

*Code Change*

ORDINANCE NUMBER 2020-54

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AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, RELATING TO TOURISM MARKETING DISTRICTS; AMENDING THE CITY OF TAMPA CODE OF ORDINANCES; REVISING AND RESTATING CHAPTER 24.5, SECTIONS 24.5-1 THROUGH 24.5-23 PROVIDING FINDINGS; MODIFYING THE DOWNTOWN/HISTORIC YBOR TOURISM MARKETING DISTRICT; ESTABLISHING THE SERVICES TO BE PROVIDED WITHIN THE DISTRICT; PROVIDING FOR LEVY AND PROCESS FOR COLLECTION OF SPECIAL ASSESSMENTS TO FUND THE SERVICES PROVIDED WITHIN THE DISTRICT; PROVIDING AN ALTERNATIVE OR A UNIFORM METHOD FOR THE COLLECTION OF SUCH SPECIAL ASSESSMENTS; PROVIDING FOR A SEPARATE ACCOUNTING OF FUNDS; PROVIDING FOR AMENDMENTS TO THIS ORDINANCE, THE COLLECTION OF SPECIAL ASSESSMENTS AND THE INCREASE IN SPECIAL ASSESSMENTS BEYOND THE MAXIMUM RATE AUTHORIZED; PROVIDING FOR CORRECTIONS OF ERRORS AND OMISSIONS IN THE ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA:**

**Section 1. Revision and Restatement of Chapter 24.5, City of Tampa Code of Ordinances.** Chapter 24.5 of the City of Tampa Code of Ordinances is hereby revised and restated to read:

**“Chapter 24.5 – Downtown/Historic Ybor Tampa Tourism Marketing District.**

**Sec. 24.5-1. -- Legislative Findings, Intent, and Purpose.** The City Council of the City of Tampa, Florida, hereby ascertains, finds and declares that:

- a) Pursuant to Article VIII, section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City Council of the City of Tampa, Florida (the "City") has all powers of local self-government to perform municipal functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of city ordinances and resolutions.
- b) The Florida Supreme Court has determined that cities possess the home rule authority within their municipal boundaries to levy non ad valorem special assessments to provide essential services including, but not limited to, specially targeted tourism marketing and promotion, as set forth generally in City of Boca Raton v. State, 595 So.2d 25 (Fla. 1992).

*E2020-8 CH 24.5*

- 1 c) There are certain areas within the City where there is a need for a proactive effort  
2 to provide services that specially benefit specific limited tourism properties to  
3 increase occupancy.  
4  
5 d) Certain costs of additional services are needed from the City for consistent  
6 tourism promotion efforts.  
7  
8 e) The lodging industry has become more competitive and travel decisions are  
9 rapidly altered based upon rapidly changing events and circumstances, and in  
10 order to ensure that the City will remain a competitive tourism market, the  
11 tourism properties must implement marketing programs designed to attract  
12 overnight visitors with additional funding to cover a new marketing and  
13 promotional budget needed to reach additional market segments in a rapidly  
14 changing travel environment.  
15  
16 f) The lodging industry has been devastated by the essential shut-down of operations  
17 during the novel coronavirus Covid-19 and the attendant closure of essentially all  
18 hospitality industry properties. As such, the industry is in even greater need to  
19 obtain and utilize marketing dollars in order to return to an economically viable  
20 status.  
21  
22 g) Specific tourism property owners, tourism property representatives, and the  
23 Hillsborough County Hotel and Motel Association have requested that the City  
24 revise and restate this ordinance creating a new funding mechanism designed to  
25 attract overnight visitors to the City.  
26  
27 h) Tourism is a vital driver of the City's economy, and is necessary for the economic  
28 success of the City. Pursuant to a study commissioned by Visit Tampa Bay, it has  
29 been established that for every visitor to the Tampa Bay area, approximately 70  
30 percent of the spending goes to businesses other than the lodging industry and  
31 their associated on-site amenities. As such, the ability to attract visitors to the  
32 Tampa Bay area via use of supplemental marketing dollars is an important  
33 economic benefit which the City wishes to promote. It is the intent of the City of  
34 Tampa to create a tourism marketing District in the City, to fund services and  
35 improvements that encourage tourism.  
36

37 **Sec. 24.5-2. -- Definitions.** As used herein, the following terms have the following  
38 meanings.  
39

- 40 a) "Assessment Rate" shall mean the method of apportioning the service costs  
41 among the parcels of property located within the District benefited by the use of  
42 the funds received hereunder.  
43  
44 b) "Baseline" refers to the current amount of funding provided by Hillsborough  
45 County to the Tampa Bay Convention and Visitors Bureau for tourism promotion

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services. Baseline also refers to the City’s existing efforts to serve visitors in the City, including police and convention center operations.

- c) “Costs” mean all costs and expenses associated with the provision of services within the District, including, but not limited to, the actual cost of services, reserves for contingency amounts necessary due to uncollected or uncollectible special assessments, and to provide for the enforcement or collection of delinquent special assessments, all administrative and overhead costs associated with the creation and affairs of the District, including, but not limited to, wages, salaries, and benefits for personnel and administrators of the District, advertising and conducting hearings and meetings, auditing and recordkeeping expenses, legal fees, and court costs, reimbursement or payment for any services, materials, supplies, or emergency resources provided for the benefit of the District, and reimbursement of any monies or services provided in advance by the City for services, supplies, or materials provided for the benefit of the District.
- d) “Notice” as used herein shall mean notice mailed by first class mail to the Owner or Owners’ Agent at the address on file with the Property Appraiser or Tax Collector for notice associated with ad valorem taxes.
- e) “Owners’ Association” shall mean the Hillsborough County Hotel Motel Association, Inc., a Florida not for profit corporation. The Owners’ Association is a funding organization, not a marketing organization. As a funding organization, the Owners’ Association shall contract with marketing organizations or other vendors to provide District services. The Owners’ Association shall be the governing board of the District and shall be responsible for managing the day-to-day affairs of the District, and it shall enter into an agreement with the City regarding the management of District services and funds. Subject to City oversight, the Owners’ Association shall be responsible for budgeting and managing destination marketing funding and services. The Owners’ Association may create a committee of tourism property owners and representatives to prioritize the District budget and services. The Owners’ Association may adopt reasonable rules and regulations related to its duties and procedures, and shall make quarterly reports to the City as to the expenditure of funds raised via the District and an annual budget for the District.
- f) “Owner” shall mean the owner or owners of record and shall include any corporation, partnership, trust, or other entity or agent of the owner of record as shown on the records of the Tax Collector or Property Appraiser, or a deed of record, or the owner’s representative. Owner shall also mean any tenant or ground lessee pursuant to a long-term ground lease.
- g) “Services” means marketing and promotions which will enhance tourism to be funded from the proceeds of the assessment. Services shall be designed to maximize incremental room nights for the assessed tourism properties. Services shall not include any capital improvements including but not limited to: the

1 acquisition, construction, installation or maintenance of any tangible public  
2 property, including parking facilities, parks, planting areas, fountains, benches,  
3 booths, kiosks, display cases, pedestrian shelters, signs, trash receptacles, public  
4 restrooms, ramps, sidewalks, plazas, pedestrian malls, lighting and heating of  
5 public facilities; and the closing, opening, widening, or narrowing of existing or  
6 new streets.

7  
8 h) "Tourism property" means any property which contains a tourist-serving lodging  
9 business, including but not limited to a hotel, apartment hotel, motel, resort motel,  
10 apartment, apartment motel, in which any living quarter or accommodation is  
11 rented, leased or let for consideration for a term of six months or less. Initially,  
12 this includes the fourteen (14) hotels depicted in the map attached to and  
13 incorporated into this Ordinance as Exhibit "A." Any tourism property, including  
14 properties in which a new tourist-serving business that commences operations  
15 during the term of the District, that meets the definition in this section, may be  
16 incorporated into the District by amendment to the Ordinance.

17  
18 i) "Tourism marketing district" or "District" shall mean the Downtown/Historic  
19 Ybor Tourism Marketing District created pursuant to this ordinance.  
20

21 **Sec. 24.5-3. -- Downtown/Historic Ybor Tourism Marketing District Established.**

22 There is hereby created and established a geographic area and dependent special district  
23 within the City limits which shall be known and designated as the Downtown/Historic  
24 Ybor Tourism Marketing District as a geographic area to be assessed pursuant to this  
25 ordinance, hereinafter referred to as the "District".  
26

27 **Sec. 24.5-4. -- Boundaries.** The District shall include all property described in Exhibit  
28 "A" attached to and incorporated in this ordinance, which is located in the City of Tampa,  
29 Florida.  
30

31 **Sec. 24.5-5. -- Power and Authority to Govern the District.** Subject to the written  
32 delegation agreement entered into between the City and the Owner's Association (the  
33 "Delegation Agreement") and the provisions of this Chapter, the City hereby a) appoints  
34 the members of the Board of Directors of the Owner's Association as members of a board  
35 of supervisors of the District subject to all laws applicable to dependent special districts  
36 and b) delegates the power and authority to manage and administer the affairs of the  
37 District to the Owners' Association, together with the power to create rules and  
38 regulations for the handling of the affairs of the District, provided, however, that all  
39 matters related to the District shall be in accordance with this Chapter and all applicable  
40 provisions of the general law and shall be subject to the terms of the delegation  
41 agreement.  
42

43 **Sec. 24.5-6. -- Management of Funds for the District.** The City shall manage the funds  
44 for the District and establish an account for such funds. City shall maintain proper  
45 accounting records identifying the receipts and expenditures of the District. The City and  
46 Owner's Association shall enter into a yearly agreement that provides for payment of the

1 proceeds of the special assessment to the Owner's Association provides a detailed budget  
2 of planned expenditures and other essential financial information consistent with the  
3 terms of this Chapter. Approval of the agreement by City Council and execution of the  
4 agreement by the Mayor shall be deemed approval of the Owner's Association budget.  
5 Quarterly reports will be provided documenting each expenditure and tying it to the  
6 planned expenditures as delineated.

7 Additionally, the Owner's Association shall submit a report of activities and expenditures  
8 as well as its annual budget by December 31 that provides information regarding these  
9 activities and expenditures for the period ending September 30 to the City. The report  
10 shall include:

- 11 a) A summary of the activities provided in the previous year;
- 12 b) A summary of the expenditures from the previous year;
- 13 c) Any requested increase to the special assessment rate;
- 14 d) The amount of any revenue to be carried over from any prior year(s);
- 15 e) A list of the directors of the Board of the Owners' Association; and
- 16 f) A list of accomplishments attributable to the District.

17  
18 The Owner's Association shall submit its annual budget to the City by June 1.

19  
20 **Sec. 24.5-7. -- Services for the District.** The services to be provided within the District  
21 shall consist of any destination marketing or promotion related activities, advertisements,  
22 or services to promote and advertise tourism and the availability of accommodations, so  
23 long as the message and focus of the activities, advertisements or services is targeted  
24 primarily to attract customers from areas at least seventy-five (75) miles distant from the  
25 boundaries of the District.

26  
27 **Sec. 24.5-8. – Levy and Collection of Special Assessments.** Funds for the services  
28 authorized under Section 24.5-1 of this Chapter shall be provided by special assessments  
29 which shall be levied by the City Council. Collection of the special assessments shall be  
30 handled by the Hillsborough County Tax Collector pursuant to the Uniform Method or a  
31 written agreement between the City and the Hillsborough County Tax Collector using an  
32 Alternative Method, as allowed by general law. The Hillsborough County Tax Collector  
33 shall retain one percent (1%) of the special assessments collected to cover the cost of  
34 collecting and remitting the special assessments. The Hillsborough County Tax Collector  
35 shall forward the special assessments collected, less the one percent (1%) collection fee,  
36 to the City of Tampa. The City of Tampa will then forward the special assessment  
37 received from the Tax Collector to the Owner's Association, less one percent (1%), or the  
38 actual cost, whichever is greater, for services or expenses for carrying out the provisions  
39 of this Chapter. The special assessments may be collected monthly, from the owner of  
40 each lot or parcel of land in the District, and shall not exceed the cost of providing the  
41 services. The assessment shall be levied upon the lots or parcels of land within the  
42 District benefited by the services authorized herein and the cost shall be apportioned  
43 among the assessment units subject to such adjustments as may be determined by the City  
44 to be fair and equitable and in accordance with the benefits received from the services  
45 that will be furnished. The Association is responsible for operation and managing the

1 District, including accounting for, distributing and auditing expenditures of the District as  
2 a dependent special District of the City.  
3

4 **Sec. 24.5-9. --Proceedings.** The proceedings for the imposition of an  
5 Assessment shall include a public hearing noticed in the manner set forth in Section 24.5-  
6 11 hereof, and the adoption at or anytime thereafter of an Assessment Resolution which  
7 shall (a) describe the services proposed for funding from the proceeds of the  
8 assessments; (b) estimate the service cost; (c) describe with particularity the proposed  
9 method of apportioning the service cost among the parcels of property located within the  
10 District, as applicable, such that the owner of any parcel of property can objectively  
11 estimate the amount of assessments; (d) include specific legislative findings that  
12 recognize the special benefit provided by the service; (e) include specific legislative  
13 findings that recognize the fairness, equity and reasonableness of the assessment, (f)  
14 approve and adopt the assessment rate and the annual assessment roll, with such  
15 amendments as it deems just and right; (g) include the effective date of the assessment;  
16 and (h) determine the method of collection, in a manner consistent with applicable  
17 law.  
18

19 **Sec. 24.5-10. -- District Assessment Roll.** The Owners' Association shall prepare, or  
20 direct the preparation of, an assessment roll that contains the following information:  
21

- 22 a) A summary description of each parcel of property (conforming to the  
23 description contained on the tax roll) subject to the assessment for service;  
24
- 25 b) The name of the Owner of record of each parcel as shown on the tax roll and  
26 any ground lessee under a ground lease responsible for payment of any  
27 assessments hereunder;  
28
- 29 c) The estimated maximum assessment rate to become due in the ensuing fiscal  
30 year for each parcel;  
31
- 32 d) The estimated maximum assessment rate to become due in any fiscal year for  
33 each parcel. The assessment rate may only be increased by the City Council if  
34 recommended by the Owners' Association during the twenty (20) year term.  
35 Any proposed increase to the assessment rate shall be set forth in the annual  
36 report as required by section 24.5-6;  
37
- 38 e) Copies of the assessment resolution shall be on file in the offices of the  
39 Owners' Association and the city clerk's office and open to public inspection  
40 and copying pursuant to the chapter 119 of the Florida Statutes.  
41

42 For subsequent fiscal years, unless the Owners' Association proposes an increase, no  
43 assessment resolution shall be required and the Owners' Association shall be responsible  
44 for submitting the assessment roll to the tax collector.  
45

1 **Sec. 24.5-11. -- Notice by Publication.** After filing the assessment roll in the office of  
2 the city clerk, as required by section 24.5-12 hereof, the Owners' Association shall cause  
3 to be published once in a newspaper of general circulation within the county a notice  
4 stating the following information:  
5

- 6 a) The name of the local governing board;
- 7
- 8 b) A geographic depiction of the property subject to the assessment;
- 9
- 10 c) The proposed schedule of the assessment;
- 11
- 12 d) The period of time for which assessments shall be imposed;
- 13
- 14 e) The adjustments to the assessment roll, if any, that are permitted during such
- 15 period of time;
- 16
- 17 f) The method by which the assessment will be collected;
- 18
- 19 g) A statement that all Owners of the affected real property interest have the
- 20 right to appear at the public hearing and the right to file written objections
- 21 within twenty (20) days of the publication of the notice; and
- 22
- 23 h) The date, time, and place of the hearing, not earlier than twenty (20) calendar
- 24 days from such publication, at which hearing the council will receive written
- 25 comments and hear testimony from all interested persons regarding adoption
- 26 of the final ordinance and approval of the assessment roll.
- 27
- 28

29 **Sec. 24.5-12. -- Notice by Mail.** In addition to the published notice required by section  
30 24.5-11, the Owners' Association shall provide notice of the proposed assessments by  
31 first class mail to the Owner of each parcel of property subject to the assessments stating  
32 the following information:  
33

- 34 a) The purpose of the assessment;
- 35
- 36 b) The assessment rate so that an assessee can estimate the amount to be levied
- 37 against its parcel;
- 38
- 39 c) The unit of measurement to be applied against each parcel to determine the
- 40 assessment;
- 41
- 42 d) The number of such units contained within each parcel;
- 43
- 44 e) The period of time for which assessments shall be imposed;
- 45

- 1 f) The adjustments to the assessment roll, if any, that are permitted during such  
2 period of time;  
3  
4 g) The estimated revenue the local government will collect by the assessment;  
5  
6 h) A statement that all Owners of the affected real property interest have the right to  
7 appear at the public hearing and the right to file written objections within twenty  
8 (20) days of the publication of the notice; and  
9  
10 i) The date, time, and place of the hearing, not earlier than twenty (20) calendar  
11 days from such publication, at which hearing the council will receive written  
12 comments and hear testimony from all interested persons regarding adoption of  
13 the final ordinance and approval of the assessment roll.  
14

15 Notice shall be mailed at least twenty (20) calendar days prior to the hearing to each  
16 Owner at such address as is shown on the tax roll on the twentieth calendar day prior to  
17 the date of mailing. Notice shall be deemed mailed upon delivery thereof to the  
18 possession of the U.S. Postal Service. The Owners' Association shall provide proof of  
19 such notice by affidavit. Failure of the Owner to receive such notice due to mistake or  
20 inadvertence shall not affect the validity of the assessment roll nor release or discharge  
21 any obligation for the payment of an assessment imposed by the city council on the  
22 affected real property pursuant to this chapter.  
23

24 **Sec. 24.5-13. -- District Assessment Resolution.** The adoption of a District assessment  
25 resolution, or any amendment thereto in subsequent years, shall constitute the levy of an  
26 assessment in each of the fiscal years for the life of the District. At the time named in  
27 such notice, or such time to which an adjournment or continuance may be taken, the  
28 council shall receive written objections and hear testimony of interested persons and may  
29 then adopt the District assessment resolution prior to the adjournment of said hearing  
30 which shall (a) approve the assessment rate, with such amendments as it deems just and  
31 right, and (b) specify those properties and Owners to whom the special assessment shall  
32 apply. All objections to adoption of a District assessment resolution shall be made in  
33 writing, and filed with the clerk at or before the time or adjourned time of such hearing.  
34 No person who has received timely notice and has failed to object to the assessment  
35 ordinance shall have standing to challenge the imposition of the assessments described in  
36 an assessment resolution, provided this provision is contained in such timely notice. The  
37 adoption of a District assessment resolution shall be the final adjudication of the issues  
38 presented (including, but not limited to, the apportionment methodology, the rate of  
39 assessment, and the levy of the assessments), unless proper steps are initiated in a court  
40 of competent jurisdiction to secure relief within twenty (20) days from the date of council  
41 adoption of the District assessment resolution.  
42

43 **Sec. 24.5-14. --Process For Modification Years.** No later than July 1 of any year in  
44 which a modification is proposed to either the level of assessment or the addition or  
45 deletion of real property/Owner from the assessment role (hereafter "modification year"),  
46 the Owners' Association shall submit to the City Clerk and the Hillsborough County Tax

1 Collector any additions or changes to the assessment roll and any proposed increases to  
2 the assessment. No later than August 1 of any modification year, the Association shall  
3 prepare notices to be mailed and published for any necessary public hearing on the non-  
4 ad valorem assessment roll, and the City Attorney's office shall approve any necessary  
5 resolution to consider a modified assessment roll or any proposed modified assessments.  
6 No later than August 7 of any modification year, the Owners' Association will provide  
7 the letter notices and publish notice as provided in Sections 24.5-11 and 24.5-12. Any  
8 such hearing shall be scheduled to coincide with the annual budget approval hearing, and  
9 the Owners' Association shall provide to the Tax Collector any approved modified  
10 assessment roll or adopted resolution increasing the assessment.

11

12 **Sec. 24.5-15. -- Term.** The District shall have a twenty-year life, beginning on April 1,  
13 2017 through April 1, 2037.

14

15 **Sec. 24.5-16. -- Service Cost.** The estimated annual service cost is \$1 million.

16

17 **Sec. 24.5-17. -- Lien of District Assessments.** The assessments to be collected shall  
18 constitute a lien against assessed property equal in rank and dignity with the liens of all  
19 state, county, District or municipal taxes and other non-ad valorem assessments. Except  
20 as otherwise provided by law, such lien shall be superior in dignity to all other prior liens,  
21 titles and claims, until paid. The lien shall attach to the property included on the  
22 assessment roll as of the prior January 1, the lien date for ad valorem taxes.

23

24 **Sec. 24.5-18. -- Correction of Errors; Presumption of Validity.**

25

26 a) In case of any omission, error, or mistake in preparing or adopting the special  
27 assessment roll, or imposing special assessment liens, the City may correct such  
28 omissions, errors, or mistakes, provided such correction does not impose a greater  
29 special assessment lien on any lot or parcel, and does not establish a lien on any  
30 lots or parcels not included in the special assessment roll. Any such correction  
31 which increases the special assessment lien on any lot or parcel, or which adds  
32 any additional lots or parcels, shall be made only after notice and a hearing  
33 provided as for the adoption of the special assessment roll, unless consent of the  
34 affected property owners is given in writing. Any corrections shall be made by  
35 resolution, and the resolution shall be recorded in the Public Records of the  
36 County together with any written consent obtained from an Owner of the affected  
37 property interest.

38

39 b) Any informality or irregularity in the proceedings in connection with the  
40 establishment of any special assessment hereunder shall not affect the validity of  
41 the same where the special assessment roll has been adopted by the City, and the  
42 special assessment roll as finally adopted shall be competent and sufficient  
43 evidence that the assessment was duly established, that all other proceedings  
44 required in connection with the adoption of the special assessment roll were duly  
45 accomplished, taken, and performed as required, and no variance from the

1 directions hereunder shall be held material unless it is clearly shown that the party  
2 objecting was materially injured thereby.

3  
4 **Section 24.5-19. – No City Funds Obligated.** Notwithstanding any other provisions of  
5 this Chapter, the City will not be obligated to expend non-special assessment City funds  
6 in order to provide the services described herein.

7  
8 **Section 24.5-20. – District Funds; Return of Excess.** Nothing contained herein shall  
9 allow the expenditure of funds collected from within the District or interest earned on an  
10 account maintained for the District for purposes other than the payment of costs  
11 associated with the District, including costs related to additional services provided  
12 pursuant to an amendment to this Chapter for and specially benefiting parcels within the  
13 District. If any revenue in excess of the funds reasonably needed to maintain services in  
14 the District reasonable contingency or surplus funds for purposes related thereto should  
15 be available in the fund at any time, those funds may be rolled over for the provision of  
16 District services. If the District created under this Chapter should be dissolved or  
17 abolished, such funds shall be returned to the Owner of record of the affected real  
18 property interest on the date such returns or refunds are made.

19  
20 **Section 24.5-21. Dissolution.** The City shall have the option, in its sole discretion, to  
21 dissolve the District either on its own motion or upon receipt of a petition filed by  
22 Owners of the affected real property interest who collectively pay more than sixty percent  
23 (60%) of the assessment:

- 24
- 25 a) If the City wishes to exercise its option to dissolve, the Council shall provide no  
26 less than thirty (30) days' written notice to the owners' association of the intent to  
27 dissolve the District, and shall schedule a public hearing of the Council on the  
28 matter.
  - 29  
30 b) If a petition requesting dissolution is received from Owners or Owners'  
31 representatives who collectively pay more than sixty percent (60%) of the  
32 assessment, the City shall hold a public hearing to certify the petitions and, if  
33 certified, the District shall be dissolved. Petitions may be submitted once per  
34 year, in the thirty-day period starting on the anniversary of District formation.  
35 Petitions must be signed by the Owner or Owner's representative and dated within  
36 thirty days of their submission to the City. The public hearing will be held on the  
37 petition within thirty (30) days of the Clerk's receipt of the petition. A public  
38 hearing will be held and notice given to the Owners and Owners' Association not  
39 less than thirty (30) days prior to the hearing.
  - 40  
41 c) Dissolution shall be subject to the following: 1) any funds remaining shall be used  
42 for services in accordance with this Chapter or refunded to the owners in equal  
43 proportion to the amount of assessment paid by each owner, and 2) if the City  
44 reduces the baseline, it is the intention of Owners of the affected property interest  
45 to submit a petition dissolving the District.
  - 46

1 **Section 24.5-22. Limitation on Amendments.** This Chapter may be amended in  
2 accordance with the provisions of Chapter 166, Florida Statutes, except that prior to any  
3 amendment that would require additional notice pursuant to Chapter 197, Florida  
4 Statutes, or any applicable provision of general law, notice of the intent to consider such  
5 an amendment shall be published and mailed to each Owner of the affected property  
6 interest within the District, in accordance with the requirements of such law.  
7

8 **Section 24.5-23. Conflict with State Law.** Nothing in this article amendment is  
9 intended to conflict with the provisions of the Florida Constitution or any Florida Statute.  
10 In the event of a direct and express conflict between the amended article and either the  
11 Florida Constitution or the Florida Statutes, then the provisions of the Florida  
12 Constitution or Florida Statutes, as applicable, control.  
13

14 **Section 4. Severability.** If any subsection, sentence, clause, phrase, or provision  
15 of this amended article is for any reason held invalid or unconstitutional by any court of  
16 competent jurisdiction, such holding shall not be construed to render the remaining  
17 provisions of this article invalid or unconstitutional.  
18

19 **Section 5. Inclusion in the City of Tampa Code of Ordinances.** The provisions  
20 of this article amendment shall be included and incorporated in the City of Tampa City  
21 Code, as an addition or amendment thereto, and shall be appropriately renumbered to  
22 conform to the uniform numbering system of the City of Tampa Code of Ordinances.  
23

24 **Section 6. Effective Date.** This ordinance shall take effect immediately upon  
25 becoming a law.  
26

27 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
28 TAMPA, FLORIDA, ON AUG 20 2020  
29

30 ATTEST:  
31

  
\_\_\_\_\_  
CHAIRMAN, CITY COUNCIL

  
\_\_\_\_\_  
CITY CLERK

APPROVED BY ME ON 8/25/20

  
\_\_\_\_\_  
JANE CASTOR, MAYOR

41 APPROVED AS TO LEGAL  
42 SUFFICIENCY BY:  
43

44 E/S  
45 JUSTIN R. VASKE  
46 SENIOR ASSISTANT CITY ATTORNEY

# **EXHIBIT A**



**SPECIAL ASSESSMENT  
METHODOLOGY REPORT  
CITY OF TAMPA  
DOWNTOWN/HISTORIC YBOR  
TAMPA TOURISM MARKETING  
DISTRICT**

**February 28, 2020**

**Prepared for**

**Hillsborough County Hotel & Motel Association**

**Prepared by**

**Fishkind Litigation Services, Inc.  
12051 Corporate Boulevard  
Orlando, Florida 32817  
407-382-3246  
Fishkindlitagionservices.com**

**Special Assessment Methodology Report  
Downtown/Historic Ybor  
Tampa Tourism Marketing District**

**1.0 Background**

The City of Tampa established the Downtown/Historic Ybor Tampa Tourism Marketing District via Ordinance 2017-42 which amended the City Charter to include a new Chapter 24.5. Section 24.5-7 describes the services (“Services”)<sup>1</sup> the District provides including: destination marketing, promotional activities, and advertising to maximize incremental room nights for the assessed tourism properties in the District. According to Section 24.5-8, District Services are funded from the proceeds of special assessments levied on the lots or parcels of land in the District benefited by the Services. The District imposes its special assessments by adopting a District Assessment Resolution under Section 24.5-13, following a public hearing as specified in Section 24.5-9.

Table 1 lists the hotels in the District constituting the lots or parcels of land in the District that benefit from the Services. The benefits of the Services and the lots or parcels that receive special benefit from the Services is fully discussed later in this report. There are 13 hotels comprising 3,281 rooms.

**Table 1. Hotels Benefiting from the District’s Services**

Hotel Name	# Rooms	Address
Aloft Tampa Downtown	130	100 West Kennedy Blvd., Tampa, FL 33602
Courtyard by Marriott Tampa Downtown	141	102 East Cass Street, Tampa, FL 33602
Embassy Suites Hotel Tampa Downtown Convention Center	360	513 South Florida Avenue, Tampa, FL 33602
Epicurean Hotel	137	1207 South Howard, Tampa, FL 33606
Hampton Inn & Suites, Ybor	138	1301 East 7th Avenue, Tampa, FL 33605
Hilton Garden Inn Tampa Ybor	95	1700 East 9th Avenue, Tampa, FL 33605
Floridian Palace Hotel	213	905 North Florida Avenue, Tampa, FL 33602
Le Meridien Tampa	130	601 North Florida Avenue, Tampa, FL 33602
Hilton Tampa Downtown	520	211 North Tampa Street, Tampa, FL 33602
Marriott Tampa Waterside Hotel & Marina	719	700 South Florida Avenue, Tampa, FL 33602
Sheraton Tampa Riverwalk Hotel	277	200 North Ashley, Tampa, FL 33602
Residence Inn Tampa	109	101 East Tyler Street, Tampa, FL 33602

<sup>1</sup> Services are defined in the Ordinance in Section 24.5-2.

The Hillsborough County Hotel & Motel Association (“HCHMA”) commissioned this report (“Report”) to provide the data and analysis required under Section 24.5-9, the “Proceedings”, to impose special assessments to pay for the District’s Services. The Report discusses: (1) the Services to be funded from the assessments; (2) costs of the Services; (3) allocation of the Service costs among the benefiting properties (“Properties”); (4) the special benefits to the Properties provided by the Services; (5) analysis of the equitable nature of the allocation of Service costs; and (6) the assessment roll.

## **2.0 The Legal and Economic Requirements for Valid Special Assessments in Florida**

### **2.1 Requirements for Valid Special Assessment**

Non ad valorem special assessments are defined in Chapter 197.3632((1)(d) “as only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.” Although both property taxes and special assessments are compulsory levies on property, special assessments are distinguished from property taxes because special assessments must provide a special benefit to the assessed property.<sup>2</sup> In addition, unlike taxes, with special assessments there must be a connection between the governmental expense funded through the assessment revenues and the properties being assessed.<sup>3</sup>

Valid special assessments under Florida law require two things. First, the properties assessed must receive a special benefit from the improvements paid for via the assessments that exceeds the burden of the debt placed upon them. Second, the assessments must be fairly and reasonably allocated to the properties being assessed in proportion to the benefits they will receive.<sup>4</sup>

If these two characteristics of valid special assessments are adhered to, Florida law provides wide latitude to legislative bodies, like the City of Tampa, in approving special assessments. Indeed, Florida courts have found that mathematical precision is probably impossible, but if reasonable people disagree the assessment will be upheld. Only if the City was to act

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<sup>2</sup> van Assenderp, Keza et al., “Dispelling the Myths: Florida’s Non-Ad Valorem Special Assessments Law”, Florida State University Law Review, Volume 20, Issue 3, page 831.

<sup>3</sup> City of Boca Raton, v. State, 595 So.2d 25 (Fla 1992)

<sup>4</sup> City of Winter Springs v. State, 776 So.2d 255 (Fla 2003) and City of Boca Raton, v. State, 595 So.2d 25 (Fla 1992)

in an arbitrary, capricious or grossly unfair fashion would its assessment method be overturned.

One of the leading cases concerning special assessments is *City of Winter Springs v. State of Florida*.<sup>5</sup> A number of aspects of the Supreme Court's decision bear on the special assessments contemplated here. First, concerning the special benefits the Court noted, "If reasonable persons may differ as to whether the land assessed was benefitted by the local improvement, the findings of the city officials must be sustained." Second, the Court stated that "... though a court may recognize valid alternative methods of apportionment, so long as the legislative determination by the City is not arbitrary, a court should not substitute its judgment for that of the local legislative body."

## 2.2 The Special Benefit Requirement

The Florida Supreme Court has provided clear guidance concerning what constitutes a special benefit in *Lake County v. Water Oak Management*.<sup>6</sup> "In evaluating whether a special benefit is conferred to property by the services for which the assessment is imposed, the test is not whether the services confer a "unique" benefit or are different in type or degree from the benefit provided to the community as a whole; rather, the test is whether there is a "logical relationship" between the services provided and the benefit to real property. *Whisnant v. Stringfellow*, 50 So.2d 885 (Fla.1951); *Crowder v. Phillips*, 146 Fla. 440, 1 So.2d 629 (1941)(on rehearing)... It is not necessary that the benefits be direct or immediate, but they must be substantial, certain, and capable of being realized within a reasonable time."

Special benefits can be measured by: (a) an increase in market value of the property, (b) lower insurance rates, or (c) added use and enjoyment of the property.<sup>7</sup>

## 2.3 Special Benefits and General Benefits

The provision of the Services will create both: (1) special benefits to the Properties and (2) general benefits to other properties in the City and surrounding Hillsborough County. However, as discussed below, these general benefits are incidental in nature and are readily distinguishable from the special benefits which accrue to the Properties.

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<sup>5</sup> *City of Winter Springs v. State*, 776 So.2d 255 (Fla 2003)

<sup>6</sup> *Lake County v. Water Oak Management*, 695 So. 2<sup>nd</sup> 667 (Fla. 1997)

<sup>7</sup> *Van Assenderp, Op. Cit.*, page 861 and *Indian Creek Country Club v. Indian Creek Village*, 3<sup>rd</sup> DCA (Fla 2017)

The provision of the Services confers special benefits in the Properties by increasing their market values. As discussed below, the Services increase the number of rooms nights sold by the Properties. This boosts their gross revenue and net profit thereby increasing the market value of the Properties.

There is no doubt that the general public, and other property owners in the City and in Hillsborough County are benefitted by the Services. However, these benefits are incidental. Other properties are not directly benefitted by the direct promotion and advertising supported by the Services. Instead, they receive indirect benefits if they receive any at all.

### 2.3 Equitable Apportionment Requirement

As noted above the Florida Supreme Court found that the precise manner used to apportion the costs are immaterial so long as the amount of the assessment is not in excess of the proportional benefits as compared to other assessments on other properties. Governments have used a wide variety of apportionment methods including front feet, property value, equivalent units, and trip rates.

## 3.0 Analysis of the Special Assessments Imposed by the District to Fund Provision of its Services

### 3.1 Analysis of the Services

As summarized above, the District is authorized to provide certain tourism marketing and promotional services pursuant to the authority granted in Section 24.5-7 reproduced for convenience below (emphasis added herein).

The services to be provided within the District shall consist of any destination marketing or promotion related activities, advertisements, or services to promote and advertise tourism and the availability of accommodations, so long as the message and focus of the activities, advertisements or services is targeted primarily to attract customers from areas at least seventy-five (75) miles distant from the boundaries of the District.

These Services are defined Section 24.5-2 as follows (emphasis added herein).

"Services" means marketing and promotions which will enhance tourism to be funded from the proceeds of the assessment. Services shall be designed to maximize incremental room nights for the assessed tourism properties. Services shall not include any capital improvements including but not limited to: the acquisition, construction, installation or maintenance of any tangible public property, including parking facilities, parks, planting areas, fountains, benches, booths, kiosks, display cases, pedestrian shelters, signs, trash receptacles, public restrooms, ramps, sidewalks, plazas, pedestrian malls, lighting and heating of public facilities; and the closing, opening, widening, or narrowing of existing or new streets.

The District's annual report for FY2019 documented the range of Services provided.<sup>8</sup> The District conducted an extensive digital marketing campaign in both the winter and summer seasons. The campaigns generated over 52 million impressions resulting in over \$5,000,000 of incremental room night revenue from trackable reservations at the Properties. The return on investment was in excess of 10:1. The District also promoted meetings at events in the Properties resulting in nearly 100 leads that produced two additional conferences. The District also promoted the NHL Playoffs held in Tampa along with other destination marketing initiatives.

### 3.2 Cost of the Services Proposed for Fiscal 2020-21

For FY2020-21 the District has proposed a budget of \$1,200,000. Preliminary plans indicate that these funds would again be focused on digital marketing and destination promotional activities similar to last year's efforts.

### 3.3 Special Benefits to the Properties from the Services

The special benefits to the Properties from the Services was empirically demonstrated last year. As noted above in Section 3.1, the Services generated over \$5,000,000 in directly attributable, incremental, room night revenues for the Properties last year exclusively from the District's digital marketing campaign. The total incremental impact of the complete compliment of Services on room nights will certainly be far higher. Even so, the documented \$5,000,0000 in incremental room night revenues will increase the market vale of the Properties far in excess of the assessments that funded the Services.

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<sup>8</sup> "Tampa Bay Florida FY2019 TMD Report"

Incremental room night revenue of \$5,000,000 is meaningful for the Properties. According to data from STR, the authoritative source for the hospitality industry, the Properties generated total revenue of \$159,541,943 in 2019.<sup>9</sup> The \$5,000,000 incremental contribution increased total revenues by 3.2%.

The hotel industry has high fixed costs and relatively low variable costs.<sup>10</sup> In general, the fixed costs as a percentage of revenue is generally higher than 60% for most hospitality-based operations and variable costs are 40% or less. Thus, a \$5,000,000 increase in incremental room revenue will translate into at least \$3,000,000 in increased profit.

The market value of a hotel property is generally estimated by the properties net operating income divided by a capitalization rate ("Cap Rate"). CBRE's latest survey of Cap Rates indicates an 8% Cap Rate for all hotels.<sup>11</sup> Based on these metrics, the Services increased the market value of the Properties by at least \$62,500,000 (\$5,000,000 / 8%).

### 3.4 Allocation of the Service Costs among the Properties

There are a variety of potentially equitable methods to allocate the cost of the Services among the Properties. Considering that the special benefit of the Services is the incremental room night revenue resulting from the Services, the two most logical alternatives would be: (a) the number of rooms or (b) the market value of the Properties. Each method was carefully considered.

Allocation based on the number of rooms is recommended as most equitable and proportionate to the special benefit for the following reasons. First, incremental room night revenue is first a function of the number of available rooms. Second, comparing data for: (a) the actual incremental room night revenues generated per hotel room from Expedia to (b) the average incremental room night revenue for the Properties as a whole demonstrated that there was little difference. In other words, the average incremental room night revenue for the entire

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<sup>9</sup> STR, "STR Trend Report"

<sup>10</sup> Stringman, et al. (2015), A Profile of the Hospitality Industry, BEP: New York, Chapter 2. Wood, Roy (2013), Key Concepts in Hospitality Management, Sage: New York, pages 56-68 <https://businessecon.org/2015/07/07/hospitality-industry-characterized-by-high-fixed-costs/>

<sup>11</sup> CBRE (January 2020), "U.S. Cap Rate Survey"

<http://cbre.vo.llnwd.net/grgservices/secure/H2%202019%20US%20Cap%20Rate%20Survey%20Advance%20Review.pdf?e=1582906332&h=a561562f9e77cfd73232d27b171ff0ba>

group of properties was reasonably representative of the Expedia data for each of the individual hotels.

#### 4.0 Assessment Roll

Based on the proposed budget of \$1,200,000 for FY2020-21 the number of rooms per hotel property, Table 2 presents the assessment roll.

**Table 2. District Assessment Roll for FY2020-21**

Parcel ID Number	Hotel Name	Rooms	Assessment
A-24-29-18-4ZI-000000-00003.0	Aloft Tampa Downtown	130	\$47,546
A-24-29-18-4ZI-000019-00000.0	Courtyard by Marriott Tampa Downtown	141	\$51,570
A-24-29-18-4ZM-000107-00008.0	Embassy Suites Hotel Tampa Downtown Convention Center	360	\$131,667
A-26-29-18-98H-000000-00002.0	Epicuren Hotel	137	\$50,107
A-13-29-18-4ZI-000016-00001.1	Floridian Palace Hotel	213	\$77,903
A-18-29-19-50N-000028-00005.0	Hampton Inn & Suites, Ybor	138	\$50,472
A-18-29-19-50N-000071-00000.0	Hilton Garden Inn Tampa Ybor	95	\$34,746
A-24-29-18-4ZI-000080-00003.0	Hilton Tampa Downtown	520	\$190,186
A-24-29-18-4ZI-000047-00001.0	Le Meridien Tampa	130	\$47,546
A-24-29-18-4ZM-000000-00049.0	Marriott Tampa Waterside Hotel & Marina	719	\$262,969
A-24-29-18-4ZI-000019-00001.0	Residence Inn Tampa	109	\$39,866
A-24-29-18-4ZI-000080-00000.0	Sheraton Tampa Riverwalk Hotel	277	\$101,311
A-13-29-18-4YP-000000-0007B.1	The Barrymore Hotel Tampa Riverwalk	312	\$114,112
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<b>TOTALS</b>		<b>3,281</b>	<b>\$1,200,000</b>



**NOTICE OF PUBLIC HEARING**

BECAUSE OF THE COVID-19 STATE OF EMERGENCY, THIS VIRTUAL REGULAR MEETING OF THE CITY COUNCIL WILL BE HELD IN ACCORDANCE WITH DECLARATIONS AND PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER 20-69 AS EXTENDED BY EO 20-179, AND BY CITY COUNCIL RESOLUTION NO. 2020-225. IT WILL BE CONDUCTED BY REMOTE PARTICIPATION OR TELECONFERENCING, WHICH IS REFERRED TO BY STATE OF FLORIDA STATUTES AND RULES AS "COMMUNICATIONS MEDIA TECHNOLOGY".

Ord. No. 2020-54

ON **AUGUST 20, 2020 @ 9:30 A.M.** VIA COMMUNICATIONS MEDIA TECHNOLOGY (GOTOWEBINAR), A PUBLIC HEARING WILL BE HELD BY THE TAMPA CITY COUNCIL TO CONSIDER THE FOLLOWING ORDINANCES FOR ENACTMENT:

**File No. E2020-8 CH 24.5**

An ordinance of the City of Tampa, Florida, relating to Tourism Marketing Districts; amending the City of Tampa Code of Ordinances; revising and restating Chapter 24.5, Sections 24.5-1 through 24.5-23 providing findings; modifying the Downtown/Historic Ybor Tourism Marketing District; establishing the services to be provided within the District; providing for levy and process for collection of special assessments to fund the services provided within the District; providing an alternative or a uniform method for the collection of such special assessments; providing for a separate accounting of funds; providing for amendments to this ordinance, the collection of special assessments and the increase in special assessments beyond the maximum rate authorized; providing for corrections of errors and omissions in the Assessment Roll; providing for severability; providing for codification; providing for an effective date.

SAID ORDINANCES MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK, CITY HALL, 3RD FLOOR CITY HALL, 315 E. KENNEDY BLVD., TAMPA, FL, DURING REGULAR BUSINESS HOURS, 8:00 A.M. TO 5:00 P.M., MONDAY THROUGH FRIDAY.

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION OF THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, MAY NEED TO HIRE A COURT REPORTER TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND SECTION 286.26, FLORIDA STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT LEAST FORTY-EIGHT (48) HOURS PRIOR TO THE DATE OF THE MEETING.

INTERESTED PARTIES MAY APPEAR AND BE HEARD AT SAID HEARING.

SHIRLEY FOXX-KNOWLES, CMC  
CITY CLERK

8/7/20 1T