

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY) N/A
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Economic Development	DATE: 5/25/2016
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SUBJECT: Modification of the San Diego Tourism Marketing District and Management Plan

PRIMARY CONTACT (NAME, PHONE): Meredith Dibden Brown, 619-236-6485 MS 56-D	SECONDARY CONTACT (NAME, PHONE): ,
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COMPLETE FOR ACCOUNTING PURPOSES

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE): Approximately \$33.8 million of TMD assessments will be collected annually by City for the District and disbursed to the non-profit managing the District except for those funds necessary to recover City admin costs and any one-time initial expenses related to the modification.

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Environmental Analysis	ORIG DEPT.	Caldwell, Erik	05/26/2016
Equal Opportunity Contracting	CFO		
Liaison Office	DEPUTY CHIEF	Graham, David	06/06/2016
Financial Management	COO		
Comptroller	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Adopt the Resolution of Intention to declare intent: to modify the San Diego Tourism Marketing District (District) and to continue the levy of certain assessments for the District through June 2052, to modify the Management Plan, to set August 2, 2016 as the noticed public hearing date for considering modifications to the District and Management Plan and consider protests; and to direct the mailing of a notice to affected businesses regarding the public hearing and proposed modifications to the District and Management Plan.

<p>2. Modify the District and authorize the continued levy of certain assessments for the term of the District by adopting the Resolution of Formation.</p> <p>3. Modify the District Management Plan by adopting a Resolution.</p> <p>4. Authorize the creation of a new Fund to receive the assessments and associated revenue.</p>	
<p>STAFF RECOMMENDATIONS: Approve Requested Actions</p>	
<p>SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)</p>	
<p>COUNCIL DISTRICT(S):</p>	<p>All</p>
<p>COMMUNITY AREA(S):</p>	<p>Citywide</p>
<p>ENVIRONMENTAL IMPACT:</p>	<p>This activity is not a project as defined by the California Environmental Quality Act Section 21065 and State CEQA Guidelines Sections 15378(b)(4) and 15378(b)(5), as it is a funding mechanism and an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. The determination that this activity is not subject to CEQA, pursuant to Section 15060(c)(3), is not appealable and a Notice of Right to Appeal the Environmental Determination (NORA) is not required.</p>
<p>CITY CLERK INSTRUCTIONS:</p>	

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 5/25/2016

ORIGINATING DEPARTMENT: Economic Development

SUBJECT: Modification of the San Diego Tourism Marketing District and Management Plan

COUNCIL DISTRICT(S): All

CONTACT/PHONE NUMBER: Meredith Dibden Brown/619-236-6485 MS 56-D

DESCRIPTIVE SUMMARY OF ITEM:

This item is for the modification of the San Diego Tourism Marketing District [District] and Management Plan and requires two Council dates in order for Council to consider such modification including these steps: first, resolving to modify the District and Management Plan, and causing a notice to be mailed, then second, holding a public hearing on August 2, 2016, considering protests, and then modifying the District and Management Plan while recognizing certain assessments shall continue to be levied, and authorizing the creation of a new Fund to receive the assessments levied under the modified District and Management Plan.

STAFF RECOMMENDATION:

Approve Requested Actions

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Representatives from the lodging industry partnered with the City to establish the San Diego Tourism Marketing District [District] effective January 1, 2008 and then to renew the District, effective January 1, 2013 for a term of 39 ½ years. The guidelines for the renewed District were incorporated into the District Management Plan [Plan] approved by City Council in September 2012.

Lodging industry representatives now seek to modify the District and Management Plan after some years of operating under the renewed District and Plan. A request from the Owners' Association and a signed petition from assessed lodging businesses have been submitted in favor of the modification. Specifically, lodging businesses with fewer than 70 rooms and the associated assessments are proposed to be eliminated from the District. Additionally, modifications are proposed to the Management Plan consistent with elimination of lodging businesses with fewer than 70 rooms and associated assessments. The rate of assessment will continue at two percent (2%) in total for lodging businesses with 70 or more rooms and the District boundaries shall remain the same i.e. coterminous with the boundaries of the city of San Diego.

The specific benefit provided with District funds is still to generate room night sales through activities such as sales, marketing, advertising and promotional programs for assessed businesses only. Non-assessed businesses will not have access to the privileges and services provided by the assessment. To the extent that a benefit may accrue to lodging businesses not assessed, a study is in process to determine the annual cost/value of that benefit which, although not legally required, shall then be covered by non-TMD assessment funds.

The estimated annual assessment revenue for the modified District is \$30 million. The amount of assessments may vary as occupancy rates and room rental rates change, and as businesses open and close. No bonds shall be issued.

Ninety percent (90%) of assessment revenue will be designated annually for Marketing and Sales activities which will be tailored within the specific categories as listed below and as further described in the modified Plan to benefit the assessed businesses. Funding will be allocated on the basis of competitive applications or responses to specific requests for proposals.

Ten percent (10%) of assessment revenue will be designated in total annually for Administration (including actual City costs to administer the District) and for a Reserve for opportunities, catastrophes, contingencies, and renewal of the District.

During the budgeting process each year, the Corporation's Board of Directors may adjust program allocations as needed within these overall percentages. The Annual Report of Activities submitted to Council will reflect these allocations and the required non-TMD assessment funding to support potential benefits accruing to those not assessed.

The kinds of activities anticipated that fall within the 90% are grouped within two areas:

Targeted Marketing and Sales Programs

- Hotel meeting sales
- Event management & group sales development
- Consumer direct sales & marketing
- Sub-regional targeting
- Competitive targeting

Destination Marketing

- Tourism development, including travel & trade
- Group meeting destination marketing
- Multi-year tourism development
- Destination marketing

As is presently required, applicant organizations requesting funding will have to delineate certain factors used to evaluate the applications. Successful applicants will continue to be required to submit quarterly performance updates and comprehensive annual performance reports. The Corporation will contract with an independent third-party to audit the results and to verify District room nights and ROI.

If City Council supports modifying the District then it may adopt a Resolution of Intention to modify the District and Management Plan, continue the levy of certain assessments and give notice of the required public hearing (requested for August 2, 2016). The affected lodging businesses will receive a notice regarding the modifications and then date, time and location of the required public hearing. At the conclusion of the public hearing after considering public testimony, City Council may decide to modify the District by adopting a Resolution of Formation and modify the Plan by adopting a resolution approving the modified Plan.

All of the rules for the continued levying and remittance of certain assessments will be incorporated in the Resolution of Formation. The procedures for implementing the program through the Corporation will be included in an Operating Agreement between the City and the Corporation to be submitted as a separate Request for City Council Action.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #3: Create and sustain a resilient and economically prosperous City

Objective #3. Diversify and grow the local economy

Objective #5. Enhance San Diego's global standing

FISCAL CONSIDERATIONS:

Modification of the existing District would generate around \$33.8 million of assessments annually rather than the FY2017 estimate of \$38.4 million. The assessments would continue to be disbursed to the non-profit except for the amount retained by the City for cost recovery and any required reserves. Notwithstanding any successful legal challenges the modification will not result in any net financial impact to the City. Successful implementation of TMD programs is intended to increase room night stays and generate an undetermined amount of additional TOT for the City. TOT funding of around \$10M traditionally provided by the City annually for activities to increase room night stays would continue to be saved.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

Contracts or agreements associated with this action are subject to the City's Equal Opportunity Contracting (SD Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (SD Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The TMD was renewed by Council on November 26, 2012 by Resolution R-307843. The District Management Plan was approved by Council on September 25, 2012 by Resolution R-307702. This item is proposed to be heard by the ED&IR Committee on June 16, 2016.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Both the Lodging Industry Association and the San Diego County Hotel-Motel Association have discussed changes to the Plan for the District modification.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include lodging businesses in San Diego and those included in a modified District would continue to be assessed in order to provide activities which would confer specific benefit and privileges directly to them.

Caldwell, Erik

Originating Department

Graham, David

Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO

Report to the City Council

DATE ISSUED: June 6, 2016 REPORT NO: 16-061
ATTENTION: Council President Lightner and City Council
SUBJECT: Modification of the San Diego Tourism Marketing District and Management Plan
REFERENCE:

REQUESTED ACTION:

1. Adopt the Resolution of Intention to declare intent: to modify the San Diego Tourism Marketing District (District) and to continue the levy of certain assessments for the District through June 2052, to modify the Management Plan, to set August 2, 2016 as the noticed public hearing date for considering modifications to the District and Management Plan and consider protests; and to direct the mailing of a notice to affected businesses regarding the public hearing and proposed modifications to the District and Management Plan.
2. Modify the District and authorize the continued levy of certain assessments for the term of the District by adopting the Resolution of Formation.
3. Modify the District Management Plan by adopting a Resolution.
4. Authorize the creation of a new Fund to receive the assessments and associated revenue.

STAFF RECOMMENDATION:

Approve the requested actions.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Representatives from the lodging industry partnered with the City to establish the San Diego Tourism Marketing District [District] effective January 1, 2008 and then renew the District January 1, 2013 for a term of 39 1/2 years. The guidelines for the renewed District were incorporated into the District Management Plan [Plan] approved by City Council in September 2012.

Lodging industry representatives now seek to modify the District and Management Plan after some years of operating under the renewed District and Plan. Petitions were received on May 23, 2016 from assessed lodging businesses (representing a majority of existing assessments) supporting the elimination from the District of lodging businesses with fewer than 70 rooms and the associated assessments. Additionally, the San Diego Tourism Marketing District Corporation submitted a letter to the Mayor on May 4, 2016 requesting modifications to the Management Plan consistent with eliminating from the District those lodging businesses with fewer than 70 rooms and associated assessments. The rate of assessment will continue at two percent (2%) in total for lodging businesses with 70 or more

rooms and the District boundaries shall remain the same i.e. coterminous with the boundaries of the city of San Diego.

The specific benefit provided with District funds is still to generate room night sales through activities such as sales, marketing, advertising and promotional programs for assessed businesses only. Non-assessed businesses will not have access to the privileges and services provided by the assessment. To the extent that a benefit may accrue to lodging businesses not assessed, a study is in process to determine the annual cost/value of that benefit which, although not legally required, shall then be covered by non-TMD assessment funds.

The estimated annual assessment revenue for the modified District is \$33.8 million. The amount of assessments may vary as occupancy rates and room rental rates change, and as businesses open and close. No bonds shall be issued.

Ninety percent (90%) of assessment revenue will be designated annually for Marketing and Sales activities which will be tailored within the specific categories as listed below and as further described in the modified Plan to benefit the assessed businesses. Funding will be allocated on the basis of competitive applications or responses to specific requests for proposals.

Ten percent (10%) of assessment revenue will be designated in total annually for Administration (including actual City costs to administer the District) and for a Reserve for opportunities, catastrophes, contingencies, and renewal of the District. Other revenues such as penalties and interest and incidental revenue shall be designated for Administration but may be added to the Reserve or designated for other activities at the discretion of the Corporation's Board of Directors.

During the budgeting process each year, the Corporation's Board of Directors may adjust program allocations as needed within these overall percentages to address: economic conditions; tourism trends; and changes in non-assessment funding provided to those programs. The Annual Report of Activities submitted to Council will reflect these allocations and the required non-TMD assessment funding to support potential benefits accruing to those not assessed.

The kinds of activities anticipated that fall within the 90% are grouped within two areas:

Targeted Marketing and Sales Programs

- Hotel meeting sales
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- Sub-regional targeting
- Competitive targeting

Destination Marketing

- Tourism development, including travel & trade
- Group meeting destination marketing
- Multi-year tourism development
- Destination marketing

As is presently required, applicant organizations requesting funding will have to delineate:

- All sales, marketing, advertising and promotional programs

- Number of District lodging business room nights generated – existing and incremental
- Average daily rate
- Return on Investment (ROI) as measured in District room night revenue
- Time of year (peak, shoulder, low)
- Number of marketing impressions (included as supportive information only where applicable)
- Cost allocation methodology

Successful applicants will continue to be required to submit quarterly performance updates and comprehensive annual performance reports. The Corporation will contract with an independent third-party to audit the results and to verify District room nights and ROI.

A major review of the activities and allocation percentages will occur every five years with the preparation and presentation to Council of a prospective and retrospective Milestone Report.

If City Council supports modifying the District then it may adopt a Resolution of Intention to modify the District and Management Plan, continue the levy of certain assessments and give notice of the required public hearing (requested for August 2, 2016). The affected lodging businesses will receive a notice regarding the modifications and then date, time and location of the required public hearing. At the conclusion of the public hearing after considering public testimony, City Council may decide to modify the District by adopting a Resolution of Formation and modify the Plan by adopting a resolution approving the modified Plan.

All of the rules for the continued levying and remittance of certain assessments will be incorporated in the Resolution of Formation. The procedures for implementing the program through the Corporation will be included in an Operating Agreement between the City and the Corporation to be submitted as a separate Request for City Council Action.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #3: Create and sustain a resilient and economically prosperous City

Objective #3. Diversify and grow the local economy

Objective #5. Enhance San Diego's global standing

FISCAL CONSIDERATIONS: Modification of the existing District would generate around \$33.8 million of assessments annually rather than the FY2017 estimate of \$38.4 million. The assessments would continue to be disbursed to the non-profit except for the amount retained by the City for cost recovery and any required reserves. Notwithstanding any successful legal challenges the modification will not result in any net financial impact to the City. Successful implementation of TMD programs is intended to increase room night stays and generate an undetermined amount of additional TOT for the City. TOT funding of around \$10M traditionally provided by the City annually for activities to increase room night stays would continue to be saved.

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COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: Both the Lodging Industry Association and the San Diego County Hotel-Motel Association have discussed changes to the Plan for the District modification.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Key stakeholders include lodging businesses in San Diego and those included in a modified District would continue to be assessed in order to provide activities which would confer specific benefit and privileges directly to them.



Erik Caldwell, Director
Economic Development Department



David Graham
Deputy Chief/Chief Operating Officer

Attachment(s): 1. Management Plan – May 2016

**SAN DIEGO
TOURISM MARKETING DISTRICT
DISTRICT MANAGEMENT PLAN**

*Formed pursuant to the San Diego City Tourism Marketing District Procedural Ordinance
(City of San Diego Municipal Code §61.2501 et seq.)*

Submitted to the

San Diego Tourism Marketing District Corporation and
the City of San Diego

June 8, 2016
by



SAN DIEGO TOURISM MARKETING DISTRICT DISTRICT MANAGEMENT PLAN

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I. History and Overview

On May 8, 2007, at the request of a working group comprised of lodging industry representatives, the San Diego City Council (*City Council*) adopted the San Diego Tourism Marketing District Procedural Ordinance (SDMC Section 61.2501 et seq.) (*Procedural Ordinance*), which created a process for creating a tourism marketing district. Subsequently, on August 1, 2011, the *City Council* adopted amendments to the *Procedural Ordinance* specifying, among other things, a process by which such a district may be renewed. These amendments permit a renewal term up to forty (40) years.

~~The San Diego Tourism Marketing District (*District*) was established pursuant to the *Procedural Ordinance* effective January 1, 2008 for a five-year term that ends December 31, 2012. Developed by San Diego lodging businesses, the *District* is a benefit assessment district created to fully or partially fund marketing and sales efforts that directly benefit San Diego lodging businesses. This **The San Diego Tourism Marketing District Management Plan (*Plan*)** proposes to renew the (*District*) was established pursuant to the *Procedural Ordinance* effective January 1, 2008 for a period of thirty-nine and one-half (39.5) additional years and sets forth a plan for *District* activities and assessments during five-year term that renewal period ends December 31, 2012.~~

District: The boundaries of the *District* are the same as the boundaries of the City of San Diego.

~~**Benefit Categories:** There will be two (2) benefit categories in the **Payors** The *District*. Each benefit category is designed so that the activities provided in connection with that category will confer exclusive privileges and a specific benefit directly to assessed businesses (current and future). These assessed businesses are defined in Appendix 1.~~

~~Lodging businesses benefitting under category A will include all lodging businesses in the *District* with thirty (30) or more rooms. Lodging businesses benefitting under category B include all lodging businesses in the *District*, regardless of size.~~

Assessed businesses operating as of ~~June 2012~~ May 2016 are listed in Appendix 3.

Activities: Activities shall include unique and exclusive marketing and sales promotions to increase hotel room night consumption and market *District* lodging businesses as tourist, meeting, and event destinations. These activities and the estimated annual cost thereof are described ~~by category~~ in Section IV.

Administration: The *District* will be operated by a non-profit corporation representing the assessed businesses pursuant to an operating Agreement with the City of San

Diego. The associated administration/operating costs of the non-profit and the City are outlined in Section IV.

Assessments:

~~All~~The assessment ~~rates are~~rate is based on the privileges directly conferred and specific benefit directly received by assessed businesses from the activities provided ~~within each category~~ and are levied on “Assessable Rent” which is based on gross room rental revenue less exempt revenues, of those benefitting businesses. ~~Annual~~The annual assessment ~~rates are as follows:~~ rate is two percent (2%) of gross room rental revenues.

- ~~• ———Benefit Category A Rate: 1.45%— applied to Assessable Rent of qualifying lodging businesses.~~
- ~~• ———Benefit Category B Rate: 0.55%— applied to Assessable Rent of qualifying lodging businesses.~~

~~In summary, lodging businesses with 30 or more rooms will be assessed at a total rate of 2% (Category A + Category B). All other lodging businesses will be assessed at a total rate of 0.55% (Category B only).~~

Pursuant to this Plan, ~~assessable~~Assessable Rent does not include revenue from stays where:

- the transient has exercised occupancy or was entitled to occupancy for one month or more; or
- the total space rental charge is twenty-five dollars (\$25.00) a day or less, or the accommodations rented are in a dormitory and the total space rental charge for each transient is twenty-five dollars (\$25.00) a day or less; or
- the transient is by treaty, or federal law, or state law exempt from payment of transient occupancy taxes; or
- rent is directly paid by the United States Government or the State of California or their respective instrumentalities.

Assessments will be authorized by the *City Council* to be levied for the term of the *District*.

Budget

The total *District* annual budget for the ~~initial~~each year of its thirty-nine and one-half (39 ½) year term, ~~representing the combined assessments of the two (2) benefit categories,~~ is anticipated to be approximately \$~~30,000~~33,800,000.

Bonds:

No bonds shall be issued.

Remittance:

Assessments are paid to the *City* monthly.

Duration: The renewed *District* will have a thirty-nine and one-half (39 ½) year term. The renewed *District* assessments will be levied January 1, 2013 through June 30, ~~2053~~2052. Pursuant to SDMC §61.2524(a)(2), after the first year of operation of the renewed *District*, there will be an annual 30-day period during which assessed business owners may petition for disestablishment of the *District*. The 30-day period begins each year upon presentation to the *City Council* of the annual Report of Activities (or Milestone Report in years where there is one). Upon written petition of business owners paying more than 50% of the assessments levied, the *City Council* must adopt a resolution of intention to disestablish the *District*.

Renewal: Pursuant to SDMC §61.2514, *District* renewal requires submittal of petitions from lodging business owners who will be responsible for more than 50% of the total annual assessment followed by a ballot procedure and multiple *City Council* hearings. The assessed lodging business owners will receive ballots by mail. If a majority of the ballots returned, when weighted by the amount of the anticipated assessment represented by returned ballots, do not favor renewal the *District* will not be renewed. In the absence of such a majority protest then the *District* may be renewed in the *City Council's* discretion.

II. Introduction

A. What is a Tourism Marketing District?

The *District* follows the Tourism Business Improvement District (TBID) model, which utilizes the efficiencies of private sector operation in the market-based promotion of local and regional tourism for the targeted benefit of assessed businesses. TBIDs, such as this *District*, allow lodging businesses to organize their efforts to increase tourism, specifically the consumption of hotel rooms as measured by room night stays, achieving economies of scale they could not otherwise achieve.

In San Diego, lodging businesses within the *District* will be assessed and those funds will be used to provide privileges, programs and services directly to the assessed lodging businesses that specifically benefit those businesses and which are not provided to those not charged.

District-funded programs and services designed to deliver incremental new room night sales to assessed businesses may include, but are not limited to:

- Marketing of the Assessed Businesses
- Tourism Promotion Activities
- Special Events and Programs

In California, TBIDs such as the *District* are formed pursuant to the Property and Business Improvement District Law of 1994 (PBID Law), the Parking and Business Improvement Area Law of 1989 (BID Law), or pursuant to an ordinance of a Charter City. In San Diego, the *City Council* adopted a local TBID enabling (procedural) ordinance similar to the 1994-PBID Law. This State statute and the *City procedural ordinance* allow creation of a special benefit assessment district to raise funds within a specific geographic area, in this case the city of San Diego, for the purpose of improving room occupancy and room night sales for assessed businesses.

There are many benefits to TBIDs:

- Funds must be spent to provide privileges or a specific benefit only to those who pay;
- Funds cannot be diverted for other government programs;
- Activities are customized to fit the needs of businesses in each TBID;
- Petition support is required from lodging businesses paying over 50% of the annual proposed assessment (this is true both under San Diego's *procedural ordinance* and the 1994-PBID Law);
- They are designed by those who will pay the assessment; and
- They provide a stable funding source for tourism promotion that will result in the generation of incremental new room night sales for assessed businesses.

The Board of Directors of the San Diego Tourism Marketing District Corporation (*Corporation*) analyzes prospective tourism development programs that are of direct benefit to the assessed businesses, and allocates assessment revenue to support such programs. In this way, through its mission and operations, the *Corporation's* Board of Directors provides a specific government service directly to the assessed business that is not provided to those not charged, and which does not exceed the reasonable costs to the *City* of providing the service. Indeed, because assessment revenues are not the sole source of funding for the Corporation's program of activities, the cost of the services and the value benefit accrued from them is substantially greater than the assessment amount.

B. Transparent Governance Provides Mission Specific Results and Accountability

This District Management Plan designates the *Corporation* to act as the Tourism Marketing District Association for the district pursuant to SDMC §61.2522. The *Corporation's* Board of Directors is comprised exclusively of owners or owner's representatives from assessed lodging businesses within the *District*. The *Corporation's* Board of Directors acts on behalf of all assessed businesses to ensure that the mission of the *District* is accomplished and provides a specific service and benefit directly to those who pay. This includes awarding *District* funding to contractors. Each year the *Corporation* receives and reviews numerous contractor applications for *District* funding for which review criteria include evaluation of room night sales generation at assessed businesses from *District* funding.

District funding is used to drive incremental room night stays exclusively to assessed businesses within the *District*, providing a specific service and benefit directly to the payors. All contractors are required to have additional funding from non-*District* sources to support a portion of their programming. Through a rigorous application process and subsequent follow-up audits, it has been determined that, over the term of the initial *District*, programs receiving partial *District* funding, including Holiday Bowl, Crew Classic, Wine & Food Festival, and Rock & Roll Marathon, have delivered 100% of their funded room night sales production to lodging businesses within the *District*. Subsequently, the minimal room nights that may have occasionally accrued to lodging establishments outside the *District* as a result of *District*-associated marketing and programs result from expenditures made with non-*District* revenues. A portion of the funding for the *Corporation's* program of activities derives from sources other than the assessment. Accordingly, assessment funding can be shown to produce benefits directly to the assessed businesses and not to others

In order to ensure a specific benefit to payors and provision of a government service which does not exceed the reasonable cost of the service, not all applicants for *District* funding are funded. While many worthy organizations request funding for important social or other purposes, the partial list below includes organizations that could not demonstrate the minimum required production of hotel room nights for assessed businesses.

<u>Funding Year</u>	<u>Organization</u>	<u>Requested Amount</u>
FY12	SD Film Commission	\$530,000
FY11	SD County Bike the Bay	\$5,000
FY11	Century Club of SD	\$250,000
FY11	Citizen Diplomacy Council	\$24,000
FY11	Pazzo Entertainment	\$500,000
FY10	Armed Services YMCA Fireworks	\$106,336
FY10	La Jolla Marketing Alliance, Inc.	\$1,048,050
FY10	Travelers Aid Society of SD	\$60,000
FY10	SD Asian Film Foundation	\$40,000
FY10	SD International Auto Show	\$206,000
FY10	SD Film Foundation / Festival	\$25,000

District funds may also be provided to San Diego area convention and visitors bureaus (CVBs) for provision of services benefitting assessed businesses as described in this Plan. Historically, efforts have been undertaken by CVBs receiving *District* funds to ensure benefit accrues only to assessed businesses. For example, by mutual agreement of the Boards of Directors of the *Corporation* and the San Diego North CVB, the San Diego North CVB reorganized its board membership in order to guarantee that no benefit from *District* funding was accruing to lodging businesses outside the *District* which are not payors.

C. Programs and Services NOT Funded by the District

In order to ensure provision of a specific government service and benefit to payors, which does not exceed the reasonable cost of providing the service, there are certain activities or improvements which may not be funded by the *District*. These include:

- The acquisition, construction, installation or maintenance of any tangible public property, including parking facilities, parks, planting areas, fountains, benches, booths, kiosks, display cases, pedestrian shelters, signs, trash receptacles, public restrooms, ramps, sidewalks, plazas, pedestrian malls, lighting and heating of public facilities.
- The closing, opening, widening or narrowing of existing or new streets.
- Facilities or equipment, or both, to enhance security and safety of persons and property within the *District*, unless included in a specific proposal to benefit the assessed businesses.
- Regular public safety and security personnel and programs, maintenance and repair, sanitation, nor other municipal services normally and historically provided by the *City*.

- Expenditures not consistent with the terms of this *Plan*.
- Political candidate or ballot initiative activity.

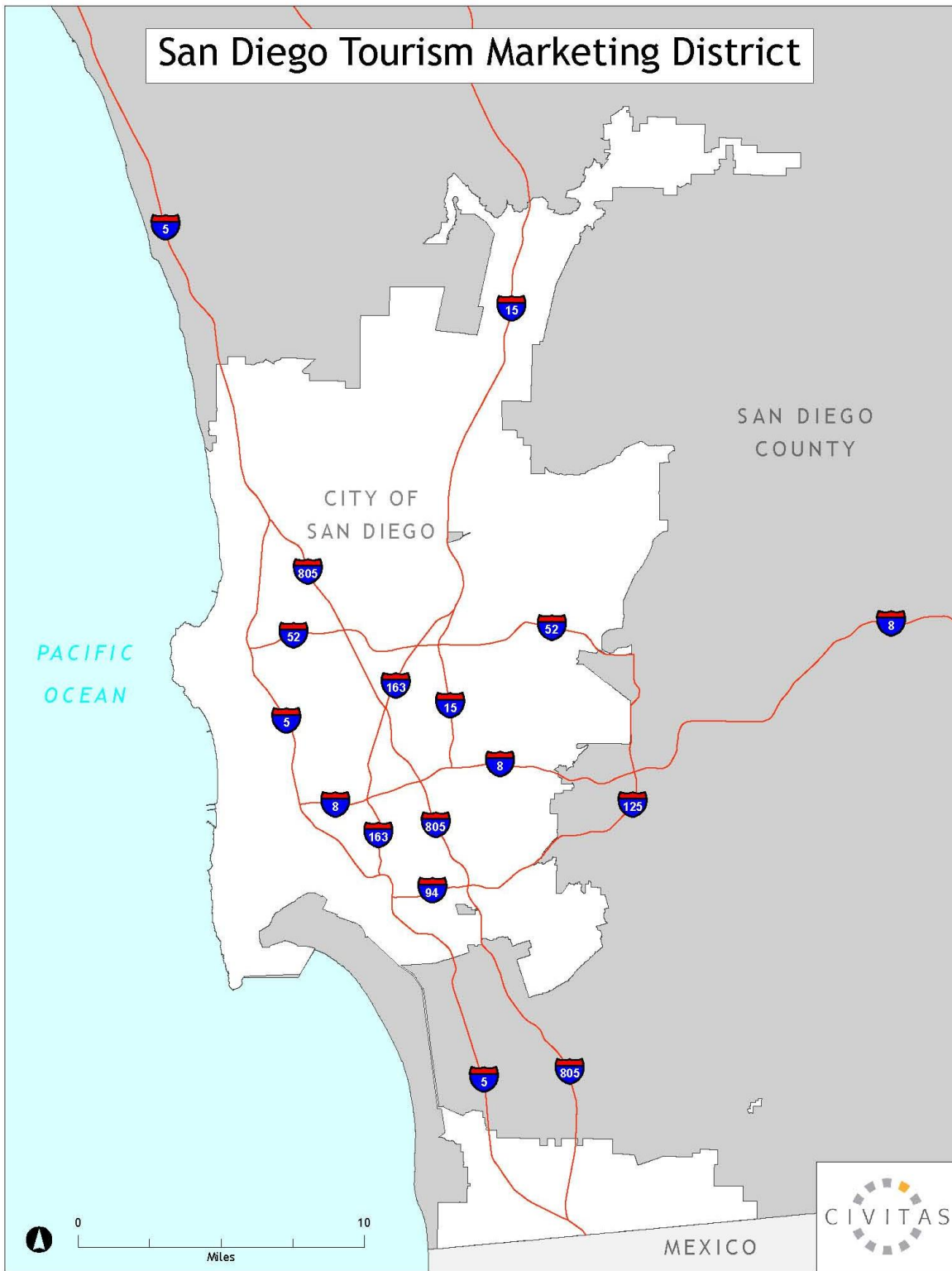
None of these activities generate direct specific benefit and service to assessed businesses that is not provided to others not charged and, accordingly, excluding these services from funding eligibility further demonstrates that the assessment is expended only on activities of direct specific benefit to assesses.

III. ASSESSED LODGING BUSINESSES, BOUNDARY & BENEFIT CATEGORIES

The *District* shall include ~~two (2) benefit categories, each providing a set of privileges and specific benefits to a specific universe of all~~ lodging businesses (as defined in Appendix 1), existing and in the future, available for transient public occupancy within the boundaries of the cityCity of San Diego. ~~The universe for each benefit category is:~~

- ~~• Category A: Lodging businesses benefitting under this category are all of those businesses (current and future) within the *District* with thirty (30) seventy (70) or more sleeping rooms.~~
- ~~• Category B: Lodging businesses benefitting under this category are all lodging businesses (current and future) within the *District*, regardless of size.~~

~~The *District* boundaries are illustrated by the map on the next page below. A complete listing, including benefit categories, of lodging businesses within the *District* (as of June ~~2012~~2016) that will be assessed may be found in Appendix 3.~~



IV. ASSESSMENTS AND ACTIVITIES

A. Assessment Rates and Basis and Exempt Revenue

~~Annual~~The annual assessment rates are as follows:

- ~~• **Benefit category A Rate: 1.45%** – applied to Assessable Rent rate is two percent (2%) of qualifying lodging businesses.~~
- ~~• **Benefit category B Rate: 0.55%** – applied to Assessable Rent of qualifying lodging businesses.~~

~~Lodging businesses with 30 or more rooms will receive services and benefit from activities provided under categories A and B, and will be assessed a total of 2% of Assessable Rent. Lodging businesses with fewer than 30 rooms will receive services and benefit from activities provided under category B only and will be assessed 0.55% of Assessable Rent. gross room rental revenue.~~

The term “Assessable Rent” as used herein means the total consideration charged to a transient as shown on the guest receipt for the occupancy of a room, or portion thereof, in a lodging business. Assessable Rent shall not include any federal, state, or local taxes collected, including but not limited to Transient Occupancy Taxes. Pursuant to this Plan, any other charges shall be considered Assessable Rent only in accordance with the *City’s* Transient Occupancy Tax.

Based on the benefit received and pursuant to this Plan, assessments will not be levied on revenue from stays: of more than one (1) month; by federal or state government employees or officials on government business whose room rent is being paid directly or indirectly by the federal government or the State of California; or those international government employees or officials which by treaty are exempt from locally-levied transient occupancy taxes. Further, assessments will not be levied when the total space rental charge is twenty-five dollars (\$25.00) a day or less or the accommodations rented are in a dormitory and the total rent for each transient is twenty-five dollars (\$25.00) a day or less.

~~For lodging businesses with seventy (70) or more rooms Further, assessments levied for the *District* shall not include Assessable Rent resulting from stays pursuant to contracts executed prior to January 1, 2008. For lodging businesses with sixty-nine (69) rooms or fewer, assessments levied for the *District* shall not include Assessable Rent resulting from stays pursuant to contracts executed prior to January 1, 2013.~~

The assessment is to be remitted by the owner(s), operator(s), or an authorized representative who is noted on *City* records as the responsible party for the remitting and reporting of Transient Occupancy Tax as specified in SDMC §35.0114, or as amended, for each assessed lodging business in the city of San Diego. “Business” and “lodging business” mean 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, and includes those businesses

defined in Appendix 1. “Transient” means any person who exercises occupancy, or is entitled to occupancy, by reason of concession, permit, right of access, license or other agreement for a period of less than one (1) month, pursuant to SDMC §61.2504 and 35.0102. A month is defined as the period of consecutive days from the first calendar day of occupancy in any month to the same calendar day in the next month following, or the last day of the next month following if no corresponding calendar day exists. In accordance with SDMC §35.0111(b), stays by any person who occupies a room, or any portion thereof, in a lodging business, or is entitled to occupancy thereof, for a period of one (1) month or more, shall be deemed not to have been a transient with respect to the first month of occupancy or entitlement to occupancy.

The assessment imposed is levied solely upon and a direct obligation of the lodging business with the business owner being solely responsible for payment of the assessment when due. If the business owner chooses to charge any portion of the assessment to a transient, that said portion shall be separately stated from the amount of rent charged and any applicable taxes, and identified for the transient in any and all communications from the business owner as "San Diego Tourism Marketing District Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients.

B. Funding Process

Assessment funds will be spent to provide a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the *City* of conferring the benefit or granting the privilege. The activities also constitute specific government services provided directly to the payor that isare not provided to those not charged, and which do not exceed the reasonable cost to the *City* of providing the services.

The privileges and services provided with *District* funds are sales, marketing, advertising and promotional programs available only to assessed businesses. District activities will be designed for the sole purpose of generating incremental room night sales at assessed businesses. Such room night sales are of great value to assessed business and constitute a specific benefit for which the assessment is charged. Non-assessed businesses will not have access to the privileges and services provided by the assessment. For example, only assessed businesses will be entitled to receive sales leads generated by District-funded activities or be featured in District-funded marketing materials.

Because marketing services are provided by *Corporation*-approved contractors, requirements for contractors and the application process have been developed. Specifically, all funding requests must delineate:

- All sales, marketing, advertising and promotional programs;
- Number of *District* lodging business room nights generated – existing and incremental;
- Average daily rate;
- Return on Investment (*ROI*) as measured in *District* room night revenue;

- Time of year (peak, shoulder, low); and
- Number of marketing impressions (included as supportive information only where applicable).

Successful applicants that become contractors for the *Corporation* will be required to submit quarterly performance updates and comprehensive annual performance reports which include the above required information along with samples of marketing materials and information as to the methodology used to substantiate the *ROI*. Funded contractors and programs must also have a cost allocation methodology which demonstrates that costs are apportioned between applicable funding sources so that the amount of assessment revenue used is proportionate to the benefit derived by *District* lodging businesses.

The *Corporation* will contract with an independent third-party to audit the results and to verify *District* room nights and *ROI*.

C. Time and Manner for Collecting Assessments

The *District* assessment will be levied beginning January 1, 2013 and will continue for thirty-nine and one-half (39 ½) years until June 30, [20532052](#). The business owner of each individual assessed lodging business located within the boundaries of the *District*, participating in exclusive privileges and receiving specific services and benefits ~~as provided by benefit category A and/or B~~, will be responsible for remitting the ~~appropriate~~ assessment on a monthly basis (including any delinquencies, penalties and interest). The *City* will take all reasonable efforts to collect the assessment from each lodging business. The *City* will forward assessments collected (including any delinquencies, penalties and interest) to the *Corporation* according to terms set forth in the *District* operating *Agreement*, an *Agreement* ~~to be~~ entered into between the *City* and *Corporation* related to district management. The *Corporation* will have the responsibility of managing *District* programs as provided in this *Plan*.

D. Penalties and Appeals

Pursuant to this *Plan*, penalties may be assessed against those benefited businesses failing to make timely payments. In addition, benefited businesses shall have a right to appeal penalties, as spelled out in the resolution of formation, [Resolution No. 307843](#).

Any benefited business failing to remit the *District* assessment within the time required under the resolution of formation shall pay penalties as specified in the resolution of formation. In the event there is a determination by the City Treasurer that non-payment of an assessment is due to fraud, penalties may be assessed as specified in the resolution of formation.

E. Operators' Duties and Accounting Procedures

Pursuant to this Plan:

- (a) The amount of assessment, if passed on to a transient, shall be separately stated from the amount of rent charged and any applicable taxes, and each transient shall receive a receipt for payment from the business. A duplicate of the receipt given to each transient shall be kept by the business in accordance with subsection (c) below. The purpose of this requirement is to ensure the assessment is not misrepresented to transient occupants and the businesses do not “pad” their room rents with assessments that are not due to the *District*. It does not change the legal incidence of the assessment, which remains on the assessed business.
- (b) Each business shall account separately for, and maintain separate monthly summary totals for, assessable and non-assessable rent and the assessment.
- (c) Each business shall maintain its financial and accounting records in accordance with generally accepted accounting principles acceptable to the City Treasurer. It shall be the duty of every business liable for the payment to the *City* of any assessment imposed to keep and preserve within the boundaries of the city of San Diego, for a period of three (3) years, all business records as may be necessary to determine the amount of such assessment for which the business is liable for payment to the *City*. The City Treasurer and authorized deputies or agents in the exercise of duties imposed shall have the right to inspect such records at all reasonable times and to apply auditing procedures necessary to determine the amount of assessment due.
- (d) The costs of additional goods and services, which are not rent, but which may be sold as a package, or are complimentary with a room, or portion thereof, in a lodging business shall be accounted for in accordance with any administrative rules and regulations promulgated by the City Treasurer.

F. Budget Summary

The assessment revenue derived from the *District* is estimated at approximately \$~~30,000~~33,800,000 annually. Over the thirty-nine and one-half (39 ½) years of the *District*, ~~this would equate to assessments are~~ estimated to total \$~~1,200,000~~335,100,000 through ~~2053~~2052. This amount may fluctuate as occupancy rates and room rental rates change, and as businesses open and close during the term of the *District*. There shall be no increase in the assessment ~~rates within the two (2) benefit categories~~rate for the term of the *District*, except pursuant to the rules set forth in the Municipal Code for modification of this Plan.

In addition to assessment revenue, interest and penalties collected on behalf of the *District* by the *City* are considered to be revenue to the *District* and shall be deposited into the *District* Fund and shall be available to be expended in accordance with this *Plan*. Over the term of the *District*, the *Corporation* may have access to incidental revenue to supplement assessments, interest and penalties for any

operating year. “Incidental Revenue” means revenues generated by *Corporation* from receipt or use of *District* funds, including, but not limited to interest income earned by *Corporation* on *District* funds deposited into an interest bearing account. Such incidental revenue shall be accounted for and expended within the regular annual *District* budget process in accordance with the operating *Agreement* and this *Plan*.

G. Activity and Budget Guidelines

Assessments are proposed to be used for the Activities as generally outlined in the Budget Guidelines table on the next page and as further described in this section of the *Plan*. It is anticipated that ninety percent (90%) of assessment revenue will be designated annually for Marketing and Sales activities which will be tailored ~~within the specific benefit categories~~ to benefit the assessed businesses. Within the ninety percent (90%) allocated to marketing and sales activities, the *Corporation’s* Board of Directors may adjust program allocations as needed to address changes in outside funding provided to those programs and ensure that assessment funds are spent on a specific benefit provided directly to assessees which is not provided to those not charged.

Ten percent (10%) of assessment revenue will be designated in total annually for Administration (including actual *City* costs to administer the *District*) and for a Reserve for opportunities, catastrophes, contingencies, and renewal of the *District*. Other revenues such as penalties and interest and incidental revenue shall be designated for Administration but may be added to the Reserve or designated for other activities at the discretion of the *Corporation’s* Board of Directors.

Annually, a detailed prospective Report of Activities (including a budget) based on these Budget Guidelines will be developed and approved by the *Corporation’s* Board of Directors for submission to the *City Council*.

Budget Guidelines (based on historical activity)		Category A		Category B	
Benefit Category	Description	Estimated Percent of Assessment Revenue	Amount	Estimated Percent of Assessment Revenue	Amount
A 1	Meeting and Group Sales & Marketing and Consumer-Direct Sales & Marketing				
A 1.1	Hotel Meeting Sales	25.1%	\$5,440,000		
A 1.2	Event Management and Group Sales Development	12.0%	\$2,595,000		
A 1.3	Tourism Development Including Travel & Trade	4.9%	\$1,060,000		
A 1.4	Group Meeting Direct Marketing	5.1%	\$1,110,000		
A 1.5	Consumer Direct Sales & Marketing Programs	14.5%	\$3,135,000		
A 1.6	Multi-Year Tourism Development	5.4%	\$1,160,000		
A 1 - Subtotal	Meeting & Group Sales and Consumer Direct Marketing	67.0%	\$14,500,000	0.0%	\$0
A 2 - Subtotal	Sub-Regional Targeting	6.9%	\$1,500,000	0.0%	\$0
A 3 - Subtotal	Competitive Targeting	16.1%	\$3,485,000	0.0%	\$0
B - Subtotal	Destination Marketing with Specific Call to Action	0.0%	\$0	90.0%	\$7,515,000
Contingency	Opportunity / Catastrophe Reserve	5.0%	\$1,082,500	5.0%	\$417,500
Admin & Ops	City of San Diego and Corporation	5.0%	\$1,082,500	5.0%	\$417,500
TOTAL ESTIMATED ANNUAL BUDGET	PROJECTED FY2014 ANNUAL BUDGET	100.0%	\$21,650,000	100.0%	\$8,350,000

[1]

For more specific information about the services provided in each budget category, see Appendixes 4 and 5.

Service	Percent	Dollars
<u>Targeted Marketing and Sales Programs</u> <ul style="list-style-type: none"> <u>Hotel meeting sales</u> <u>Event management & group sales development</u> <u>Consumer direct sales & marketing</u> <u>Sub-regional targeting</u> <u>Competitive targeting</u> 	53.9%	\$18,218,200.00
<u>Destination Marketing</u> <ul style="list-style-type: none"> <u>Tourism development, including travel & trade</u> <u>Group meeting destination marketing</u> <u>Multi-year tourism development</u> <u>Destination marketing</u> 	36.1%	\$12,201,800.00

Administration and Operations	5.0%	\$1,690,000.00
Opportunity / Catastrophe / Contingency	5.0%	\$1,690,000.00
	100.0%	\$33,800,000.00

Budget Adjustments

Although actual revenues of the *Corporation* will fluctuate, the proportional allocations as listed in the table above shall generally remain the same; however, during the budgeting process each year, the *Corporation's* Board of Directors may adjust program allocations as needed to address: economic conditions; tourism trends; and changes in non-assessment funding provided to those programs. The resulting proposed annual budget submitted to *City Council* for consideration as part of the *Annual Report of Activities* will then ensure that assessment funds are to be spent on a specific benefit provided directly to assessed businesses which is not provided to those not charged. In no event will the budget for *City* administration costs fall below the amount necessary to recover *City* administration costs.

The projections of assessment revenue shall be reviewed periodically during the fiscal year and compared with actual assessment revenue. Should the projections of assessment revenue be revised downward by two percent (2%) or more, then *Corporation's* Board of Directors may reduce the designated amounts provided to contractors. The *Corporation's* Board of Directors may also choose to partially or completely back-fill the projected shortfall in assessment revenue by designating Opportunity/Catastrophe/Contingency Reserves to contractors. At fiscal year-end, a reconciliation of actual to projected assessment revenue shall be completed by *City* and *Corporation* within a mutually agreed upon time frame. Any positive variation between projected and actual assessment revenue posted to the *District* Fund may only be allocated in the following fiscal year budget.

Every five (5) years, beginning in FY2018 to be effective for FY2019 budget and coincide with the *District* Milestone Report, for the duration of the *District*, the Board of Directors of the *Corporation* shall establish a percentage to be applied to the projected assessment revenue to determine the amount to be designated annually for contractors and DMOs. Budgeted amounts shall be contingent upon approval by the *Corporation* of a scope of services from the contractors and DMOs, but shall be subject to approval by *City Council* per SDMC section 61.2521(c).

Administration

The *Corporation*, under the direction of its Board of Directors, is responsible for administration of the business operations of the *District*. This requires the allocation of personnel and other resources so as to direct *District* activities toward common goals and specific benefits for the assessed lodging businesses. The administrative activities of the *Corporation* include planning, organizing, staffing, directing, controlling, and budgeting, which includes forecasting, oversight, and revenue management. The administration budget will be utilized for the administrative costs of providing the services and benefits described in this Plan. This includes the *City's* costs of collecting and remitting the assessments, and the *Districts Corporation's* costs of administering programs (rent, insurance, legal, accounting, administrative staff, etc.). A detailed budget for the administrative

funding allocation will be submitted and approved annually and will include detail on the following items which are included in the administration and operations category:

- Estimated operating expenses including but not limited to wages, benefits, and overhead costs such as rent, supplies, utilities, and travel;
- Estimated costs of contract services and support including but not limited to legal, accounting, bookkeeping and technology;
- Estimated cost of directors and officers liability insurance in the minimum amount of \$5,000,000 per director, plus additional insurance as required by the *City*;
- Estimated cost of performance audits of contracted entities receiving funding from the *District* unless otherwise stipulated by the *Corporation's* Board of Directors;
- Estimated cost of an annual financial audit of the *Corporation*; and
- Estimated cost of *City* collection, administrative, and legal services.

The *Corporation* may annually budget a minimum of three percent (3%) and a maximum of seven percent (7%) of *District* assessment revenue to the operation and management of the *Corporation*, including *City* collection and administrative costs. In addition, the *Corporation* may annually budget a minimum of three percent (3%) and a maximum of seven percent (7%) of *District* assessment revenue to the Opportunity/Catastrophe/Contingency Reserve. Allocation of more than five percent (5%) of the annual *District* assessment revenue for administration, as described above, shall require approval by a two-thirds (2/3) supermajority vote of the *Corporation's* Board of Directors.

The combined annual budget amounts for the *Corporation's* Administration, including *City* Administration Costs, and the *District* Opportunity/Catastrophe/Contingency Reserve may not exceed 10% of *District* assessment revenue. This limit does not include any litigation costs pertaining to the defense of the *District*, which will be paid from *District* funds in addition to administration costs.

In 2018 and every fifth fiscal year thereafter, the allocation for *District* Administration and Operations shall be 3% to 7% plus an additional increment of one-half of one percent (0.5%) to support the development and presentation of a *District* Milestone Report. The Milestone Reports will be budgeted, prepared and presented to the *City* in the years listed below, to be implemented in the following year (e.g. the FY2018 report will be prepared and submitted in FY2018 and effective in FY2019). Those years will be:

FY2018
FY2023
FY2028
FY2033
FY2038
FY2043
FY2048

Revenue for the Milestone Report expenditures shall be available from the Opportunity/Catastrophe/Contingency Reserve.

Marketing and Sales

It is widely recognized that successful direct marketing and sales of a visitor destination is the result of a considerable investment in time and resources. Visitor destinations, of all sizes in myriad locations, compete for a finite number of consumers. Many of these visitors require lodging. This daily consumption of lodging, as measured by the industry standard of hotel room nights, is vital because the unused portion of a hotel's available inventory spoils every day, and is never again available for sale.

Historically, businesses in visitor destinations have banded together to pool resources in order to develop coordinated messaging and to deliver a call-to-action that would result in an increase in the consumption of visitor-serving offerings. These groups have been given many names that usually contain the term "visitors bureau." More recently, they have been recognized as Destination Marketing Organizations (DMOs). Over time these organizations have become clearinghouses for visitor-serving information, products and services, while generating incremental new business for their members. Typically, a major participant in these coordinated community, regional and/or statewide efforts are representatives of the hotel industry who, understanding the "commodity" nature of their products, constantly seek opportunities to increase daily consumer demand for them.

Depending on the location and its available visitor offerings, each DMO develops and implements a business plan to sustain current visitor levels while generating additional business from new visitors. The activities implemented to serve these goals are numerous, creative, and diverse.

The meetings industry is distinct within the visitor industry, different from tourism, with its own unique markets, requirements and agendas. Yet, like leisure visitors, meeting attendees and convention delegates require accommodations.

The success of marketing and sales efforts is predicated on the long-term establishment and operations of a local DMO. The decisions that drive these direct sales initiatives are based on years, if not decades, of research, performance analysis, brand development and messaging, plus nurtured client/vendor relationships, performed by a professional staff with administrative support requiring extensive business manpower (sales force), infrastructure (offices, equipment, transportation) and technology (internet tools).

The *Corporation* is not a marketing and sales entity, but rather a funding conduit to contractors for development and implementation of effective marketing and sales programs and services that provide unique privileges and specifically benefit assessed businesses within the *District* by providing a specific government service. The *Corporation* will be responsible for allocation and distribution of

available revenue and will contract with qualified third-party contractors to supply marketing and sales programs and services as required and approved by the *Corporation's* Board of Directors.

Marketing

Marketing is the activity of identifying, communicating to, reaching, informing, educating, motivating and persuading prospective consumers of hotel room nights to consummate a purchase. It is the message that prepares the prospective consumer for the sale, may take many traditional and/or innovative forms, and may be modified over time as a result of changes in consumer demands, new tourism products, and advances in marketing and communication technologies. It currently consists of many strategies, tactics and components including but not limited to these examples:

- Market Research;
- Advertising;
- Marketing Promotion;
- Press and/or Public Relations;
- New Product Development;
- Web Strategies, Viral and E-marketing;
- Partnership marketing; and
- Direct Marketing (to a defined universe with a specific call to action)

Sales

The sales process is defined as the activities designed to close or consummate the sale. This closure can take several forms when delivering hotel room night sales. For the transient or tourist responding to the marketing activities this sale may take the form of a walk-in purchase, an on-line reservation, or a telephone reservation.

Another significant element of the hotel sales function involves group and meeting sales. The group and meeting sales process consists primarily of interpersonal interaction, activities that engage the prospect or customer on a personal level rather than at a distance, through technology or a second-party. It is often done by one-on-one meetings, cold calls, and networking. It requires significant front-line sales manpower, plus administrative, operational, and technological support, and considerable time. Often, success is the result of several years of communication and relationship building between the sales representative and the customer; who is usually a professional meeting or convention planner. The “sale” results in a signed agreement or contract for a meeting or convention that can deliver hundreds, if not thousands of hotel room nights.

Funding Marketing and Sales

Because both marketing and sales programs are necessities for successfully increasing room night sales, the *Corporation* will contract for marketing and sales programs and services to promote assessed lodging businesses in the *District* and to fund projects, programs, and activities that specifically benefit and provide unique privileges to assessed lodging businesses within the *District*.

The marketing and sales programs and services funded by the *District* are meant to deliver incremental room night sales directly to *District*-assessed lodging businesses. It is understood that each individual lodging business implements and privately funds a unique, proprietary marketing and sales program that is responsible for the generation of the vast majority of room nights at each business. *District* programs and services are supplemental to, and provide incremental room nights in addition to, those proprietary programs.

To allocate funding to marketing and sales programs, the *Corporation's* Board of Directors must find that each will be likely to generate incremental room night sales at assessed businesses. The purpose of any funded activity must be to generate such sales. The *Corporation's* Board of Directors will establish and regularly update a clearly defined application process for proposed marketing and sales programs. This application will articulate the required qualifications of applicants, the target ROI, and the measurement of results, among other criteria as means to ensure direct **benefits specific benefits are provided only** to assessees.

Marketing and Sales Programs: Stipulated Best Practices

To guide *District* contractors and ensure direct **benefits specific benefits** to assessees, below is a partial list of required Best Practices for implementation of *District*-funded programs and services. ~~Following *District* renewal and adoption by the *Corporation's* Board of Directors, this~~ **This** list may be

modified from time to time provided that the goal of direct and exclusive benefit to assessees is attained.

- It is required that all recipients of *District* funds certify that those funds will be spent to provide exclusive privileges and/or specific benefits only to *District* assessed businesses and not to any other, non-assessed businesses. To the extent that other, non-*District*, lodging businesses may receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid for with non-*District* funds.
- It is required that all recipients of *District* funds demonstrate availability of other additional non-*District* sources of revenue, such as but not limited to, membership dues, marketing fees, earned income, and/or participation fees, which they will contribute to the promotion or program to pay for any incidental benefit to non-*District* lodging businesses.
- It is required that all advertising materials and media include a call-to-action that directs consumers exclusively to *District* lodging businesses.
- It is required that all recipients of *District* funds conduct an analysis of room night generation for *District* lodging businesses and non-*District* lodging businesses in addition to a ROI analysis. The cost of efforts which generate room nights for non-*District* lodging businesses must be paid with non-*District* funds.

H. ~~Benefit Category A~~ Targeted Marketing & Sales Programs

~~Benefit Category A Overview~~

It is understood by the Board of Directors of the *Corporation* that the aggressive, daily consumption of lodging, as measured by the industry standard of hotel room nights, is vital to all lodging businesses because the unused portion of a hotel's available inventory spoils every day, and is never again available for sale. Therefore, the *Corporation* will contract with destination marketing organizations (DMOs) and other contractors selected through competitive application or procurement processes for the specific marketing and sales programs and services as outlined below.

The targeted marketing and sales programs and activities ~~of Benefit Category A~~ will focus primarily on (i) the group and meeting planner or contractor and (ii) consumer direct sales and marketing programs. Consumer direct sales and marketing programs are specifically designed to place booking opportunities for assessed businesses in the grasp of consumers who have or may have expressed an interest in traveling to San Diego. ~~To ensure proportional provision of direct benefits to assessees, the services to be provided to benefit category A assessees have been divided into three sub-categories: A1, A2, and A3. These programs include:~~

Meeting & Group Direct Sales and Marketing

~~Benefit category A requires that a~~ specific set of marketing and sales tools will be deployed to achieve individual property direct sales for ~~those~~ assessed lodging businesses. Hotel Meeting Sales is focused on Group, Meeting, Convention and Tour Operator contract programs. These are typically business-to-business relationships. These programs require unique skills, marketing tools and

expertise to deal with different markets, develop different messaging, and to address multiple challenging and different decision factors. Specifically, the marketing and sales programs and services provided to generate hotel room nights include (as defined in Appendix 4), but are not limited to:

- Hotel Meeting Sales;
- Event Management and Groups Sales Development;
- Tourism Development including Travel & Trade;
- Group Meeting Direct Marketing; and
- Consumer Direct Sales & Marketing Programs including National Online and Pay-Per-Click Banner Advertising and Online Travel Agency Campaigns (OTAs such as Expedia, Orbitz, and Travelocity).

Consumer Direct Sales & Marketing Programs

In addition, ~~benefit category A requires that~~ a specific set of tools will be deployed to deliver consumer direct marketing and sales programs and services designed to result in additional hotel room night sales for assessed lodging businesses in the *District*. These programs and services include, but are not limited to, Consumer Direct Marketing Programs including National Pay-per-Click Banner Advertising and Online Travel Agent Campaigns (as defined in Appendix 4).

~~*Multi-Year Tourism Development*~~

~~Benefit category A also includes activities related to the Strategic development of multi-year or long-range event planning dedicated to the production of *District* lodging business leads and room night sales demand. Typical expenses include, but are not limited to, strategic planning, event RFPs, third-party whitepapers, promotional items, information technology, market intelligence, research, and performance audits. (as defined in Appendix 4)~~

~~**Benefit Category A1: Meeting and Group Sales & Marketing Programs and Consumer Direct Sales & Marketing Programs to Drive Sales Demand for District Lodging Businesses**~~

~~Benefit category A1 *District* lodging businesses will have the exclusive privilege to participate or be represented in, and receive a specific benefit from, but not limited to, the direct marketing and sales initiatives and programs listed above and further defined in Appendix 4.~~

Other activities designed to support the above efforts to drive sales demand to these lodging businesses include: Direct Sales and Marketing to Meeting Planners and Meeting Buyers, and Consumer Research, Market Intelligence, Market Cultivation and Penetration.

~~Benefit category A1 direct~~ Direct sales and marketing programs and services, which are a diverse mix of time-tested and proven initiatives, projects, and activities, will provide exclusive privileges and specifically benefit all current and future lodging businesses ~~of thirty (30) rooms or more~~ within the boundaries of the *District*. These initiatives, projects and activities are deployed to achieve individual property direct sales for those lodging businesses ~~with, which all have either~~ meeting space, and/or are large enough ~~(30 rooms or more)~~ to accommodate a small meeting, reunion or tour group. The

hotel meeting and group sales effort is focused on group, meeting, convention and tour operator contract programs.

Benefits resulting from these programs will be realized directly by individual lodging businesses in the target market area or market segment served through the exclusive privilege of participating in a unique contract program, marketing initiative or service funded ~~under benefit category A~~ by the *District*.

Benefit Category A2: Sub-Regional Targeting

Although ~~benefit category A1~~ programs are designed to provide benefit citywide, many of these programs have a focus on larger convention and activities that occur in the Downtown area. In order to ensure that the programs exist to directly serve the needs of larger hotels spread throughout the City, ~~category A2~~ **Sub-Regional Targeting** includes services that are directed specifically towards parts of the City other than Downtown. Targeted sub-regional marketing will deliver specific benefit to coordinated groups of lodging businesses throughout the *District* which are subject to the ~~benefit category A~~ assessment. These lodging businesses will have the exclusive privilege to participate or be represented in, and/or receive the specific benefit from, but not limited to the marketing and sales initiatives and programs listed above and further defined in Appendixes 4 and 5. Activities shall be intended to provide supplemental programs ~~of the type detailed in benefit category A.1 but~~ specific to the District sub-regions outside of the downtown core such as Rancho Bernardo, La Jolla, Mission Bay, Mission Valley, and others.

Subject to further provisions in this paragraph, the *Corporation* shall annually budget a portion of ~~funds derived from benefit category A~~ assessment revenue to DMOs for the purpose of sub-regional sales and marketing ~~for those lodging businesses subject to the benefit category A assessment~~. When allocating resources and implementing programs in sub-regional areas, consideration shall be given to the number and distribution of lodging businesses subject to the ~~benefit category A~~ assessment and room count in those sub-regional areas to ensure that all assessee benefit proportionally from the activities funded by the assessment.

To further ensure provision of a specific benefit to assessed lodging businesses, sub-regional Hotel Advisory Committees shall be established as follows:

- DMOs receiving *District* funds shall establish criteria for the recognition of sub-regional Hotel Advisory Committees.
- The *Corporation's* Board of Directors shall annually apply those criteria to identify the bona fide sub-regional Hotel Advisory Committees.
- Membership on the Hotel Advisory Committees shall be limited to representatives from lodging businesses subject to the ~~benefit category A~~ assessment located in the sub-region for which each committee is established. While the sub-regions may realign or increase in the future, it is anticipated that the initial sub-regions will include, but not be limited to:
 - Mission Bay
 - Mission Valley
 - La Jolla

- Shelter Island / Point Loma
- I-5 corridor (adjacent to Del Mar)
- I-15 corridor
- The committees shall act in an advisory capacity with the primary purpose of consulting with DMOs, and making recommendations on the programs and expenditures relative to sub-regional programs annually proposed by DMOs.
- Sub-regional programs as proposed and implemented shall be consistent with the stated goals and objectives of the DMO to the extent they comply with the requirements of this Plan, and shall utilize proven marketing and media channels.

Benefit Category A3: Competitive Targeting

~~Category A3~~Competitive Targeting includes programs similar in nature to those funded through ~~category A1~~Meeting and Group Sales, but selected through a competitive application process amongst smaller service providers and special programs.

The Corporation’s Board of Directors will annually budget a portion of the revenue derived from the ~~benefit category A~~ assessment for competitive supplemental marketing efforts. Such programs, activities, events, and services may be solicited either through a competitive application or open procurement process. These programs and services must provide unique, exclusive privileges and/or deliver a measurable specific benefit to assessees based on room night sales, which are in addition to the privilege or benefits provided by other programs funded with the ~~benefit category A~~ assessment.

The Corporation will solicit and/or receive applications for funding from numerous diverse entities. Specific application guidelines were implemented during the District’s initial five-year term and will continue to be utilized throughout the renewal term. Changes to the guidelines, criteria and application can only be made by an action of the Corporation’s Board of Directors.

Fundamental to the funding of any application will be the clearly articulated exclusive privileges and specific benefit to assessed lodging businesses in the District. While exclusive privileges can be delivered in numerous ways, the specific benefit must be measured in the delivery of hotel room night sales to assessed lodging businesses. Successful applications will clearly describe the strategy and tactics for delivering room night sales, as well as the estimated resulting number of room night sales and resulting gross room revenue. The method for calculating and verifying the ROI results must be described in the application.

When considering these fundamental application requirements, priority will be given to:

- (a) Special-need periods of the year;
- (b) Special-need geographic locations within the District; that may include but are not limited to a sub-region, multiple sub-regions, a neighborhood or community, or an area uniquely defined to host or support a program or event; and
- (c) The opportunity to generate incremental room nights from existing programs or sponsoring programs.

Competitive Supplemental Marketing Programs will deliver a specific benefit to coordinated groups of lodging businesses throughout the *District* which are subject to the ~~benefit category A~~ assessment. These lodging businesses will have the exclusive privilege to participate or be represented in, and/or receive the specific benefit from competitive supplemental marketing initiatives and programs designed to drive sales demand for room nights at these businesses as articulated in Appendix 4.

Determining ROI

All successful applicants for funding from assessment revenues must clearly demonstrate a measurable *ROI* based on room night sales at assessed lodging businesses for the programs or services they propose. Applicants and recipients must develop and demonstrate their suggested methods of measuring *ROI* for their programs as part of applications and quarterly performance reports. All stated *ROI* results are subject to third-party audit.

~~I. Benefit Category B Programs~~

~~Benefit Category B: Overview~~

I. Destination Marketing

Critical to the consumption of lodging business room nights is the location, or destination, of the businesses. While a meeting or convention can mandate a destination for a conventioner or delegate, the transient hotel guest, the tourist, makes a personal travel decision in light of market forces. Consumer direct/destination marketing and messaging are designed to influence, entice and support such decisions and therefore generate incremental transient room night sales. All of the lodging businesses subject to the ~~benefit category B~~ assessment will directly benefit from consumer direct/destination marketing.

~~Benefit Category B: Destination Marketing with Specific Call to Action~~

~~Benefit category B funds consumer~~Consumer direct destination ~~marketing.~~ Such marketing can include, but is not limited to, consumer direct advertising and earned media (public relations releases) and media contacts. All marketing funded ~~through benefit category B~~ will include specific calls to action directly related to ~~district~~District lodging businesses. Such calls to action might include, but are not limited to, ~~inclusion of~~ special consumer directed website landing pages featuring only ~~district~~District lodging businesses, links, or phone numbers exclusively dedicated to providing ~~district~~District lodging business information and booking opportunities. All approved campaigns must have ~~budget proportional other source~~budgeted for non-assessment funding reflective of benefit that will be used to augment the District funding to proportionally reflect the ~~any~~ percentage of benefit received ~~to by~~ non-assesseees. Typical direct expenses include advertising costs, agency fees, production, printing, distribution costs, District-related personnel salary, commissions, benefits, training, travel, printed material, promotional items, information technology, market intelligence, research, and performance audits. ~~Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.~~

While none of ~~these~~ these exclusive privileges (calls to action and special website and phone number) ~~of participating in programs funded by benefit category B~~ will be available to businesses that do not pay the ~~benefit category B~~ assessment, secondary benefit may accrue to lodging establishments outside the ~~boundaries of the~~ District, but the resulting room night capture ~~would~~will be offset by the utilization of other ~~source income~~revenue sources to support these programs. DMOs will be required to demonstrate sufficient alternate revenue sources in support of Consumer Direct/Destination Marketing programs ~~under benefit category B.~~

~~Benefit category B~~ Consumer Direct/Destination Marketing programs and services will provide exclusive privileges and specifically benefit all assessed lodging businesses in the District, regardless of size. ~~Therefore, all of these qualifying lodging businesses as listed in Appendix 3 will be assessed for the activities provided by funding from benefit category B.~~ Benefits resulting from these programs will be realized directly by individual assessed lodging businesses in the target market area

or market segment served through the exclusive privilege of participating in a unique contract program, marketing initiative or service ~~funded by the benefit category B assessments.~~

Multi-Year Tourism Development

Targeted services also include activities related to the Strategic development of multi-year or long-range event planning dedicated to the production of District lodging business leads and room night sales demand. Typical expenses include, but are not limited to, strategic planning, event RFPs, third-party whitepapers, promotional items, information technology, market intelligence, research, and performance audits. (as defined in Appendix 4)

J. City Administration

The *City* shall recover its actual annual costs and any renewal costs associated with *District* program oversight, collection, and administration. The amount budgeted each year for *City* Administration is to be determined on an annual basis, though it is not anticipated to exceed \$600,000 in the first year. In no case shall the annual assessment revenue designated for *District* Administration, *City* Administration, and the Opportunity/ Catastrophe/Contingency Reserve exceed ten percent (10%) of all projected annual assessment revenue. Notwithstanding the foregoing, any subsequent *District* renewal or modification processes may incur additional one-time costs. Costs for services to be recovered by the *City* include but are not limited to:

- Economic Development - Contract management and disbursement/reimbursements, coordination and preparation of annual and periodic reports and presentations to Council;
- Office of the City Treasurer - Collection administration, management and auditing;
- Office of the City Auditor - Program auditing;
- Office of the Comptroller - Check disbursements; and
- Office of the City Attorney - Legal review, document preparation, collection services/litigation.

Notwithstanding the foregoing, in addition to the administrative costs described above, litigation costs pertaining to the defense of the *District* incurred by the *City* shall be paid from *District* funds in addition to the recovery of administration costs. Specific provisions for *City* Administration costs, including recovery of any renewal costs, are contained in the operating *Agreement*.

K. Opportunity/Catastrophe/Contingency

A prudent portion of the *District* budget ~~for both of the benefit categories~~ will be designated for an ~~opportunity/catastrophe/contingency reserve~~ Opportunity/Catastrophe/Contingency Reserve. This reserve will be used to: (i) replace actual revenue shortfalls when carrying out the activities ~~in each of the benefit categories~~, (ii) ~~–~~maximize unique and unforeseen opportunities, and (iii) react to unforeseen situations.

The utilization of these funds will be at the discretion of the *Corporation's* Board of Directors but within the approved scope of services to be provided according to this *Plan* and the Annual and Milestone Reports.

The annual allocation to the ~~opportunity/catastrophe/contingency~~Opportunity/Catastrophe/Contingency reserve will not exceed seven percent (7%) of the total budget; nor will the allocation be less than three percent (3%) of the total annual budget, unless and until the cumulative revenue from assessments designated for the combined ~~opportunity/catastrophe/contingency~~Opportunity/Catastrophe/Contingency reserves reaches \$10 million. Once the cap is reached, any assessment revenue that would otherwise be designated for the ~~opportunity/catastrophe/contingency~~Opportunity/Catastrophe/Contingency reserves will instead be designated for current marketing and sales programs.

If at the expiration of the *District*, there is an ~~opportunity/catastrophe/contingency~~Opportunity/Catastrophe/Contingency reserve remaining ~~for either or both of the benefit categories~~, and business owners ~~within that category~~ wish to renew the *District*, the remaining ~~opportunity/catastrophe/contingency~~Opportunity/Catastrophe/Contingency reserve may be used for renewal costs.

If the *District* is renewed following the thirty-nine and one-half (39 ½) year term, and the ~~benefit category structure~~, assessment rate, and boundaries remain identical going forward, the ~~opportunity/catastrophe/contingency~~Opportunity/Catastrophe/Contingency reserve ~~for each benefit category~~ shall be made available to the corporation managing the renewed *District* in accordance with SDMC section 61.2523(a) or other ordinance provisions which may then exist. These previously accumulated funds may be spent consistently with the allocations in this *Plan* or may remain in savings for future expenditures consistent with this *Plan*. Should the *District* not be renewed, or at any time be dissolved, the previously accumulated assessment revenue (less any funding needed to settle outstanding obligations) shall be proportionally refunded and distributed to the assessed businesses in ~~each benefit category of~~ the *District*. Should the *District* be renewed but with different boundaries or ~~benefit categories~~assessment criteria, remaining funds shall be transferred to the new *District* but spent on programs and services to benefit only the assessed businesses in accordance with this *Plan*.

L. California Constitutional Compliance

The *District* assessment is not a property-based assessment subject to the requirements of Proposition 218. The Court has found, Proposition 218 limited the term “assessments” to levies on real property.”¹ Rather, the *District* is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the *District*, a “specific benefit” and a “specific government service.” Both

¹ Howard Jarvis Taxpayers Association v. City of San Diego (1999) 72 Cal App. 4th 230

exceptions require that the costs of benefits and services do not exceed the reasonable costs to the City of conferring the benefits and services.

1. Specific Benefit

In order to fall within the exception for specific benefits, Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”². The services in this Plan are designed to provide targeted benefits directly to assessed lodging businesses, and are intended to provide benefits directly to only those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, lodging businesses not in the District, or parcels of land, but rather to serve the specific lodging businesses within the District. The activities described in this Plan are specifically targeted to increase room night sales for assessed lodging businesses within the District, and are narrowly tailored. District funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessees. For example, assessment funds shall not be used to feature non-assessed lodging businesses in District programs nor to generate sales leads for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this District is for a specific benefit conferred directly to the payors, lodging businesses with seventy (70) or more rooms, that is not provided to those not charged. The specific benefit conferred directly to the payors, lodging businesses with seventy (70) or more rooms, is an increase in room night sales. The specific benefit of an increase in room night sales for assessed lodging businesses will be provided only to those lodging businesses with seventy (70) or more rooms paying the district assessment, with marketing and sales programs promoting only those lodging businesses with seventy (70) or more rooms paying the district assessment. The marketing and sales programs will be designed to increase room night sales at each assessed lodging businesses with seventy (70) or more rooms. Because they are necessary to provide the marketing and sales programs that specifically benefit the assessed lodging businesses with seventy (70) or more rooms, the administration, and Opportunity / Catastrophe / Reserve funded services also provide the specific benefit of increased room night sales to the assessed lodging businesses.

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

² Cal. Const. art XIII C § 1(e)(1)

³ Government Code section 53758(a)

2. Specific Government Service

The Constitution also indicates that the assessment may be utilized to provide “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government or providing the service or product.”⁴ The legislature has recognized that marketing and promotions services like those to be provided by the *District* are considered government services in the context of business improvement districts and California Constitution Article XIII C. Although the *City* is not directly providing the services and the *Corporation* is not a government agency, the marketing services are considered government services within the meaning of California Constitution Article XIII C because the *City* has created the *District* and engaged the *Corporation* to provide the marketing services. Further the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”⁵

3. Reasonable Cost

These exceptions for benefits and services provide that the assessment cannot exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.⁶ In order to ensure that the assessment does not exceed a reasonable cost to the *City* of conferring the benefit, granting the privilege, or providing the service, the full amount assessed will be used to provide the services described herein. Funds will be managed by the *Corporation*, and reports submitted on an annual basis to the *City*. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from *District*-funded activities, be featured in advertising campaigns, and benefit from other *District*-funded services. Non-assessed lodging businesses will not receive these, nor any other, *District*-funded services and benefits.

The *District*-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-*District* funds. *District* funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which generates incidental room nights for non-assessed businesses.

4. Benefit to NonPayors

The specific benefits and government services provided by the *District* will be directly provided only to the assessed businesses; they will not be directly provided to non-assessed businesses. Possible indirect benefit does not preclude the *District* services from being considered a specific government benefit or service. The legislature has directly indicated, in the context of tourism marketing districts, that services are not precluded from classification as a specific government benefit or

⁴ Cal. Const., art. XIII C, § 1(e)(2)

⁵ Government Code section 53758(b)

⁶ Cal. Const. art XIII C § 1(e)(1) and (e)(2)

service merely because an indirect benefit to a nonpayor occurs as a consequence of providing the service and without cost to the payor.⁷

Although the legislature does not require the cost of any incidental benefit to non-payors be separated from the assessment, out of an abundance of caution a study was conducted on benefit generated by the *District* programs. The study is attached as Appendix 6. The study found that _____ percent of marketing programs generate incidental room night sales at non-assessed lodging businesses. Although it is not required, the portion of programs that generate this benefit will be paid for with non-assessment funds. Assessment funds will only fund that portion of the programs (_____ percent) which represents a specific benefit to the assessed businesses. For example, if a program costs \$100,000 total, the *District* will fund \$ _____ and the remaining \$ _____ will be sourced from non-assessment funds.

The amount of the assessment is no more than necessary to cover the reasonable costs of the proposed activities, and the manner in which the costs are allocated to a business owner bear a fair share or reasonable relationship to the businesses' benefits received from the proposed activities. The benefit study in Appendix 6 found that the benefits provided by the *District* do not exceed the reasonable cost.

The programs provided with *District* funding receive additional non-assessment funding in the form of grants, corporate sponsorships, event income, transient occupancy tax, and other funds. These funding sources shall be equal to or exceed the amount of benefit conferred to non-payors annually by the *District's* services. These non-assessment funds will be used to pay for the benefit to non-payors provided by the proposed services, ensuring that assessments will only be used to provide benefits to assessed businesses.

⁷ AB 483 Ting (2014)

V. Governance and Oversight

A. City Administration and Oversight

~~Petitions signed by business owners are required to be submitted to the City in support of renewing the District in accordance with SDMC §61.2506(a). If sufficient petitions, when weighted by the amount of proposed assessment(s) to be levied under benefit categories A and/or B, are submitted in support of the renewal, then the City Council may adopt a Resolution of Intention to renew the District, cause a ballot to be mailed to all affected businesses, and give notice of the required public hearing. If 50% or more of the ballots that are returned, when weighted by the amount of the anticipated assessment represented by returned ballots, favor district renewal, then the City Council may adopt a resolution renewing the District and authorize the levying of assessments for a period of thirty-nine and one-half (39 1/2) years.~~

The City will oversee collection of the assessments and ensure the expenditure of funds is consistent with this Plan. On an annual basis, within 30 days of the City's finalization of the fiscal year's accounting, the City will provide a full accounting of District assessment revenue including interest earned on any pooled investments, plus interest and penalties collected from delinquent accounts.

Prior to the beginning of each Fiscal year, the City Council, in an open meeting, shall consider the submitted Report of Activities, and may approve as submitted or modified (including the associated expenditure of District revenue).

B. San Diego Tourism Marketing District Corporation Administration

The procedural ordinance provides that the City may contract with a designated non-profit corporation to implement this Plan and to carry out specified activities, subject to the terms and conditions enumerated in the contract with that corporation. The City shall contract with the Corporation, a private non-profit corporation, to serve as the Tourism Marketing District Association, manage the District assessments, and contract for implementation of the proposed marketing and sales programs and services as outlined in this Plan.

Purpose

The specific purpose of the Corporation, a private non-profit corporation, is to directly benefit assessed lodging businesses in the City through the effective and judicious allocation of its revenue and resources to measurably successful tourism promotion, marketing, sales, and advertising programs and special events, that will generate additional room nights for assessed businesses and not others (except to the extent non-assessment revenue is used to benefit to non-assessees).

General Powers

Subject to the provisions and limitations of the California Non-profit Mutual Benefit Corporation Law and any other applicable laws, and subject to any limitations of its Articles of Incorporation and Bylaws, the *Corporation's* activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors.

Board of Directors

Only business owners or business owner's representatives paying the *District* assessment may vote in annual elections of the *Corporation*. And only business owners or business owner's representatives paying the *District* assessment may seek serve on the Board of Directors of the *Corporation*. The Board of Directors shall consist of nine (9) directors unless changed by amendment to the Bylaws of the *Corporation*.

Board members, officers, and members of the *Corporation* shall represent the assessed lodging businesses and further their economic interests.

Board Nominations & Elections

Elections to the Board of Directors will be held annually. A call for self-nominations will occur annually and all **qualified** self-nominees will be listed on the ballot for Board elections. In addition to, or in the absence of, self-nominations, the Nominations Committee of the Board may put forth a slate of nominees at each election.

The procedure for nominations and elections, including the timing for nominations, and the protocol for distribution and collection of ballots, is defined in the Bylaws of the *Corporation*. The *Corporation* will annually arrange for the *City*, or the *City's* designee, to administer, count and report the results of the balloting for Board elections.

Board Officers

Officers of the Board of Directors shall be elected by a majority vote of the Board at the first regularly scheduled meeting of the Board following annual Board member elections.

Board Standards and Conduct

The *Corporation* is organized as a 501(c)6 mutual benefit corporation, and its purpose is the management of the resources of the *District*. The primary measures of the *Corporation's* success will be the exclusive privileges and specific benefits it delivers to the assessed businesses. Because the delivery of a specific measurable benefit to the assessed businesses is required by law, and is the primary legal purpose of the *Corporation*, it is recognized that members of the Board of Directors, through their assessed businesses, will receive benefit from the activities of the *Corporation*.

In addition, the *City's* enabling *procedural ordinance* recognizes, analogously to the **1994**-PBID Law, that the *Corporation* is a "private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose." Notwithstanding the foregoing and regardless of state allocations for mandate reimbursements, the *Corporation* shall comply with the Ralph M. Brown Act, California Government Code §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 §6250 *et seq.*, for all documents relating to activities of the *District*.

Furthermore, the *Corporation's* Board of Directors shall comply with the California Corporations Code and shall develop internal policies defining standards, responsibilities and conduct for the Board of Directors.

A Volunteer Board of Directors

The members and officers of the Board of Directors of the *Corporation* will serve as volunteers. They will receive no compensation for their service individually or collectively. They are not entitled to, nor may they make a claim for, reimbursement of any personal or professional expenses attributed to their service. Other than Directors and Officers Liability Insurance no benefits such as, but not limited to, health insurance, worker's compensation insurance, disability insurance, reimbursement of out-of-pocket expenses, or paid vacation, will be provided.

Limiting Contact Between Applicants and the Board of Directors

It will be vital that the application and allocation process for funding from the *Corporation* be open, fair, and efficient. To this end, the written submission of an application and supporting materials, as well as any public presentation that may be required from applicants, will be the foundation for Board discussion and deliberations. Board members are encouraged to limit their contact and communication with applicants regarding their applications or proposed application to open and public meetings of the Board and its committees, and to disclose any extra-meeting contact or communication prior to participating in the consideration of that applicant's submission.

C. Report of Activities

Annual Report

The *Corporation* shall cause to be prepared annually a report for the coming fiscal year. The first report of the renewed district ~~will include~~included the activities for the first eighteen months of operation, from January 1, 2013 through June 30, 2014. The final report of the renewed district will include activities from July 1, 2052 through June 30, ~~2053~~2052. Every fifth year, a Milestone Report shall be submitted instead of the Annual Report, which shall include all of the information required in the Annual Report.

The report may propose changes, including, but not limited to, the boundaries of the *District* or to any benefit zones within the *District*, the basis and method of levying assessments, and any changes in the classification of categories of business if a classification is used.

The report shall be filed with the *City* by mutually agreed upon dates pursuant to the operating *Agreement*, and shall refer to the *District* by name, specify the fiscal year to which the report applies, and with respect to that fiscal year, will contain all of the following information:

- Any proposed changes to the boundaries of the *District*;
- The activities to be provided for that fiscal year;
- An estimate of the cost of providing the activities for that fiscal year;
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year;
- The estimated amount of any surplus or deficit revenues to be carried over from the previous fiscal year; and
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this *Plan* as necessary to ensure that assessment-funded programs directly benefit assesses alone.

District Milestone Report

The *Corporation* shall cause to be prepared a retrospective and prospective *District* Milestone Report every five (5) fiscal years for which assessments are levied. This *District* Milestone Report will include the required annual Report of Activities for the prospective fiscal year. The first *District* Milestone Report of the renewed *District* will include the reporting of results for the initial five and one-half years of operation, from January 1, 2013 through June 30, 2018. The final Milestone Report of the renewed district will include reporting of results from July 1, 2048 through June 30, 20532052. Reports for the intervening period will include reporting of results for the prior five (5) years. Reports will be submitted to the *City* on agreed upon dates pursuant to the operating *Agreement*.

The report may propose changes, including, but not limited to, the boundaries of the *District* or any benefit categories within the *District*, the basis and method of levying the assessments, and any changes in the classification of benefit categories or categories of business, within categories, if used.

The report shall be filed with the *City* on agreed upon dates pursuant to the operating *Agreement*, and shall refer to the *District* by name, specify the five (5) prospective fiscal years to which the report applies, and with respect to those five (5) fiscal years, shall contain all of the following information:

- Any proposed changes to the boundaries of the *District* or to any benefit categories or classification of businesses within the *District*;
- The general activities to be provided for the next five (5) fiscal year cycle;
- An estimate of the cost of providing the activities for the next five (5) fiscal year cycle;
- 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 each fiscal year for the next five (5) year cycle;
- The estimated amount of any surplus or deficit revenues to be carried over one year to the next for the next five (5) fiscal year cycle; and
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this *Plan* as necessary to ensure that assessment-funded programs directly benefit assesses alone.

| The *City Council* may approve the ~~reports~~report as filed by the *Corporation*, 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 sections 61.2519 and 61.2520. The Council shall not approve a change in the basis and method of levying assessments that would impair a contractual obligation of the *City* ~~Council or approved by the City Council.~~

D. Modifications of Plan

The *Corporation* may, at any time, make a written request that the *City Council* modify this *Plan*. Any modification of this *Plan* shall be made pursuant to SDMC §61.2520, as that ordinance now reads or may hereafter be amended, but shall include prior written notice of the proposed modification to assessed businesses and a noticed public hearing on the proposed modification.

E. Modifications of District Operating Agreement

The *City* and *Corporation* shall enter into an operating *Agreement* for operation of the *District*. Mutually agreed modifications shall be made pursuant to the provisions of the approved operating *Agreement*.

Appendix 1 – Definition of Lodging Establishments

For the purposes of the assessment levied in connection with the renewed District:

1. The assessment shall be calculated as a percentage of the Assessable Rent of each lodging business.
2. “Lodging Business” means a business, other than a recreational vehicle park or campground, that is a “hotel” pursuant to SDMC Section 35.0102- and has seventy (70) or more rooms.
3. “Assessable Rent” means “rent,” as that term is defined in SDMC Section 35.0102, subject to the exclusions set forth in SDMC Sections 35.0111 and 61.2516.

For reference:

SDMC Section 35.0102 defines “hotel” as “any structure or any portion of any structure which is occupied, or intended or designed for Occupancy, by Transients for dwelling, lodging, or sleeping purposes, and is held out as such to the public. ‘Hotel’ does not mean any hospital, convalescent home, or sanitarium.”

Appendix 2 –Procedural Ordinance

(As of July 1, 2012, but may be amended from time to time.)

Chapter 6: Public Works and Property, Public Improvement and Assessment Proceedings

Article 1: Public Improvement and Assessment Proceedings

Division 25: San Diego Tourism Marketing District Procedural Ordinance

(Added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

§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..

(“Purpose and Intent” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§61.2502 Citation of Division

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

(“Citation of Division” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

§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.

(“Rules of Construction” added 5–30–2007 by O–19622 N.S.; effective 6-29-2007.)

(Amended 10-6-2011 by O-20096N.S.; effective 11-5-2011.)

§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* 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 proposal as defined in sections 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 *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.

(“Definitions” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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*.

(“Alternative Financing Method; No Limit on Other Provisions of Law” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

§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) 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 section 61.2508.

(“Establishment of Tourism Marketing District” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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 sections 36500 - 36551, or the Property and Business Improvement District Law of 1994, California Streets and Highways Code sections 36600 - 36671.
- (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. 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.

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.

(“Tourism Marketing District Management Plan” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Notice of Proposed Assessments; Public Hearing” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“City Council Adoption, Revision or Modification of Assessments; Modification of Approved Activities; Changes to District Boundaries” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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) 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 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) The number, date of adoption, and title of the resolution of intention.
 - (3) The time and place where the public hearing was held concerning the establishment of the *district*.
 - (4) A determination regarding any protests received. The City 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 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*.

(“*Resolution of Formation of Tourism Marketing District*” added 5–30–2007 by O–19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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*.

(Renumbered from former Section 61.2512, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“City Clerk to Record Notice and Map of District” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2513, retitled to “City Council Establishment of Benefit Zones” and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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*.

(“Council Establishment of Benefit Zones” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Renumbered from former Section 61.2514, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Establishment, Modification or Disestablishment; Districts and Benefit Zones” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Renumbered from former Section 61.2515, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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*.

(“Expiration of Tourism Marketing District” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2516, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Collection of Assessments” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2518, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Assessments Based on Estimated Benefits” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Renumbered from former Section 61.2519, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011. Former Section 61.2517 removed.)

§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.

(“Exemptions from Assessments” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2520, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Validity from Assessments; Contests” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2521, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“City’s Promotional Responsibilities” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2522, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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 *businesses* 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 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*.

(“*Modifications of District Management Plan*” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Renumbered from former Section 61.2523, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“*District Plan Modification; Public Hearing Required*” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2524, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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*.

(“*Tourism Marketing District Association; Report of Activities*” added 5–30–2007 by O–19622 N.S.; effective 6-29-2007.)

(Amended 12-18-2007 by O-19691; effective 1-17-2008.)

(Renumbered from former Section 61.2525, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Tourism Marketing District Association; Contract With Nonprofit” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Renumbered from former Section 61.2526, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Renewal of Expired District” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(Renumbered from former Section 61.2527, and amended 10-6-2011 by O-20096 N.S.; effective 11-5-2011.)

§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.

(“Disestablishment of District; Procedures” added 5-30-2007 by O-19622 N.S.; effective 6-29-2007.)

(“Action to Determine Validity; Action Contesting Validity” added 10-6-2011 by O-20096 N.S.; effective 11-5-2011 Former Section renumbered to 61.2524.)

Appendix 3 – District Lodging Businesses

List of Lodging Businesses as of June ~~2012~~2016

Lodging businesses will receive specific benefits and privileges resulting from the services provided ~~to the benefit category or categories in which they are included~~ as indicated in the table starting on the next page.

Business Name Category(es) Business Name Category(es) Business Name Category(es)

Appendix 4 – ~~Benefit Category~~ Programs

~~BENEFIT CATEGORY A1~~

~~A1: TARGETED MARKETING AND SALES PROGRAMS~~

Meeting and Group Sales & Marketing Programs and Consumer Direct Sales & Marketing Programs to Drive Sales Demand for District Lodging Businesses

Activities to be Implemented through Destination Marketing Organizations

~~A1.1~~ Hotel Meeting Sales

Deployment of a direct sales force tasked to attend sales conferences and make sales calls on meeting planners, association & business group clients, and individuals.

- Typical direct expenses include ~~include~~ District-related sales personnel salary, commissions, benefits, training; travel and entertainment of targeted industry professionals such as meals (excluding alcohol); staff travel and related expenses for attendance at industry tradeshows and events, travel, meal and mileage expenses related to sales calls activities; outside services such as lead generation services; remote sales offices; marketing materials and promotional items targeted towards hotel sales efforts; event registration for staff attendance at industry tradeshows and events; funding of events that agree to promote district activities; dues and subscriptions such as membership to trade organizations to create additional client relationships and sales opportunities; information technology, market intelligence, research, and performance audits.
- Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.

~~A1.2~~ Event Management and Group Sales Development

Execution of special events dedicated to the production of District lodging business meeting leads and room night sales demand through, but not limited to, participation in and marketing activities at professional and/or affinity group conferences, organizations or associations of meeting planners, business group clients, and individuals.

- Typical expenses include District-related personnel salary, commissions, benefits, training, travel and entertainment; tradeshow and event expenses such as exhibit fees, facility and booth space rentals; outside contractors, bid & sponsorship fees, remote sales office; printed material and promotional items; food and beverage (excluding alcohol) appurtenant to trade show participation; information technology, market intelligence, research, and performance audits.
- Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.

A1.3

~~1.3 Tourism Development including Travel & Trade~~

~~Execution of special events dedicated to the production of District group meeting leads and room night sales demand through, but not limited to, domestic and international travel & trade shows.~~

- ~~• Typical expenses include District-related sales personnel salary, commissions, benefits, and training; international representation in countries such as Germany, UK, and Japan including brochure distribution; travel and entertainment; event food & beverage (excluding alcohol) and printed material and promotional items distributed at tradeshow and events attended by travel trade representatives and decision makers; trade show booths and display production, space rental, display transportation, set up & break down costs; information technology, market intelligence, research, and performance audits.~~
- ~~• Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.~~

~~A1.4 Group Meeting Direct Marketing~~

~~Placement of advertisements to targeted affinity group organizations through various mediums such as business, association, or trade networks and publication to directly influence the production of District lodging leads and room night sales through conferences, meeting planners, associations, and group clients.~~

- ~~• Typical expenses include advertising costs, agency fees, production, printing, distribution costs, District-related personnel salary, commissions, benefits, training, travel, printed material and promotional items, information technology, market intelligence, research, and performance audits.~~
- ~~• Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.~~

~~A1.5 Consumer Direct Sales & Marketing Programs~~

~~Placement of consumer direct sales and marketing campaigns including, but not limited to, Pay-Per-Click Online Banner Advertising and dedicated Online Travel Agency (OTAs such as Expedia, Orbitz, Travelocity) campaigns that are specifically designed to place booking opportunities for assessed businesses in the grasp of consumers who have or may have expressed an interest in traveling to San Diego.~~

- ~~• Typical expenses include outside services such as advertising agency fees ; related events and promotions; production and advertising costs, District-related personnel salary, commissions, benefits, training, travel, printed material , promotional items, information technology, market intelligence, research, and performance audits.~~
- ~~• Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.~~

A1.61.4 Sub-Regional Targeting

Supplemental programs of the type detailed in 1.1 and 1.3 above, but specific to District sub-regions outside of the downtown core such as Rancho Bernardo, La Jolla, Mission Bay, Mission Valley, and others.

1.5 Competitive Targeting

Programs of the type detailed in 1.1 above, awarded through competitive process.

~~The Multi-Year Tourism Development~~

~~Strategic development of multi-year or long-range event planning dedicated to the production of District lodging business leads and room-night sales demand.~~

- ~~• Typical expenses include, but are not limited to, strategic planning, event RFPs, third-party whitepapers, promotional items, information technology, market intelligence, research, and performance audits. Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.~~

Within benefit category A1 the activities provided will result in Direct, Indirect, and General & Administrative expenses. A cost allocation methodology shall be approved periodically by the Corporation and made known to its contractors to be used in determining eligible Direct, Indirect, and General & Administration expenses and appropriate per diem, travel, and overhead rates.

The cost allocation methodology approved by the Corporation shall be modeled on OMB Circular A-122 (or successor document) in determining the Direct, Indirect, and General & Administrative expenses to be applied to District funding, notwithstanding that certain District-specific expenses may be treated as exceptions to OMB Circular A-122 with supporting analysis.

BENEFIT CATEGORY A2

A2: Sub-Regional Targeting

Activities to be Implemented through Destination Marketing Organizations

Supplemental programs of the type detailed in benefit category A1 but specific to District sub-regions outside of the downtown core such as Rancho Bernardo, La Jolla, Mission Bay, Mission Valley, and others.

- ~~• Assessment revenues derived from benefit category A may only be expended for such programs as in A1 and may not be designated for General Advertising.~~

BENEFIT CATEGORY A3

A3: Competitive Targeting

Activities to be Implemented through Destination Marketing Organizations

Programs of the type detailed in benefit category A

DESTINATION MARKETING

2.1 awarded through competitive process

- ~~Assessment revenues derived from benefit category A may only be expended for such programs as in A1 and may not be designated for General Advertising.~~

~~Within benefit categories A2 and A3, the activities provided will result in Direct, Indirect, and General & Administrative expenses. A cost allocation methodology shall be approved periodically by the Corporation and made known to its contractors to be used in determining eligible Direct, Indirect, and General & Administration expenses and appropriate per diem, travel, and overhead rates.~~

~~The cost allocation methodology approved by the Corporation shall be modeled on OMB Circular A-122 (or successor document) in determining the Direct, Indirect, and General & Administrative expenses to be applied to District funding, notwithstanding that certain District specific expense may be treated as exceptions to OMB Circular A-122 with supporting analysis.~~

BENEFIT CATEGORY B

B:- Destination Marketing with Specific Call to Action

Destination advertising campaigns and earned media will have specific call to actions such as special consumer directed website landing pages, links, and/or phone numbers to drive sales demand for District lodging businesses. All approved campaigns must have budgeted proportional other source funding reflective of benefit that will be used to augment the District funding to proportionally reflect any benefit to non-assesseees

- Typical direct expenses include advertising costs, agency fees, production, printing, distribution costs District-related personnel salary, commissions, benefits, training, travel, printed material and promotional items, information technology, market intelligence, research, and performance audits.
- Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.

~~Within benefit category B the~~ 2.2 Tourism Development including Travel & Trade

Execution of special events dedicated to the production of District group meeting leads and room night sales demand through, but not limited to, domestic and international travel & trade shows.

- Typical expenses include District-related sales personnel salary, commissions, benefits, and training; international representation in countries such as Germany, UK, and Japan including brochure distribution; travel and entertainment; event food & beverage (excluding alcohol) and printed material and promotional items distributed at tradeshow and events attended by travel trade representatives and decision makers; trade show booths and display production, space rental, display transportation, set up & break down costs; information technology, market intelligence, research, and performance audits.
- Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.

2.3 Group Meeting Destination Marketing

Placement of advertisements to targeted affinity group organizations through various mediums such as business, association, or trade networks and publication to directly influence the production of District lodging leads and room night sales through conferences, meeting planners, associations, and group clients.

- Typical expenses include advertising costs, agency fees, production, printing, distribution costs, District-related personnel salary, commissions, benefits, training, travel, printed material and promotional items, information technology, market intelligence, research, and performance audits.
- Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.

2.4 Multi-Year Tourism Development

Strategic development of multi-year or long-range event planning dedicated to the production of District lodging business leads and room night sales demand.

- Typical expenses include, but are not limited to, strategic planning, event RFPs, third-party whitepapers, promotional items, information technology, market intelligence, research, and performance audits. Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.

The activities provided will result in Direct, Indirect, and General & Administrative expenses. A cost allocation methodology shall be approved periodically by the Corporation and made known to its contractors to be used in determining eligible

Direct, Indirect, and General & Administration expenses and appropriate per diem, travel, and overhead rates.

The cost allocation methodology approved by the Corporation shall be modeled on OMB Circular A-122 (or successor document) in determining the Direct, Indirect, and General & Administrative expenses to be applied to District funding, notwithstanding that certain District specific expense may be treated as exceptions to OMB Circular A-122 with supporting analysis.

Appendix 5 – Detailed Budget

		Recipients	%	Category A \$	%	Category B
BENEFIT CATEGORY A1		Payor Universe: All lodging businesses with 3070 rooms or more in City of San Diego				
Meeting and Group Sales & Marketing Programs and Consumer Direct Sales & Marketing Programs to Drive Sales Demand for District Lodging Businesses						
A1	Hotel Meeting Sales		2518.1%	\$5,440,000-117,800	0%	\$0
1.1	Deployment of a direct sales force tasked to attend sales conferences and make sales calls on meeting planners, association & business group clients, and individuals. • Typical direct expenses include District-related sales personnel salary, commissions, benefits, training; travel and entertainment of targeted industry professionals such as meals (excluding alcohol) ; staff travel and related expenses for attendance at industry tradeshows and events, travel, meal and mileage expenses related to sales calls activities; outside services such as lead generation services; remote sales offices; marketing materials and promotional items targeted towards hotel sales efforts;; event registration for staff attendance at industry tradeshows and events; funding of events that agree to promote district activities; dues and subscriptions such as membership to trade organizations to create additional client relationships and sales opportunities; information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications				
A2	Event Management and Group Sales Development		12.08.7%	\$2,595,000-940,600	0%	\$0
1.2	Execution of special events dedicated to the production of District lodging business meeting leads and room night sales demand through, but not limited to, participation in and marketing activities at, professional and/or affinity group conferences, organizations or associations of meeting planners, business group clients, and individuals. • Typical expenses include District-related personnel salary, commissions, benefits, training, travel and entertainment; tradeshow and event expenses such as exhibit fees, facility and booth space rentals; outside contractors, bid & sponsorship fees, remote sales office; printed material and promotional items; food and beverage (excluding alcohol) appurtenant to trade show participation; information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications				

		Recipients	%	Category A\$	%	Category B
A1.3	Tourism Development Including Travel & Trade	-	4.9%	\$1,060,000	0%	\$0
-	Execution of special events dedicated to the production of District group meeting leads and room night sales demand through, but not limited to, domestic and international travel & trade shows. • Typical expenses include District-related sales personnel salary, commissions, benefits, and training; international representation in countries such as Germany, UK, and Japan including brochure distribution; travel and entertainment; event food & beverage (excluding alcohol) and printed material and promotional items distributed at tradeshow and events attended by travel trade representatives and decision makers; trade show booths and display production, space rental, display transportation, set-up & break down costs; information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-	-	-
A1.4	Group Meeting Direct Marketing	-	5.1%	\$1,110,000	0%	\$0
-	Placement of advertisements to targeted affinity group organizations through various mediums such as business, association, or trade networks and publication to directly influence the production of District lodging leads and room night sales through conferences, meeting planners, associations, and group clients. • Typical expenses include advertising costs, agency fees, production, printing, distribution costs, District-related personnel salary, commissions, benefits, training, travel, printed material and promotional items, information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-	-	-
A1.51.3	Consumer Direct Sales & Marketing Programs		14.10.5%	\$3,435,549,000	0%	\$0
	Placement of consumer direct sales and marketing campaigns including, but not limited to, Pay-Per-Click Online Banner Advertising and dedicated Online Travel Agency (OTAs such as Expedia, Orbitz, Travelocity) campaigns that are specifically designed to place booking opportunities for assessed businesses in the grasp of consumers who have or may have expressed an interest in traveling to San Diego. • Typical expenses include outside services such as advertising agency fees; related events and promotions; production and advertising costs, District-related personnel salary, commissions, benefits, training, travel, printed material, promotional items, information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications			-	-

1.4	Sub-Regional Targeting	-	5.0%	\$1,690,000
-	Supplemental programs of the type detailed in 1.1 and 1.3 but specific to District sub-regions outside of the downtown core such as Rancho Bernardo, La Jolla, Mission Bay, Mission Valley, and others.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-
1.5	Competitive Targeting	-	11.6%	\$3,920,800
-	Programs of the type detailed in 1.1 awarded through competitive process.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-
TOTAL SALES AND MARKETING		-	53.9%	\$18,218,200

		Recipients	%	Category A\$	%	Category B
		DESTINATION MARKETING				
<u>2.</u> <u>1</u>	Destination Marketing with Specific Call to Action		25.1%	\$8,483,800		
-	Destination advertising campaigns and earned media will have specific call to actions such as special consumer-directed website landing pages, links, and/or phone numbers to drive sales demand for District lodging businesses. All approved campaigns must have budgeted proportional other source funding reflective of benefit that will be used to augment the District funding to proportionally reflect the any percentage of benefit received to non-assesseees. Typical direct expenses include advertising costs, agency fees, production, printing, distribution costs District-related personnel salary, commissions, benefits, training, travel, printed material, promotional items, information technology, market intelligence, research, and performance audits. - Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-		
<u>2.</u> <u>2</u>	Tourism Development Including Travel & Trade		3.5%	\$1,183,000		
-	Execution of special events dedicated to the production of District group meeting leads and room night sales demand through, but not limited to, domestic and international travel & trade shows. • Typical expenses include District-related sales personnel salary, commissions, benefits, and training; international representation in countries such as Germany, UK, and Japan including brochure distribution; travel and entertainment; event food & beverage (excluding alcohol) and printed material and promotional items distributed at tradeshow and events attended by travel trade representatives and decision makers; trade show booths and display production, space rental, display transportation, set up & break down costs; information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications				
<u>2.</u> <u>3</u>	Group Meeting Destination Marketing		3.7%	\$1,250,600		
-	Placement of advertisements to targeted affinity group organizations through various mediums such as business, association, or trade networks and publication to directly influence the production of District lodging leads and room night sales through conferences, meeting planners, associations, and group clients. • Typical expenses include advertising costs, agency fees, production, printing, distribution costs, District-related personnel salary, commissions, benefits, training, travel, printed material and promotional items, information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-		
<u>A1</u> <u>.6</u> <u>2.</u> <u>4</u>	Multi-Year Tourism Development		5.43.9%	\$1,460,000	318,200	0% \$0

Strategic development of multi-year or long-range event planning dedicated to the production of District lodging business leads and room night sales demand. • Typical expenses include, but are not limited to, strategic planning, event RFPs, third-party whitepapers, promotional items, information technology, market intelligence, research, and performance audits. • Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead

TMD

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TOTAL DESTINATION MARKETING	-	36.2%	\$12,235,600
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NOTE: ~~Within benefit category A1 the~~ **The activities provided will result in Direct, Indirect, and General & Administrative expenses. A cost allocation methodology shall be approved periodically by the Corporation and made known to its contractors to be used in determining eligible Direct, Indirect, and General & Administration expenses and appropriate per diem, travel, and overhead rates. The cost allocation methodology approved by the Corporation shall be modeled on OMB Circular A-122 (or successor document) in determining the Direct, Indirect, and General & Administrative expenses to be applied to District funding, notwithstanding that certain District-specific expenses expense may be treated as exceptions to OMB Circular A--122 with supporting analysis.**

-	B e n e f i t C a t e g o r y A 1 : S u b - r e g i o n a l	67.0%	\$14,500,000	0%	\$0
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BENEFIT CATEGORY A2:	-	-	-	-	-
Sub-Regional Targeting	-	-	-	-	-

-	Supplemental programs of the type detailed in benefit category A1 but specific to District sub-regions outside of the downtown core such as Rancho Bernardo, La Jolla, Mission Bay, Mission Valley, and others. -Assessment revenues derived from benefit category A may only be expended for such programs as in A1 and may not be designated for General Advertising.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-	-	-
-CONTINGENCY - Opportunity / Catastrophe / Renewal		Benefit Category A2: Sub-total	6.95%		\$1,500,690,000	0% \$0

BENEFIT CATEGORY A3: Competitive Targeting		-	-	-	-	-
-	Programs of the type detailed in benefit category A.1 awarded through competitive process. -Assessment revenues derived from benefit category A may only be expended for such programs as in A1 and may not be designated for General Advertising.	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-	-	-
ADMIN & OPS - City and Corporation		Benefit Category A3 : Sub-Total	-5%	16%	\$3,485,690,000	0% \$0

TOTAL BENEFIT CATEGORY A - SALES AND MARKETING TMD COLLECTIONS			90100%		\$19,485,333,800,000	0% \$0
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	Recipients	%	Category A	%	Category B
BENEFIT CATEGORY B:					
Destination Marketing with Specific Call to Action					
Payor Universe: All lodging businesses					
<p>Destination advertising campaigns and earned media will have specific call-to-actions such as special consumer directed website landing pages, links, and/or phone numbers to drive sales demand for District lodging businesses. All approved campaigns must have budgeted proportional other source funding reflective of benefit that will be used to augment the District funding to proportionally reflect the any percentage of benefit received to non-assesseees. Typical direct expenses include advertising costs, agency fees, production, printing, distribution costs District related personnel salary, commissions, benefits, training, travel, printed material, promotional items, information technology, market intelligence, research, and performance audits. Typical indirect expenses include related contractor executive management, information technology support, and general & administrative overhead</p>	Approved TMD Contractors such as DMO and/or Competitive Applications	-	-	-	-
TOTAL BENEFIT CATEGORY B - SALES AND MARKETING	-	0%	\$0	90%	\$7,515,000
<p><i>NOTE: Within benefit category B the activities provided will result in Direct, Indirect, and General & Administrative expenses. A cost allocation methodology shall be approved periodically by the Corporation and made known to its contractors to be used in determining eligible Direct, Indirect, and General & Administration expenses and appropriate per diem, travel, and overhead rates. The cost allocation methodology approved by the Corporation shall be modeled on OMB Circular A-122 (or successor document) in determining the Direct, Indirect, and General & Administrative expenses to be applied to District funding, notwithstanding that certain District specific expense may be treated as exceptions to OMB Circular A-122 with supporting analysis.</i></p>					

CONTINGENCY - Opportunity / Catastrophe / Renewal	-	5%	\$1,082,500	5%	\$417,500
ADMIN & OPS - City and Corporation	-	5%	\$1,082,500	5%	\$417,500
TOTAL TMD COLLECTIONS	-	100%	\$21,650,000	100%	\$8,350,000

*It is expected that the budget categories will be re-allocated from year-to-year to address economic conditions, tourism trends, and changes in non-assessment funding provided to those programs.

DOCKET ACTION SUPPORTING INFORMATION
CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION

DATE:
May 27, 2016

SUBJECT: Modification of the San Diego Tourism Marketing District and Management Plan

GENERAL CONTRACT INFORMATION

Recommended Contractor: S.D. Tourism Marketing District

Amount of this Action: \$30,000,000.00

Funding Source: City of San Diego (TMD Assessments)

Goals: N/A

SUBCONTRACTOR PARTICIPATION

There is no subcontractor participation associated with this action.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Equal Opportunity: Required

Contracts of agreements associated with this action are subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

ADDITIONAL COMMENTS

This action authorizes the modification of the existing District that would generate around \$30 Million of assessments annually rather than the FY2017 estimate of \$38.4 million.

EB