

**Article 5: Street Lighting, Landscaping and other Public Facility Procedures****Division 2: Maintenance Assessment District Procedural Ordinance****§65.0201 Purpose and Intent**

- (a) One of the purposes of this division is to allow for the formation of *districts* in the City to fund *improvements* and *activities* through the levy of *assessments* upon the real property that receive benefits from those improvements. To accomplish this purpose, the City Council intends that the definition of the terms *improvement* and *activities* be interpreted liberally.
- (b) It is also the purpose and intent of this Division to establish a method by which *improvements* may be constructed, installed, or *maintained*; the costs of which are to be assessed to any real property which receives a *special benefit* from such *improvements*.
- (e) It is also the intent of this Division to provide a method for the City Council to authorize a *non-profit corporation* to assume responsibility for the administration of certain contracts for a *district*.

**§65.0202 Citation of Division**

This division may be cited as the San Diego Maintenance Assessment District Procedural Ordinance.

**§65.0203 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 City Council (“Council”) to order the work shall void or invalidate such procedure or any *assessment* or the cost of the work done thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the Council in accordance with the provisions of this Division.

**§65.0204 Definitions**

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

“*Administrative Expense*” includes all incidental and personnel expenses incurred as a result of managing the *district*, including but not limited to *district* formation, assessment engineering, annual reporting, budget preparation and monitoring, assessment levying, invoicing, collections, information technology, communications

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equipment, contract procurement, vendor invoice payments, inspection of *improvements* and *activities* as required by contract, personnel, preparation and routing of requests for Council action, legal assistance, rent, office space, miscellaneous office expenses (i.e., supplies and utilities), and any related overhead or supervisory function incurred by the City or *owners' association*.

"*Activities*" means, but is not limited to, all of the following that benefit real property in the *district*:

- (a) Promotion of *district* events.
- (b) Furnishing of music within the *district*.
- (c) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other such services supplemental to those normally provided by the City.
- (d) Other services provided for the purpose of conferring *special benefit* upon assessed *property* located in the *district*, including *administrative expenses*.

"*Assessment*" means a levy for the purpose of acquiring, constructing, installing, or maintaining *improvements* and providing *activities* that will provide certain benefits to real property located within a *district*. *Assessments* levied under this Division are not special taxes.

"*Assessment engineer*" means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code) hired by the City to prepare *engineer's reports*.

"*District*," means an area established pursuant to this Division, within which *Property Owners* pay *assessments* to fund *improvements* and *activities*.

"*Engineer's Report*" means a report prepared by an *assessment engineer* in accordance with article XIII D, section 4(b) of the California Constitution.

"*Improvement*" means the acquisition, construction, installation, or maintenance of any tangible property including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.

- (j) Facilities or equipment, or both, to enhance security of persons and property within the area.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

"*Owners' association*" means a private nonprofit entity which represents, and whose membership includes the assessed *property owners* or *property owners'* representatives in a *district*. An *owners' association* may be an existing nonprofit entity or a newly formed nonprofit entity. Consistent with California Streets and Highways Code section 36614.5, the *owners' 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. An *owners' association* shall comply with the Ralph M. Brown Act, California Government Code section 54950 *et seq.*, at all times when matters within the subject matter of the *district* are heard, discussed, or deliberated, and with the California Public Records Act, California Government Code section 6250 *et seq.*, for all documents relating to *improvements* and *activities* of the *district*. Board members, officers, and members of the *owners' association* are intended and understood to represent and further the interest of the property owners located within the *district*. Each *property owner* or *property owner's* representative paying the *assessment* has the right to vote in annual elections of the *owners' association* and the right to seek nomination or election to the board of directors of the *owners' association*.

"*Property*" means real property situated within a *district*.

"*Property owner*" or "*owner*" means any person shown as the owner of *property* on the last equalized *assessment* roll or otherwise known to be the current owner of *property* by the City.

"*Special benefit*" means a particular and distinct benefit over and above general benefits conferred on real property located in a *district* or to the public at large. Special benefit includes incidental or collateral effects that arise from certain *improvements* or activities of *districts* even if those incidental or collateral effects benefit property or persons not assessed. *Special benefit* excludes general enhancement of property value.

#### §65.0205 Alternative Financing Method; No Limit on Other Provisions of Law

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

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**§65.0206 Non-exclusiveness of Remedies**

The remedies provided in this Division for the enforcement of any *assessment* levied pursuant to this Division are not exclusive, and additional remedies may be provided at any time.

**§65.0207 Establishment of District**

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

- (a) Upon the submission of a written petition, signed by the *property owners* who represent 30 percent of the parcels of *property* in a proposed *district*, the City may initiate proceedings to establish a *district*. The petition shall contain a map showing the boundaries of the *district*, a generally summary of the types of *improvements* and *activities* that will be provided within the *district*, and an estimate of the costs of providing such *improvements* and *activities*.
- (b) Section 65.0207(a) notwithstanding, if the formation costs of the proposed *district* are paid for entirely with non-City funds, then the petition threshold of Section 65.0207(a) shall be 20 percent of the parcels of *property* in a proposed *district*.
- (c) After verification of petition sufficiency, the City will assign an *assessment engineer* to draft an *engineer's report* based on input received from *property owners* at one or more publicly noticed meetings. The *engineer's report* may modify the boundaries of the proposed *district* from that which was used to determine petition sufficiency, but only if the modification does not result in additional *property* being included in the proposed *district* or result in a reduction of the number of *property owners* who signed the petition pursuant to Section 65.0207(a) to less than 20% of proposed *district*.
- (d) Upon completion of the *engineer's report* by the *assessment engineer*, the Council may proceed with the formation of the *district* by the adoption of a resolution expressing its intention to establish a *district*.
- (e) The resolution of intention described in subdivision (c) shall contain all of the following:
  - (1) A brief description of the proposed *improvements* and *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 *improvements* and *activities* and the location and extent of the proposed *district*.

- (2) A time and place for a public hearing on the establishment of the *district* and the levying of *assessments*, which shall be consistent with the requirements of San Diego Municipal Code sections 65.0209 and 65.0210.

### §65.0208 Engineer's Report

The *engineer's report* 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 proposed *district*, including the boundaries of any benefit zones, in a manner sufficient to identify the affected *properties*. Nothing in this Division prohibits the boundaries of a *district* created pursuant to this Division to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989, California Streets and Highways Code section 36500 *et.seq.*, or the Property and Business Improvement District Law of 1994, California Streets and Highways Code section 36600 *et.seq.*
- (d) The general description of *improvements* and *activities* proposed the estimated maximum cost thereof for first fiscal year.
- (e) The estimated total annual amount proposed to be expended 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 *property owner* to calculate the amount of the *assessment* to be levied against their *property*.
- (h) A statement that the *district* will continue until it is disestablished pursuant to San Diego Municipal Code section 65.0223.
- (k) A list of the *properties* to be assessed.
- (m) Any other item or matter required to be incorporated therein by the Council, the San Diego Municipal Code, or any other applicable law.

### §65.0209 Notice of Proposed Assessments; Public Hearing

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If the Council proposes to levy a new or increased *assessment*, the notice, protest, and hearing procedure shall comply with Section 53753 of the California Government Code. There shall be no statements in favor or in opposition by either the City, *district* proponents, or *district* opponents contained in or accompanying the notice and ballot materials.

### §65.0210 Resolution of Formation of District

- (a) If the Council, following a public hearing, decides to establish a proposed *district*, the Council shall adopt a resolution of formation that shall contain all of the following:
- (1) A brief description of the proposed *improvements* and *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*, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an *owner* to generally identify the nature and extent of the *improvements* and *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 shall not establish the *district* or levy *assessments* if a majority protest was received, as that term is defined in Section 53753 of the California Government Code.
  - (5) A statement that the *properties* in the *district* established by the resolution shall be subject to any amendments to this part.
  - (6) A statement that the *improvements* and *activities* to be conferred on properties 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 *improvements* or *activities* outside the *district* or for any purpose other than the purposes specified in the resolution of intention, as modified by the Council at the hearing concerning establishment of the *district*.
  - (7) A finding that the property within the area of the *district* will be specially benefited by the *improvements* and *activities* funded by the proposed *assessments*.

- (b) Prior to adopting the resolution of formation, the Council may modify the *engineer's report*, or any portion thereof, so long as the modification does not result in any *property owner* paying a higher *assessment* than indicated on that *property owner's* ballot or result in an *assessment* being levied on any *property* for which the *property owner* was not balloted.
- (c) The adoption of the resolution of formation shall constitute the levy of an *assessment* in each of the fiscal years for the life of the *district*.
- (d) The *improvements* and *activities* in the *district* may not commence any sooner than six months after the resolution of formation so that the necessary amount of *assessment* funds may accrue to implement the *improvements* and *activities*.

#### **§65.0211 City Clerk to Record Notice and Map of District**

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

#### **§65.0212 Council Establishment of Benefit Zones**

The *engineer's report* may establish one or more separate benefit zones within the *district* based upon the degree of benefit derived from the *improvements* and *activities* to be provided within the benefit zone, and may impose a different *assessment* within each benefit zone.

#### **§65.0213 Existing Districts**

Every *district* established prior to January 1, 2016, pursuant to State law or prior versions of this Division is hereby declared valid, effective, and in compliance with this Division. Such an existing district is subject to this Division rather than any provision of prior law and adoption of a resolution authorizing the levy of *assessments* in the *district* for any fiscal year beginning on or after January 1, 2016, shall authorize and constitute the levy of an *assessment* in each of the fiscal years for the life of the *district*.

#### **§65.0214 Property Owner Representatives**

- (a) In the event a *district's* boundaries are substantially the same as the boundaries of a community represented by a community planning group that has been established under applicable City guidelines, the community planning group shall be the preferred property owner representative for the *property owners* within the *district* for the purposes of Chapter 6, Article 5, Division 2. The community planning group may form a committee and designate that committee as the property owner representative in lieu of the planning group acting as the property owner representative.

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- (b) In the event the boundaries of a *district* are substantially not the same as the boundaries of an established community planning group, the *property owners* within the *district* may establish their own advisory group made up of designated representatives.

**§65.0215 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 Council in the resolution establishing the *district* described in San Diego Municipal Code section 65.0210. A method for charging interest and penalties for delinquent payments of *assessments* may also be prescribed in the resolution establishing the *district*. *Assessments* may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for *assessments* levied pursuant to this division may be charged interest and penalties.

**§65.0216 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 San Diego Municipal Code section 65.0210 or, in the case of *districts* in existence as of January 1, 2016, upon adoption of the resolution pursuant to San Diego Municipal Code section 65.0213. Any appeal from a final judgment in any action or proceeding shall be perfected by the appellant within 30 days after the entry of judgment.

**§65.0217 District Modification; Public Hearing Required**

- (a) The Council may modify a *district* by adopting a resolution after conducting one public hearing on the proposed modifications. The Council may modify the *improvements* and *activities* to be funded with the revenue derived from the levy of the *assessments*. The City Council may modify the boundaries of the proposed *district*, but only if the modification does not result in additional *property* being included in the proposed *district*. Notice of the public hearing and the proposed modifications shall be accomplished by a first-class mailing to all affected *property owners* of the resolution of intention to modify the *district*, as well as an official notice of the public hearing regarding the proposed modifications. If the modification includes the levy of a new or increased *assessment*, as defined in Gov't Code section 53750, the Council shall comply with Section 53753 of the California Government Code.
- (b) The Council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution



of intention and not less than 45 days after the mailing of the notice as referenced in 65.0217(a) above.

### **§65.0218 Establishment, Modification, or Disestablishment of Benefit Zones**

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

### **§65.0219 Administration by an Owners' Association**

- (a) If the Council determines that the *district* will be administered by an *owners' association*, then the Council may adopt a resolution stating that an *owners' association* shall be responsible for administering all contracts necessary to provide the *improvements* and *activities* within the *district*.
- (b) Upon the submission of a written petition, signed by the *property owners* who represent 50 percent of the parcels within an existing *district*, the City may initiate proceedings to switch administrators of a *district*. If the *district* is currently administered by the City, the petition shall include a statement that the *property owners* desire to have an *owners' association* administer the *district*. If the *district* is currently administered by an *owners' association*, the petition will include a statement as to whether the *property owners* desire the City to administer the *district* or another *owners' association*.
- (c) After verification of petition sufficiency, Council may adopt a resolution of intention expressing its intention to switch administrators of the *district*. If the *district* is currently administered by an *owners' association*, the resolution of intention shall seek applicants from nonprofit corporations who desire to act as the *district's owners' association*. The resolution of intention shall also set forth a time and place for a public hearing on the matter of switching administrators for the *district*.
- (d) After the public hearing, the Council may, but is not required to, switch administrators for the *district* by adoption of a resolution to that effect.
- (e) If there is any gap between *owners' associations* in administration of a *district*, the City shall administer the *district* until the new *owners' association* takes over administration.
- (f) Nothing in this section shall be construed as to limit the City's ability to switch *district* administrators at any time without a petition of the *property owners*.

### **§65.0220 Terms of Owners' Association Agreement**

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- (a) The agreement with the *owners' association* for administration of the *district* shall be exempt from Chapter 2, Article 2, Divisions 30 and 32 of the San Diego Municipal Code.
- (b) The agreement with the *owners' association* shall require the *owners' association* to indemnify, defend, and hold the City free and harmless from and against any and all claims, demands, liens, or judgments for death of or injury to any person or damage to any property whatsoever alleged to be caused, or caused, by any act or omission of the *owners' association* or any officer, contractor, agent, or employee of the *owners' association*.
- (c) The agreement shall require the *owners' association* to obtain a comprehensive public liability insurance policy satisfactory to the City Manager and the City Attorney, naming the City as an additional insured. The *owners' association* shall provide the City Manager a copy of a certificate of such insurance each year.
- (d) The agreement shall require the *owners' association* to maintain worker's compensation insurance for its employees.
- (e) The agreement shall require the City Manager to conduct at least four (4) on-site inspections of the *district* each year. In the event the City Manager determines from such inspections that the *district* is not being properly administered by the *owners' association*, the City Manager shall report such findings to the Council. The cost of any inspections conducted by the City Manager shall be paid by the *district*.
- (f) The agreement shall provide that neither the *owners' association* nor any of its board members shall have a financial interest in any contract awarded for the *district*.
- (g) As provided for in San Diego Municipal Code section 65.0221, the agreement shall provide that the *owners' association* agrees to conduct at least one (1) noticed meeting per year which shall include the designated advisory group, if applicable, and City staff, along with property owners within the district to discuss the budget, improvements, and activities for the following fiscal year.
- (h) The agreement shall require the *owners association* to hold at least three other noticed meetings per year, in addition to the one required in subsection (g) above open, to *property owners* within the district to provide input on bids or proposals received by the *owners association* for any contracts for *improvements* and *activities* of the *district*, to evaluate the performance of any contractor for the *district*, and to advise the *owners' association* regarding the *improvements* and *activities* for the *district*.

- (i) The agreement shall require the *owners' association* to submit to the City Manager a prospective annual budget pursuant to section 65.0222 for the *improvements* and *activities* for the *district* no later than February 1 of each year for the following *fiscal year*. The City may modify the annual budget prior to submitting it to Council for consideration.
- (j) The agreement shall require the *owners' association* to maintain separate books and records for the *district* which shall be available for audit at any time during normal business hours and as often as the City deems necessary. All records shall be made available within the City of San Diego and the City or its designee shall be allowed to audit, examine, and make excerpts from such data pertaining to all matters covered by this agreement. The *owners' association* shall maintain such books and records for a period of three years following completion of the agreement. The *district* shall pay for the costs of the audit.
- (k) The agreement shall require the *owners' association* to timely provide an audited financial statement of all reimbursements and working capital advances paid to the *owners' association* with *district* funds within the timeframe specified in the agreement. The financial statements must be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited by an independent Certified Public Accountant (CPA) as selected or approved by the City in accordance with Generally Accepted Auditing Standards (GAAS).
- (l) The agreement shall provide that the *owners' association* shall comply with the City's contracting procedures in administering the *district*, except that the procedures or thresholds may be made more restrictive by the terms of the agreement.
- (m) The agreement shall provide that failure of the *owners' association* to comply with any term or conditions of the agreement may result in termination of the agreement.
- (n) The agreement shall provide that if the *owners' association* receives revenue directly generated by *activities* carried out with any *district assessment* funds, then a portion of that revenue must be returned to the *district* account based on the *district's* participation in the funding of the activity generating the revenue.
- (o) The agreement shall have a term not to exceed five (5) years.
- (p) The agreement shall allow the City to terminate the agreement for convenience with 30 days notice.
- (q) The agreement shall allow for full cost recovery by the City for any and all administration expenses incurred by the City.

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**§65.0221 Meetings between City and Property Owners; Notice**

- (a) Representatives of the City Manager shall participate in or conduct at least one (1) publicly noticed meeting with the designated advisory group or, absent an advisory group, *property owners* within each *district* to discuss the budget, *improvements*, and *activities* for the following *fiscal year*.
- (b) For any *contracts* awarded by the City, or *activities* provided by the City, or *improvement* installed or provided by the City pursuant to this Division, representatives of the City Manager shall attempt to meet on a regular basis with the advisory group or, absent an advisory group, *property owners* within the *district* to evaluate the performance of the contractor or the City and to advise the representatives of the City Manager regarding *improvements* and *activities* for each *district*.
- (c) Upon receipt of bids or proposals for a *contract* for *improvements* or *activities*, representatives of the City Manager shall attempt to meet with the advisory group of the *district* or, absent an advisory group, *property owners* within the *district* to review the bids or proposals.

**§65.0222 Annual Report**

- (a) The Council shall consider a prospective annual report for each fiscal year, except the first year, for which *assessments* are to be collected to pay the costs of the *improvements* and *activities* described in the report.
- (b) The report shall be consistent with the *engineer's report*, filed with the City Clerk prior to August 10 each year, refer to the *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) The *improvements* and *activities* to be provided for that fiscal year.
  - (2) An estimate of the cost of providing the *improvements* and *activities* for that fiscal year.
  - (3) The method and basis of levying the *assessment* in sufficient detail to allow each *property owner* to estimate the amount of the *assessment* to be collected from him or her for that fiscal year.
  - (4) The estimated amount of any surplus or deficit revenues to be carried over from the previous fiscal year.
  - (5) The estimated amount of any contributions to be made from sources other than *assessments* collected pursuant to this Division.

- (6) A list of parcels within the *district* as indicated on the last equalized secured property tax assessment roll.
- (c) The Council may approve the report as filed or may modify any portion of the report and approve it as modified.

### §65.0223 Disestablishment of District; Procedures

- (a) Any *district* established pursuant to the provisions of this Division may be disestablished by resolution by the Council.
- (b) The Council may, at its sole discretion, initiate the process to dissolve a *district*.
- (c) *Property owners* interested in dissolving a *district* shall provide written documentation to the City Manager verifying that *property owners* representing at least a majority of the parcels of the relevant *district* support dissolution of the district.
  - (1) The written documentation shall contain the name, signature, address, and parcel number of each *property owner* signing the documentation. The City Manager shall verify the contents of the documentation.
  - (2) All costs of mailing and printing the written documentation, and all costs incurred by the City in administering, mailing, printing, and tabulating the written documentation and providing notice shall be paid from *district assessment* funds.
  - (3) If *property owners* representing an unweighted majority of the parcels submit documentation in favor of dissolving the *district*, the City Manager shall take the request forward for Council action.
- (b) The 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 *property* subject to *assessment* in the *district*. The Council shall conduct the public hearing not less than 30 days after the mailing of the notice to the *property owners*. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.
  - (1) If the Council orders the dissolution of an existing *district*, any moneys left in the fund shall first be used to pay all obligations and costs of administration incurred on behalf of the *district*, including any costs incurred to return funds to *property owners*.

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- (2) Upon dissolution, the City Manager shall return all remaining *district* funds to the *property owners* of the assessed parcels in amounts proportionate to the amounts of *assessments* they paid for the *district*.
- (3) All *general benefit* contributions shall be returned to their originating fund.
- (4) Interest earned on any reserve shall be returned to the City's originating fund.
- (5) If the *district* is administered by an *owners' association* per Section 65.0219, the City Manager and the *owners' association* shall work mutually to wind down and end the operations of the *district*. The City Manager shall terminate the contract with the *owners' association* at the time the *district* is dissolved.

**§65.0224 Disestablishment; Refund of Assessments**

After all outstanding debts are paid upon the disestablishment of a *district*, any remaining revenues derived from the levy of *assessments*, or derived from the sale of assets acquired with the revenues, shall be refunded to the *property owners* then located and operating within the *district* in which *assessments* were levied. Such refunds shall be distributed by applying the same method and basis that was used to calculate the *assessments* collected in the fiscal year in which the *district* is disestablished. If the disestablishment occurs before an *assessment* is collected for the fiscal year, the method and basis that was used to calculate the *assessments* collected in the immediate prior fiscal year shall be used to calculate the amount of any refund. All outstanding *assessment* revenue collected after disestablishment or expiration shall be spent on *activities* specified in the *engineer's report*.