

ORDINANCE NUMBER O- 20096 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 6 2011

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1, DIVISION 25 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 61.2501, 61.2503, 61.2504, 61.2506, 61.2507, 61.2508, 61.2509, AND 61.2510; AMENDING AND RENUMBERING SECTION 61.2512 TO SECTION 61.2511; AMENDING AND RENUMBERING SECTION 61.2513 TO SECTION 61.2512; RENUMBERING SECTION 61.2514 TO SECTION 61.2513; AMENDING AND RENUMBERING SECTION 61.2515 TO SECTION 61.2514; AMENDING AND RENUMBERING SECTION 61.2516 TO SECTION 61.2515; DELETING SECTION 61.2517; RENUMBERING SECTION 61.2518 TO SECTION 65.2516; AMENDING AND RENUMBERING SECTION 61.2519 TO SECTION 61.2517; AMENDING AND RENUMBERING SECTION 61.2520 TO SECTION 61.2518; RENUMBERING SECTION 61.2521 TO SECTION 61.2519; AMENDING AND RENUMBERING SECTION 61.2522 TO SECTION 61.2520; AMENDING AND RENUMBERING SECTION 61.2523 TO SECTION 61.2521; AMENDING AND RENUMBERING SECTION 61.2524 TO SECTION 61.2522; AMENDING AND RENUMBERING SECTION 61.2525 TO SECTION 61.2523; AMENDING AND RENUMBERING SECTION 61.2526 TO SECTION 61.2524; AMENDING AND RENUMBERING SECTION 61.2527 TO SECTION 61.2525; AND ADDING NEW SECTION 61.2526, ALL RELATING TO TOURISM MARKETING DISTRICT.

WHEREAS, the tourism industry is among the City of San Diego’s biggest industries and in 2010 contributed more than \$16 billion dollars to the City’s economy and employed over 152,000 San Diegans in 2010; and

WHEREAS, in order to retain and expand the City’s tourism industry, it is necessary to undertake extensive marketing activities promoting specific lodging businesses in San Diego; and

WHEREAS, the City's Transient Occupancy Tax provides an important but limited amount of resources toward the marketing activities necessary to sustain San Diego's tourism market share; and

WHEREAS, the City Council of the City of San Diego (Council) believes that it is in the public interest and vital to the welfare of the City's economy to expand the market for, and to develop San Diego tourism through, a cooperative partnership for tourism promotion, funded in part by the lodging industry and in part by the City; and

WHEREAS, the marketing programs to be created under this Division are intended to confer a special and specific benefit to the payors that is not provided to those not charged; and

WHEREAS, the impetus for the Tourism Marketing District Procedural Ordinance arose out of a cooperative partnership between the San Diego Lodging Industry Association, the San Diego Hotel-Motel Association, other tourism industry representatives and the City; and

WHEREAS, it is the desire of this Council to create a mechanism, as provided for under State law, to allow the lodging industry to initiate an industry-approved assessment for the purpose of enhancing the marketing of assessed lodging businesses through a Tourism Marketing District; and

WHEREAS, it is the intent of this Council that the formation of new Tourism Marketing Districts, as detailed in the ordinance, is carried out pursuant to Article XIIIID of the California Constitution; and

WHEREAS, such an assessment district, should it be created, would be operated under the general supervision and oversight of the City, and such district would operate under a Council-approved management plan; NOW THEREFORE,

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

Section 1. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by amending sections 61.2501, 61.2503, 61.2504, 61.2506, 61.2507, 61.2508, 61.2509, 61.2510, to read as follows:

§61.2501 Purpose and Intent

The purpose and intent of this Division is:

- (a) To allow for the establishment of a *tourism marketing district* to provide for tourism development, including coordinated joint marketing and promotion of San Diego *businesses*, in order to retain and expand the lodging industry which is one of the top revenue generators for the San Diego economy and a key employment sector.
- (b) To create a mechanism to fund promotional *activities* for tourism development through the levy of *assessments* upon the *businesses* to which the special and specific benefit from those *activities* is conferred.
- (c) To provide a method for the involvement of a nonprofit entity to participate in the preparation and review of proposed *tourism marketing district* plans for *district activities*.
- (d) To provide a method for the City Council to authorize a nonprofit entity with specific interest in the promotion of City tourism to implement and administer *district activities*.
- (e) To provide a mechanism with which a charge may be imposed for a special and specific benefit conferred directly to the payors that is not provided to those not charged and which does not exceed the reasonable costs to the City of San Diego of conferring the benefit.

§61.2503 Rules of Construction

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 San Diego City Council to order the work shall void or invalidate such procedure for any *assessment* or the cost of the work done thereunder.

§61.2504 Definitions

For purposes of this division, defined terms appear in italics. The following definitions apply in this Division:

"Activities" means, but is not limited to, the promotion and marketing of *assessed businesses* to provide a special and specific benefit to assessed *businesses* within the *district* that is not provided to those not paying the *assessment*.

"Assessment" means a levy for the purpose of conducting *activities* which will provide a special and specific benefit to the assessed *businesses* located within a *tourism marketing district* that is not provided to those not paying the *assessment*. *Assessments* levied under this Division are not special taxes.

"Business" [No change in text.]

"Business owner" means the owner, operator, or authorized representative of the *business* who is noted on City records as the responsible party for the remitting and reporting of Transient Occupancy Tax pursuant to San Diego Municipal Code section 35.0114.

"District management plan" or *"plan"* means a proposal as defined in section 61.2507.

"*Tourism marketing district*," or "*district*," [No change in text.]

"*Tourism marketing district association*" or "*association*" means a private nonprofit entity which represents, and whose membership includes only the assessed *business owners* or *business owners'* representatives in a *district* and which participates in the preparation and review of proposed *district management plans* for *district activities* that provide a special and specific benefit to *assessed businesses* that is not provided to those that are not assessed. A *tourism marketing district association* may be an existing nonprofit entity or a newly formed nonprofit entity. In accordance with California Streets and Highways Code section 36614.5, the *association* is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose.

Transient has the same meaning as in San Diego Municipal Code section 35.0102.

§61.2506 Establishment of Tourism Marketing District

A *tourism marketing district* may be established as provided in this Division, in the following manner:

- (a) Upon the submission of a written petition, signed by the *business owners* in the proposed *district* who will pay more than 50 percent of the *assessments* proposed to be levied, the City Council will initiate proceedings to establish a *district* by the adoption of a resolution expressing its intention to establish a *district*. Where the same *business owner* would be assessed an amount in excess of 40 percent of the total amount of all *assessments* proposed to be levied, that *business owner's*

share of the *assessment* over such 40 percent shall not be included in determining whether the petition is signed by *business owners* who will pay more than 50 percent of the total amount of *assessments* proposed to be levied.

- (b) [No change in text.]
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) [No change in text.]
 - (2) A time and place for a public hearing on the establishment of the *tourism marketing district* and the levying of *assessments*, which shall be consistent with the requirements of section 61.2508.

§61.2507 Tourism Marketing District Management Plan

The *district management plan* shall contain all of the following:

- (a) [No change in text.]
- (b) [No change in text.]
- (c) A description of the boundaries of the *district*, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and *businesses* included. Nothing in this Division prohibits the boundaries of a *district* created pursuant to this Division to overlap with other *districts* created pursuant to this Division or assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code sections 36500 -

36551, or the Property and Business Improvement District Law of 1994,
California Streets and Highways Code sections 36600 - 36671.

- (d) [No change in text.]
- (e) [No change in text.]
- (f) [No change in text.]
- (g) [No change in text.]
- (h) The specific number of years in which *assessments* will be levied. The maximum term for any *district* is 40 years. The *district management plan* may set forth specific changes in *assessments* for each year of operation of the *district*.
- (i) [No change in text.]
- (j) [No change in text.]
- (k) A list of the *businesses* to be assessed then in existence.
- (l) [No change in text.]
- (m) [No change in text.]

The *district management plan* shall be approved by City Council at the time City Council considers the petition of *businesses* seeking to establish a *tourism marketing district*.

Should the *businesses* or the *tourism marketing district association* seek to modify the *plan* at any time, such modifications shall be subject to the requirements of sections 61.2519 and 61.2520.

§61.2508 Notice of Proposed Assessments; Public Hearing

- (a) If the City Council proposes to levy a new or increased *assessment* pursuant to this Division, the City shall comply with the following notice, protest, and hearing procedures:
- (1) The City Council shall identify all *businesses* which will have a special and specific benefit conferred on them by the *activities* and upon which an *assessment* will be imposed.
 - (2) All *assessments* shall be supported by the *management plan*.
 - (3) The City shall give notice by mail to the *business owner* of each identified *business*. Each notice shall state the estimated total initial annual *assessments* for the entire *district*, the duration of the payments, the reason for the *assessment* and the basis upon which the amount of the proposed *assessment* was calculated, and a specific formula in sufficient detail to allow the *business owner* to calculate the proposed assessment on the *business*, together with the date, time, and location of a public hearing on the proposed *assessment*.
 - (4) If the proposed *assessment* formula is based on gross room revenue, the amount of the proposed *assessment* for each identified *business* shall be estimated based on gross room rental revenue for the City's most recent complete fiscal year.
 - (5) Each notice shall also include, in a conspicuous place, a summary of the procedures for the completion, return, and tabulation of the

ballots required pursuant to section 61.2508(a)(6), including a statement that the *assessment* shall not be imposed if the ballots submitted in opposition to the *assessment* exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected *business*. The City shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed *assessment*. On the face of the envelope mailed to the *business owner*, in which the notice and ballot are enclosed, there shall appear in substantially the following form in no smaller than 16-point bold type:

“OFFICIAL BALLOT ENCLOSED.” The City may additionally place the phrase “OFFICIAL BALLOT ENCLOSED” on the face of the envelope mailed to the *business owner*, in which the notice and ballot are enclosed, in a language or languages other than English.

- (6) Each notice given pursuant to this section shall contain a ballot that includes the City’s address for receipt of the ballot and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the *business*, and his or her support or opposition to the proposed *assessment*. Each ballot shall be in a form that conceals its contents once it is sealed by the person submitting the ballot. Each ballot shall be signed and either mailed or otherwise delivered to the address indicated on the

ballot. Regardless of the method of delivery, all ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to section 61.2508(a)(8). Ballots shall remain sealed until the tabulation of ballots pursuant to section 61.2508(a)(8) commences, provided that a ballot may be submitted, changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed *assessment* at the hearing required pursuant to this section. The City may provide an envelope for the return of the ballot, provided that if the return envelope is opened by the City prior to the tabulation of ballots pursuant to section 61.2508(a)(8), the enclosed ballot shall remain sealed as provided in this section.

- (7) At the time, date, and place stated in the notice mailed pursuant to section 61.2508(a)(3), the City shall conduct a public hearing upon the proposed *assessment*. At the public hearing, the City shall consider all objections or protests, if any, to the proposed *assessment*. At the public hearing, any person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.
- (8) At the conclusion of the public hearing, a person or persons designated by the City shall tabulate the ballots submitted, and not withdrawn, in support of or opposition to the proposed *assessment*.

- (9) The City Council may, if necessary, continue the tabulation at a different time or location accessible to the public, provided the City Council announces the time and location at the hearing. Technological methods may be used in the tabulation of the ballots, including, but not limited to, punchcard, or optically readable (bar-coded) ballots.
 - (10) A majority protest exists if the ballots submitted, and not withdrawn, in opposition to the proposed *assessment* exceed the ballots submitted, and not withdrawn, in its favor, weighting those ballots by the amount of the proposed *assessment* to be imposed upon the identified *business* for which each ballot was submitted.
 - (11) If there is a majority protest against the imposition of a new *assessment* or an increase in an existing *assessment*, the City shall not impose or increase the assessment.
- (b) In addition to the requirements of section 61.2508(a), the City shall also comply with California Government Code section 54954.6, as it relates to adopting any new or increased assessment.

§61.2509 City Council Adoption, Revision or Modification of Assessments; Modification of Approved Activities; Changes to District Boundaries

At the conclusion of the public hearing to establish the *district*, the City Council may adopt, revise, change, reduce or modify the proposed *assessment* or the type or types of *activities* to be funded with the revenues from the *assessments*. At the hearing, the City Council may only make changes to the boundaries of the

proposed *tourism marketing district* that will exclude territory containing *businesses* that the City Council finds will not benefit from the proposed *activities*; and may only change proposed *assessments* by reducing them.

§61.2510 Resolution of Formation of Tourism Marketing District

- (a) If the City Council, following a public hearing, decides to establish a proposed *tourism marketing district*, the City Council shall adopt a resolution of formation that shall contain all of the following:
- (1) [No change in text.]
 - (2) [No change in text.]
 - (3) [No change in text.]
 - (4) A determination regarding any protest received. The City Council shall not establish the *district* or levy *assessments* if a majority protest was received.
 - (5) [No change in text.]
 - (6) A statement that the *activities* to be provided to benefit *businesses* in the *district* will be funded by the levy of the *assessments*. The revenue from the levy of *assessments* within a *district* shall not be used to provide *activities* that directly benefit *businesses* outside the *district* or for any purpose other than the purposes specified in the resolution of intention, as modified by the City Council at the hearing concerning establishment of the *district*.
 - (7) A statement specifying the time and manner for levying the *assessments* by the City Treasurer.

- (8) A statement that any *assessment* imposed pursuant to this Division is levied solely upon the *business owner* within the *district*, that the *business owner* is solely responsible for payment of the *assessment* when due, and that, if the *business owner* chooses to collect any portion of the *assessment* from a *transient*, that portion shall be specifically called out and identified for the *transient* in any and all communications from the *business owner* as a “*San Diego Tourism Marketing District Assessment*.”
- (9) A finding that the *activities* funded by the *assessments* will provide a special and specific benefit to *businesses* within the *tourism marketing district* that is not provided to those not paying the *assessment*.
- (b) The adoption of the resolution of formation and recordation of the notice and map pursuant to section 61.2512 shall constitute the levy of an *assessment* in each of the fiscal years referred to in the *district management plan*.

Section 2. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by amending and renumbering section 61.2512 to section 61.2511 and section 61.2513 to section 61.2512, to read as follows:

§61.2511 City Clerk to Record Notice and Map of District

Following adoption of a resolution establishing a *district* pursuant to section 61.2510 the City Clerk shall record a notice and map of the *district*

§61.2512 City Council Establishment of Benefit Zones

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

Section 3. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by renumbering section 61.2514 to section 61.2513, to read as follows:

§61.2513 Establishment, Modification or Disestablishment; Districts and Benefit Zones

All provisions of this Division applicable to the establishment, modification, or disestablishment of a *tourism marketing district* apply to the establishment, modification, or disestablishment of benefit zones or categories of *business*. In order to establish, modify, or disestablish a benefit zone or category of *business*, the City Council shall follow the procedure to establish, modify, or disestablish a *tourism marketing district*.

Section 4. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by amending and renumbering section 61.2515 to section 61.2514 and section 61.2516 to section 61.2515, to read as follows:

§61.2514 Expiration of Tourism Marketing District

If a *tourism marketing district* expires due to the time limit set pursuant to section 61.2507(h), a new *district management plan* may be created and a new *district* established pursuant to this Division.

§61.2515 Collection of Assessments

The collection of the *assessments* levied pursuant to this Division shall be made at the time and in the manner set forth by the City Council in the resolution establishing the *district* described in section 61.2510. A method for charging interest and penalties for delinquent payments of *assessments* may also be prescribed in the resolution establishing the *district*.

Section 5. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by deleting section 61.2517 and renumbering section 61.2518 to section 65.2516, to read as follows:

§61.2516 Exemptions from Assessments

The following *business* revenues are considered exempt from assessment under this Division:

- (1) Revenues from a *transient* who has exercised occupancy for more than one month;
- (2) Revenues from a *transient* whose room rent is being paid directly or indirectly by the federal government or the State of California, or
- (3) Revenues from a *transient* who is by treaty exempt from locally-levied transient occupancy taxes.

Section 6. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by amending and renumbering section 61.2519 to section 61.2517 and section 61.2520 to section 61.2518, to read as follows:

§61.2517 Validity of Assessments; Contests

The validity of an *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 resolution establishing the *district* and levying the *assessment* is adopted pursuant to section 61.2510. Any appeal from a final judgment in an action or proceeding shall be perfected by the appellant within 30 days after the entry of judgment.

§61.2518 City's Promotional Responsibilities

- (a) Nothing in this Division shall relieve the City of its responsibility to promote the City of San Diego as enumerated in San Diego Municipal Code section 35.0128 regarding the use of revenues from the City's Transient Occupancy Tax.
- (b) The City Manager, or the Manager's designee, will provide the *tourism marketing district association*, on an annual basis, a statement detailing actual Transient Occupancy Tax revenues collected under San Diego Municipal Code section 35.0103 that are available for promoting the City. This statement shall also describe the prescribed use of revenues from the City's Transient Occupancy Tax to include, but not be limited to:
 - (1) The annual debt payment for all existing bond obligations related to the San Diego Convention Center Corporation;

- (2) The annual marketing subsidy as required by the San Diego Convention Center Corporation; and
- (3) The annual debt payment for all existing bond obligations relative to Balboa Park and Mission Bay Park.

Section 7. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by renumbering section 61.2521 to section 61.2519, to read as follows:

§61.2519 Modifications of District Management Plan

A tourism marketing district association may, at any time, request that the City Council modify its *district management plan*. Any modification of the *district management plan* shall be made pursuant to this Division.

Section 8. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by amending and renumbering section 61.2522 to section 61.2520, section 61.2523 to section 61.2521, section 61.2524 to section 61.2522, section 61.2525 to section 61.2523, section 61.2526 to section 61.2524, and section 61.2527 to section 61.2525, to read as follows:

§61.2520 District Plan Modification; Public Hearing Required

- (a) Upon the written request of a *tourism marketing district association*, the City Council may modify the *district management plan*, including modification of the *activities* to be funded with the revenue derived from the levy of the *assessments*, after conducting one public hearing on the proposed modifications. If the modification includes the levy of a new or increased *assessment*, the City shall comply with the notice and protest requirements of section 61.2508.

- (b) The City Council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.
- (c) The City shall give all *business owners* within the *district* written notice by mail, of the proposed modifications of the *district management plan*, an explanation of the modification, and the reason for the modification, together with the date, time and location of a public hearing on the proposed modification.

§61. 2521 Tourism Marketing District Association; Report of Activities

- (a) [No change in text.]
- (b) [No change in text.]
- (c) The City Council may approve the report as filed by the *tourism marketing district association*, or may modify any portion of the report and approve it as modified. Such modification shall only be made subject to the noticing provisions of sections 61.2520. Any portion of the report which proposes to modify the *district management plan* shall only be approved after complying with the notice and public hearing requirements of Section 61.2520. The City Council shall not approve a change in the basis and method of levying *assessments* that would impair an authorized or executed contract to be paid from the revenues derived from the levy of *assessments*.

- (d) A *tourism marketing district association* shall comply with the Ralph M. Brown Act, California Government Code sections 54950 - 54963, at all times when matters within the subject matter of the *district* are heard, discussed, or deliberated, and with the California Public Records Act, California Government Code sections 6250 - 6276.48, for all documents relating to *activities* of the *district*.
- (e) Each *business owner* paying the *tourism district assessment* has the right to vote in annual elections of the *association* and the right to seek nomination or election to the board of directors of the *association*.

§61.2522 Tourism Marketing District Association; Contract With Nonprofit

The *district management plan* may state that a *tourism marketing district association* will provide for and administer the *activities* described in the *district management plan*. If the *district management plan* designates a *tourism marketing district association*, the City may contract with the designated nonprofit corporation to implement the *plan* and carry out specified *activities*, subject to the terms and conditions enumerated in the contract.

§61.2523 Renewal of Expired District

- (a) Upon renewal of an expired *district*, any remaining revenues derived from the levy of *assessments*, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed *district*. If the renewed *district* includes additional *businesses* not included in the prior *district*, the remaining revenues shall be spent to benefit only the

businesses in the prior *district*. If the renewed *district* does not include *businesses* included in the prior *district*, the remaining revenues attributable to these *businesses* shall be refunded to the owners of these *businesses*.

- (b) Upon renewal, a *district* shall have a term not to exceed forty (40) years. There is no requirement that the boundaries, *assessments*, or *activities* of a renewed *district* be the same as the original or prior *district*.

§61.2524 Disestablishment of District; Procedures

- (a) Any *tourism marketing district* established or extended pursuant to the provisions of this Division, where there is no outstanding and unpaid indebtedness incurred to accomplish any of the purposes of the *district*, may be disestablished by resolution of the City Council in either of the following circumstances:
- (1) If the City Council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the *district*; or
 - (2) After the first year of operation of the *district*, there shall be a 30-day period each year in which assessed *business owners* may request disestablishment of the *district*. The first such period shall begin upon presentation to City Council of the *district's* initial annual report of activities. During each successive year of operation of the *district*, *business owners* shall have such a 30-day period to request disestablishment upon presentation of the

district's report of activities. Upon the written petition of the *business owners* in the *district* who pay 50 percent or more of the *assessments* levied, the City Council shall pass a resolution of intention to disestablish the *district*. The City Council shall notice a hearing on disestablishment-, pursuant to section 61.2508.

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

§61.2525 Disestablishment; Refund of Assessments

- (a) If the disestablishment occurs before an *assessment* is levied for the fiscal year, the method and basis that was used to calculate the *assessments* levied in the immediate prior fiscal year shall be used to calculate the amount of any refund. All outstanding *assessment* revenue collected after disestablishment shall be spent on *activities* specified in the *district management plan*.

- (b) Upon the disestablishment of a *district*, any remaining revenues, after all outstanding debts are paid, derived from the levy of *assessments*, or derived from the sale of assets acquired with the revenues, shall be refunded to the *business owners* then located and operating within the *district* in which *assessments* were levied by applying the same method and basis that was used to calculate the *assessments* levied in the fiscal year in which the *district* is disestablished.

Section 9. That Chapter 6, Article 1, Division 25 of the San Diego Municipal Code is amended by adding new sections 61.256, to read as follows:

§61.2526 Action to Determine Validity; Action Contesting Validity

- (a) An action to determine the validity of *assessments*, contracts, improvements, or *activities* may be brought by the City or *tourism marketing district association* pursuant to Chapter 9 (commencing with section 860) of Title 10 of Part 2 of the California Code of Civil Procedure. For such purpose an *assessment*, *activity*, improvement, or acquisition shall be deemed to be in existence upon its authorization by City Council.
- (b) In accordance with California Streets and Highways Code section 36633, the validity of an *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 resolution levying the *assessment* is adopted pursuant to section 61.251. Any appeal from a final judgment in

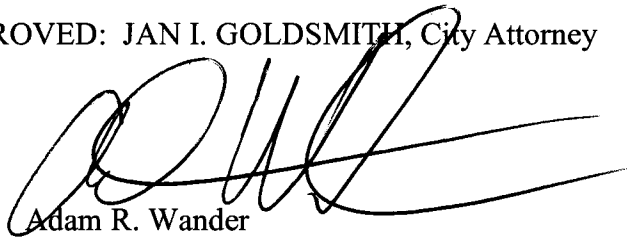
an action or proceeding shall be perfected within 30 days after the entry of judgment.

Section 10. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 11. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Adam R. Wander
Deputy City Attorney

ARW:js
07/15/11
Or. Dept:CP&CI
Doc. No. 217691

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of **SEP 27 2011** .

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: **10-6-11**
(date)


JERRY SANDERS, Mayor

Vetoed:
(date)

JERRY SANDERS, Mayor