

ORDINANCE NUMBER O-19169 (NEW SERIES)

ADOPTED ON MAY 06 2003

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 5, DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 65.0201, 65.0202. BY RENUMBERING SECTION 65.0206 TO SECTION 65.0207; AND CREATING A NEW SECTION 65.0206, ALL RELATING TO MAINTENANCE ASSESSMENT DISTRICTS.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 5, Division 2, of the San Diego Municipal Code is hereby amended by amending Section 65.0201, to read as follows:

§65.0201 Purpose and Intent

- (a) One of the purposes of this division is to allow for the formation of *districts* in this City to *maintain* not only *improvements* as that term is defined in state law but for other types of *improvements* as defined in this division. To accomplish this purpose, the City Council intends that the definition of the term *improvement* be interpreted liberally.
- (b) It is also the purpose and intent of this Division to establish a method by which *improvements* may be constructed, installed, or *maintained*; the costs of which are to be assessed to any real property which receives a *special benefit* from such *improvements*.
- (c) [No change in text.]
- (d) [No change in text.]
- (e) [No change in text.]

Section 2. That Chapter 6, Article 5, Division 2, of the San Diego Municipal Code is hereby amended by amending Section 65.0202, to read as follows:

§65.0202 Definitions

The terms defined in Chapter 6, Article 5, Division 2 are indicated by italicized letters. The following words and phrases whenever used in Chapter 6, Article 5, Division 2, shall be construed as defined in this section:

"*Assessment*" has the meaning contained in California Government Code section 53750, as amended from time to time.

"*Contract for goods*" means an agreement between the City or a *non-profit corporation* and another party in which the City or the *non-profit corporation* is the purchaser of articles, commodities, materials, supplies, equipment, or insurance from the other party.

"*Contract for services*" means an agreement between the City or a *non-profit corporation* and another party in which the City or *non-profit corporation* is the purchaser of services from the other party. It includes *maintenance contracts*.

"*District*" has the meaning contained in California Government Code section 53750, as amended from time to time.

"*Engineer's Report*" means a report prepared by a state certified professional engineer which contains the plans and specifications for the *improvement* of a specified *district*, an estimate of the costs of the *improvements* and *maintenance* of the *improvements*, a diagram of the specified *district*, the *assessments* proposed to be levied in each parcel within the *district*, and any other information required by law determined by the engineer or the City to be relevant with respect to the *district*.

"*Fiscal Year*" means a twelve-month period commencing on July 1 and ending on the following June 30.

"*Improvement*" has the meaning contained in California Streets and Highways Code section 22525, as amended from time to time. In addition, *improvement* includes:

- (1) the provision of services and activities such as security services, promotion of public events, concerts in public areas, economic development, street and sidewalk cleaning, trash removal, and graffiti removal;
- (2) the installation, construction, or acquisition of facilities such as ponds, parking facilities, parking lots, transportation related activities, benches, booths, kiosks, display cases, pedestrian shelters and signs, trash receptacles, public restrooms, decorations and banners, public facilities or equipment for security related services, and flood control facilities; and
- (3) the installation, construction, or acquisition of any other facilities that are appurtenant to any of the types of *improvements* defined in section 65.0202 or are necessary or convenient for the *maintenance* or servicing thereof.

"*Maintain or Maintenance*" has the meaning contained California Streets and Highways Code section 22531, as amended from time to time. In addition, *maintain* or *maintenance* includes the furnishing of property-related services and materials for the ordinary and usual *maintenance*, operation, and servicing of any *improvement*.

"*Maintenance contract*" means an agreement between the City or a *non-profit corporation* and another party for *maintenance* of a *district*.

"*Non-profit corporation*" has the meaning contained in United States Code, Title 26, Sections 501(c)(3) and (c)(4), as amended from time to time.

"*Person*" has the meaning contained in section 11.0210 of this Code.

"*Public Works Contract*" has the meaning contained in Chapter 2, Article 2, of this Code.

"*Sole source*" means a *person* who is the only source from which a procurement is available and there is no adequate substitute.

"*Special benefit*" has the meaning contained in California Constitution, Article XIII D, Section 2, as amended from time to time.

"*Zone*" means Zone 3 of the Downtown Landscape and Lighting Maintenance District.

Section 3. That Chapter 6, Article 5, Division 2, of the San Diego Municipal Code is hereby amended by renumbering Section 65.0206 to Section 65.0207, to read as follows:

§65.0207 Alternate Method for Resolution of Intention

[No change in text.]

Section 4. That Chapter 6, Article 5, Division 2, of the San Diego Municipal Code is hereby amended by adding a new Section 65.0206, to read as follows:

§65.0206 Determination by Engineer Required

Before a *district* is formed or amended to include the levy of *assessments* for the installation, construction, acquisition or *maintenance* of a particular type of *improvement*, a state certified professional engineer shall determine in writing via a detailed *engineer's report* that the proposed *improvement* provides a *special benefit* to real property within a proposed or existing *district*.

Section 5. That the City Clerk is instructed to place all defined terms appearing in Division 2 of Chapter 6, Article 5 in italics and to remove the quotation marks and initial capital of defined terms.

Section 6. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 7. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By Kelly J. Salt
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Deputy City Attorney

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