

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Strikeout~~

NEW LANGUAGE: Underlined

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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

§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 ~~tourism~~ lodging industry which is ~~currently the third largest~~ one of the top revenue generators for the San Diego economy and a key employment sector.
- (b) To create a mechanism to fund ~~generic~~ promotional activities for tourism development that, ~~pursuant to required supervision and oversight by the~~ City of San Diego [City], as specified in this Division, and that furthers

~~specific governmental goals of the City, and results in a tourism promotional program intended to produce nonideological and commercial communication and, as such, may be entitled to all the privileges and protections of government speech. through the levy of assessments upon the *businesses* to which the special and specific benefit from those *activities* is conferred.~~

- ~~(c) — To establish a method by which benefited *businesses* may be assessed for the cost of the activities associated with tourism development.~~
- ~~(d) — To provide for the levying of *assessments* upon *business owners* who will benefit from the *activities* undertaken pursuant to this Division.~~
- (ec) 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*.
- (fd) 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.

61.2502 Citation of Division

This division may be cited as the San Diego Tourism Marketing District Procedural Ordinance.

§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 [~~Council~~] to order the work shall void or invalidate such procedure for any *assessment* or the cost of the work done thereunder. ~~The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the Council in accordance with the provisions of this Division.~~

§61.2504 Definitions

~~Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters.~~ For purposes of this Division, the following definitions shall apply:

"Activities" means, but is not limited to, the promotion and marketing of ~~tourism~~ 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 ~~promoting~~ 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*" means any and all types of hotels where a structure, or any portion of a structure, is held out to the public as being occupied, or designed for occupancy, by *transients* for dwelling, lodging or sleeping purposes.

"*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 framework for the operation of a tourism marketing district~~ a proposal as defined in ~~Code s~~ Section 61.2507.

"*Tourism marketing district*," or "*district*," means an area established pursuant to this Division, within which *businesses* pay *assessments* to fund *activities*.

"*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 ~~tourism marketing district~~ district management plans for *district activities* that ~~specifically benefit~~ 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. ~~Pursuant to~~ 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. A *tourism marketing district association* shall comply with the

Ralph M. Brown Act, California Government Code section 54950 *et. seq.*, 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 section 6250 *et. seq.*, for all documents relating to *activities* of the *district*. ~~Board members, officers and members of the association are intended and understood to represent and further the economic interest of the City's tourism industry. Board members or officers have a fundamental duty to advance the general welfare of the tourism industry in San Diego. If, in making decisions, a board member or officer is incidentally or indirectly benefited by that decision, it will not be a violation of the fundamental duty of that board member or officer.~~ Each *business owner* or *business owner's* representative 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*.

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

§61.2505 Alternative Financing Method; No Limit on Other Provisions of Law

This Division provides an alternative method of financing certain *activities*. The provisions of this Division shall not affect or limit any other provisions of law authorizing or providing for *activities* or the raising of revenue for the benefit of *businesses*.

§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 ~~San Diego~~ City Council [~~Council~~] will initiate proceedings to form a *district* by the adoption of a resolution expressing its intention to form 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) The petition of *business owners* required under subdivision (a) shall include a summary of the *district management plan*. That summary shall include all of the following:
- (1) A map showing the boundaries of the *district*.
 - (2) Information specifying where the complete *district management plan* can be obtained.
 - (3) Information specifying that the complete *district management plan* shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
- (1) A brief description of the proposed *activities*, the amount of the proposed *assessment*, a statement that bonds will not be issued, and a description of the exterior boundaries of the proposed *district*.

The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the *activities* and the location and extent of the proposed *district*.

- (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 ~~San Diego Municipal Code~~ Section 61.2508.

§61.2507 Tourism Marketing District Management Plan

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

- (a) A map of the *district*.
- (b) The name of the proposed *district*.
- (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 section 36500 *et.seq.*, or the Property and Business Improvement District Law of 1994, California Streets and Highways Code section 36600 *et.seq.*

- (d) The general description of *activities* proposed for each year of operation of the *district* and the estimated maximum cost thereof.
- (e) The estimated total annual amount proposed to be expended each year for administration and operation of the *district*.
- (f) The proposed source or sources of financing including the proposed method and basis of levying the *assessment* in sufficient detail to allow each *business owner* to calculate the amount of the *assessment* to be levied against their *business*.
- (g) The planned frequency for the levying of the *assessments*.
- (h) The specific number of years in which *assessments* will be levied. ~~In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years.~~ 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) The proposed timing and duration of *activities* under the *plan*.
- (j) Any proposed rules and regulations to be applicable to the *district*.
- (k) A list of the *businesses* to be assessed then in existence.
- (l) A description of the procedures utilized by the *association* for the nomination and election of the *association's* board of directors.
- (m) Any other item or matter required to be incorporated therein by the San Diego City Council, the San Diego Municipal Code, or any other applicable law.

§61.2508 Notice of Proposed Assessments; Public Hearing

~~If the San Diego City Council [Council] proposes to levy an assessment that is consistent with the assessment proposed in the petition of *businesses* submitted pursuant to San Diego Municipal Code [Code] section 61.2506 and with the *district management plan* submitted pursuant to Code section 61.2507, the City shall provide notice to the *business owners* of the public hearing set pursuant to paragraph (2) of subdivision (c) of Code section 61.2506.~~

(a) If the City Council proposes to levy a new or increase *assessment* pursuant to this Division, then in accordance with Article XIII of the California Constitution, the City shall comply with the following notice, protest, and hearing procedures.

(a1) ~~The City Council shall identify all *businesses* which will be benefited~~ have a special and specific benefit conferred on them by the activities and upon which an *assessment* will be imposed.

(b2) ~~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.

- (e4) 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. ~~The City shall give the *business owner* written notice, by mail, of the proposed establishment of the *tourism marketing district*, 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, a specific formula in sufficient detail to allow the *business owner* to calculate the proposed assessment for the *owner's* establishment, together with the date, time, and location of a public hearing on the proposed *assessment*. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to Code section 61.2508(e), including a disclosure statement that the existence of a majority protest, as defined in Code section 61.2508(e), will result in the *assessment* not being imposed.~~
- (d5) ~~Each notice mailed to owners of identified *businesses* within the *district* pursuant to Code section 61.2508(e) shall contain a ballot~~

~~which includes the City's address for receipt of the ballot once completed by any *business owner* receiving the notice, whereby the *business owner* may indicate their name, reasonable identification of the *business*, and their support or opposition to the proposed *assessment*.~~

Each notice shall also include, in a conspicuous place thereon, 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.

(e 6) ~~The Council shall conduct a public hearing upon the proposed assessment not less than 45 days after the mailing of the notice of the proposed assessment to business owners of each identified business. At the public hearing, the Council shall consider all protests against the proposed assessment and the San Diego City Manager shall tabulate the ballots. The Council shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballot, the ballots shall be weighed according to the proportional financial obligation of the affected businesses.~~

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.

(12) Because only special and specific benefits conferred upon *businesses* are assessable, any person who is not an *assessment-paying business owner* within the *district* shall not be deemed to have been deprived of the right to vote for any *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 ~~San Diego~~ City Council [~~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 ~~San Diego~~-City Council [~~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) A brief description of the proposed *activities*, the amount of the proposed *assessment*, and a description of the exterior boundaries of the proposed *district*. The description and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the *activities* and the location and extent of the proposed *district*.
 - (2) The number, date of adoption, and title of the resolution of intention.
 - (3) The time and place where the public hearing was held concerning the establishment of the *district*.
 - (4) A determination regarding any protest received. The City Council shall not establish the *district* or levy *assessments* if a majority protest was received.

- (5) A statement that the operations of the *district* established by the resolution shall be subject to any amendments to this Division.
- (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 ~~San Diego~~ 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 said 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 ~~area of the tourism marketing district~~ *will be benefited by the activities*

~~funded by the assessments proposed to be levied 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 ~~San Diego Municipal Code~~ Section 61.2512 shall constitute the levy of an *assessment* in each of the fiscal years referred to in the *district management plan*.

§61.2512 City Clerk to Record Notice and Map of District

Following adoption of a resolution establishing a *district* pursuant to ~~San Diego Municipal Code~~ Section 61.2510 the City Clerk shall record a notice and map of the *district*.

§61.2513 City Council Establishment of Benefit Zones

The ~~San Diego City Council~~ [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.

§61.2514 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 ~~San Diego~~ City Council shall follow the procedure to establish, modify, or disestablish a *tourism marketing district*.

~~§61.2515~~2514 Expiration of Tourism Marketing District

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

~~§61.2516~~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 ~~San Diego~~ City Council in the resolution establishing the *district* described in ~~San Diego Municipal Code~~ 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*.

~~§61.2517~~ — ~~Collection of Assessments~~

~~*Assessments* levied on *businesses* pursuant to this Division shall be levied on the basis of the degree of estimated benefit to the *businesses* within the *tourism marketing district*. The ~~San Diego~~ City Council may classify *businesses* for purposes of determining the degree of benefit to the *businesses* of *activities* provided pursuant to this Division.~~

~~§61.2518~~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.

§61.2519~~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 levying the *assessment* is adopted pursuant to ~~San Diego Municipal Code s~~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.

§61.2520~~2518~~ City's Promotional Responsibilities

- (a) Nothing in this Division shall relieve the City of its responsibility to promote the City of San Diego [~~City~~] as enumerated in San Diego Municipal Code [~~Code~~] section 35.0128 regarding the use of revenues from the City's Transient Occupancy Tax [~~TOT~~].
- (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 ~~TOT~~ revenues collected under San Diego Municipal Code section 35.0103 that are available for promoting the City.

This statement should also describe the prescribed use of revenues from the City's Transient Occupancy Tax ~~TOF~~ 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.

§61.25212519 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.

§61.25222520 District Plan Modification; Public Hearing Required

- (a) Upon the written request of a *tourism marketing district association*, the ~~San Diego City Council~~ ~~{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. ~~The Council may modify the activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution to make the modifications after holding a public hearing. Notice of the public hearing and the proposed modifications shall be accomplished by a first class mailing to all affected businesses of the resolution of intention to modify the plan, as well as an~~

~~official notice of the public hearing regarding the proposed modifications.~~

If the modification includes the levy of a new or increased *assessment*, the ~~City Council~~ shall comply with the notice and protest requirements of Code Section 61.2508.

- (b) The 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, ~~and not less than 45 days after the mailing of the notice as referenced in 61.2522(a) above.~~
- (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.

~~§61.2523~~ §61.2521 Tourism Marketing District Association; Report of Activities

- (a) Each *tourism marketing district association* shall cause to be prepared a prospective report for each fiscal year, except the first year, for which *assessments* are to be levied and collected to pay the costs of the *activities* described in the report. The *tourism marketing district association's* first report shall be due after the first year of operation of the *district*. The report may propose changes, including, but not limited to, the boundaries of the *tourism marketing district* or any benefit zones within the *district*,

the basis and method of levying the *assessments*, and any changes in the classification of categories of *business*, if a classification is used.

- (b) The report shall be filed with the City Clerk prior to the end of each fiscal year, and shall refer to the *tourism marketing district* by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:
- (1) Any proposed changes to the boundaries of *the tourism marketing district* or to any benefit zones or classification of *businesses* within the *district*.
 - (2) The *activities* to be provided for that fiscal year.
 - (3) An estimate of the cost of providing the *activities* for that fiscal year.
 - (4) The method and basis of levying the *assessment* in sufficient detail to allow each *business owner* to estimate the amount of the *assessment* to be levied against his or her *business* for that fiscal year.
 - (5) The estimated amount of any surplus or deficit revenues to be carried over from the previous fiscal year.
 - (6) The estimated amount of any contributions to be made from sources other than *assessments* levied pursuant to this Division.
- (c) The ~~San Diego~~ City Council [~~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 ~~San Diego Municipal Code~~
~~sSections 61.2522~~ 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.

~~§61.2524~~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 will 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.

~~§61.2525~~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 ~~ten (10)~~ 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*.

§61.25262524 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 by the ~~San Diego~~ City Council ~~{Council}~~ in either of the following circumstances:
- (1) If the City Council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the *district*, it shall notice a hearing on disestablishment.
- (2) 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 area who pay 50 percent or more of the *assessments* levied, the City Council shall pass a resolution of intention to disestablish the *district*. The City Council shall notice a hearing on disestablishment.

- (b) The City Council shall adopt a resolution of intention to disestablish the *district* prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the *assessments* levied within the *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.

§61.2527 2525 Disestablishment; Refund of Assessments

~~After all outstanding debts are paid upon the disestablishment of a *tourism marketing district*, any remaining revenues derived from levy of *assessments*, or derived from the sale of assets acquired with the revenues, shall be refunded to the owners of the *businesses* then located and operating within the *district* in which *assessments* were levied. Such refunds shall be distributed 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. 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*.

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.

§61.2526 Action to Determine Validity

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 *activity*, 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 *tourism marketing district association*, nor shall the action be brought later than 30 days after the formation of the district.

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