

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: 9/25/2015
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SUBJECT: Amendments to Council Policy 100-21 (Funding for Maintenance Assessment District Formation)

PRIMARY CONTACT (NAME, PHONE): Elizabeth Studebaker, 619-533-4561 MS 56-D	SECONDARY CONTACT (NAME, PHONE): Luis Ojeda, 619-236-6475 MS 56-D
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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): FY 2017 General Fund Contribution: \$70,490 to replenish MAD formation fund.

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Liaison Office	Comptroller	ORIG DEPT.	Caldwell, Erik
Equal Opportunity Contracting		CFO	
Park and Recreation		DEPUTY CHIEF	Graham, David
Environmental Analysis		COO	10/21/2015
Financial Management		CITY ATTORNEY	Wander, Adam
		COUNCIL PRESIDENTS OFFICE	

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

Amend Council Policy 100-21 to provide guidance on formation, budgeting, and management of Maintenance Assessment Districts; and

Authorize the Chief Financial Officer to transfer \$70,490 from Fund 100000 to Fund 200088 to replenish MAD formation fund for new assessment district formation activities for Fiscal Year 2017 contingent upon the adoption of the Fiscal Year 2017 Appropriation Ordinance and contingent upon the Chief Financial Officer furnishing a

certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer; and

Authorize the Chief Financial Officer to appropriate and expend \$150,000 from district formation funds for Fiscal Year 2017, including MAD Formation Revolving Fund 200088, associated with new assessment district formation activities for Fiscal Year 2017 contingent upon the adoption of the Fiscal Year 2017 Appropriation Ordinance and contingent upon the Chief Financial Officer furnishing a certificate certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

STAFF RECOMMENDATIONS:

Approve Requested Actions

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S): Citywide

COMMUNITY AREA(S): All

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**CITY CLERK
INSTRUCTIONS:**

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 9/25/2015

ORIGINATING DEPARTMENT: Economic Development

SUBJECT: Amendments to Council Policy 100-21 (Funding for Maintenance Assessment District Formation)

COUNCIL DISTRICT(S): Citywide

CONTACT/PHONE NUMBER: Elizabeth Studebaker/619-533-4561 MS 56-D

DESCRIPTIVE SUMMARY OF ITEM:

Amend Council Policy 100-21 to be consistent with the proposed Municipal Code amendments for Maintenance Assessment Districts and to provide policy and processes for formation, budgeting, and management practices for Maintenance Assessment Districts and greater flexibility to update as needs and circumstances change in the future.

STAFF RECOMMENDATION:

Approve Requested Actions

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Maintenance Assessment Districts (MADs) are special assessment districts where property owners pay assessments to fund enhanced improvements and activities, in their neighborhood or community, which confer Special Benefits on those assessed. These improvements and activities are beyond those generally provided by the City which provides a General Benefit.

While property owners are extensively involved in MADs, the City is ultimately responsible for establishing a MAD and for the appropriate use of MAD assessments, therefore, the formation process and management of MADs requires procedures and guidelines.

In seeking to update the City's Municipal Code pertaining to Maintenance Assessment Districts, it was determined that updating Council Policy 100-21 was necessary to be consistent with the proposed Municipal Code. Addressing policy and processes for formation, budgeting, and management practices for Maintenance Assessment Districts through amendments to Council Policy 100-21 will provide greater flexibility for future updates.

Please refer to Report to the City Council No. 15-088 for more information.

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

Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods

Objective #5. Cultivate civic engagement and participation

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

Objective #1. Create dynamic neighborhoods that incorporate mobility, connectivity, and sustainability.

FISCAL CONSIDERATIONS:

Due to the proposed City administration rate of the lesser of \$3,500 or 4% of annual assessments, there is an anticipated General Fund impact of \$72,032 for FY2017. Economic Development Department (EDD) staff costs are captured within the department budget.

In FY16, the EDD budgeted \$94,314 in revenue from self-managed MADs to partially offset administrative cost. With the proposed change, FY17 annual revenue to the department to offset administrative costs for self-managed MADs will be an estimated \$25,668. This represents a \$68,646 reduction in annual budgeted revenue from the previous year.

In FY16, the Park and Recreation Department (P&R) budgeted for \$10,386 in revenue from MADs to partially offset administrative costs for two existing self-managed MADs. With the proposed change to the administration fee formula, in FY17 the Park and Recreation Department's revenue for existing MADs will be an estimated \$7,000. This represents a \$3,386 reduction in annual budgeted revenue from the previous year. EDD will offset the P&R reduced annual budgeted revenue for self-managed districts within the department budget.

The total impact will be a reduction of \$72,032 in annual revenue from self-managed MADs for cost recovery in the EDD and P&R Departments. MAD administrative costs have historically not been fully cost recoverable for self-managed districts, as noted above. Moving forward, EDD will absorb the total reduction in revenue for all self-managed MADs in its annual department budget.

Currently, the Community Districts Revolving Fund balance is \$79,510. The proposed policy requires a repository for a minimum of \$150,000 from the General Fund. In order to meet the minimum proposed requirement to fund district formations, an additional \$70,490 is being requested to replenish the Community districts revolving fund.

There is also an anticipated but unquantified reduction in the use of General Funds for MAD advances, reimbursements, and expenses prior to receipt of assessments from the County of San Diego.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council established Council Policy 100-21 (Funding For Maintenance Assessment District Formation) on September 7, 2004.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Drafts of the policy revisions were shared with community members in MADs and a noticed public meeting is scheduled for October 27, 2015. Previously, Economic Development staff along with City Attorney and Park and Recreation staff participated in various meetings with the self-managed MAD Contractors.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include all property owners within the boundaries of the MADs and the Contractors that oversee the self-managed assessment districts.

Caldwell, Erik

Originating Department

Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 1, 2016 Report No.: 16-069

ATTENTION: Honorable Council President and Members of the City Council

SUBJECT: Amendments to Council Policy 100-21 (Funding for Maintenance Assessment District Formation)

REFERENCE: Manager's Report No. 04-193, September 1, 2004 to the Mayor and City Council

REQUESTED ACTION:

Amend Council Policy 100-21 to provide guidance on formation, budgeting, and management of Maintenance Assessment Districts.

STAFF RECOMMENDATION

Approve the requested action.

SUMMARY:

In seeking to update the City's Municipal Code pertaining to Maintenance Assessment Districts, it was determined that updating Council Policy 100-21 was necessary to be consistent with the proposed Municipal Code. Addressing policy and processes for formation, budgeting, and management practices for Maintenance Assessment Districts through amendments to Council Policy 100-21 will provide greater flexibility for future updates.

DISCUSSION:

Maintenance Assessment Districts (MADs) are special assessment districts where property owners pay assessments to fund enhanced improvements and activities, in their neighborhood or community, which confer Special Benefits on those assessed. These improvements and activities are beyond those generally provided by the City as a General Benefit.

Support for forming a MAD is often initiated by a developer during the development of a new community or by property owners within a developed community. However, the City is ultimately responsible for establishing a MAD and for the appropriate use of MAD assessments. Therefore, the formation process and management of MADs requires close coordination between the proponents and the City, and adherence to procedures and guidelines.

MAD formation also generally requires that the initiating party pay for the preparation of an Assessment Engineer's Report, the cost of balloting, administrative costs, and other incidental expenses. In developing communities, this cost may be funded by a developer or with private contributions. However, this cost may be prohibitive for property owners in developed areas.

Typically, MADs are located in residential areas and are managed by the City. However, there are a number of MADs, mainly located in the City's older commercial corridors, where the property owners desired to have the MAD managed by a nonprofit that represents the property owners. In these cases, the property owners indicated on the formation ballot their interest in having a self-managed MAD, and the City then entered into an agreement with the indicated nonprofit entity to implement the approved MAD activities and improvements in compliance with the MAD's Assessment Engineer's Report and with State law.

Proposed revisions to the Municipal Code and the need to update the Council Policy will facilitate closer coordination from the outset between property owners and the City during the MAD formation process. It will also facilitate greater guidance to nonprofit entities seeking to manage a MAD.

Community Initiation of a Maintenance Assessment District

The amendments to the Council Policy outline the process for the formation of new districts using City funds. City funds may only be used for creation of a district management plan and engineer's report, as well as the ballot process, including notice and ballot tabulation. A funding request will be granted based on objective and quantifiable ranking criteria as established by the Mayor or the Mayor's designee, including but not limited to the results of a survey, feasibility study, receipt of letter of opinion, or property owner and community organization support.

The amendments also clarify the procedure, requirements, and timing for the petition process and review of petitions to ensure sufficient current support for the MAD proposal prior to bringing the item to City Council for consideration.

A major clarification in the amended Policy, consistent with the Municipal Code, regards the preparation of an Engineer's Report. The Report may be prepared by either the City's Assessment Engineer or, alternatively, by an outside engineer selected by the district formation committee and approved by the Mayor or Mayor's Designee.

All Assessment Engineers will be required to insure and indemnify the City of San Diego for their work, and shall be required to ensure that the Report meets the requirements of Proposition 218. Interested property owners may retain a consultant to help with the feasibility study and for advocacy efforts. However, those activities and expenses are not eligible for reimbursement by the City.

It is the City's preference for district formation committees to work with the City's Assessment Engineer, as it is anticipated to shorten the time between the petition process and routing the proposed MAD item for City Council consideration. It may also reduce the overall formation cost per MAD by eliminating both duplication of professional engineering work as well as

requests for the City to assume additional risk during negotiations with consultants retained by community members.

The existing policy is focused on the availability and requirements to request funding from the one funding source for district formations. The proposed policy will, however, have two sources of City funds available: the Commercial Districts Revolving Fund and the Community Districts Revolving Fund (currently MAD Formation Fund). The additional funding sources are being proposed for forming special assessment districts in commercial neighborhoods under the Commercial Districts Revolving Fund.

City Cost Recovery

The existing policy has a City Administration fee set at 4% of each self-managed MAD's assessments or \$3,500, whichever is greater. Due to the varying size of MADs and to be consistent with other cities in the state of California, the updated proposed City Administration fee will, moving forward, be set at 4% of each self-managed MAD's assessments, or \$3,500, whichever is lesser.

Standards for a Contractor (nonprofit Owner's Association) to administer a MAD

The proposed policy addresses the requirements for a nonprofit owners' association if it is proposed to be the administrator of a MAD. It also has provisions regarding transparency of the owners association with regards to the MAD through compliance with the Brown Act and California Public Records Act, the involvement of assessed property owners, the posting of documents, and mailing of notices.

Reserve and Disbursement Payment Policy

Generally, assessment revenue for MADs is collected by the County and remitted to the City throughout the fiscal year. Those entities whose property is not subject to a special fixed charge by the County (such as public agencies) are assessed by the City directly.

Most of the annual assessment revenue is collected and remitted to the City in the months of January and May. The City deposits all of the assessment revenue into the respective MAD accounts (Funds) to fund appropriate expenditures.

The City may advance funds at the beginning of each fiscal year and also provide reimbursements monthly for eligible expenditures. Depending on the amount of accumulated reserves, MAD Funds may have negative cash balances during the fiscal year with the necessary cash being fronted by the General Fund. Conversely, if too many assessments are held in accumulated reserves then needed activities and improvements in the community may be delayed.

Staff reviewed these concerns and is proposing provisions in the policy to address advances and reimbursements; specifically, four kinds of reserves are to be identified annually in the budget:

- A. *Delinquency Reserve* – an amount based on a percentage of projected *assessments* using the average *assessment* delinquency rate from the last three years plus 1%.

- B. *Operating Reserve* – an amount based on a percentage of the operating annual budget expenditures ranging from 10% - 50% for unanticipated operating expenditures and emergency situations until required (such as recent history of unanticipated expenditures to replace elements such as, but not limited, to a tree, light post, street furniture element, trash receptacle, etc.).
- C. *Cash Flow/Advance Reserve* – an amount needed to provide sufficient cash balance in the fund as determined by City staff for self-managed districts; not to exceed three months of assessments, but otherwise at least an amount equal to the size of the advance requested by the owners’ association for the start of an Agreement. This reserve shall be held by the City except for the portion provided to the owners’ association as a working capital advance. Self-managed districts may determine their own Cash Flow/Advance Reserve requirements and must inform the City of their established requirements.
- D. *Capital Reserve* – an amount reserved for planned future capital projects which require multiple years of reserved funding.

To the extent that an administering nonprofit owners’ association wishes to have a working capital advance, that amount must be budgeted and reserved with the City until such time as the appropriate level of cash over and above other reserve requirements is reached in the MAD Fund.

The advance must be returned or accounted for upon or before the termination of the MAD Agreement. The City, at its discretion, may accept either a reduction of the final reimbursement request(s) or a transfer of funds from the Contractor. The City will continue to provide monthly reimbursements to the Contractor for eligible expenses incurred. The MAD Management Agreement may be a term of up to five years.

Conclusion

In general, these proposed changes to the Policy are intended to provide guidance and standardization of practices for interested community members and the City in establishing and managing districts. The proposed changes will simultaneously afford flexibility for budgeting reserves and will provide advances for circumstances unique to each MAD.

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

- Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.
- Objective #5. Cultivate civic engagement and participation.
- Goal #3: Create and sustain a resilient and economically prosperous City.
- Objective #1. Create dynamic neighborhoods that incorporate mobility, connectivity, and sustainability.

FISCAL CONSIDERATIONS:

Due to the proposed City administration rate of the lesser of \$3,500 or 4% of annual assessments, there is an anticipated General Fund impact of \$72,032 for FY2017. Economic Development Department (EDD) staff costs are captured within the department budget.

In FY16, the EDD budgeted \$94,314 in revenue from self-managed MADs to partially offset administrative cost. With the proposed change, FY17 annual revenue to the department to offset administrative costs for self-managed MADs will be an estimated \$25,668. This represents a \$68,646 reduction in annual budgeted revenue from the previous year.

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PREVIOUS COUNCIL and/or COMMITTEE ACTION:

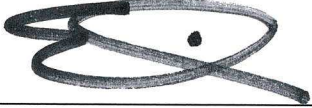
City Council established Council Policy 100-21 (Funding for Maintenance Assessment District Formation) on September 7, 2004.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Proposed changes were shared with community members over the last four months by Economic Development and Park and Recreation staff. Drafts of the proposed Council Policy amendments were shared at three noticed public meetings on October 27 and November 10, 2015 and January 11, 2016. An additional meeting was held for self-managed MAD associations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders include all property owners within the boundaries of the MADs and the Contractors that oversee the self-managed assessment districts.



Erik Caldwell
Director, Economic Development



David Graham
Deputy Chief Operating Officer

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: MAINTENANCE ASSESSMENT DISTRICTS

POLICY NO.: 100-21

EFFECTIVE DATE:

BACKGROUND

A Maintenance Assessment District (“MAD”) is a special assessment district where *property owners* pay *assessments* to fund enhanced *improvements* and *activities*, which confer *Special Benefits* on those assessed. *MADs* are authorized in San Diego through provisions of the San Diego Maintenance Assessment District Ordinance (San Diego Municipal Code section 65.0201 *et seq.*) However, formation of all *MADs* must also comply with provisions of Article XIID of the California Constitution (Proposition 218).

Support for forming a *MAD* is often initiated by a developer, during the development of a new community, or by *property owners* within a *developed community*. *Property owners* may also indicate an interest in having the *MAD* managed by a non-profit which represents the *property owners*. The formation process and management of *MADs* requires close coordination between the *MAD* proponents, *property owners*, and City staff, and adherence to procedures and guidelines.

PURPOSE

The purpose of this policy is to set forth guidelines regarding: the establishment of *MADs*; the conditions under which City funding mechanisms may be requested and used for eligible formation costs in *Developed Communities*; the process for developer deposits and reimbursement for formation costs in *Developing Communities*; and the procedure for budgeting and management of *MADs*.

DEFINITIONS

“*Activities*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Annual report*” means a report prepared in accordance San Diego Municipal Code section 65.0220.

“*Assessment*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Assessment engineer*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Ballot*” means the ballot required by Article XIII D of the California Constitution and California Government Code section 53753.

“*City administrative expense*” includes all expenses incurred as a result of managing the *district*

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

operations, including, but not limited to, *district* formation, *assessment* engineering, annual reporting, budget preparation, and monitoring.

“*City funds*” means the *commercial districts revolving fund* and the *community districts revolving fund* collectively.

“*Commercial districts revolving fund*” is a City special fund which is the repository for a minimum of \$175,000 from the Small Business Enhancement Program to be used to assist with eligible special district formation expenses in mixed use and commercial neighborhoods. These eligible expenses include the costs of the *district management plan*, *assessment engineer*, *petition*, and *ballot* necessary to form a *district* and must be re-paid through the *assessments* collected from *property owners* in the *district*. If necessary, funding shall be replenished annually by City Council action.

“*Community districts revolving fund*” is a City special fund which is the repository for a minimum of \$150,000 from the General Fund to assist eligible Developed Communities seeking to form a *district*. Eligible expenses include the costs of the *district management plan*, *assessment engineer*, *petition*, and *ballot* necessary to form a *district* and must be re-paid through the *assessments* collected from *property owners* in the *district*. If necessary, funding shall be replenished annually by City Council action.

“*Developed community*” means a community that is built out, with all initial construction complete, and in which no adequate developer-initiated *district* exists.

“*Developing community*” means a community that is being constructed by a developer and is not built out.

“*District*” or “*maintenance assessment district*” or “*MAD*” means an area established pursuant to San Diego Maintenance Assessment District Ordinance.

“*District management plan*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Engineer’s report*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Feasibility study*” means a preliminary process conducted by the *formation committee* to determine the community’s willingness to pay for the desired *improvements* and *activities*. The feasibility study shall include the estimated costs of the *improvements* and *activities*; the general extent of the area in which these *activities* and *improvements* would occur; and a range of possible *assessments* on benefitted *property owners* based on *districts* of a similar scope and nature; the estimated costs of forming the *district* and anticipated sources of funding to cover those costs.

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

“*Formation committee*” means a formal or informal organization of *property owners* who seek to form a *district* and will lead the effort in the community to outreach to fellow *property owners* and gather support and to conduct the *feasibility study*.

“*Improvement*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Letter of intent*” means a letter to the City from a group of *property owners*, expressing their intent and desire to create a new *district*.

“*Management agreement*” means an agreement between the City and an *owners’ association* for administration of a *district* pursuant to San Diego Municipal Codes section 65.0218.

“*Owners’ association*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Petition*” means a written petition as described in San Diego Municipal Code section 65.0206(e).

“*Property*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204..

“*Property owner*” or “*owner*” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“*Self-Managed (district)*” means a *district* that is managed by a non-profit *owners’ association* pursuant to San Diego Municipal Code Sections 65.0201 et seq and this Policy and in accordance with a *management agreement*.

“*Survey*” means a preliminary survey conducted by the *formation committee* and mailed to all property owners within the proposed *district* seeking input from the *property owners* on the types of *improvements* and *activities* they would like the *district* to provide.

POLICY

It is the policy of the City of San Diego City Council to support formation of *MADs*, based upon demonstrated *property owner* support, for the purpose of providing *Special Benefit*.

Support includes: providing formation guidelines for community members or developers seeking to initiate a *district*; establishing funding mechanisms to assist with eligible formation costs in *Developed Communities*; providing management and budgeting guidelines for *districts*; and replenishing the *formation fund* monies as needed on an annual basis.

The City may pay costs and related expenses, or a portion thereof, necessary for initial district formation, including creation of the *district management plan* and *engineer’s report*, the *ballot* process, administrative costs, and other incidental expenses through the *formation fund* or the *commercial districts revolving fund*. However, it is the intent of this Council Policy that any formation advocacy costs, including fliers and handouts of an advocacy nature, are not eligible for reimbursement.

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

I. DEVELOPED COMMUNITIES

a. Formation Process if Requesting City Funds

- i. Notwithstanding the provisions outlined in this policy a *district* must be established as outlined in the San Diego Municipal Code section 65.0206.
- ii. A district *formation committee*, comprised of property owners proposing to form a district shall be established.
- iii. The *formation committee* shall then conduct a *survey*, followed by a *feasibility study*, and report back to City staff with the results of each.
- iv. *Property owners* seeking to form a *district* are required to submit to the Mayor a *letter of intent* along with a letter of opinion from each relevant City Council office. The letter of opinion shall show that the Council Member has been informed of the property owners' desire to form a district and shall include an opinion of the Council Member as to whether or not he or she supports such an effort.
- v. Upon receipt of the letter of intent and the letter(s) of opinion, and if there is sufficient number of proponents, the *property owner* proponents of the *district* may be considered to constitute the *formation committee*.
- vi. Upon completion of the *feasibility study*, the *formation committee* shall conduct a public hearing on the results in accordance with San Diego Municipal Code section 65.0206(f). In addition to the requirements of San Diego Municipal Code section 65.0206(f), the public hearing shall be noticed by mail to each *property owner* within the proposed *district*, and shall clearly indicate the date, time, and location. The location shall be open and accessible to all members of the public.
- vii. The formation committee may request city funds to help pay the costs of the *district management plan* and *engineer's report* upon completion of subsection (i) through subsection (vi) of this section.

If the request for City funds is approved, a *district management plan* and *engineer's report* may be created in accordance with San Diego Municipal Code section 65.0206(a).

- viii. After the *district management plan* and *engineer's report* are approved by the City, the *formation committee* shall conduct a second public hearing and shall submit a proposed *petition*, for City staff approval, prior to beginning the *petition* process pursuant to San Diego Municipal Code section 65.0206(e).
- ix. The *formation committee* shall submit the *petitions* to the Mayor or Mayor's

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

designee so that the City may verify that the *petitions* comply with the provisions of San Diego Municipal Code section 65.0206(e) and this Policy, including, but not limited to:

1. the accuracy and completeness of the *petition* language and supporting documents;
2. the timeliness of signatures;
3. the inclusion of the appropriate parcels in the *district*; and
4. the validity of the *property owner* name as signed.

b. Funding Requests

- i. *City funds* may only be used for creation of *district management plan* and engineer's report, and the *ballot* process, including notice and ballot tabulation.
- ii. Funding request will be granted based on objective and quantifiable ranking criteria as established by the Mayor or the Mayor's designee, including but not limited to the results of the survey, feasibility study, receipt of letter of opinion, and property owner and community organization support.
- iii. A maximum of \$75,000 of *city funds* may be used for the formation of a *district*. The use of funds from the *commercial districts revolving fund* is restricted to forming *districts* in mixed use or commercial neighborhoods.
- iv. If the *district* is successfully formed, the total amount of *city funds* used for *district* formation must be repaid in full through the first one to three years of *assessments* collected within the *district*.
- v. *City funds* primarily rely on revenues being replenished through *assessment* collections, therefore, it is important that any communities allocated funding from *City funds* strongly support district formation so there is a high likelihood of the *district* being formed.
- vi. Any shortfall in the either the *community districts revolving fund* or the *commercial districts revolving fund* should be replenished annually.

II. DEVELOPING COMMUNITIES

- a. To establish a new *district* in a *developing community*, interested developers may deposit funds with the City to pay for the costs of formation, including the *district management plan*, *engineer's report*, *petition*, and the *ballot* process costs, and *City administrative expenses*. Any efforts to advocate for *district* formation are not considered part of the formation costs, and must be borne by the developer.

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

Developers must: (1) submit a *letter of intent* and receive a letter of opinion as described in Section I.a.ii above; and (2) deposit funds with the City in an amount necessary to pay the full costs of the district formation process.

- b. In general, the total cost of formation will vary depending on size, complexity, and scope of the proposed *district*. The developer is required to submit funds prior to initiation of the *district* formation process, with an expectation of full cost recovery for the City. The City Auditor and Comptroller is authorized, upon direction by the City Manager, to create special interest-bearing funds for the purpose of forming new *districts*. These developer deposit funds are separate from the *City funds*.
- c. If a surplus exists in the developer deposit fund for the particular *district* after completion of the *ballot* process, the funds will be returned to the developer. If additional funds are required to complete the formation process, the developer will be charged for the cost of the remaining services.
- d. Similarly to *developed communities*, upon a successful formation effort, the first one to three year's *assessments* may be used to pay back the developer for formation costs associated with the *district management plan, engineer's report, petition, ballot, and* City administration costs. All formation advocacy costs, including fliers and handouts, are not reimbursable costs.

III. Insurance and Indemnity

- a. In order for the Council to accept a *district management plan* and *engineer's report* for any new *district* the entity or person having prepared or contributed to the preparation of the *district management plan* or *engineer's report* must: (1) provide evidence of insurance in a form satisfactory to the Mayor or Mayor's designee; and (2) agree to indemnify the City of San Diego in a form satisfactory to the Mayor or Mayor's designee.

IV. SELF MANAGEMENT

- a. As part of the formation process, the *petition* must identify whether the proponents are recommending that the *district* be managed by the City or an *owners' association*. If the *petition* submitted indicates that the proposed *district* is to be administered by an *owners' association*, the *ballot* shall also include an advisory vote on whether *property owners* want the City or an *owners' association* to administer the *district* if it is established. If the *ballot* procedure as noted in Section III (Self-Management) above indicates that a majority of respondents support *self-management*, then Council may enter into an agreement with an *owners' association* for administration of the *district*, but only if these organizational standards are met to ensure transparency and accountability with regards to management and use of *assessment* funds:

- i. The *Owners' Association* must:

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

1. Obtain and maintain a Federal Tax Exempt status under section 501(c)3 or 501(c)6 of the Internal Revenue Code and obtain and maintain equivalent State non-profit status as applicable under State Law;
 2. Provide for Property Owner representation on its Board of Directors;
 3. Comply with the Ralph M. Brown Act at all times when matters within the subject matter of the *district* are heard, discussed, or deliberated, and with the California Public Records Act, for all documents relating to *activities* of the *district*.
- b. The *Owners' Association* bylaws must identify that *property owners* paying the *assessment* shall have the opportunity to vote on and be nominated to the *owners' association* board on an annual basis
- c. The *Owners' Association*, pursuant to the *management agreement* must agree to:
- i. Be bound by reporting requirements for reconciling of expenditures as outlined in the *management agreement*;
 - ii. Be bound by transparency requirements for on-line posting of documents as specified in the *management agreement*; such as meeting agendas, meeting minutes, articles of incorporation, bylaws, *annual report*, *engineer's report*, *district management plan*, RFP's, and contracts awarded;
 - iii. Timely prepare and mail annually to the *property owners* a notification of the *annual report* summarizing the goals and accomplishments for the past fiscal year; and
 - iv. Provide for access to the *property owners* of a summary of financial statements for the past fiscal year.
- d. The *management agreement* shall:
- i. not have a term that exceed five years, but the management agreement may be renewed after expiration of the term;
 - ii. provide for advances in an amount and for a duration as determined by the Mayor;
 - iii. shall provide a process for issuing and reconciling advances and any reimbursement procedures;
 - iv. articulate general budgeting principles and timelines;
 - v. articulate appropriate dates and budget detail requirements;

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

- e. The City may recover either \$3,500 or 4% of annual *district* assessments, whichever is less, to cover costs associated with administering *self-managed districts* from the respective *assessments* unless otherwise directed by Council during the annual budget process.

V. RESERVES

To effectually minimize the impact to the general fund, the following reserve components within this section shall serve as a guideline for the appropriate use(s) that are specific and necessary to the *districts*. *District* reserves shall be established in the annual budgets and shall be incorporated into the management agreements of self-managed districts.

- a. *Delinquency Reserve* – an amount based on a percentage of projected *assessments* using the average *assessment* delinquency rate from the last three years plus 1%.
- b. *Operating Reserve* – an amount based on a percentage of the operating annual budget expenditures ranging from 10% - 50% for unanticipated operating expenditures and emergency situations until required (such as recent history of unanticipated expenditures to replace elements such as but not limited to a tree, light post, street furniture element, trash receptacle, etc.).
- c. *Cash Flow/Advance Reserve* – an amount needed to provide sufficient cash balance in the fund as determined by City staff for self-managed districts; not to exceed three months of assessments, but otherwise at least an amount equal to the size of the advance requested by the owners' association for the start of an Agreement. This reserve shall be held by the City except for the portion provided to the owners' association as a working capital advance. Self-managed districts may determine their own Cash Flow/Advance Reserve requirements and must inform the City of their established requirements.
- d. *Capital Reserve* – an amount reserved for planned future capital projects which require multiple years of reserved funding.

HISTORY

Adopted by Resolution R-299589; 09/07/2004

Amended by Resolution R-_____, / /

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

SUBJECT:	FUNDING FOR MAINTENANCE ASSESSMENT DISTRICT FORMATION
POLICY NO.:	100-21
EFFECTIVE DATE:	September 07, 2004

SUBJECT: MAINTENANCE ASSESSMENT DISTRICTS

POLICY NO.: 100-21

EFFECTIVE DATE:

BACKGROUND

~~A Maintenance Assessment Districts (MADs) are established by the City of San Diego as District ("MAD") is a means of providing special assessment district where property owners, with the opportunity to assess themselves to pay for assessments to fund enhanced, improvements, maintenance, services and activities, known as which confer Special Benefits, in their neighborhood or community beyond on those generally provided by the City, known as General Benefits-assessed. MADs are authorized by the State of California in the Landscape and Lighting Act of 1972 (Part 2, Division 15, California Streets and Highways Code, Sections 22500 et seq.) and through provisions of Article XIII D of the California Constitution (Proposition~~

~~218); and by the City of San Diego through provisions of the San Diego Maintenance Assessment District Ordinance (Division 2, Article 5, Chapter VI, Sections San Diego Municipal Code section 65.0201, et seq.). Provided that a MAD meets these governing.) However, formation of all MADs must also comply with provisions of State and local law, Article XIII D of the California Constitution (Proposition 218).~~

~~Support for forming a MAD, may: 1) maintain a variety of improvements within public rights-of-way and other publicly-owned land; 2) provide a variety of enhanced maintenance and services; and, 3) be used on a more limited basis to fund acquisition of parkland or open space, for park and recreation improvements and maintenance, and for construction and installation of public improvements.~~

~~MAD formation is often initiated by a developer, during the development of a new community, or by property owners within an already-a developed community who desire Special Benefits. Property owners may also indicate an interest in having the MAD managed by a non-profit which represents the property owners. The formation process and management of MADs requires close coordination with Park and Recreation Department staff for residential or mixed-use MADs, or Community and Economic Development Department staff for commercial districts to be managed by a non-profit organization pursuant to San Diego Municipal Code Sections 65.0201 et seq., and generally requires that the initiating party pay for the preparation of an Assessment Engineer's Report, the cost of balloting, administrative costs, and other-~~

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COUNCIL POLICY

~~incidental expenses. In *Developing Communities*, this cost may be funded by a developer or other private contribution. However, because this cost may be prohibitive for property owners in some already-developed areas, the San Diego City Council has created a *MAD Formation Fund* of \$150,000 to assist in financing these start-up costs between the *MAD* proponents, *property owners*, and City staff, and adherence to procedures and guidelines.~~

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PURPOSE

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~~The intent purpose of this policy is to set forth guidelines regarding: the criteria for establishing new establishment of *MADs* either through; the use of the *MAD Formation Fund* by conditions under which City funding mechanisms may be requested and used for eligible formation costs in *Developed Communities*; or through; the process for developer deposits, for and reimbursement for formation costs in *Developing Communities*; and the procedure for budgeting and management of *MADs*.~~

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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

DEFINITIONS

1. Assessment Engineer's Report refers to a report prepared by an assessment engineer pursuant to California Streets and Highways Code Sections 22500 et seq., California Constitution Article XIII D, and San Diego Municipal Code Sections 65.0201 et seq., as may be amended from time to time. This report typically contains the plans and specifications for the *improvement* of a specified *MAD*, an estimate of the costs of the *improvements* and *maintenance* of the *improvements*, a diagram of the specified *MAD*, the assessments proposed to be levied in each parcel within the *MAD*, and any other information required by law or determined by the engineer or the City to be relevant with respect to the *MAD*.

2. Developed "Activities" has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

"Annual report" means a report prepared in accordance San Diego Municipal Code section 65.0220.

"Assessment" has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

"Assessment engineer" has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

"Ballot" means the ballot required by Article XIII D of the California Constitution and California Government Code section 53753.

"City administrative expense" includes all expenses incurred as a result of managing the *district* operations, including, but not limited to, *district* formation, *assessment* engineering, annual reporting, budget preparation, and monitoring.

"City funds" means the *commercial districts revolving fund* and the *community districts revolving fund* collectively.

"Commercial districts revolving fund" is a City special fund which is the repository for a minimum of \$175,000 from the Small Business Enhancement Program to be used to assist with eligible special district formation expenses in mixed use and commercial neighborhoods. These eligible expenses include the costs of the *district management plan*, *assessment engineer*, *petition*, and *ballot* necessary to form a *district* and must be re-paid through the *assessments* collected from *property owners* in the *district*. If necessary, funding shall be replenished annually by City Council action.

"Community districts revolving fund" is a City special fund which is the repository for a minimum of \$150,000 from the General Fund to assist eligible Developed Communities seeking to form a *district*. Eligible expenses include the costs of the *district management plan*, *assessment engineer*, *petition*, and *ballot* necessary to form a *district* and must be re-paid through the *assessments* collected from *property owners* in the *district*. If necessary, funding shall be replenished annually by City Council action.

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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

~~“Developed community” means a community that is built out, with all initial construction complete, and in which no adequate developer-initiated MAD district exists.~~

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~~3. “Developing Community community” means a community that is being constructed by a developer, and is not built out.~~

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~~4. General Benefit means baseline level of public land “District” or “maintenance services, assessment district” or “MAD” means an area established pursuant to San Diego Maintenance Assessment District Ordinance.~~

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~~“District management plan” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.~~

~~“Engineer’s report” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.~~

~~“Feasibility study” means a preliminary process conducted by the formation committee to determine the community’s willingness to pay for the desired improvements, and activities provided by the . The feasibility study shall include the estimated costs of the improvements and activities; the general extent of the area in which these activities and improvements would occur; and a range of possible assessments on benefitted property owners based on districts of a similar scope and nature; the estimated costs of forming the district and anticipated sources of funding to cover those costs.~~

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~~“Formation committee” means a formal or informal organization of property owners who seek to form a district and will lead the effort in the community to outreach to fellow property owners and gather support and to conduct the feasibility study.~~

~~“Improvement” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.~~

~~“Letter of intent” means a letter to the City of San Diego throughout from a group of property owners, expressing their intent and desire to create a new district.~~

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~~“Management agreement” means an agreement between the City limits and an owners’ association for administration of a district pursuant to San Diego Municipal Codes section 65.0218.~~

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~~5. Improvement has the meaning contained in California Streets and Highways Code Section 22525, as amended from time to time. In addition, for purposes of this Council Policy, improvement also means the provision of security services; the installation or construction of ponds; the installation or construction of flood control or drainage facilities; or the installation or construction of any other facilities, or, the provisions of any other property-related services deemed by the City Council to provide a Special Benefit to real property within a MAD.~~

~~6. MAD means a Maintenance Assessment District formed pursuant to California Streets and Highways Code Sections 22500 et seq., California Constitution Article XIII D, and “Owners’ association” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.~~

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

“Petition” means a written petition as described in San Diego Municipal Code section 65.0206(e).

“Property” has the meaning ascribed to it in San Diego Municipal Code section 65.0204..

“Property owner” or “owner” has the meaning ascribed to it in San Diego Municipal Code section 65.0204.

“Self-Managed (district)” means a district that is managed by a non-profit owners’ association pursuant to San Diego Municipal Code Sections 65.0201 et seq., as may be amended from time to time and this Policy and in accordance with a management agreement.

~~7. MAD Formation Fund Survey means the Formation Fund initially containing \$150,000 as established a preliminary survey conducted by the City Council through Ordinance No. O-19083 on July 30, 2002, to assist eligible Developed Communities seeking to form a MAD for the purpose of providing Special-Benefit formation committee and which must be re-paid through the first year’s assessment collected from mailed to all property owners in within the MAD.~~

~~8. Maintain or Maintenance has the meaning contained in California Streets and Highways Code Section 22531, as amended proposed district seeking input from time to time. In addition, for purposes of this Council Policy, maintain or maintenance also means the furnishing of the property-related services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement.~~

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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

~~9. *Special Benefit* has the meaning contained in California Constitution, Article XIII D, Section 2, as amended from time to time. In addition, for purposes of this Council Policy, *Special Benefit* also means the enhanced public lands maintenance services, owners on the types of improvements, and activities that are provided by a MAD over and above the general maintenance, improvements and activities the City provides to the general public they would like the district to provide.~~

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POLICY

Developed Communities

~~It is the policy of the City of San Diego to assist eligible *Developed Communities* seeking to form a MAD~~

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~~City Council to support formation of MADs, based upon demonstrated property owner support, for the purpose of providing *Special Benefit*. Through the \$150,000 in the MAD Formation Fund created by resolution of the City Council, the~~

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~~Support includes: providing formation guidelines for community members or developers seeking to initiate a district; establishing funding mechanisms to assist with eligible formation costs in *Developed Communities*; providing management and budgeting guidelines for districts; and replenishing the formation fund monies as needed on an annual basis.~~

~~The City may pay costs and related expenses, or a portion thereof, necessary for initial district formation, including *Assessment Engineer's Reports*, balloting creation of the district management plan and engineer's report, the ballot process, administrative costs, and other incidental expenses. It through the formation fund or the commercial districts revolving fund. However, it is the intent of this Council Policy that any formation advocacy costs, including fliers and handouts of an advocacy nature, are not reimbursable-costs eligible for reimbursement.~~

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I. DEVELOPED COMMUNITIES

a. Formation Process if Requesting City Funds

i. Notwithstanding the provisions outlined in this policy a district must be established as outlined in the San Diego Municipal Code section 65.0206.

ii. A district formation committee, comprised of property owners proposing to form a district shall be established.

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

- iii. The formation committee shall then conduct a survey, followed by a feasibility study, and report back to City staff with the results of each.
- iv. Property owners seeking to form a district are required to submit to the Mayor a letter of intent along with a letter of opinion from each relevant City Council office. The letter of opinion shall show that the Council Member has been informed of the property owners' desire to form a district and shall include an opinion of the Council Member as to whether or not he or she supports such an effort.
- v. Upon receipt of the letter of intent and the letter(s) of opinion, and if there is sufficient number of proponents, the property owner proponents of the district may be considered to constitute the formation committee.
- vi. Upon completion of the feasibility study, the formation committee shall conduct a public hearing on the results in accordance with San Diego Municipal Code section 65.0206(f). In addition to the requirements of San Diego Municipal Code section 65.0206(f), the public hearing shall be noticed by mail to each property owner within the proposed district, and shall clearly indicate the date, time, and location. The location shall be open and accessible to all members of the public.
- vii. The formation committee may request city funds to help pay the costs of the district management plan and engineer's report up on completion of subsection (i) through subsection (vi) of this section.

If the request for City funds is approved, a district management plan and engineer's report may be created in accordance with San Diego Municipal Code section 65.0206(a).
- viii. After the district management plan and engineer's report are approved by the City, the formation committee shall conduct a second public hearing and shall submit a proposed petition, for City staff approval, prior to beginning the petition process pursuant to San Diego Municipal Code section 65.0206(e).
- ix. The formation committee shall submit the petitions to the Mayor or Mayor's designee so that the City may verify that the petitions comply with the provisions of San Diego Municipal Code section 65.0206(e) and this Policy, including, but not limited to:
 - 1. the accuracy and completeness of the petition language and supporting documents;
 - 2. the timeliness of signatures;
 - 3. the inclusion of the appropriate parcels in the district; and
 - 4. the validity of the property owner name as signed.

b. Funding Requests

- i. City funds may only be used for creation of district management plan and engineer's

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

report, and the ballot process, including notice and ballot tabulation.

- ii. Funding request will be granted based on objective and quantifiable ranking criteria as established by the Mayor or the Mayor's designee, including but not limited to the results of the survey, feasibility study, receipt of letter of opinion, and property owner and community organization support.
- iii. A maximum of \$5075,000 of city funds may be used by the City from this MAD-Formation Fund for the formation of any MAD—a district. The use of funds from the commercial districts revolving fund is restricted to forming districts in mixed use or commercial neighborhoods.
- iv. If the MADdistrict is successfully formed, the total amount of city funds used by the City for MADdistrict formation must be repaid in full by the community through the first year—one to three years of assessments collected from property owners in the MAD.— Since the MAD-Formation Fund was established by the City Council with the anticipation that within the district.
- v. City funds primarily rely on revenues, would be being replenished through assessment collections, therefore, it is important that any communities receiving these funds have a strong chance of completing district formation, otherwise, the allocated funding may be lost from City funds strongly support district formation so there is a high likelihood of the district being formed.

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A. Criteria for Funding

Funding requests will be evaluated by the City Park and Recreation Department staff for residential or mixed-use MADs, and by the Community and Economic Development Department staff for commercial MADs. All of the following criteria must be met before monies from the MAD-Formation Fund may be used in the MAD formation process for a *Developed Community*:

- 1. A project description has been developed which includes:
 - a) the proposed *Improvements* to be maintained by the *MAD*;
 - b) the proposed *MAD* boundaries;
 - c) any proposed new *Improvements* to be installed, maintained and funded by the *MAD*;and

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

- d) ~~a preliminary estimate of anticipated assessments to be levied on property owners within the proposed *MAD* boundaries. This estimate may be developed in conjunction with City of San Diego staff, based on the information provided by the community in Criteria 1a)–1e).~~
- 2. ~~The amount of up-front funding needed from the *MAD Formation Fund* to pay for the *Assessment Engineer's Report* and other incidental costs has been determined, and does not exceed \$50,000.~~
- 3. ~~Where the proposed *MAD* boundaries are substantially similar to those of the officially recognized community planning area boundaries, documentation in the form of minutes has been provided showing that the officially recognized community planning committee:~~
 - a) ~~Has held at least two (2) publicly-noticed meetings to discuss the proposed *MAD* concept, in compliance with that planning committee's public noticing requirements;~~
 - b) ~~supports by majority vote the proposed *MAD* concept, including all aspects listed in Criteria 1 above;~~
 - e) ~~is aware of the estimated formation costs and understands the requirement to repay the *MAD Formation Fund* with the first year's assessments after successful district formation; and~~
 - d) ~~has formed a *MAD* advisory subcommittee;~~
- 4. ~~Where the proposed *MAD* boundaries are not substantially similar to the officially recognized community planning area boundaries, documentation in the form of a letter has been provided showing that a self-designated *MAD* advisory committee has been formed, and that this committee:~~
 - a) ~~supports by majority vote the proposed *MAD* concept, including all aspects listed in Criteria 1 above;~~
 - b) ~~has informed the officially recognized community planning committee for the area where the proposed *MAD* is located about the proposed *MAD* formation;~~
 - e) ~~is aware of the estimated formation costs and understands the requirement to repay the *MAD Formation Fund* with the first year's assessments after successful district formation; and~~
 - d) ~~has held at least two (2) meetings open to the public and has:
 - 1) ~~published a notice of the meeting that accurately summarizes the proposed *MAD* concept and cost in a community newspaper, newsletter, or publication of similar distribution; and~~
 - 2) ~~posted information about the proposed *MAD* at a community-accessible public building within the proposed *MAD* boundary.~~~~

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

5. ~~A community-initiated petition containing valid, non-weighted signatures of at least 30% of the property owners within the proposed MAD area boundaries has been submitted. This petition must:
 - a) ~~accurately describe the MAD proposal, including all aspects listed in Criteria 1 above;~~
 - b) ~~disclose the estimated formation costs and disclose that any MAD Formation Fund monies must be repaid in full through assessments collected from MAD property owners within the first year following successful district formation; and~~
 - c) ~~contain printed names, signatures, addresses and parcel numbers for each property owner signatory.~~~~

6. ~~Any individual involved in the formation of the proposed MAD with an anticipated direct economic interest in the maintenance and/or management of the proposed MAD must disclose to the City and the community that potential economic interest.~~

~~The information necessary to meet the above criteria must be provided by the *Developed Community* and submitted to the appropriate City department by September 1 in order to form the district for the following fiscal year. For residential or mixed-use MADS, the information should be submitted to the Park and Recreation Department MAD Deputy Director. For commercial districts to be managed by a non-profit organization in accordance with the San Diego Municipal Code Sections 65.0201 et seq., this information should be submitted to the City Community and Economic Development Department Economic Development Deputy Director. City Park and Recreation Department MAD staff and City Community and Economic Development Department staff will assist any *Developed Communities* requesting funds in obtaining or developing the necessary information.~~

~~B. Ranking of *Developed Communities* Requesting Funding~~

~~In the event that the total amount of money in the *MAD Formation Fund* is less than the total amount needed to accommodate formation funding requests received from *Developed Communities* on September 1 of each year, funding requests will be jointly ranked by the City Park and Recreation and Community and Economic Development Departments based on the following criteria:~~

1. ~~Amount of matching funds the *Developed Community* is able to provide to partially offset formation costs, thus either:
 - a) ~~lowering the amount needed from the *MAD Formation Fund*; or,~~
 - b) ~~providing additional funding to complete the formation process if the maximum amount of \$50,000 needed from the *MAD Formation Fund* is insufficient.~~~~

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

2. Percentage of additional valid propertyowner petition signatures the *Developed Community* is able to provide over and above the minimum required 30%, in increments of 5% (35%, 40%, 45%, etc).
3. Support from the officially recognized community planning committee for the proposed MAD area.
4. Location of the *Developed Community* relative to Council District boundaries. In order to permit equal MAD formation opportunities throughout the City, only one MAD per Council District will be considered for use of MAD-Formation Fund monies in any one year, unless there are no other eligible proposals in other Council Districts.

Developing Communities

- vi. Any shortfall in the either the *community districts revolving fund* or the *commercial districts revolving fund* should be replenished annually.

II. DEVELOPING COMMUNITIES

- a. To establish a new MADdistrict in a *Developing Community* developing community, interested developers may deposit funds with the City to pay for the costs of formation, including the independent Assessment Engineer's Report, balloting district management plan, engineer's report, petition, and the ballot process costs, and City staff administrative costsexpenses. Any efforts to advocate the MADfor district formation are not considered part of the formation costs, and must be borne by the developer or the developer's agent. Developers must: (1) submit a project description/letter of intent and receive a letter of opinion as described in Section I.a.ii above.; and work closely(2) deposit funds with the City staff in providing an amount necessary, informationto pay the full costs of the district formation process.
- b. In general, the total cost of formation will vary depending on size, complexity, and scope of the proposed MADdistrict. The developer would-is required to submit funds prior to the initiation of a new MADthe district formation studyprocess, with an expectation of full cost recovery for the City. The City Auditor and Comptroller is authorized, upon direction by the City Manager, to create special interest-bearing funds for the purpose of forming new MADsdistricts. These developer deposit funds are separate from the MAD-Formation Fund, and would be identified in the annual Appropriation OrdinanceCity funds.

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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

c. If a surplus exists in the developer deposit fund for the particular ~~MAD formation at the district after~~ completion of the ~~ballot~~ process, the funds will be returned to the developer. If additional funds are required to complete ~~the formation process~~, the developer will be charged for the cost of the remaining services.

~~the formation process, the developer will be charged for the cost of the remaining services.~~

d. Similarly to ~~Developed Communities~~ developed communities, up on a successful formation effort, the first ~~one to three~~ year's ~~assessments~~ may be used to pay back the developer for formation costs associated with the ~~Assessment Engineer's Report, balloting process~~ district management plan, engineer's report, petition, ballot, and City ~~oversight~~ administration costs. ~~It is the intent of this Council Policy that any~~ All formation advocacy costs, including fliers and handouts, are not reimbursable costs.

III. Insurance and Indemnity

a. In order for the Council to accept a ~~district management plan and engineer's report~~ for any new ~~district~~ the entity or person having prepared or contributed to the ~~preparation of the district management plan or engineer's report~~ must: (1) ~~provide evidence of insurance in a form satisfactory to the Mayor or Mayor's designee; and~~ (2) ~~agree to indemnify the City of San Diego in a form satisfactory to the Mayor or Mayor's designee.~~

IV. SELF MANAGEMENT

a. As part of the formation process, the ~~petition~~ must identify whether the proponents are recommending that the ~~district~~ be managed by the City or an ~~owners' association~~. If the ~~petition~~ submitted indicates that the proposed ~~district~~ is to be administered by an ~~owners' association~~, the ~~ballot~~ shall also include an advisory vote on whether ~~property owners~~ want the City or an ~~owners' association~~ to administer the ~~district~~ if it is established. If the ~~ballot~~ procedure as noted in Section III (Self-Management) above indicates that a majority of respondents support ~~self-management~~, then Council may enter into an agreement with an ~~owners' association~~ for administration of the ~~district~~, but only if these organizational standards are met to ensure transparency and accountability with regards to management and use of ~~assessment~~ funds:

i. The Owners' Association must:

1. Obtain and maintain a Federal Tax Exempt status under section 501(c)3 or 501(c)6 of the Internal Revenue Code and obtain and maintain equivalent State non-profit status as applicable under State Law;

2. Provide for Property Owner representation on its Board of Directors;

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COUNCIL POLICY

3. Comply with the Ralph M. Brown Act at all times when matters within the subject matter of the *district* are heard, discussed, or deliberated, and with the California Public Records Act, for all documents relating to activities of the *district*.
- b. The *Owners' Association* bylaws must identify that *property owners* paying the *assessment* shall have the opportunity to vote on and be nominated to the *owners' association* board on an annual basis.
- c. The *Owners' Association*, pursuant to the *management agreement* must agree to:
- i. Be bound by reporting requirements for reconciling of expenditures as outlined in the *management agreement*;
 - ii. Be bound by transparency requirements for on-line posting of documents as specified in the *management agreement*; such as meeting agendas, meeting minutes, articles of incorporation, bylaws, *annual report*, *engineer's report*, *district management plan*, RFP's, and contracts awarded;
 - iii. Timely prepare and mail annually to the *property owners* a notification of the *annual report* summarizing the goals and accomplishments for the past fiscal year; and
 - iv. Provide for access to the *property owners* of a summary of financial statements for the past fiscal year.
- d. The *management agreement* shall:
- i. not have a term that exceed five years, but the management agreement may be renewed after expiration of the term;
 - ii. provide for advances in an amount and for a duration as determined by the Mayor;
 - iii. shall provide a process for issuing and reconciling advances and any reimbursement procedures;
 - iv. articulate general budgeting principles and timelines;
 - v. articulate appropriate dates and budget detail requirements;
- e. The City may recover either \$3,500 or 4% of annual *district* assessments, whichever is less, to cover costs associated with administering *self-managed districts* from the respective *assessments* unless otherwise directed by Council during the annual budget process.

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COUNCIL POLICY

V. RESERVES

To effectually minimize the impact to the general fund, the following reserve components within this section shall serve as a guideline for the appropriate use(s) that are specific and necessary to the districts. District reserves shall be established in the annual budgets and shall be incorporated into the management agreements of self-managed districts.

- a. Delinquency Reserve – an amount based on a percentage of projected assessments using the average assessment delinquency rate from the last three years plus 1%.
- b. Operating Reserve – an amount based on a percentage of the operating annual budget expenditures ranging from 10% - 50% for unanticipated operating expenditures and emergency situations until required (such as recent history of unanticipated expenditures to replace elements such as but not limited to a tree, light post, street furniture element, trash receptacle, etc.).
- c. Cash Flow/Advance Reserve – an amount needed to provide sufficient cash balance in the fund as determined by City staff for self-managed districts; not to exceed three months of assessments, but otherwise at least an amount equal to the size of the advance requested by the owners' association for the start of an Agreement. This reserve shall be held by the City except for the portion provided to the owners' association as a working capital advance. Self-managed districts may determine their own Cash Flow/Advance Reserve requirements and must inform the City of their established requirements.
- d. Capital Reserve – an amount reserved for planned future capital projects which require multiple years of reserved funding.

HISTORY

Adopted by Resolution R-299589; 09/07/2004

Amended by Resolution R-_____, / /

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FY 2017 Economic Development Department
Maintenance Assessment Districts

	FY16 City Admin Budgeted Revenue	FY17 City Admin Proposed Revenue	Change
Economic Development Self-Managed Districts			
Adams Avenue MAD	\$3,500	\$2,007	(\$1,493)
Barrio Logan MAD	\$14,005	\$3,500	(\$10,505)
Central Commercial MAD	\$9,545	\$3,500	(\$6,045)
City Heights MAD	\$12,073	\$3,500	(\$8,573)
College Heights MAD	\$13,679	\$3,500	(\$10,179)
Hillcrest Commercial Core MAD	\$3,607	\$3,500	(\$107)
Little Italy MAD	\$34,405	\$3,500	(\$30,905)
Newport Avenue MAD	\$3,500	\$2,661	(\$839)
Subtotal	\$94,314	\$25,668	(\$68,646)
Park and Recreation Self-Managed Districts			
Bird Rock MAD	\$6,886	\$3,500	(\$3,386)
Civita MAD	\$3,500	\$3,500	\$0
Subtotal	\$10,386	\$7,000	(\$3,386)
Total Impact	\$104,700	\$32,668	(\$72,032)

FY16 - Greater of 4% of annual assessments or \$3,500

FY17 - Lesser of 4% of annual assessments or \$3,500

Council Policy 100-21 Funding for Maintenance Assessment District Formation

Public Safety & Livable Neighborhoods Committee
July 13, 2016



Background

CP 100-21 Funding for Maintenance Assessment District Formation

- Adopted September 2004
- Narrow Focus

Outdated

- Rename and broaden
- Consistency with Municipal Code
- Additional MAD Management Guidance

Outreach

- Emails, Calls and three Publicly Noticed Meetings



Proposed Policy Revisions

MAD Formation – Amended Sections

Updated Definitions

- Activities
- Community & Commercial Districts Revolving Funds
- Feasibility Study
- Survey

Formation and Funding Requests

- Process in Alignment with Municipal Code Revisions
- Formation Process if Requesting City Funds
- District Management Plan and Assessment Engineering
- Petitions



Proposed Policy – MAD Management

City Cost Recovery

- City administration fee proposed to be either \$3,500 or 4% of annual assessments, whichever is less, for self-managed MADs

Owners' Association

- Organization Standards
- Property Owner Representation on Board of Directors
- Compliance with Brown Act
- Budget and Reporting Requirements

District Reserve Requirements

- More Flexibility

Requested Action:

Forward draft Council Policy 100-21
to City Council for consideration.

Questions?