenue not otherwise prohibited by law; provided, however, that any contributions authorized after the levy of assessment shall be from sources other than ad valorem taxes on real property.

10206. The provisions of the Improvement Act of 1911 relating to assessments on publicly owned property and railroad property, and certificate or bond secured by unpaid assessments on publicly owned property, are incorporated in this division as if fully set out herein.

10207. The provisions of Chapter 4 (commencing with Section 5150) of Part 3 of the Improvement Act of 1911 are incorporated in this division as if fully set out herein.

10208. The exterior boundaries of the assessment district may be specified and described as provided in the Improvement Act of 1911.

10209. In the assessment of land, credit may be given for dedications and for improvements constructed at private expense.

10210. To expedite the conduct of proceedings and the making of any acquisition or improvement authorized by this division the legislative body may at any time transfer into a special fund designated by the name of the improvement proceeding, out of any available funds of the municipality, such sums as it deems necessary.

The sums so transferred are a loan to the special fund, and shall be repaid out of the proceeds of the assessments provided for in this division.

10300. When the report provided for in Sections 10203 and 10204 is filed with the clerk, he shall present it to the legislative body for consideration. The legislative body may modify it in any respect. The report as modified shall stand as the report for the purpose of all subsequent proceedings except that it may be confirmed, modified, or corrected as provided in this chapter.

10301. After passing on the report, the legislative body shall by resolution appoint the time and place for hearing protests to the proposed assessment and shall cause notice of that hearing and a public meeting required by Section 54954.6 of the Government Code to be mailed as provided in subdivision (c) of that section. If new, increased, or extended assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

10306. The failure of the clerk to mail the notice to any property owner or the failure of any property owner to receive the notice shall not affect the validity of any proceedings taken under this division. If property assessed by the state under Section 14 of Article XIII of the Constitution is proposed to be assessed, the notice shall be mailed to every owner of the property at the address thereof shown on the last board roll transmitted to the county auditor.

10310.4. The legislative body may remedy, revise, and correct any error or informality in any act, determination, or proceeding of the legislative body or any officer of the city. The legislative body may confirm, amend, alter, modify, or correct the assessment and diagram in such manner as to it shall be just and may instruct and direct the person or board making the same to correct them in any particular.

10311.1. If it shall be necessary, in order to find whether a majority protest exists, to determine whether any or all of the signers of written protests are the "owners" of property to be assessed, the legislative body shall make such determination from the last equalized assessment roll. The legislative body shall be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership shall be final and conclusive.

10311.5. If the proposed improvement includes the acquisition of any improvements constructed pursuant to the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, and such improvements were financed, in whole or in part, from the proceeds of any loan secured by a mortgage or deed of trust upon any lands within the proposed assessment district, upon submission of evidence, satisfactory to the legislative body, of the foregoing, the mortgagee or beneficiary under any such mortgage or deed of trust may protest in the same manner and to the same extent as the owner of such lands.

Any contract by a city for the acquisition of any such improvements shall provide that, in the absence of contrary written instructions by any such mortgagee or beneficiary, the purchase price for said improvements shall be paid to the owner and to the mortgagee or beneficiary, as their interests may appear.

10312. (a) When, upon the hearing, the proposed assessment provided for in subdivisions (d) and (e) of Section 10204, and the maximum annual assessment provided for in subdivision (f) of that section, are confirmed as filed, as modified, or corrected, by resolution, the legislative body shall order the proposed improvement to be made or acquired, and declare its action upon the report and assessment. The resolution shall be final as to all persons, and the assessment thereby levied upon the respective subdivisions of land in the assessment district.

(b) If an annual assessment to pay for administrative cost is provided for pursuant to subdivision (a), the legislative body shall determine, by resolution, the amount of the annual assessment for this purpose, which shall not exceed the maximum assessment provided for in subdivision (a) and shall not exceed a reasonable estimate of costs actually incurred or likely to be incurred. This determination may be included in the resolution adopted pursuant to subdivision (a). The legislative body may subsequently determine by resolution that the annual assessment shall be a different amount, but in no event shall the annual assessment exceed the maximum annual assessment provided for in subdivision (a). Resolutions adopted pursuant to this subdivision shall be final as to all persons, and the annual assessment in the amount determined shall thereby be levied annually until changed by resolution adopted pursuant to this section. These assessments may be collected in the same manner and in the same installments as the assessments levied pursuant to subdivision (a), and may be combined with those assessments for collection in any manner which is convenient and economical.

10350. "Changes" as used in this chapter shall include corrections, alterations, modifications, additions, omissions, increases or decreases.

10351. Unless the power to proceed shall have ceased at the conclusion of the hearing on the proposed improvement because of a majority protest, at any time before completion of the improvement proceedings, the legislative body may make changes in, to or from the boundaries of the proposed assessment district, the improvement ordered to be made or acquired, the assessment (including the amounts of any of the individual assessments therein), or in the proceedings, or any act, determination or provision made, or permitted to be made, by the legislative body under and pursuant to this division, which act, determination or

provision does not affect the jurisdiction of the legislative body to order the improvement.

The legislative body shall not change the boundaries to include any territory which will not, in its judgment, be benefited by the improvement.

10352. All changes shall be made on notice and hearing as herein provided, except changes may be made:

(a) At the hearing on the report, which:

(1) Reduce the total amount of the assessment or make no change in the total amount of the assessment and no increase or decrease in the amount of money assessed on each parcel of property included in the assessment; or

(2) Eliminate a portion of the work or provide a substitution therein without increasing the cost of any assessment by reason thereof or substantially affecting the distribution of benefits from the work; or

(3) Eliminate a portion of the assessment district without increasing the amount of any assessment by reason thereof or substantially affecting the distribution of benefits from the work; or

(4) Exclude territory which will not be benefited by the improvement without increasing the amount of any assessment by reason thereof; and

(b) At any time after the improvements are ordered and during the pendency of the proceedings, which:

(1) Do not increase the total amount of the assessment; or

(2) Provide for the elimination or addition of work or substitutions therein, though they result in an increase in some assessments, provided that the owners of the property affected request in writing that the changes in the work and in the assessments be made; or

(3) Exclude territory which will not be benefited by the improvement without increasing the amount of any assessment by reason thereof.

10353. Before ordering any changes made, other than as provided in Section 10352, the legislative body shall adopt a resolution briefly describing the changes proposed to be made, stating the amount of the estimated increase or decrease in the cost of the improvement by reason of the proposed changes and giving notice of a time and place when and where any interested person having any objection to the changes proposed to be made may appear before the legislative body and show cause why the changes should not be ordered. The resolution shall also contain the name and telephone number of a local department or agency designated by the legislative body to answer inquiries regarding the hearing proceedings. The resolution may describe the changes by referring to maps, plats, plans, profiles, detailed drawings, or specifications on file in the office of the clerk of the legislative body or engineer, which shall indicate the changes proposed to be made and which shall govern for all details thereof. The resolution shall be published pursuant to Section 6061 of the Government Code, at least 10 days prior to the date of the hearing. If new, increased, or extended assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

10354. If said resolution proposes to include additional territory in the assessment district, or to increase any assessment, at least 20 days prior to the hearing fixed therein the clerk of the legislative body shall mail a copy of said resolution to all persons owning real property within said additional territory, or whose assessment is increased,

whose names and addresses appear on the last equalized assessment roll or as known to said clerk.

10355. Written objection to the proposed changes may be filed with the clerk of the legislative body by any interested person at any time not later than the time set for the hearing. The legislative body shall hear and pass upon such objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive. If no written objections to said changes have been delivered to the clerk up to the hour set for hearing thereon, or if said objections have been heard and found by the legislative body to be insufficient or have been overruled or denied, immediately thereupon the legislative body by an affirmative vote of four-fifths of its members shall acquire jurisdiction to order said changes made. The decisions and determinations of the legislative body ordering such changes after notice and hearing shall be final and conclusive upon all persons entitled to appeal thereupon to the legislative body.

10356. If as a result of any proposed changes the legislative body shall determine that a supplemental assessment shall be necessary, the proceedings provided for by this chapter may either be combined with or conducted separately from the proceedings for such supplemental assessment. If said proposed changes shall eliminate or substantially reduce the estimated benefits to be received from the improvement by any subdivision of land within the assessment district, the legislative body shall not order any such changes without ordering a corresponding credit upon the individual assessment theretofore imposed upon such subdivision. Said credit shall be made in the manner provided in Section 10427.1.

10357. Any changes made pursuant to this chapter shall be subject to the limitations, if any, contained in any law applicable to the proceedings, which law may impose limitations upon the amount by which the estimated cost of the improvement may be increased by reason of such changes.

10358. Any changes made pursuant to this chapter shall not release or discharge the sureties upon any bond required under this division.

10360. This chapter provides an alternative procedure for authorizing assessments pursuant to this division. It is not intended to alter or restrict authority to authorize assessments pursuant to other provisions of this division in any way. This chapter does not apply to proceedings to finance public facilities unless 80 percent or more of the district is developed for residential, commercial, or industrial use at the time that proceedings are commenced. This chapter shall not be used for the acquisition of existing works, appliances, or property except insofar as the acquisition is incidental to a proposed improvement not already installed.

10362. All provisions of this division shall apply to proceedings pursuant to this chapter, except as expressly provided in this chapter.

10364. For purposes of proceeding under this chapter, the report prepared pursuant to Section 10204 shall contain the following elements instead of those specified in Section 10204:

(a) A general description of the proposed project. Detailed plans and specifications need not be included in the report.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the work, appliance, or property is to be acquired as part of the improvement. Acquisitions are subject to the limitation specified in Section 10360.

(c) An estimate of the costs of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement. If the legislative body, in the resolution of intention, ordered that private utility damages be included in the assessment, the report shall contain an estimate of private utility damages. In addition to the estimate of the likely cost of the project, the report shall state a maximum cost of the project and any private utility damages. If the legislative body, in the resolution of intention, declared its intention to levy an assessment for the maintenance, repair, or improvement of the work, system, or facility, the report shall contain an estimate of the amount of this assessment for each of the first five years during which the assessment would be levied.

(d) A diagram showing the assessment district and the boundaries and dimensions of the subdivisions of land within the district as they existed at the time of the passage of the resolution of intent. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram.

(e) A proposed assessment of a percentage share of the cost and expense of the proposed improvement upon each subdivision of real property in the district in proportion to the estimated benefits to be received by those subdivisions, respectively, from the improvement. The amount of the proposed assessment against each subdivision of real property, assuming the improvement costs and expenses are the amount estimated in subdivision (c) and assuming the project costs and expenses are the maximum amount stated in subdivision (c). When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the municipality, pursuant to Section 10201, the amount of that portion or percentage shall first be deducted from the total estimated costs and expenses of the improvement and from the maximum costs and expenses of the project, and the assessment upon property proposed in the report shall include only the remainder of the estimated costs and expenses. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d).

10366. (a) For purposes of proceeding under this chapter, the notice shall contain the following elements:

(1) A statement of the time, place, and purpose of the hearing on the resolution of intention and report.

(2) A statement of the total estimated cost of the proposed improvement and of the maximum cost of the improvement.

(3) The estimated and maximum amounts, as shown by the report, to be assessed against the particular parcel covered by the notice.

(4) A statement that any person interested may file a protest in writing as provided in this division.

(b) If new, increased, or extended assessments are proposed, the legislative body shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

10368. For purposes of proceeding under this chapter, the assessment shall be confirmed as follows instead of the procedure specified in Section 10312.

When upon the hearing the proposal to assess is confirmed as filed, modified, or corrected by resolution, the legislative body shall order the proposed improvement to be made and declare its action upon the report and assessment. After design work and plans and specifications have been completed, and after contracts have been let pursuant to Section 10501, the legislative body shall, by resolution, fix the amount of the assessment, which shall be equal to or less than the maximum assessment stated in the report prepared pursuant to Section 10364, as filed, modified, or corrected. If the amount of the assessment is more than the estimated cost of the project stated in the report prepared pursuant to Section 10364, as filed, modified, or corrected, the legislative body shall include, within the resolution fixing the amount of the assessment, an explanation for the increase over the estimated cost of the project.

In no case shall the amount of the assessment exceed the maximum assessment stated in the report, as filed, modified, or corrected. Resolutions adopted pursuant to this section shall be final as to all persons, and the assessment fixed shall be thereby levied upon the respective subdivisions of land in the assessment district.

10400. The validity of an assessment or supplementary assessment levied under this division shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the assessment is levied. Any appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment.

10401. Upon the passage of the resolutions provided for in Section 10312, the clerk of the legislative body shall, if bonds are to be issued, transmit to the superintendent of streets, or if no bonds are to be issued, to the city tax collector the diagram and assessments adopted pursuant to Section 10312. If other than a municipal corporation is conducting the proceeding, the diagram and assessment shall be transmitted to and recorded by the corresponding officer of the entity conducting the proceeding, which officer shall be the county surveyor if a county is conducting the proceeding, and that officer shall perform the duties provided in this division for the tax collector. If neither a municipal corporation nor a county is conducting the proceeding, a certified copy of the diagram and assessment shall be recorded with the county surveyor if all or any part of the improvement district is in unincorporated territory, and with the superintendent of streets or tax collector of the city if all or any part of the improvement district is an incorporated territory.

10402. The tax collector shall record the diagram and assessment received pursuant to Section 10401 in a substantial book to be kept for that purpose in his office. Upon the date of recordation with the tax collector or, if a certified copy is recorded with the county surveyor or the superintendent of streets of the city, or both, as provided in Section 10401, then upon the date of recordation, the assessment becomes due and payable, except that the legislative body may provide in the resolution adopted pursuant to Section 10312 that all or any portion of the assessment becomes due and payable on the date of the bonds which represent the assessments or portion thereof.

10402.5. Upon the passage of the resolution provided for in subdivision (a) of Section 10312, the city clerk shall record a notice of assessment, as provided for in Section 3114, modified to reflect any annual assessment for administrative cost, whereupon the assessment shall attach as a lien upon the property assessed, as provided in Section 3115, except that the annual assessment for administrative cost shall become a lien at the same time as the property tax becomes a lien each year.

10403. All assessments not paid within 30 days after they become due, except all unpaid assessments for which bonds are to be issued, shall become delinquent and the recording officer shall add to each delinquent assessment 5 percent of the amount thereof. Assessments may be paid in whole or in part during the 30-day period after the same become due and payable.

10404. (a) Notice of recordation of assessment shall be given as provided in this section.

(b) Upon recording of the assessment, the collection officer shall mail, as provided in subdivision (a) of Section 5070, a statement containing all of the following:

(1) A designation by street number, or some other description, of the property assessed sufficient to enable the owner to identify it.

(2) The amount of the assessment.

(3) The date of the recordation of the assessment.

(4) The time and place of payment of the assessment and the effect of failure to pay within such time.

(5) If bonds are to be issued, a statement of that fact designating the act pursuant to which such bonds are to be issued.

(c) The failure of the collection officer to mail the notice to any property owner or the failure of any property owner to receive the notice shall not affect the validity of any proceedings taken under this division.

(d) The collection officer also shall give notice by publication pursuant to Section 6066 of the Government Code, which notice shall state all of the following:

(1) That the assessment has been recorded as provided in Section 10402, and that all sums assessed therein are due and payable immediately.

(2) That the payment of such sums is to be made to the collection officer within 30 days after the date of recording the assessment, which date shall be stated in the notice.

(3) If bonds are not to be issued, that all assessments will become delinquent if not paid before the expiration of that 30 days and the effect of the failure to pay the assessments within the 30-day period.

(4) If bonds are to be issued, the effect of the failure to pay the assessments within the 30-day period.

10405. The tax collector shall fix a time and place for the sale of various parcels of land upon which the assessments are unpaid, which date shall be not less than 60 days nor more than six months after the date of the recordation of the diagram and assessment.

10406. When the resolution of intention does not provide for the issuance of bonds, the tax collector of the entity conducting the proceedings shall give the notice of recording the assessment and

collect and receive the assessments, and proceedings shall be had as provided in this chapter.

10407. Within 30 days after the date of the delinquency, the tax collector shall begin the publication of a notice of sale of the property upon which the assessments have not been paid. The publication shall be made in the city pursuant to Section 6066 of the Government Code.

10408. The notice of sale published pursuant to Section 10407 need not set out the description of the various parcels of land at length, but shall describe the parcels by their respective number as they appear upon the assessment and diagram. The notice shall refer to the assessment and diagram. Opposite the description or designation of each parcel of land shall be set out the name of the owner as it appears on the last equalized assessment roll for city taxes or as known to the tax collector, the amount assessed against the parcel, the penalty for delinquency, a fee which is required to reimburse the municipality for the estimated reasonable cost of providing notice pursuant to Section 10408.5, and the costs of sale chargeable to the parcel.

10408.5. (a) Not less than 45 days nor more than 60 days prior to the date of sale, the tax collector shall send notice by registered mail to the last known mailing address, if available, of parties of interest, as defined in Section 6505.4. The content of the notice shall include the date, time, and place of the proposed sale, and the amount required to redeem prior to the time of the sale.

(b) The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

(c) The validity of any sale under this chapter is not affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

10409. At least 15 days prior to the date of the sale, the tax collector shall mail, postage prepaid, notices of sale to the owners of all property upon which the assessments have not been paid, as they appear on the last equalized assessment roll for city taxes or as known to the tax collector. The various parcels shall be designated by their legal description or by street number in addition to their respective numbers as they appear upon the assessment and diagram. Opposite the description and designation of each parcel in the notice shall be set out the amount assessed against the property, the penalty for delinquency, a fee which is required to reimburse the municipality for the estimated reasonable cost of providing notice pursuant to Section 10408.5, and the portion of the costs of the sale chargeable to the parcel.

10410. Upon the completion of the publishing and mailing of the notices of sale, the tax collector shall file with the legislative body an affidavit setting forth the time and manner of the compliance with the requirements for publishing and mailing the notices.

10411. At any time after delinquency and prior to the sale of any parcels of land assessed and delinquent, any person may pay the assessment, and penalties and costs due on the property, including the

cost of advertising if the payment is made after the first publication of the notice of sale.

10412. At the time and place fixed in the notice, the tax collector shall proceed with the sale of the property advertised, commencing at the head of the list and continuing in numerical order of lots or parcels of land until all are sold. He may postpone or continue the sale from day to day until the sale is completed.

10413. The tax collector shall sell separately each parcel of land in the published notice on which the assessment remains unpaid, or so much of it as is necessary to realize the amount assessed against the parcel and penalties and costs, and fifty cents (\$0.50) for a certificate of sale. If there is no other purchaser for any lot or parcel of land so offered for sale, it shall be struck off to the city as purchaser.

10414. For each sale the tax collector shall issue an original and duplicate certificate of sale, referring to the proceedings, describing the parcel sold, and giving the name of the purchaser and the amount for which the parcel was sold. He shall deliver the original certificate to the purchaser and keep the duplicate on file in his office, in the form of a stub, in the certificate book.

10415. At any time before the expiration of one year from the date of the sale, any property sold pursuant to this chapter may be redeemed by payment to the tax collector of the amount for which it was sold and an additional penalty at the rate of 1 percent of the amount a month until paid.

10416. The tax collector shall pay the redemption money to the person holding the original certificate of sale and shall require that the person to whom the redemption money is paid surrender the certificate and give a receipt for the money so paid. Upon redemption of any parcel of land the tax collector shall enter the fact and date of redemption upon the duplicate certificate of sale for that parcel of land.

10417. If property sold pursuant to this chapter is not redeemed within one year, and if the purchaser or his assignee has complied with the provisions of this chapter, the tax collector shall execute to the person named in the original certificate, or to his assignee on his application, a deed of the property described in the certificate. The deed shall refer in general terms to the proceedings under which it is issued and contain a description of the property, any assignment thereof, and the fact that no person has redeemed the property. The tax collector shall receive from the applicant one dollar (\$1) for making the deed, unless the city is the purchaser, in which case no charge shall be made.

10418. At least 30 days before he applies for a deed, the purchaser or his assignee shall serve upon the owner of the property, and upon the occupant of such property if it is occupied, a written notice setting forth:

- (a) A description of the property.
- (b) That the property has been sold for a delinquent assessment (specifying the improvement for which the assessment was made).
- (c) The amount for which the property was sold.
- (d) The amount necessary to redeem at the time of giving notice.

(e) The time when the purchaser or assignee will apply to the tax collector for a deed.

If the owner cannot be found, after due diligence, the notice shall be posted in a conspicuous place upon the property, at least 30 days before the time stated therein as the time at which the application for a deed will be made.

10419. The person applying for a deed shall file with the tax collector an affidavit or affidavits showing that notice of such application has been given as required in this chapter, and if the notice was not served on the owner of the property personally that due diligence was used to find the owner. The affidavit or affidavits shall be filed by the tax collector in his office.

10420. If redemption of the property is made after such affidavits are filed, and more than 11 months from the date of sale, the person making the redemption shall pay, in addition to the other amounts required, three dollars (\$3) for the service of notice and the making of the affidavits, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption.

10421. No deed for any property sold for delinquent assessment shall be made until the purchaser or his assignee has complied with all the provisions of Sections 10417 to 10420, inclusive, and has filed the proper affidavits with the tax collector.

10422. The deed of the tax collector conveys the title in fee to the property and entitles the grantee, upon the receipt thereof, to immediate possession of the property described in the deed.

10423. The deed of the tax collector is prima facie evidence of the truth of all the matters which it recites, and of the regularity of all proceedings prior to the execution of the deed.

10424. As fast as collected the tax collector shall pay the funds collected by him pursuant to this division, either upon voluntary payment or as the result of sales, to the treasurer of the city. The city treasurer shall place the funds so received in a special fund designated by the name of the improvement proceeding. Payment shall be made out of the special fund so established only for the purposes provided for in this division.

10424.2. (a) If the Orange County Board of Supervisors determines, subsequent to the issuance of bonds, that the acquisition or construction of all or any part of the proposed improvement will be delayed beyond the date upon which, at the time the bonds were issued, the acquisition or construction was expected to occur, the balance then on deposit in the improvement fund, or the portion specified by the board, may, at the direction of the board, be applied to call outstanding bonds called for redemption. The call and redemption of bonds pursuant to this section shall not cause the amount of any assessment to be reduced. The board shall cause any annual assessment installments occurring after any redemption under this section to be reduced to the maximum extent permitted by law.

(b) The board may, from time to time, issue bonds in an aggregate principal amount not in excess of the principal amount of bonds called for redemption pursuant to subdivision (a). The net proceeds derived from the sale of the bonds shall be deposited in the improvement fund.

10425. If the first assessment or the sale of bonds to represent assessments levied pursuant to this division fails to raise sufficient money to pay all costs, damages, and expenses of the improvement or acquisition, including any judgments rendered in the action and proceedings mentioned in this division and the costs and expenses thereof, the legislative body may pay the deficit out of the general fund, or may order a supplemental assessment to pay the deficit.

10426. The supplemental assessment shall be made and collected in the same manner, as nearly as may be, as the first assessment. Subsequent supplemental assessments may be made, if necessary, to pay for the improvement. At the hearing the legislative body may confirm, modify, or correct the supplemental assessment. The decision of the legislative body thereon is final.

10427. After completion of the improvement and the payment of all claims from the improvement fund, the legislative body shall determine the amount of the surplus, if any, remaining in the improvement fund by reason of the assessment and any supplemental assessment levied for the improvement. The surplus shall be used, in amounts determined by the legislative body, for one or more of the following purposes:

(a) For transfer to the general fund of the city, provided that the amount transferred shall not exceed the lesser of one thousand dollars (\$1,000) or 5 percent of the total amount expended from the improvement fund.

(b) As a credit upon the assessment and any supplemental assessment, in the manner provided in Section 10427.1.

(c) For the maintenance of the improvement.

(d) To call bonds, thereby reducing outstanding assessments and subsequent assessment installments. In the event that the legislative body determines to use all or some portion of the surplus to call bonds prior to maturity, the treasurer shall do each of the following:

(1) Cause the special reserve fund, if any, to be reduced as necessary pursuant to Section 8887 to assure that the bonds will not become subject to federal income taxation.

(2) Cause any assessment previously paid in cash to receive a credit in cash pursuant to subdivision (b) of Section 10427.1 for the proportionate share of the surplus as determined pursuant to subdivision (a) of Section 10427.1.

(3) Cause the preparation of new auditor's records to reflect the adjusted principal amount of the remaining assessment. All subsequent assessment installments shall be based upon the adjusted principal amount of the assessment as reflected in the revised auditor's record.

10427.1. (a) If there is no supplemental assessment, the entire amount of the surplus shall be applied as a credit to the assessment or, as an alternative, any portion of the surplus may be used to call outstanding bonds. If any supplemental assessment has been levied, any portion of the surplus shall be applied as a credit to the assessment or supplemental assessment, or both, or, as an alternative, may be used to call outstanding bonds, as the legislative body may determine. Any credit upon the assessment or any supplemental assessment shall be made in the proportion which each individual assessment, or installment of principal thereof, bears to the total of all individual assessments in the assessment or supplemental assessments upon which the surplus is to be credited.

Any bonds called pursuant to this section shall be selected in accordance with Section 8768.

(b) Where an individual assessment, or any installment of the principal thereof, has been paid in cash after January 1, 1991, the credit shall be returned in cash to the person or persons owning the property for which the assessment or installment has been paid upon their furnishing satisfactory evidence of payment.

(c) Where all or any part of an individual assessment remains unpaid, if the individual assessment is not payable in installments, the credit shall be applied in its entirety upon the individual assessment.

(d) Where all or any part of an individual assessment remains unpaid and is payable in installments, the amount apportioned to each parcel shall be credited against the next installment or installments unpaid upon it after the two-year period specified in this subdivision. When any of the surplus is to be applied as a credit upon the assessment, payable in installments, no credit may be paid or credited as provided in this section until after a period of two years from the date of receipt of proceeds of the sale of bonds by the legal entity conducting the proceedings.

(e) There shall be transferred to the general fund of the city (1) any portion of the surplus which has not been paid to or claimed by the persons entitled thereto within four years from the date of recordation of the assessment and any supplemental assessment or, if bonds have been issued, within four years after the due date of the last installment upon the bonds or of the last principal coupon attached thereto, and (2) any interest earned from the investment of any moneys constituting all or any part of the surplus when the surplus attributable to an individual remaining assessment is fifty dollars (\$50) or less. If the surplus attributable to an individual remaining assessment is greater than fifty dollars (\$50), any interest earned thereon, less administrative cost of investing and crediting, shall be applied as a credit to the assessment.

10427.2. If, pursuant to Section 10427, the legislative body determines that any surplus remaining in the improvement fund shall be used as a credit upon the assessment or any supplemental assessment, the legislative body may also determine that such surplus shall be applied as a credit to the city or any local, state or national agency or authority which shall have made a contribution towards the costs and expenses of the improvement. A credit on account of any contribution shall be made in the proportion which such contribution bears to the total amount of the assessment or supplemental assessment prior to the deduction of all such contributions. All such credits shall be returned in cash to the city, local, state or national agency or authority making such contribution. The surplus remaining in the improvement fund after making credits on account of contributions shall then be applied as a credit in the manner provided in Section 10427.1.

10427.5. If any work to be performed under this division is deleted from a specific lot fronting on the improvement, the surplus in the improvement fund resulting from the deletion of such work may be returned to the owner of that lot, in the manner provided in Section 10427.1.

10428. From the date of the recordation pursuant to Sections 3114 and 3115, each special assessment levied under this division is a lien upon the land upon which it is levied. This lien is paramount to all other

liens, except prior assessments and taxation. Unless sooner discharged, the lien continues for a period of 10 years from the date of the recordation or, if bonds are issued to represent the assessment, until the expiration of four years after the due date of the last installment on the bonds or of the last principal coupon attached thereto. All persons have constructive notice of this lien from the date of the recordation.

10429. The lien, whether bonds issued to represent the assessment or otherwise, shall be subordinate to all fixed special assessment liens previously imposed upon the same property, but it shall have priority over all fixed special assessment liens which may thereafter be created against the property.

10430. The lien of a reassessment and a refunding assessment shall have the same priority as the original assessment to which it relates. A supplemental assessment is a new assessment.

10506. At any time after the preliminary approval of the report provided for in Section 10300, by resolution adopted by a vote of two-thirds of all its members and without calling for bids, the legislative body may order that the municipality itself execute any or all of the improvement in accordance with the specifications and plans adopted for the work.

10507. The legislative body, on ordering the municipality itself to execute the improvement, may authorize the municipality to employ the labor, and provide the material, appliances, supplies, and illuminating agent necessary to carry out the work.

10508. The cost and expenses of work executed by the municipality itself shall be paid out of the improvement fund, but the amount appropriated and used from the fund for this purpose shall not exceed the amount of the bid upon which the award of the contract was made, or if no bids are received or the work is ordered without asking for bids, the cost and expenses shall not exceed the amount of the estimate provided for in subdivision (c) of Section 10204. If the cost and expenses do exceed the amount of the bid, or of the estimate in case no bids are received or the work is ordered without asking for bids, the excess shall be paid from the general fund in the treasury.

10550. (a) If a municipality has entered into a contract with the state that includes a loan funded by the state for the purpose of financing the construction and installation of water or sewer system improvements in or along its streets that are of special benefit to land within the municipality, the municipality may conduct proceedings under this division for the formation of an assessment district for the purpose of levying an assessment to secure repayment of the loan.

(b) Except as otherwise provided in this chapter, the proceeding for the formation of the assessment district and the levy of the assessment shall be conducted in accordance with this division, with appropriate modifications to all resolutions and notices.

10555. The legislative body shall provide in the resolutions required under Sections 10200 and 10312 that the assessment will be collected in annual installments.

10600. The legislative body conducting the proceedings under the provisions of this division may, in its resolution of intention, determine and declare that bonds shall be issued under the provisions of either the Improvement Act of 1911 or the Improvement Bond Act of 1915. In any case, the assessment shall be recorded in the office of the superintendent of streets of the city, county surveyor of the county, or district engineer of the district or public corporation conducting the proceedings in the manner and with like force and effect as provided in the Improvement Act of 1911 and the Improvement Bond Act of 1915, and the assessment therefore shall have the priority, and the proceedings shall be subject to all of the curative clauses and powers of reassessment, provided in those acts. In any case, the official in whose office the original of the assessment is recorded shall give the notice to pay the assessments, as provided in this division.

10600.1. If provision is made for the issuance of bonds under the Improvement Act of 1911 (Division 7 (commencing with Section 7000)), all assessments under one hundred fifty dollars (\$150) which are not paid within 30 days after recordation of the assessment are delinquent and shall bear interest at the rate of 1 percent per month, the interest to be computed from the date of the bonds. The legislative body may order the collection of any such delinquent assessments pursuant to either Chapter 18 (commencing with Section 5410) or Chapter 18.1 (commencing with Section 5450) of Part 3 of Division 7. All references in those chapters to the contractor, his assignee, his assigns, or his agent shall be deemed to refer to the city. References in Section 5451 to interest from the "date of filing the original assessment" shall be deemed to refer to the "date of the bonds."

10600.2. The legislative body conducting the proceedings for the issuance of improvement bonds under this division may require that any bidder submitting a proposal for the purchase of such improvement bonds deposit contemporaneously therewith cash, a certified check, or a cashier's check, in an amount to be determined by the legislative body, guaranteeing the purchase of such improvement bonds by such bidder in the event that he is awarded the purchase of such improvement bonds by the legislative body.

10600.5. When the resolution of intention provides that bonds shall be issued under the Improvement Act of 1911 or the Improvement Bond Act of 1915, said bonds may be dated at any time after the expiration of the cash payment period.

10601. An action to determine the validity of the assessment, bonds, contract, improvement or acquisition may be brought by the legislative body or by the contractor pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. For such purpose an improvement or acquisition shall be deemed to be in existence upon its authorization and an assessment upon its confirmation. Notwithstanding any other provisions of law, the action authorized by this section shall not be brought by any person other than the legislative body or the contractor, nor except when permitted by Section 10400 shall the action be brought after the date fixed for the beginning of work.

10602. The bonds may be issued and sold as the legislative body directs. The proceeds of the bonds shall be deposited in the fund

specified in Section 10424. The notice in the resolution of intention shall recite a maximum rate of interest to be paid on the indebtedness, not to exceed 8 percent a year payable semiannually, which rate shall not be exceeded in the issuance of the bonds. All bonds shall be made payable to bearer.

10602.5. When the resolution of intention provides that bonds shall be issued under the Improvement Act of 1911 or the Improvement Bond Act of 1915, and when the assessment has been duly confirmed pursuant to Section 10312, and when the assessment contains an assessment on public property which is subject to assessment pursuant to Section 10206 including, notwithstanding any other provisions of law, public property owned by the city, county or other entity conducting the proceeding, the legislative body may sell such assessment in the same manner and at the same time as provided in Section 10602. The proceeds of the sale shall be deposited in the fund specified in Section 10424.

The buyer of such an assessment shall, upon paying the purchase price, become the owner of the assessment and shall be entitled to exercise all the rights that an owner of an assessment has under Section 5302.5.

If bonds or certificates are to be issued to represent any assessment or assessments against public property, the legislative body of the entity conducting the proceedings may sell such bonds or certificates in the same manner and at the same time as provided in Section 10602. The proceeds of the sale shall be deposited in the fund specified in Section 10424.

The buyer of such bonds and of each individual bond shall become an owner of the assessment and shall be entitled to exercise all of the rights of an owner of an assessment under Section 5302.5 and of a bondholder as provided in Section 5302.6 and Chapter 4.5 (commencing with Section 6468) of Part 5 of Division 7.

The buyer of each certificate shall become the owner of the assessment and shall be entitled to exercise all of the rights of an owner of an assessment under Section 5302.5 and of a certificate holder as provided in Section 6467.

10603. When the resolution of intention provides for the issuance of bonds, the superintendent of streets of a city, surveyor of a county, or district engineer of a public corporation, conducting the proceedings shall give the notice of recording the assessment, and collect and receive the assessments. The legislative body of the public entity conducting the proceedings may, by resolution, designate the treasurer, tax collector, or other officer of the entity to collect and receive the money. If the entity is a public corporation it may designate the treasurer or tax collector of the county in which it is situated to collect and receive the money. The person so designated shall execute any certificates relating to the amount of assessments paid or remaining unpaid which are required to be executed by the superintendent of streets by the law pursuant to which bonds are to be issued, including, but not limited to, Sections 6420 and 8620.

10603.1. In the event the city conducting the proceedings designates the county treasurer or tax collector to perform any service relating to collecting and receiving the money, including but not limited to, printing, servicing, or collecting any bonds, neither the treasurer nor the tax collector so designated shall perform any such service until there shall have been paid to him his estimate of the cost of the

service or services, provided, however, the city conducting the proceedings, in lieu of the prior payment of the estimated cost, may enter into a written agreement with the county treasurer or tax collector. Such agreement shall provide for the payment of the cost or estimated cost of any service rendered by the designated county officer.

In the event such cost of estimated cost is not included in the assessment, the city conducting the proceedings shall be liable for payment thereof from the general fund.

10604. The person who is to collect and receive the assessments before the issuance of bonds may be bonded in favor of the entity conducting the proceedings in an amount to be fixed and such bond approved by the legislative body of the entity. When he is a bonded official his services in receiving the money are a duty imposed upon him by law within the purview of his bond. In the case of a county official collecting for a public corporation, the county shall collect any money due on the bond as agent for the public corporation. If the legislative body designating the bonded person finds that his official bond is inadequate it may provide that he shall be separately bonded. The premium of such bond shall be an incidental expense of the proceeding.

10605. The person collecting the assessments shall deposit the amounts received in the construction fund of the entity conducting the proceedings, not less than once each week, or at such other more frequent intervals as the legislative body of the entity determines.

10606. The legislative body may, in its resolution of intention, determine and declare that bonds will be issued and paid, and the assessments therefor levied, collected, and augmented in accordance with the applicable provisions of Sections 14, 15, 16, 17, 20, 21, 22, 24, 25, 26, 27, and 28 of the Refunding Assessment Bond Act of 1935, in which case the applicable provisions of that act are incorporated in this division as if fully set out herein. If the bonds are issued pursuant to that act, appropriate changes shall be made in the form of the bonds to show that they are for a public improvement or acquisition under this division.

10607. The list of unpaid assessments shall be filed, the bonds ordered issued, interest shall accrue from the date, and assessments thereafter paid before maturity, bonds called, premium paid, and illegal assessments and bonds reassessed, all as provided in the Improvement Bond Act of 1915.

10608. The bond shall be entitled "Improvement Bond." The provisions for payment of the bond before maturity, as contained in the bond form in the Improvement Bond Act of 1915, shall be inserted in the place of the similar provision in the bond form of the Refunding Assessment Bond Act of 1935. There shall also be inserted in the bond form after the title of the refunding act the words "as modified in the Municipal Improvement Act of 1913."

10609. In all cases where bonds are to be issued under any of the bond acts referred to in this chapter the proceedings shall be subject to all of the curative clauses, limitation of actions, and powers of reassessment provided in all of those acts, and the publication of the notice of improvement shall be deemed to be the publication of the resolution of intention.

10610. Bonds issued pursuant to this chapter shall be conclusive evidence of the regularity of all proceedings under this division leading up to such issuance.

10700. Notwithstanding any other law, the legislative body may determine, by resolution, to allow landowners to defer payment of their assessments pursuant to this chapter. This chapter may be used only if 80 percent or more of the area of the assessment district is developed for residential, commercial, or industrial use.

10701. The legislative body may determine criteria that property owners must meet to qualify for deferral, and may determine procedures to ensure that the criteria are satisfied.

10702. No deferral arrangement may restrict, reduce, or eliminate any remedy of a bondholder provided by this division in the event of a default.

10703. Deferral may be provided through a year-to-year agreement between the city and an eligible property owner, which provides that the city will make assessment payments on behalf of the property owner for that year. No agreement shall commit the city to make deferral payments beyond one year. No agreement of this type shall be construed as a debt of the city.

10704. Alternatively, the city may create a deferral fund for the assessment district, and deposit into the deferral fund an amount sufficient to pay the assessments being deferred for a specified period of time. Funds in the deferral fund may be invested as other city funds are invested, or in more restricted ways as determined by the legislative body. Any investment of the funds in the deferral fund shall comply with federal arbitrage rules.

10705. A city may increase the principal amount of bonds issued under this division by an amount sufficient to fund a program pursuant to this chapter. The proceeds of bonds issued for this purpose shall be placed in the deferral fund created pursuant to Section 10704, and may be used for no other purpose than financing deferrals. The proceeds may be invested in interest-bearing securities of the federal government with maturities occurring on or before the maturity of the bonds issued pursuant to this section. Any investment of those bond proceeds shall comply with federal arbitrage rules (26 U.S.C. Sec. 103 and the rules adopted pursuant thereto).

10706. The amount of any deferred assessments, including interest at a rate determined by the legislative body, shall be due and payable whenever the parcel of property upon which the assessment was levied is transferred, or at the time of last maturity of the bonds issued for the improvement pursuant to this division, or at other times as determined by the legislative body.