

**BYLAWS OF
SAN DIEGO TOURISM MARKETING DISTRICT
A California Nonprofit Mutual Benefit Corporation**

**Article I
PURPOSE; LIMITATIONS; ASSETS**

Section 1. Purpose. The specific purpose of this corporation is to create a positive economic, fiscal and employment impact on the City of San Diego through the effective and judicious allocation of its revenue and resources to measurably successful tourism promotion, marketing and advertising programs and to manage the operations of a tourism marketing district to provide for tourism development, including coordinated joint marketing and promotion of San Diego, in order to retain and expand the local tourism industry.

Section 2. Limitations. This corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code. State law provides, and the City's Municipal Code recognizes, that the San Diego Tourism Marketing District Corporation is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose.

Section 3. Assets. This Corporation's assets are irrevocably dedicated to mutual benefit purposes. No part of the net earnings, properties, or assets of the corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the corporation. The requirements and procedures for disestablishment and liquidation of the assets of the tourism marketing district are set forth in the City of San Diego Municipal Code, Chapter 6, Article 1, Division 25, Section 61.2526. Upon liquidation or dissolution of the corporation, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation shall be distributed to a nonprofit fund, foundation, or corporation that is organized and operated exclusively for mutual benefit purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3), 501(c)(4), or 501(c)(6).

**ARTICLE II
GENERAL MEMBERSHIP**

Section 1. General Members Defined. Exclusively for the purpose of electing the Board of Directors (also referred to herein as "Board"), this corporation shall have general members within the meaning of the Nonprofit Corporation Law. General Members are defined as only lodging business owners who are known to the corporation to pay the tourism marketing district assessment.

Section 2. General Member Purpose. The sole purpose of the general members is to elect the Board of Directors of the corporation.

Section 3. Good Standing. Good standing shall mean a general member is no more than 30 days past due in remittance to the City of San Diego of assessments collected for the San Diego Tourism Marketing District.

Section 4. Weighted Vote. Each general member in good standing, or its representative, shall be able to cast the number of votes equivalent to the total of the actual paid assessment of a member business for the preceding 12 months. The number of votes for each member shall be determined based on the City of San Diego's record of TMD payments by members.

Section 5. Other Classes of Membership. The Board may, at its discretion, admit individuals to one or more classes of nonvoting members; the class or classes shall have such rights and obligations as the Board finds appropriate.

ARTICLE III DIRECTORS

Section 1. General Powers. Subject to the provisions and limitations of the California Nonprofit Mutual Benefit Corporation Law and any other applicable laws, and subject to any limitations of the articles of incorporation or bylaws, the corporation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board.

Section 2. Number of Authorized Directors. The Board of Directors shall consist of nine (9) directors unless changed by amendment to these bylaws. Each director shall have one vote.

Section 3. Criteria for Directors. Only business owners or business owner's representatives paying the tourism marketing district assessment have the right to seek nomination or election to the Board of Directors of the association. Members of the Board of Directors shall not take an active, voting, fiduciary, non-voting, or ex officio role on any board of directors of an organization that is an applicant for, or a recipient of, funding from SDTMD. Directors shall have a broad knowledge of tourism marketing and significant experience in the lodging industry.

Section 4. Directors from General Membership. There shall be nine (9) directors representing the general membership. One director shall represent an at-large seat. Each director may represent at least one of the following criteria/classifications:

- Under 299 Rooms
- 300 – 499 Rooms
- Over 500 Rooms
- Downtown/Harbor/Airport
- Mission Valley/Old Town
- Mission Bay/Pt. Loma/Pacific Beach
- City of San Diego North of Hwy 56/UTC Area/Sorrento Valley

Section 5. Designated Directors from General Membership. The initial Board of Directors shall be appointed by the Incorporator of the Corporation, and shall serve for staggered

terms of one, two or three years. At the first duly constituted meeting of the Board of Directors, the initial Board members shall draw lots to determine their individual term.

Section 6. Election of Directors from General Membership. Elections to the Board of Directors will be held annually beginning at the end of the first full fiscal year of operation for the Corporation. In addition to, or in the absence of, at-large or self-nominations, the Nominations Committee of the Board may put forth a slate of nominees at each election.

Section 7. Division 1. Member in Good Standing. A Director may only be nominated, elected and serve as a representative to the Board from a member in good standing as defined in Article II, Section 3.

Section 7. Division 2. Term. Notwithstanding the nine (9) original designated directors, the term of service for directors of the corporation shall be three years, with a maximum length of uninterrupted service of three terms or nine (9) years.

Section 7. Division 3. Election Cycle. Elections to the Board of Directors will be held annually beginning at the end of the first full fiscal year of operation for the Corporation.

Section 7. Division 4. Nominations from the Board. The Nominating Committee of the Board shall present general membership nominations, either individually or as a slate, for immediately expiring terms for members of the Board of Directors that meet the Criteria for Directors from general membership as delineated in Article III, Section 3.

Section 7. Division 5. Nominations from At-Large and Self Nominees. A call for at-large and self-nominations will occur annually, and all self-nominees will be listed on the ballot for Board elections. The Board shall establish criteria for accepting at-large and self-nominations for inclusion on the regular ballot for the election of directors to the Board. The nominations committee shall strive to ensure that the Board represents lodging businesses throughout the City and small, medium, and large lodging businesses.

Section 7. Division 6. Election to the Board. Directors will be elected by receiving the highest number of votes cast for a Nominee relative to the number of seats open for election.

Section 8. Events Causing Vacancies on Board. A vacancy or vacancies on the Board of Directors shall occur in the event of (a) the death or resignation of any director; (b) the declaration by resolution of the Board of a vacancy in the office of a director who has been convicted of a felony, declared of unsound mind by a court order, or found by final order or judgment of any court to have breached a duty under California Nonprofit Mutual Benefit Corporation Law, Chapter 2, Article 3; (c) the increase of the authorized number of directors; (d) the declaration by resolution of the Board of a vacancy in the office of a director who has been found to be in violation of Article II, Section 3 or Article III, Section 3 of these Bylaws, or (e) the failure of the directors, at any meeting of the Board of Directors at which any director or directors are to be elected, to elect the number of directors required to be elected at such meeting.

Section 9. Resignation of Directors. Except as provided below, any director may resign by giving written notice to the chair of the Board, if any, or to the president or the secretary. The resignation shall be effective when the notice is given unless it specifies a later

time for the resignation to become effective. If a director's resignation is effective at a later time, the Board may elect a successor to take office as of the date when the resignation becomes effective. Notwithstanding the above, however, except on notice to the California Attorney General, no director may resign if the corporation would be left without a duly elected director or directors.

Section 10. Vacancies Filled by Board. Except for a vacancy created by the removal of a director by the Board of Directors, vacancies of unexpired terms on the Board may be filled by approval of the Board or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held according to notice or waivers of notice complying with Corporations Code Section 5211, or (3) a sole remaining director.

Section 11. No Vacancy on Reduction of Number of Directors. Any reduction of the authorized number of directors shall not result in any director's being removed before his or her term of office expires.

Section 12. Place of Board Meetings. Meetings of the Board shall be held at any place within the City of San Diego, California that has been designated by resolution of the Board or in the notice of the meeting or, if not so designated, at the principal office of the corporation.

Section 13. Annual and Other Meetings. The Board shall hold an annual meeting at any place within the City of San Diego, California that has been designated from time to time by resolution of the Board for purposes of organization and transaction of other business. Notwithstanding the forgoing, all meetings, or portions of meetings that deal with the operations and activities of the San Diego Tourism Marketing District shall comply with the notice provisions of the Ralph M. Brown Act.

Section 14. Authority to Call Special Meetings. Special meetings of the Board for any purpose may be called at any time by the Chair of the Board, if any, the president or any vice president, the secretary, or any number of directors representing 51% of the voting members of the Board.

Section 15. Notice of Special Meetings. Notice of the time and place of special meetings shall be given to each director by (a) personal delivery of written notice; (b) first-class mail, postage prepaid; (c) telephone, including a voice messaging system or other system or technology designed to record and communicate messages, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; (d) facsimile; (e) electronic mail; or (f) other electronic means. All such notices shall be given or sent to the director's address or telephone number as shown on the corporation's records.

Notices sent by first-class mail shall be deposited in the United States mails at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or electronic mail shall be delivered, telephoned, or sent, respectively, at least 24 hours before the time set for the meeting.

The notice shall state the time of the meeting and the place, if the place is other than the corporation's principal office. The notice shall specify the purpose of the meeting.

Notwithstanding the forgoing, all meetings, or portions of meetings that deal with the operations and activities of the San Diego Tourism Marketing District shall comply with the notice provisions of the Ralph M. Brown Act. Notice of special meetings must be posted in a publicly accessible location and on the corporation's website at least 24 hours prior to the meeting.

Section 16. Quorum. A majority of the authorized number of directors shall constitute a quorum for the transaction of any business except adjournment. Every action taken or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be an act of the Board, subject to the more stringent provisions of the California Nonprofit Mutual Benefit Corporation Law, including, without limitation, those provisions relating to (a) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common directorships, (c) creation of and appointments to committees of the Board, and (d) indemnification of directors.

Section 17. Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

Section 18. Notice of Adjourned Meeting. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the directors who were not present at the time of the adjournment.

Section 19. Compensation and Reimbursement. The members and officers of the Board shall serve as volunteers. They shall receive no monetary compensation or remuneration for their service individually or collectively. They are not entitled to nor may they make a claim for reimbursement of any personal or professional expenses attributed to their service. Other than Directors and Officers Liability Insurance no benefits such as, but not limited to, health insurance, workman's compensation insurance, disability insurance, or paid vacation, shall be provided.

Section 20. Creation and Powers of Committees.

(a) *Committees of the Board.* The Board, by resolution adopted by a majority of the directors then in office, may create one or more committees of the board, each consisting of two or more directors, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the directors then in office. Subject to the provisions of the California Nonprofit Mutual Benefit Corporations Law, any such committee shall have such authority as the Board shall determine from time to time.

(b) *Advisory Committees.* The Board, by resolution adopted by a majority of the directors then in office, may establish one or more advisory committees. Advisory committees may consist of directors and non-directors. Advisory committees may not exercise the authority of the Board to make decisions on behalf of the corporation, and shall be limited to making recommendations to the Board or the Board's authorized representative and implementing Board decisions and policies. Advisory committees shall be subject to the supervision and control of the Board.

Section 21. Meetings and Action of Committees. Meetings and actions of committees of the Board shall be governed by, held, and taken under the provisions of these bylaws concerning meetings and other Board actions, except that the time for general meetings of such committees and the calling of special meetings of such committees may be set either by Board resolution or, if none, by resolution of the committee. Minutes of each meeting shall be kept and shall be filed with the corporate records. The Board may adopt rules for the governance of any committee as long as the rules are consistent with these bylaws. If the Board has not adopted rules, the committee may do so. Notwithstanding the forgoing, all meetings, or portions of meetings that deal with the operations and activities of the San Diego Tourism Marketing District shall comply with the notice provisions of the Ralph M. Brown Act.

Section 22. Telephonic Appearance. Teleconferencing, as authorized by §54953 of the Ralph M. Brown Act may be used for all purposes in connection with meetings. All votes taken during a teleconferenced meeting shall be by roll call. If teleconferencing is used, the Board shall post the agenda at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board. Each teleconference location shall be identified in the notice and agenda of the meeting, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the Board shall participate from locations within the boundaries of the City of San Diego. The agenda shall provide an opportunity for members of the public to address the Board directly pursuant to §54954.3 at each teleconference location.

ARTICLE IV OFFICERS

Section 1. Officers Designated. The officers of this corporation shall be members of the Board of Directors and consist of a chair of the Board, vice chair of the Board, secretary, and a treasurer. The corporation, at the Board's discretion, may also have other officers as may be appointed under Article IV Section 4 of these bylaws.

Section 2. Limitations on Offices. Any number of offices may be held by the same person, except that neither the secretary nor the treasurer may serve concurrently as the chair of the Board.

Section 3. Election of Officers. The officers of this corporation, except any appointed under Article IV Section 4 of these bylaws, shall be chosen annually by the Board by a majority vote and shall serve at the pleasure of the Board.

Section 4. Appointment of Other Officers. The Board may appoint and authorize the chair of the Board, the president, or another officer to appoint any other officers that the corporation may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the bylaws or established by the Board.

Section 5. Removal of Officers. A vote by a majority of the directors present at a duly held meeting at which a quorum is present may remove any officer with or without cause.

Section 6. Resignation of Officers. Any officer may resign at any time by giving written notice to the Board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the corporation under any contract to which the officer is a party.

Section 7. Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these bylaws for normal appointments to the office, provided, however, that vacancies need not be filled on an annual basis.

Section 8. Chair of the Board. The chair of the Board of Directors shall preside at Board meetings and shall exercise and perform such other powers and duties as the Board may assign from time to time.

Section 9. Vice Chair of the Board. If the chair of the Board is absent or disabled, the vice chair, shall perform all duties of the chair. When so acting, the vice chair shall have all powers of and be subject to all restrictions on the chair. The vice chair shall have such other powers and perform such other duties as the Board or the bylaws may require. In the absence of the chair of the Board, the vice chair of the Board shall preside at Board meetings.

Section 10. Secretary. The secretary shall keep or cause to be kept, at the corporation's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings, and actions of the Board and of committees of the Board. The minutes of meetings shall include the time and place that the meeting was held; whether the meeting was annual, general, or special, and, if special, how authorized; the notice given; and the names of persons present at Board and committee meetings.

The secretary shall keep or cause to be kept, at the principal California office, a copy of the articles of incorporation and bylaws, as amended to date. The secretary shall give, or cause to be given, notice of all meetings of the Board, and of committees of the Board that these bylaws require to be given. The secretary shall keep the corporate seal, if any, in safe custody and shall have such other powers and perform such other duties as the Board or the bylaws may require.

Section 11. Treasurer. The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The treasurer shall send or cause to be given to the directors such financial statements and reports as are required to be given by law, by these bylaws, or by the Board. The books of account shall be open to inspection by any director at all reasonable times.

The treasurer shall (i) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the Board may designate; (ii) disburse the corporation's funds as the Board may order; (iii) render to the chair of the Board, if any, and the Board, when requested, an account of all transactions as treasurer and of the financial condition of the corporation; and (iv) have such other powers and perform such other duties as the Board or the bylaws may require.

Section 12. Executive Director/Chief Executive Officer. Subject to such supervisory powers as the Board may give to the chair of the Board, if any, and subject to the control of the Board, the executive director/CEO shall be the general manager of the corporation and shall supervise, direct, and control the corporation's activities, affairs, and officers through the delegation of such activities to appropriate management, staff and agents. The executive director/CEO shall have such other powers and duties as the Board or the bylaws may require, but shall not be a member of the Board.

Section 13. Contracts With Directors and Officers. No director of this corporation nor any other corporation, firm, association, or other entity in which one or more of this corporation's directors have a material financial interest, shall be interested, directly or indirectly, in any contract or transaction with this corporation, unless (a) the material facts regarding that director's financial interest in such contract or transaction or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and noted in the minutes, or are known to all members of the Board prior the Board's consideration of such contract or transaction; (b) such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the votes of the interested directors; (c) before authorizing or approving the transaction, the Board considers and in good faith decides after reasonable investigation that the corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and (d) the corporation for its own benefit enters into the transaction, which is fair and reasonable to the corporation at the time the transaction is entered into.

This Section 13 of Article IV does not apply to a transaction that is part of an educational, public, or charitable program of this corporation if it (a) is approved or authorized by the corporation in good faith and without unjustified favoritism and (b) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public, charitable, or religious program of this corporation.

Section 14. Indemnification.

(a) The corporation will indemnify any director, officer, employee or other agents of the corporation against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in a proceeding (including a derivative action on behalf of the corporation)

to which that person was or is threatened to be made a party by reason of the fact that he was or is an agent of the corporation, to the maximum extent permissible under the California Corporations Code.

(b) The corporation will advance to each director or officer the expenses incurred in defending any proceeding referred to in subsection (a) above, prior to the final disposition of such proceeding as provided in the California Corporations Code.

(c) The rights conferred on any person in subsections (a) and (b) above, shall not be exclusive of any other right which such persons may have or hereafter acquire under any statute, provision of the Articles of Incorporation, Bylaw, agreement, or vote of disinterested directors or otherwise.

Section 15. Insurance. This corporation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, to cover any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising from the officer's, director's, employee's, or agent's status as such.

ARTICLE V GENERAL CORPORATE MATTERS

Section 1. Maintenance of Corporate Records. This corporation shall keep (a) Adequate and correct books and records of account; and (b) Written minutes of the proceedings of its Board and committees of the Board.

Section 2. Checks, Drafts, and Evidences of Indebtedness. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name or payable to the corporation, shall be signed or endorsed by such persons and in such manner as determined by resolution of the Board of Directors.

Section 3. Maximum Expenses. The maximum expenses for the operation and administration of the Corporation shall not exceed 3% of total gross revenue annually from the San Diego Tourism Marketing District, unless a budget variance is approved by a 2/3 majority of the Board of Directors.

Section 4. Corporate Contracts and Instruments, How Executed. The Board of Directors, except as in the bylaws otherwise provided, may authorize any officer or agents to enter into any contract or execute any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances; and, unless so authorized or ratified by the Board or within the agency power of any officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

Section 5. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes

the plural, the plural includes the singular, and the term "person" includes both a legal entity and a natural person.

Section 6. Audited Annual Report. The Board shall cause an annual report to be sent to the directors within 120 days after the end of the corporation's fiscal year. That report shall contain the following information, in appropriate detail as provided by a third-party, independent professional auditor:

- (a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds;
- (c) The corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- (d) The corporation's expenses or disbursements for both general and restricted purposes;
- (e) Any other information required by these bylaws; and

This requirement of an annual report shall not apply if the corporation receives less than \$25,000 in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all directors who request it in writing.

ARTICLE VI OFFICES

The Board shall fix the location of the principal executive office of the corporation at any place within the City of San Diego, California. If the principal executive office is located outside this state, and the corporation has one or more business offices in this state, the Board shall likewise fix and designate a principal business office in the State of California.

The Board may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to do business.

ARTICLE VII AMENDMENTS TO BYLAWS

New Bylaws may be adopted or these Bylaws may be amended or repealed by the Board of Directors; provided, however, that if the Articles of Incorporation of the corporation set forth the number of authorized Directors of the corporation, the authorized number of Directors may be changed only by an amendment of the Articles of Incorporation.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of San Diego Tourism Marketing District Corporation, a California nonprofit Mutual Benefit Corporation; that these bylaws, consisting of ten (11) pages, inclusive, are the amended bylaws of this corporation as adopted by the Board of Directors on April 8, 2016, and that these bylaws have not been amended or modified since that date.

Executed on _____, 2016 at San Diego, California.

Colleen Cronin Anderson
Secretary