



# Commission for Arts and Culture

## CITY OF SAN DIEGO COMMISSION FOR ARTS AND CULTURE

### AGENDA

[Online Meeting](#)

Friday, June 25, 2021

11:30 a.m. – 1:30 p.m.

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11:30 a.m.	I.	Call to Order & Statement of Purpose+Vision	Janet Poutré, Chair
11:31 a.m.	II.	<b>ACTION</b> – Suspend the Rule Whereby the Commission’s Executive Committee Sets the Commission Meeting Agenda for June	Janet Poutré, Chair
11:32 a.m.	III.	Non-agenda Public Comment	Janet Poutré, Chair
11:42 a.m.	IV.	Chair’s Reports	Janet Poutré, Chair
		A. <b>ACTION</b> – May 28, 2021 Commission Meeting Minutes	
		B. Other Reports	
12:00 p.m.	V.	Committee Reports	
		A. Policy & Funding Committee – <b>ACTION</b> – Draft Key Revisions to City Council Transient Occupancy Tax Policy (CP 100-03)	Ann Bossler, Committee Chair
		B. Public Art Committee	Ben Meza, Committee Chair

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*VISION: Expanding our world by celebrating creativity in San Diego*

*PURPOSE: The City of San Diego Commission for Arts and Culture serves in an advisory capacity to the Mayor and City Council on promoting, encouraging and increasing support for the region's artistic and cultural assets, integrating arts and culture into community life and showcasing San Diego as an international tourist destination.*

Meeting will be aired live and recorded. PUBLIC COMMENT: Any member of the public may address the Committee on any subject in its area of responsibility on any matter not presently pending or previously discussed at the Committee. Pursuant to the provisions California Executive Order 29-20, Committee meetings will be held via teleconference until further notice. In lieu of in-person attendance, members of the public may submit their comments via a public comment [webform, or they may join the meeting as a “webinar attendee” at the link provided in the Commission or Committee meeting website.](#) For members of the public wishing to address the Committee under Public Comment via the [webform](#) prior to the meeting, instructions for word limitations and deadlines will be noted on the [webform](#). Pursuant to open meeting laws, no discussion or action, other than a referral, shall be taken by the Committee on any issue brought forth under non-agenda public comment. As required by the Americans with Disabilities Act (ADA), requests for agenda information to be made available in alternative formats, and any requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for alternatives to observing meetings and offering public comment as noted above, may be made by contacting the City Clerk at (619) 533-4000 or <mailto:cityclerk@sandiego.gov>. The City is committed to resolving accessibility requests swiftly in order to maximize accessibility.

		C. Advocacy & Outreach Committee	Tyler Hewes, Committee Chair
		D. Commissioner Engagement Ad Hoc Committee	Udoka Nwanna, Ad Hoc Committee Chair
1:00 p.m.	VI.	Director's Reports	Jonathon Glus, Executive Director
1:20 p.m.	VII.	New Business for Future Agendas	Janet Poutré
1:25 p.m.	VIII.	Commissioner Speed-Round – What arts, culture and creative experiences have you had this month (who, what, when, where)?	Janet Poutré
1:30 p.m.	IX.	Adjourn	Janet Poutré

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# Commission for Arts and Culture

City of San Diego Commission for Arts and Culture | Microsoft Teams Online Meeting

## MINUTES

Friday, May 28, 2021

Hyperlink to view full meeting available [here](#)

closed caption available at bottom right of screen

### Commissioners Present

Janet Poutré, Chair  
Doreen Schonbrun  
Tyler Hewes  
Tracy Dezenzo  
Michael Brown  
Ben Meza  
Fritz Friedman  
Jason Whooper  
Dajahn Blevins  
Gina M. Jackson

### Commissioners Absent

Vernon Franck, Vice Chair  
Udoka Nwanna  
Rebecca Smith  
Ann Bossler

### Staff Present

Jonathon Glus  
Christine E. Jones  
Charles Miller  
Bell Reza  
Karla Centeno  
Lara Bullock  
Diana Agostini

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- I. **Call to Order & Statement of Purpose Vision | [View Here](#)** –Chair Janet Poutré called the City of San Diego Commission for Arts and Culture online meeting to order at 11:39 a.m. Chair Poutré introduced herself, took roll call to confirm Commissioner attendance, and read the Commission’s statement of purpose and vision. Chair Poutré called on Project Manager Bell Reza to review the guidelines for the meeting.
- II. **Non-agenda Public Comment | [View Here](#)**
- III. **Chair’s Reports | [View Here](#)**
- A. **ACTION** – April 23, 2021 Commission Meeting Minutes  
**Commissioner Tracy Dezenzo made a motion to approve, Commissioner Ben Meza seconded the motion. The vote was unanimous; the motion passed.**
  - B. **ACTION** – Adjust the Agenda and Recommend a Hybrid Model for Future Meetings  
**Commissioner Tyler Hewes made a motion to approve, Commissioner Doreen Schonbrun seconded the motion. The vote was unanimous; the motion passed.**

C. Other Reports

V. Committee Reports | [View Here](#)

A. Policy and Funding Committee, Commissioner Tracy Dezenzo | [View Here](#)

B. Public Art Committee, Chair Ben Meza | [View Here](#)

1. **ACTION** – Artwork Acquisition Proposal: Donation of Artwork by Rob Tobin from the Pacific Beach Town Council  
**Commissioner Michael Brown made a motion to approve, Commissioner Tracy Dezenzo seconded the motion; the motion passed.**

2. **ACTION** – Incoming Loan of Artwork Proposal from Mingei International Museum: *Nikigator*  
**Commissioner Ben Meza made a motion to approve; Commissioner Dajahn Blevins seconded the motion, the motion passed.**

3. **ACTION** – Final Artwork Proposal for Fairmount Avenue Fire Station by Susan Logoreci  
**Commissioner Michael Brown made a motion to approve; Commissioner Tracy Dezenzo seconded the motion, the motion passed.**

C. Advocacy and Outreach Committee | [View Here](#)  
Committee Chair Tyler Hewes

D. Commissioner Engagement Ad Hoc Committee  
Committee Chair Udoka Nwanna was not present

VI. Presentations | [View Here](#)

1. Kent Lee, Executive Director, Pacific Arts Movement and Co-Chair, San Diego API Coalition
2. Proposed County Arts Agency Update

VII. Director's Report | [View Here](#)  
Executive Director Jonathon Glus

VIII. Adjourn – Commissioner Janet Poutré adjourned the meeting at 1:32 p.m.



# Commission for Arts and Culture

## COMMITTEE REPORT

DATE ISSUED: June 22, 2021

ATTENTION: Commission for Arts and Culture

SUBJECT: Draft Key Revisions to City Council Transient Occupancy Tax Policy (CP 100-03)

REFERENCES: Fact Sheet on Key Draft Revisions to Council Policy 100-03  
Draft Revisions to Council Policy 100-03 In Concept – clean version  
Draft Revisions to Council Policy 100-03 In Concept – redline version  
[Current Council Policy 100-03](#)

STAFF CONTACT: Christine E. Jones, Chief of Civic Art Strategies

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### **POLICY & FUNDING COMMITTEE RECOMMENDATION:**

Forward the draft key revisions to Transient Occupancy Tax Policy, Council Policy 100-03 in concept to Commission for Arts and Culture for further discussion.

### **SUMMARY**

The City of San Diego (City) adopted a Transient Occupancy Tax (TOT) Policy in March of 1965 to assist the City in achieving its current and future goals for TOT in a fiscally responsible and sustainable manner. The TOT Policy sets forth the purpose of TOT, the protocol for potential increases to the future TOT rate, identifies funding priority areas for utilization of TOT funds and outlines general guidelines by which the City will accept and evaluate applications for, and granting of, TOT funds. The TOT Policy was last amended on September 12, 2005.

The City takes significant steps to ensure TOT funds are distributed in a fair and equitable manner. City staff routinely collects data from applicants, recipients, and other stakeholders regarding all aspects of TOT funding allocation programs. Staff does this through feedback from funding recipient performance reports, public meetings, applicant workshops, and public meetings, and application evaluation panels. Staff analysis of this information showed that revisions to the Policy were needed.

In order to improve upon the policy, clarify alignment with the City's strategic goals, and ensure best practices and efficiencies are in place to enable effectiveness in achieving its stated purposes, arts and culture staff began working with the Department of Finance, Economic Development Department, and Office of the City Attorney in 2019 to review and modernize the existing TOT Policy, and submit any recommended policy amendments to City Council.

On June 25, 2020 the draft key revisions to the TOT policy in concept were presented to the Policy & Funding Committee of the Commission for Arts and Culture (Commission). At the meeting, Policy & Funding Committee voted (4-0-0) to recommend that the Commission recommend support for the draft key revisions to Transient Occupancy Tax Policy, Council

Policy 100-03 in concept. Subsequently, the draft key revisions to the TOT policy in concept were presented to the Commission. At the meeting on June 26, 2020, Commission tabled the item and returned it to City staff for potential way of engaging the community further.

Since that time staff has done the following: 1) commissioned an equity assessment of the programs and procedures of the funding and public art; 2) identified additional obstacles to applying, successfully qualifying for and managing a City funding agreement, all via an end of year report for funded organizations and listening sessions; and 3) presented high-level goals to reduce barriers in a special meeting of the Policy & Funding Committee in May 2021. Additionally, an overview of the draft key revisions to the TOT policy in concept was presented as part of the Policy & Funding Committee meeting on June 22, 2021. At the meeting, Policy & Funding Committee voted (3-0-0) to forward the item to the Commission for further discussion.

#### **NEXT STEPS**

An overview of the draft key revisions to the TOT policy in concept will be presented to Commission on June 25, 2021 for recommendation. It is anticipated for review by City Council later this summer. This schedule will allow for these key changes to be reflected in the fiscal year 2023 arts and culture funding application guidelines, which are typically issued in September of each year.



## Improving the Policy for Transient Occupancy Tax Funding

In March 1965, City Council enacted Transient Occupancy Tax (TOT), Council Policy 100-03 (Policy) to assist the City of San Diego (City) in achieving its current and future goals for TOT in a fiscally responsible and sustainable manner. The Policy set forth guidelines for the use of TOT funds, limitations for evaluating increases to future TOT rates, funding priority areas for utilization of TOT funds, and general methods by which the City will accept and evaluate applications for granting TOT funds. The Policy was last amended on September 12, 2005.

This fact sheet summarizes proposed amendments to Council Policy 100-03 that City Council can enact to improve how the City prioritizes funding and distribution of TOT funds. These amendments will strengthen programmatic integrity and reinforce alignment of the City's use of TOT funds to promote the city of San Diego. The result is a policy that better supports inclusive growth and development of San Diego's economy and builds opportunities in the creative and tourism sectors, which in turn, produces significant local revenue that will positively impact communities across San Diego.

The policy amendments focus on three areas, which are briefly summarized below.

### 1. Technical adjustments to enhance readability and strengthen implementation of Policy

Updated Policy is needed to clarify and align the text of the Policy with the San Diego Municipal Code, and departmental and organizational changes since the last revisions in 2005. Additional edits are needed to reorganize, renumber, and simplify the text for enhanced readability and alignment with City TOT application processes, and contract administration. These updates do not change the spirit or intent of the Policy.

### 2. Reinforce programmatic integrity and alignment with the purpose of TOT and accelerate impact through distribution of TOT funding

Updated Policy section is needed to broaden applicant pool and expand funding categories to remain competitive amongst peer cities, enhance cultural tourism and promote San Diego as a hotbed of creativity, and support inclusive growth and more equitable arts funding opportunities for more types of recipients. These key Policy changes will:

- Create two new funding categories: City Artist and Impact. Organizational Support Program and Creative Communities San Diego will remain the foundational categories, prioritized in annual funding allocations.
- Add City Artist category to allow TOT funding for artists. This provides a new way to advance San Diego's creative economy, promote it as a place for artistic practice, and help attract and retain artists who often cite their reason for leaving San Diego as the lack of sector support and opportunities.
- Add Impact category to allow TOT funding for specific, targeted initiatives in arts, cultural and creative sectors that may be prioritized by City, as funding is available. This category may fund community impact, border and international initiatives, technology and arts, climate change, and more.





## Improving the Policy for Transient Occupancy Tax Funding

3. Streamline processes for application and reporting to support funding recipients and use of TOT funding  
Updated General Requirements and Conditions (Attachment A) section of the Policy is needed to clarify and focus eligibility and prioritize the use of TOT funds within the city limits to drive tourism dollars and ensure impact for San Diego's diverse communities directly. These key Policy changes will:

- Reduce eligibility requirements for organizations to apply for funding to better align with national best practices, reducing the "track record" period from three to two years; this will expand the participant pool, and the overall reach of TOT funding.
- Define eligibility for general operating support to ensure TOT funding benefits organizations that are based within the city of San Diego.
- Define eligibility for project support to applicants based in San Diego County for projects that take place within San Diego city limits.
- Eliminate "reimbursement" mandate to allow for greater administrative flexibility in payment structure. Removal of this text will allow the City to advance funds on contracts to provide greater cash flow for projects in particular.
- Align audit requirements to state guidelines to reduce reporting requirements for organizations. The addition of an intermediate level of financial disclosure will allow recipients with an operating budget under \$2M, and receiving \$75K+ in TOT funding, to submit a financial review in-lieu of an audit.



**COUNCIL POLICY**

SUBJECT: TRANSIENT OCCUPANCY TAX  
 POLICY NO.: 100-03  
 EFFECTIVE DATE:

Please refer to fact sheet for a summary of key draft revisions to CP 100-03.

**BACKGROUND:****HISTORY OF TOT RATES**

ORDINANCE NUMBER	EFFECTIVE DATE	TOT RATE
O-9033	June 9, 1964	4%
O-9767	April 1, 1968	5%
O-11077	June 5, 1973	6%
O-16286	January 1, 1985	7%
O-17108	August 1, 1988	8%
O-17154	June 1, 1989	9%
O-18078	August 1, 1994	10.5%

On June 6, 1994, the City of San Diego (City) Council adopted Ordinance No. O-18078 N.S. increasing the Transient Occupancy Tax (TOT) rate from 9% to 10.5% effective August 1, 1994. The ordinance specifically provides that the additional 1.5% tax is to be allocated to the General Fund for general government purposes as the City Council so designates.

**MISSION STATEMENT:**

The purpose of TOT is to advance the City's economic health by:

- promoting the city of San Diego as a visitor destination and place of creativity, innovation, and entrepreneurship in the national and international marketplace;
- supporting programs that increase hotel occupancy as well as attract and retain base-sector businesses and entrepreneurs, resulting in the generation of TOT and other revenue;
- *development* of visitor-related facilities; and
- supporting the city of San Diego's artistic and cultural amenities, and natural attractions.

**PURPOSE:**

Consistent with this Mission Statement, the purpose of this policy is to: provide funding for the promotion of tourism and enhancement of the economy; support artistic and cultural programs, and visitor-related facilities; provide guidance to the City Manager in the preparation of the annual budget submittal to the City Council; provide general guidelines by which the City will accept and evaluate the applications for TOT funding; provide continuing financial support to those projects where financial commitments of the City are in place, as part of the debt service requirements associated with capital improvements of visitor-related facilities; and provide guidance on evaluating future TOT rate increases levied by the City.

## COUNCIL POLICY

### **UTILIZATION OF REVENUES:**

All revenues collected pursuant to TOT imposed by the City shall be used as stated in San Diego Municipal Code Sections 35.0128 through 35.0133.

### **POLICY:**

Italicized terms used in this policy have the same definitions as provided in the San Diego Municipal Code.

#### 1. Future Increase to TOT

Future increases to the TOT shall be limited:

- a. To no greater than the average TOT rate of the 15 following major cities: Atlanta, Boston, Chicago, Denver, Honolulu, Houston, Las Vegas, Los Angeles, Miami Beach, New Orleans, New York, San Francisco, Santa Fe, Seattle, and Washington D.C., excluding the highest and lowest rate cities, at the time of evaluation; and
- b. From any increase, if the average hotel occupancy rates in the City for the last two years, at the time of evaluation, was less than 70%.

#### 2. TOT Funding Priorities

This policy sets out five qualified priority areas for distribution of TOT funds to individuals and entities for general operational support, as well as projects and events that build the social, artistic, cultural, recreational, and economic life of San Diego. General application requirements and conditions have been established and are reflected in Attachment A.

These priority areas align with the purpose of TOT, and include:

##### ECONOMIC DEVELOPMENT

To promote San Diego as a visitor destination, and place of innovation and entrepreneurship in the national and international marketplace; to support programs that increase hotel occupancy and attract and retain base-sector businesses and entrepreneurs.

##### SAFETY AND MAINTENANCE OF VISITOR-RELATED FACILITIES

To provide supplemental funding for public safety and the maintenance of visitor-related facilities.

##### CAPITAL IMPROVEMENTS

To provide funding for the *development* of visitor-related facilities and projects.

##### ARTS, CULTURE, AND COMMUNITY FESTIVALS

To enhance the economy and strengthen the arts, cultural, and creative sectors; to contribute to San Diego's national and international reputation as a creative, cultural destination; to provide access to excellence in culture and the arts for residents and visitors; to enrich the lives of the people of San Diego; and to build healthy, vital neighborhoods.

## COUNCIL POLICY

### MAJOR EVENTS

To provide funding for the attraction and production of major events and conventions that generate TOT and other revenues for the City.

Applicants should apply for the most relevant priority area; however, the City acknowledges that many projects and activities may contribute to more than one of these priority areas.

The award of TOT funding must be memorialized in a written agreement between the City and the recipient.

### 3. TOT Funding Application Processes

#### ECONOMIC DEVELOPMENT AND ARTS, CULTURE, AND COMMUNITY FESTIVALS

Applications are required for individuals and entities requesting TOT funding within the a) Economic Development, and b) Arts, Culture, and Community Festivals priority areas.

Applicants and activities eligible for funding under those priority areas are specified below.

- a. The Economic Development priority area supports activities that promote tourism and enhance San Diego's economic health and position as a center for economic innovation and entrepreneurship. This priority area provides funding to tax-exempt, nonprofit organizations, including eligible nonprofit institutions of higher education, for significant programs or projects in support of base-sector businesses and entrepreneurs that contribute to, or enhance San Diego's reputation; or to tax-exempt nonprofit organizations for significant programs or projects promoting San Diego as a tourism destination resulting in the generation of hotel room night occupancy.

The Economic Development Department, or other department designated by the City Manager, administers the application process and develops initial funding recommendations that are submitted to the City Manager for development of final funding recommendations to the City Council.

- b. The Arts, Culture, and Community Festivals priority area includes four categories:
  - 1) Organizational Support Program: The Organizational Support Program category provides general operational support to tax-exempt, nonprofit organizations, for the delivery of activities and programming that positively impact San Diego's quality of life and tourism and provide direct access and increased opportunities for excellence in culture and the arts;
  - 2) Creative Communities San Diego: The Creative Communities San Diego category provides project support for tax-exempt nonprofit organizations to deliver dynamic projects in San Diego neighborhoods that: engage diverse communities in arts, culture, and creativity; and contribute to a more accessible and sustainable

## COUNCIL POLICY

creative ecosystem;

- 3) City Artist: The City Artist category provides support to individual *artists* and groups of *artists*, as they work to advance their artistic practice and expand their creative capacities to deepen the impact of their work as innovators and creative contributors to San Diego's arts, cultural, and creative sectors, and thus, promote a more dynamic and creative San Diego; and
- 4) Impact: The Impact category supports excellence, innovation, and creativity within the San Diego arts, cultural, and creative sectors through targeted City funding initiatives in alignment with the City's arts and cultural strategies and priorities. Depending on the initiatives within the Impact category, eligible applicants may include tax-exempt nonprofit organizations and *artists*.

The Department of Cultural Affairs, or other department designated by the City Manager, administers each of these application processes and develops initial funding recommendations that are submitted to the City Manager for development of funding recommendations to the City Council.

4. Funding recommendations for the SAFETY AND MAINTENANCE OF VISITOR-RELATED FACILITIES, CAPITAL IMPROVEMENTS, and MAJOR EVENTS priority areas will be made by the City Manager as the City Manager designates.
5. Funding recommendations for all priority areas are subject to the City Manager's recommended appropriation levels based on available TOT funds.
6. Funding recommendations will be provided to the City Council for consideration and final approval as part of the annual budget process. All applicants receiving specific funding must comply with the requirements and conditions outlined in Attachment A. The City's contract administrator, as necessary, will monitor compliance issues for applicants funded within the Arts, Culture, and Community Festivals and the Economic Development priority areas.
7. Funding for debt service requirements and annual lease payments related to capital improvements of visitor-related facilities is provided for projects that contribute to a balance of community, cultural, recreational, and promotional programs, designed to enhance the well-being of the community and promote the City as a world-class visitor destination.

This policy is not intended to be and shall not constitute an irrevocable commitment by the City Council to allocate monies for this purpose. Such a commitment may be made only at the time the annual appropriation ordinance is adopted.

### Attachment A

#### General Requirements and Conditions

## COUNCIL POLICY

### **HISTORY:**

“Funding of Private Organization for Operational Expenses or Sponsorship of Special Events”

Adopted by Resolution R-183022 03/09/1965

Amended by Resolution R-191654 09/21/1967

Amended by Resolution R-211279 08/08/1974

Amended by Resolution R-218061 04/05/1977

Amended by Resolution R-220777 05/01/1978

Amended by Resolution R-222451 12/19/1978

Amended by Resolution R-254157 05/11/1981

Amended by Resolution R-272990 03/06/1989

Retitled to “Transient Occupancy Tax” with inclusion of Policies 100-04, 100-11 and

100-13 by Resolution R-279227 01/06/1992

Amended by Resolution R-280380 07/21/1992

Amended by Resolution R-284044 06/06/1994

Amended by Resolution R-284698 10/03/1994

Amended by Resolution R-286076 07/17/1995

Amended by Resolution R-286991 03/04/1996

Amended by Resolution R-289773 02/24/1998

Amended by Resolution R-289774 02/24/1998

Amended by Resolution R-300814 09/12/2005

## COUNCIL POLICY

ATTACHMENT A: General Requirements and Conditions (If not specifically designated for an individual or entity, then these requirements and conditions apply to both individuals and entities.)

### 1. General Eligibility

To be eligible for funding, applicants must:

- a. Demonstrate alignment with the purpose of TOT funding for the priority area and category, if applicable, in which it applies.
- b. Meet the funding category eligibility criteria stated in this Council Policy and any additional requirements consistent with this Council Policy as specified in the applicant guidelines for the category to which it applies.
- c. For entities, demonstrate proof of incorporation within the United States and be registered with California Secretary of State, if applicable for the category in which the entity applies.
- d. For entities, demonstrate proof of nonprofit, tax-exempt status under sections 501(c)(3) or (6) of the Internal Revenue Code at the time of application, if applicable for the category in which the entity applies. Project producers may apply through fiscal sponsors as called for in the specific applicant guidelines under certain categories within the Arts, Culture, and Community Festivals priority area.
- e. For entities, have at least two full and consecutive years of operating with its own independent governing board, if applicable for the category in which it applies.
- f. For individuals, reside within the city of San Diego limits for at least two consecutive years, be at least 18 years old, and not be enrolled as a full-time student.
- g. For entities, be headquartered in the city of San Diego to receive general operational support. Within the Arts, Culture, and Community Festivals priority area, an entity seeking general operational support must have a mission statement clearly focused on the development, production, service, or presentation of arts and cultural activities and programming in the city of San Diego.
- h. Maintain principal offices in San Diego county to receive project support, with an exception for arts service organizations with offices in San Diego county and primary headquarters in California, if applicable for the category in which it applies.
- i. Demonstrate proof that the funded project will take place within the city of San Diego. Within the Economic Development priority area, only entities within the city of San Diego may benefit from a TOT-funded program or project implemented by an eligible entity located within the limits of San Diego county; however, TOT-funded marketing and advertising may be directed outside of San Diego county.
- j. Have a clear presentation that is open to the public, or meaningful and accessible engagement component for projects, activities, and programming within the funding period. While presentations and participation must be open to the public generally, they may reach specific audiences or charge a fee as long as such restrictions do not discriminate on the bases described in Section 2(q) below.



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- k. Receive funds from only one priority area of TOT. And, within the Arts, Culture, and Community Festivals priority area, if an entity receives funds from the Organizational Support Program category, it may not also receive funds from the Creative Communities San Diego category; however, an entity may receive additional funds from the Impact category as long as each application is for a distinctly different project and purpose. Within the Economic Development priority area, only one application may be submitted in total.
- l. Have no outstanding financial obligations or debts of any kind to the City.

### 2. General Exclusions and Ineligibility

The City does not provide TOT funding support for:

- a. Inherently religious activities: worship, instruction, or proselytization.
- b. Lobbying, including activities in lobbying, including activities intended to influence the outcome of elections or influence government officials regarding pending legislation, either directly or through specific lobbying appeals to the public.
- c. Voter registration drives and related activities.
- d. Re-granting.
- e. Any elementary or secondary schools, school districts, colleges, or universities, except that eligible nonprofit educational institutions of higher learning may apply under the Economic Development priority area for significant programs or projects in support of base sector business and entrepreneurs.
- f. Tuition for academic study.
- g. Capital outlay for construction, purchase, or improvement of facilities, or capital outlay for purchase of equipment, unless specified as eligible in applicant guidelines for a funding category.
- h. Contests and competitions including gifts, prizes, and awards.
- i. Travel, lodging, and transportation costs, unless specified as eligible in applicant guidelines for a funding category.
- j. Food, alcohol, or beverages for hospitality or entertainment functions.
- k. Projects where fundraising is the primary purpose of the project.
- l. Contributions and donations to other individuals or entities.
- m. Cash reserves and endowments.
- n. Fines and penalties, accumulated deficits, and debt reductions.
- o. Current City employees and their immediate families.
- p. Other government entities other than eligible institutions of higher learning as noted in Section 2(e) above.

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- q. Applicants or activities that discriminate against any person on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability.

Additional exclusions, consistent with this Council Policy, may be specified in applicant guidelines for the category in which an applicant applies.

### 3. Applications

- a. Funding applications will only be accepted online, except that accommodations may be made upon request for those with disabilities.
- b. It is the City's intent to provide advance notification of the application process to a wide distribution of potential individuals and entities that may be eligible for funding. Applications must be supported by appropriate documentation, and in accordance with the submission schedule as prescribed by the City Manager and promulgated in the applicant guidelines.
- c. The City will not accept or consider submissions submitted after any applicable cut-off time or date.
- d. Entity applications for funding must be accompanied by documents that demonstrate the existence of the applicant as a legal entity in good standing, as designated by the City Manager and promulgated in the applicant guidelines.
- e. Matching fund requirements will be determined by the appropriate application process as called for in the specific applicant guidelines within each priority area and category, if applicable.

### 4. Evaluation of Applications

- a. To assess and recommend funding under this Council Policy, departments evaluating applications for the Economic Development and Arts, Culture, and Community Festivals priority areas, will create a review and evaluation process that is consistent with this Council Policy.
- b. Unsuccessful applicants are encouraged to seek feedback from City staff on their application.

### 5. Funding Agreements

- a. All successful applicants are required to enter into a written agreement with the City setting out the terms and conditions before any funds are released. The agreement will specify in detail the services or functions to be performed, the nature of the payment or payment schedule, and the financial reporting requirements.
- b. Eligible expenses must be both incurred and paid by the recipient, and proof provided to the City, before the City will release funding to the recipient, except as otherwise may be provided.
- c. Expenditures must be incurred during the City's fiscal year (July 1 – June 30) for which the recipient receives funding, except as otherwise may be provided.

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- d. All agreements will provide that the City may withhold funds from the contracting recipients and terminate its entire obligation upon notice to the recipient if the recipient violates any of the terms of the agreement, or for other good cause shown that is not related to a violation of the terms of the agreement, including any determination by the City Manager or City Council to reappropriate or reprogram such funds. The City Manager shall thereafter advise the City Council of the notification of termination made to the recipient. All awarded funds not utilized by recipient in accordance with the terms of the applicable written agreement, will revert back to City for any appropriate use.
- e. Compliance with the terms and conditions of agreements shall be determined by the City Manager.

### 6. Mandatory Reporting

- a. Performance reporting shall be required of all funding recipients.
- b. Recipients may be required to deliver quarterly reports, or a mid-year report to the City's contract administrator detailing their progress in meeting the agreed upon scope of services.
- c. Recipients must also deliver a final performance report to the City's contract administrator detailing their success in meeting the agreed upon scope of services. The City's contract administrator will not approve the recipient's final invoice, or release payment for such invoice, until the recipient has submitted, and the City's contract administrator has approved, recipient's final performance report. The report shall also include a statement of compliance certifying that the recipient has complied with the terms and conditions of their written agreement with the City.

### 7. Financial Disclosure

- a. Recipients receiving TOT funding must submit copies of true, accurate, and complete financial disclosure documentation evidencing the financial status of the recipient's last complete fiscal year as follows:
  - i. Recipients receiving TOT funds of \$10,000 or more, but less than \$75,000, within a single fiscal year must submit required financial disclosure documentation with their final performance report within 30 days of the end of the fiscal year. Such financial disclosure documentation must include a statement of activities for that fiscal year, and a statement of financial position for that fiscal year. Upon written request by the recipient, and in the sole discretion of the City's contract administrator, the recipient may be granted up to 60 additional days to comply with this requirement.
  - ii. Recipients receiving TOT funds equaling \$75,000 or more within a single fiscal year, in addition to the documents required above, must submit the following:

## COUNCIL POLICY

- A. Recipients with an operating budget under \$2 million must submit a financial review of the recipient's most recently completed fiscal year conducted by an independent certified public accountant within 150 days of the end of that fiscal year. The financial review must be prepared in accordance with generally accepted accounting principles.
- B. Recipients with an operating budget of \$2 million or more must submit audited financial statements of the recipient's most recently completed fiscal year conducted by an independent certified public accountant within 150 days of the end of that fiscal year. The audit must be prepared in accordance with generally accepted auditing principles.

Upon written request by the recipient, and in the sole discretion of the City's contract administrator, the recipient may be granted up to 60 additional days to comply with this requirement.

- iii. Recipients receiving TOT funds in the amount of \$500,000 or more within a single fiscal year, when that funding represents more than 10% of the recipient's annual budget, must submit, in addition to the documents required above, salary and wage ranges for each of its job classifications, including actual executive salaries and benefits packages.
- b. Recipients must permit the City to inspect all financial documents and records at any time, and perform or require any audits the City reasonably desires. The City shall periodically monitor the records of recipients. As with all documents submitted to the City, the financial documents discussed above are subject to the California Public Records Act.

### 8. Compliance with General Requirements and Conditions

- a. All applicants must be in good standing as determined by the City's contract administrator during the application phase.
- b. Failure to comply with the terms and conditions of the written agreement could result in the suspension of any current remaining funding, at the discretion of the City's contract administrator.
- c. Non-compliance with any terms and conditions of the written agreement could result in being disqualified from reapplying to or contracting with the City for future fiscal years until the recipient comes into full compliance.

**COUNCIL POLICY**~~CURRENT~~

SUBJECT: TRANSIENT OCCUPANCY TAX

POLICY NO.: 100-03

EFFECTIVE DATE: ~~September 12, 2005~~

Please refer to fact sheet for a summary of key draft revisions to CP 100-03.

**BACKGROUND:**

## HISTORY OF TOT RATES

ORDINANCE NUMBER	EFFECTIVE DATE	TOT RATE
O-9033	June 9, 1964	4%
O-9767	April 1, 1968	5%
O-11077	June 5, 1973	6%
O-16286	January 1, 1985	7%
O-17108	August 1, 1988	8%
O-17154	June 1, 1989	9%
O-18078	August 1, 1994	10.5%

On June 6, 1994, the City of San Diego (City) Council adopted Ordinance No. O-18078 N.S. increasing the Transient Occupancy Tax (TOT) rate from 9% to 10.5% effective August 1, 1994. The ordinance specifically provides that the additional 1.5% tax is to be allocated to the General Fund for general government purposes as the City Council so designates.

~~On February 24, 1998, the City Council adopted Resolution Numbers R-289773 and R-289774, outlining recommendations to enhance and streamline application requirements and clarify category definitions for the TOT policy. Consequently, recommendations detailed in City Manager Reports 97-175, 97-188, and 98-13 have been utilized in the development of this revised Council Policy on TOT.~~

**MISSION STATEMENT:**

The purpose of ~~Transient Occupancy Tax (TOT)~~ is to advance the City's economic health by:

- promoting the ~~c~~City of San Diego as a visitor destination and place of creativity, innovation, and entrepreneurship in the national and international marketplace;
- supporting programs that increase hotel occupancy ~~and as well as~~ attract industry and retain base-sector businesses and entrepreneurs, resulting in the generation of TOT and other revenue; ~~developing, enhancing, and maintaining~~
- development of visitor-~~relate d~~related facilities; and
- supporting the ~~c~~City of San Diego's artistic and cultural amenities, and natural attractions.

**PURPOSE:**

Consistent with ~~the~~this Mission Statement, the purpose of this policy is to:

1. ~~Provide~~ provide funding for the promotion of tourism and enhancement of the economy; support ~~of~~artistic and cultural programs, and visitor-related facilities.

2. ~~Provide; provide~~ guidance to the City Manager in the preparation of the annual budget submittal to the ~~Mayor and~~ City Council.
3. ~~Provide a set of uniform; provide general~~ guidelines, ~~conditions, by which the City will accept and criteria governing the application for, and granting of, funds to private non-profit organizations for evaluate the purpose of supporting their ongoing operational expenses and/or their sponsorship of special events.~~
4. ~~Provide applications for TOT funding; provide~~ continuing financial support to those projects where financial commitments of the City are in place, as part of the debt service requirements associated with capital improvements of visitor-related facilities; ~~and provide guidance on evaluating future TOT rate increases levied by the City.~~
5. ~~Provide limitations on future Transient Occupancy Tax rate increases levied by the City of San Diego.~~

## **UTILIZATION OF REVENUES:**

~~As All revenues collected pursuant to TOT imposed by the City shall be used as~~ stated in San Diego Municipal Code Sections 35.0128 -through 35.0133:

1. ~~Four cents must be used solely for the purpose of promoting the City.~~
2. ~~One cent can be used for any purpose the City Council may direct.~~
3. ~~Five and one-half cents is deposited in the General Fund for general government purposes as the City Council may provide in accordance with the Charter of the City of San Diego and the City Council's appropriation ordinance.~~

## **POLICY:**

~~Increases~~Italicized terms used in this policy have the same definitions as provided in the San Diego Municipal Code.

### 1. Future Increase to the TOT Rate

Future increases to the TOT shall be limited ~~to a rate that is:~~

- ~~1.a. To no greater than the average rate, excluding the highest and lowest rate cities, at that time, TOT rate of the 15 following major cities: Atlanta, Boston, Chicago, Denver, Honolulu, Houston, Las Vegas, Los Angeles, Miami Beach, New Orleans, New York, San Francisco, Santa Fe, Seattle, and Washington D.C. The City Council shall limit any tax increases if, excluding the hotel occupancy rates in highest and lowest rate cities, at the Citytime of San Diego are less than 70% for two consecutive calendar years evaluation; and~~
- b. From any increase, if the average hotel occupancy rates in the City for the last two years, at the time of evaluation, was less than 70%.

### 2. TOT Funding of Private Non-Profit Organizations for Operational Expenses or Sponsorship Priorities

~~2. This policy sets out five qualified priority areas for distribution of Special Events In order TOT funds to assist the City Council in receiving individuals and acting upon requests for funding by private non-profit organizations, entities for general TOT operational support, as well as projects and events that build the social, artistic, cultural recreational, and economic life~~



of San Diego. General application ~~processes~~ requirements and conditions have been established and are reflected ~~on~~ Attachment A.

Eligible programs fall into one of the following major categories:—These priority areas align with the purpose of TOT, and include:

#### ECONOMIC DEVELOPMENT

To promote ~~the City~~ San Diego as a visitor destination ~~and advance the City's economy by increasing tourism and attracting industry~~, and place of innovation and entrepreneurship in the national and international marketplace; to support programs that increase hotel occupancy and attract and retain base-sector businesses and entrepreneurs.

#### SAFETY AND MAINTENANCE OF VISITOR-RELATED FACILITIES

To provide supplemental funding for public safety and the maintenance of visitor-related facilities.

#### CAPITAL IMPROVEMENTS

To provide funding for the ~~renovation, construction and expansion~~ development of visitor- related facilities and projects.

#### ARTS, CULTURE, AND COMMUNITY FESTIVALS

To enhance the economy and ~~strengthen the arts, cultural, and creative sectors; to contribute to San Diego's reputation as a cultural destination by nurturing and maintaining art and culture institutions of~~ national and international reputation; ~~by supporting programs and projects that as a creative, cultural destination; to~~ provide access to excellence in culture and the arts for residents and visitors; ~~and by funding programs and events which to~~ enrich the lives of the people of San Diego; and ~~to~~ build healthy, vital neighborhoods.

#### MAJOR EVENTS

To provide funding for the attraction and production of major events and conventions that generate ~~Transient Occupancy Tax~~ TOT and other revenues ~~for the City~~.

Applicants should apply for the most relevant priority area; however, the City acknowledges that many projects and activities may contribute to more than one of these priority areas.

The award of TOT funding must be memorialized in a written agreement between the City and the recipient.

### 3. TOT Funding Application Processes

#### ECONOMIC DEVELOPMENT AND ARTS, CULTURE, AND COMMUNITY FESTIVALS

Applications are required for ~~organizations~~ individuals and entities requesting TOT funding within the ~~4a)~~ Economic Development, and ~~2b)~~ Arts, Culture, and Community Festivals ~~categories~~ priority areas. Applicants and activities eligible for funding under those priority areas are specified below.

- a. The Economic Development category includes the 1) Citywide and 2) Economic Development and Tourism Support subcategories. The Citywide Economic Development priority area supports activities that promote tourism and enhance San Diego's economic health and position as a center for economic innovation and entrepreneurship. This priority area provides funding to tax-exempt, nonprofit organizations,

including eligible nonprofit institutions of higher education, for significant programs or projects in support of base-sector businesses and entrepreneurs that contribute to, or enhance San Diego's reputation; or to tax-exempt nonprofit organizations for significant programs or projects promoting San Diego as a tourism destination resulting in the generation of hotel room night occupancy.

The Economic Development Department, or other department designated by the City Manager, administers the application process is administered by the Financial Management Department. This funding and develops initial funding recommendations that are submitted to the City Manager for development of final funding recommendations to the City Council.

b. The Arts, Culture, and Community Festivals priority area includes four categories:

- 1) Organizational Support Program: The Organizational Support Program category provides general operational support to tax-exempt, nonprofit organizations, for the delivery of activities and programming that positively impact San Diego's quality of life and tourism and provide direct access and increased opportunities for excellence in culture and the arts;
- 2) Creative Communities San Diego: The Creative Communities San Diego category supports programs that promote the City as a visitor destination and provides project support for tax-exempt nonprofit organizations to deliver dynamic projects in San Diego neighborhoods that: engage diverse communities in arts, culture, and creativity; and contribute to a more accessible and sustainable creative ecosystem;
- 3) City Artist: The City Artist category provides support to individual artists and groups of artists, as they work to advance their artistic practice and expand their creative capacities to deepen the impact of their work as innovators and creative contributors to San Diego's arts, cultural, and creative sectors, and thus, promote a more dynamic and creative San Diego; and
- 4) Impact: The Impact category supports excellence, innovation, and creativity within the San Diego arts, cultural, and creative sectors through targeted City funding initiatives in alignment with the City's economy by increasing tourism and attracting industry arts and cultural strategies and priorities. Depending on a citywide basis. The Economic Development and Tourism Support subcategory provides funding for non-profit, tax-exempt organizations to produce regionally significant programs, services and events that promote tourism, attract business, and create employment. The Economic Development and Tourism Support application process is administered by the Community and Economic Development the initiatives within the Impact category, eligible applicants may include tax-exempt nonprofit organizations and artists.

The Department of Cultural Affairs, or other department designated by the City Manager, administers each of these application processes and develops initial funding recommendations that are submitted to the City Manager for development of funding recommendations to the City Council.

The Arts, Culture, and Community Festivals category contains three subcategories: 1) — Organizational Support Program; 2) Festivals and Celebrations Program; and 3) — Neighborhood Arts Program. The Commission for Arts and Culture administers these application processes. The Organizational Support Program subcategory provides annual, ongoing, general operating support for nonprofit, tax exempt arts and culture organizations with an emphasis on the delivery of programs and services that impact San Diego's quality of

life and tourism. The Festivals and Celebrations Program provides project support to community-based festivals, parades, and other celebrations, with an emphasis on projects which promote neighborhood pride and community reinvestment. The Neighborhood Arts Program funds projects that make arts and culture activities more available and accessible in San Diego neighborhoods and encourage people of diverse backgrounds and ages to share their heritage and culture.

~~Recommended funding levels for all categories and specific program funding for Citywide Economic Development, Safety and Maintenance of Visitor-Related Facilities, Capital Improvements, and Major Events~~

4. Funding recommendations for the SAFETY AND MAINTENANCE OF VISITOR- RELATED FACILITIES, CAPITAL IMPROVEMENTS, and MAJOR EVENTS priority areas will be made by the ~~Office of~~ City Manager as the City Manager designates.

5. Funding recommendations for all priority areas are subject to the City Manager's recommended appropriation levels based on available TOT funds.

## Funding

6. All funding recommendations are recommendations will be provided to the City Council for consideration and final approval as part of the annual budget process. All applicants receiving specific funding must comply with the requirements and conditions outlined in Attachment A.

The City's contract administrator, as necessary, will monitor compliance issues for applicants funded within the Arts, Culture, and Community Festivals and the Economic Development priority areas.

~~Organizations may only submit one TOT application to the City. An organization cannot apply for, or receive funding from, more than one category or subcategory of TOT. Applicant organizations must determine which one TOT category or subcategory best matches their program. City administrative staff can assist organizations in making that determination. All organizations must comply with the requirements and conditions outlined in Attachment B.~~

~~If necessary, prior to the beginning of the application process for each fiscal year, an informational report shall be presented annually to the Natural Resources & Culture (NR&C) Committee that will identify organizations funded by Citywide Economic Development that were not in compliance with their contractual agreement with the City in the past fiscal year. Appeals to the NR&C Committee can be made by any organization regarding compliance issues, and potential impacts on future allocations. A report on compliance issues for organizations funded within the Arts, Culture, and Community Festivals category or the Economic Development and Tourism Support subcategory will be presented to the respective review panels, if necessary.~~

4. ~~—~~ Funding for debt service requirements/ and annual lease payments related to capital improvements of visitor-related facilities:

7. Funding is provided for ~~debt service for~~ projects that contribute to a balance of community, cultural, recreational, and promotional programs, designed to enhance the well-being of the community and promote the City as a world-class visitor destination. ~~Funding may include, but is not limited to the following:~~

~~a. ——— Balboa Park/Mission Bay Park Improvements~~

~~Financial support will be provided for improvements to Balboa Park and Mission Bay Park consistent with adopted master plans (refer to Resolution No. R-271992).~~

This

~~b. Funding for the Extension of the San Diego Trolley ———~~

~~Funding will be provided for annual lease payments for debt issued for the City's share of trolley extension costs as matching funds to qualify for State and Federal funding required to implement extension of the San Diego Trolley as called for in the Regional Transportation Plan (refer to Ordinance Numbers O-16947 and O-17942).~~

~~c. ——— Convention Center Complex~~

~~Funding will be provided for annual debt payments and other expenses related to the expansion of the Convention Center onto the adjacent surface parking lot.~~

~~d. ——— PETCO Park Funding will be provided for annual debt payments and other expenses related to PETCO Park.~~

The adoption of this policy is not intended to be and shall not constitute an irrevocable commitment by the City Council to allocate monies for this purpose. Such a commitment may be made only at the time the annual ~~budget ordinances are~~ appropriation ordinance is adopted.

Attachment A

General Requirements and Conditions

**HISTORY:**

“Funding of Private Organization for Operational Expenses or Sponsorship of Special Events”

Adopted by Resolution R-183022 03/09/1965

Amended by Resolution R-191654 09/21/1967

Amended by Resolution R-211279 08/08/1974

Amended by Resolution R-218061 04/05/1977

Amended by Resolution R-220777 05/01/1978

Amended by Resolution R-222451 12/19/1978

Amended by Resolution R-254157 05/11/1981

Amended by Resolution R-272990 03/06/1989

Retitled to “Transient Occupancy Tax” with inclusion of Policies 100-04, 100-11 and

100-13 by Resolution R-279227 01/06/1992

Amended by Resolution R-280380 07/21/1992

Amended by Resolution R-284044 06/06/1994

Amended by Resolution R-284698 10/03/1994

Amended by Resolution R-286076 07/17/1995

Amended by Resolution R-286991 03/04/1996

Amended by Resolution R-289773 02/24/1998

Amended by Resolution R-289774 02/24/1998

Amended by Resolution R-300814 09/12/2005

**COUNCIL POLICY**ATTACHMENT A: General Requirements and ConditionsA. General

- ~~1. City funding support for private nonprofit organization operational expenses and for special events will be established so as to contribute to a balance of community cultural, recreational, and promotional programs designed to enhance the well-being of the community.~~
- ~~2. The functions or services to be provided by a private nonprofit organization must be of such nature that the interests of the City are better served by an agreement with a private nonprofit organization than by the performance of the services or functions by the City.~~
- ~~3. Programs or special events supported by the City must be open to the public.~~
- ~~4. It is the policy of the City to encourage similar organizations to operate in a coordinated and cooperative manner. If the City funds an "umbrella" organization for federated support of similar activities, then the City will not independently fund other organizations which should properly be part of the "umbrella" organization.~~
- ~~5. The City will only provide funding support to a legally constituted nonprofit corporation completely directing and in complete control of its own affairs through its own officers or members. Support for special events must also be directed to a sponsoring nonprofit corporation. The majority of the activities of the applicant organization must take place within the San Diego City limits and/or benefit City residents. A representative of the City specifically designated by the City Manager shall conduct liaison with the corporation and shall be permitted to attend meetings of the board of directors of such organizations, as deemed appropriate by the City Manager.~~
- ~~6. Organizations may only submit one TOT application to the City. An organization cannot apply for, or receive funding from, more than one category or subcategory of TOT. Applicant organizations must determine which one TOT category or subcategory best matches their program. City administrative staff can assist organizations in making that determination.~~
- ~~7. The City will not provide funding support to a private nonprofit organization for the conduct of any religious or political activity.~~
- ~~8. The City will only provide funding support to a private nonprofit organization that, in the conduct of its activities and affairs, adheres to the City's Equal Opportunity Contracting Program. The organization must not discriminate against any person because of sex, race, color, creed, national origin, physical handicaps, age, or sexual orientation.~~
- ~~9. The City Council retains the prerogative to waive any policy or requirement herein contained. Council may also impose such other for an individual or entity, then these requirements and conditions on City support to private~~



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~~nonprofit organizations, as it deems appropriate.~~

~~B. Funding~~

- ~~1. Expenses must be apply to both incurred and paid by an organization before the City will release funding to the organization, except as otherwise may be provided.~~
- ~~2. Expenses must be incurred during the City's fiscal year (July 1 – June 30) for which the program is funded, except as otherwise may be provided.~~
- ~~3. City funds may not be used for alcoholic beverages. In addition, City funds may not be used for travel, meals, lodging, or entertainment expenses, except as otherwise may be provided. Waivers to this provision will be considered for expenditures within the Economic Development Program categories. Organizations receiving waivers may use City funds for travel, meals, or lodging within the following parameters:~~
  - ~~a. Travel – when use of public air carrier transport is required in order to perform the contractual scope of services to the City, City funds may be applied toward the equivalent of coach airfare only. City funds may not be applied toward any upgrades.~~
  - ~~b. Meals – when provision of meals is required in order to perform the contractual scope of services to the City, City funds may be applied toward a maximum of \$50 per day per person for meals (excluding sales tax and a maximum 15% gratuity, which are also eligible expenses). This daily maximum is further limited by meal, as follows: \$10, \$15, and \$25 are the maximum City funds that can be applied toward breakfast, lunch, and dinner, respectively, per person. If alcoholic beverages are consumed with meals, they may not be paid for with City funds. In the event that meals are provided to individuals who are not members of the funded organization within the scope of a business development meeting, documentation containing the purpose of the meeting, the benefit to the City, and a list of attendees must be provided to the City in order for City funding to be utilized and entities.)~~
  - ~~c. General Lodging when out-of-town lodging is required in order to perform the contractual scope of services to the City, City funds may be applied toward the equivalent of the cost of a standard room in a business class hotel, or toward the conference rates of the host hotel when attending a conference.~~
  - ~~d. Sponsorships the City acknowledges the business requirement of event sponsorships by promotional organizations in order to market San Diego as a convention destination in a highly~~



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~~competitive market, and to attract businesses to the region. The primary objective of a funded organization's participation in such~~

~~events is to gain exposure for San Diego and secure access to important decision makers representing prominent convention groups and businesses. Financial sponsorship of such events is an acceptable application of City funds. If alcoholic beverages are consumed during event sponsorships, they may not be paid for with City funds.~~

- ~~4. City funds will be used only to assist an organization in its annual operating program or in its sponsorship of special events. City funding will not be used for capital or equipment outlay, for the purchase of awards, trophies, gifts, or uniforms, nor for the buildup of reserves.~~

### 1. Eligibility

To be eligible for funding, applicants must:

- a. Demonstrate alignment with the purpose of TOT funding for the priority area and category, if applicable, in which it applies.
- b. Meet the funding category eligibility criteria stated in this Council Policy and any additional requirements consistent with this Council Policy as specified in the applicant guidelines for the category to which it applies.
- c. For entities, demonstrate proof of incorporation within the United States and be registered with California Secretary of State, if applicable for the category in which the entity applies.
- d. For entities, demonstrate proof of nonprofit, tax-exempt status under sections 501(c)(3) or (6) of the Internal Revenue Code at the time of application, if applicable for the category in which the entity applies. Project producers may apply through fiscal sponsors as called for in the specific applicant guidelines under certain categories within the Arts, Culture, and Community Festivals priority area.
- e. For entities, have at least two full and consecutive years of operating with its own independent governing board, if applicable for the category in which it applies.
- f. For individuals, reside within the city of San Diego limits for at least two consecutive years, be at least 18 years old, and not be enrolled as a full-time student.
- g. For entities, be headquartered in the city of San Diego to receive general operational support. Within the Arts, Culture, and Community Festivals priority area, an entity seeking general operational support must have a mission statement clearly focused on the development, production, service, or presentation of arts and cultural activities and programming in the city of San Diego.

**COUNCIL POLICY****~~CURRENT~~**

- h. Maintain principal offices in San Diego county to receive project support, with an exception for arts service organizations with offices in San Diego county and primary headquarters in California, if applicable for the category in which it applies.
- i. Demonstrate proof that the funded project will take place within the city of San Diego. Within the Economic Development priority area, only entities within the city of San Diego may benefit from a TOT-funded program or project implemented by an eligible entity located within the limits of San Diego county; however, TOT-funded marketing and advertising may be directed outside of San Diego county.
- j. Have a clear presentation that is open to the public, or meaningful and accessible engagement component for projects, activities, and programming within the funding period. While presentations and participation must be open to the public generally, they may reach specific audiences or charge a fee as long as such restrictions do not discriminate on the bases described in Section 2(q) below.
- k. Receive funds from only one priority area of TOT. And, within the Arts, Culture, and Community Festivals priority area, if an entity receives funds from the Organizational Support Program category, it may not also receive funds from the Creative Communities San Diego category; however, an entity may receive additional funds from the Impact category as long as each application is for a distinctly different project and purpose. Within the Economic Development priority area, only one application may be submitted in total.
- l. Have no outstanding financial obligations or debts of any kind to the City.

## 2. General Exclusions and Ineligibility

The City does not provide TOT funding support for:

- a. Inherently religious activities: worship, instruction, or proselytization.
- b. Lobbying, including activities in lobbying, including activities intended to influence the outcome of elections or influence government officials regarding pending legislation, either directly or through specific lobbying appeals to the public.
- c. Voter registration drives and related activities.
- d. Re-granting.
- e. Any elementary or secondary schools, school districts, colleges, or universities, except that eligible nonprofit educational institutions of higher learning may apply under the Economic Development priority area for significant programs or projects in support of base sector business and entrepreneurs.
- f. Tuition for academic study.
- g. Capital outlay for construction, purchase, or improvement of facilities, or capital outlay for purchase of equipment, unless specified as eligible in applicant guidelines for a funding category.

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- h. Contests and competitions including gifts, prizes, and awards.
- i. Travel, lodging, and transportation costs, unless specified as eligible in applicant guidelines for a funding category.
- j. Food, alcohol, or beverages for hospitality or entertainment functions.
- k. Projects where fundraising is the primary purpose of the project.
- l. Contributions and donations to other individuals or entities.
- m. Cash reserves and endowments.
- n. Fines and penalties, accumulated deficits, and debt reductions.
- o. Current City employees and their immediate families.
- p. Other government entities other than eligible institutions of higher learning as noted in Section 2(e) above.
- q. Applicants or activities that discriminate against any person on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability.

Additional exclusions, consistent with this Council Policy, may be specified in applicant guidelines for the category in which an applicant applies.

### 3. Applications

- a. Funding applications will only be accepted online, except that accommodations may be made upon request for those with disabilities.
- b. It is the City's intent to provide advance notification of the application process to a wide distribution of potential individuals and entities that may be eligible for funding. Applications must be supported by appropriate documentation, and in accordance with the submission schedule as prescribed by the City Manager and promulgated in the applicant guidelines.
- c. The City will not accept or consider submissions submitted after any applicable cut-off time or date.
- d. Entity applications for funding must be accompanied by documents that demonstrate the existence of the applicant as a legal entity in good standing, as designated by the City Manager and promulgated in the applicant guidelines.
- 5.e. Matching fund requirements will be determined by the appropriate application process as called for in the specific ~~funding applicant~~ guidelines within each ~~funding priority area~~ and category, if applicable.
- ~~6. Organizations requesting funds should possess, at a minimum, a three-year track record of operations. Annual requests for funding may be for one-time events or projects, though applicant organizations must have a three-year history.~~

**COUNCIL POLICY**~~CURRENT~~~~C.~~ Request for Funds

- ~~1. It is the City's intent to provide advance notification of the annual application process to a wide distribution of potential organizations that may be eligible for funding. Requests by private nonprofit organizations shall be supported by appropriate documentation and in accordance with the submission schedule as prescribed by the City Manager and promulgated in a procedural guide. Late submissions will not be accepted.~~
- ~~2. One-time special event requests must be accompanied by the same documentation outlined in paragraph C.1. above, except that financial data may be confined to the special event. A disclosure of the full-year fiscal status of the sponsoring organization will not normally be required.~~
- ~~3. If an organization charges fees for admission to or participation in an event, the organization's request for funding must include a disclosure of all such fees.~~
- ~~4. Initial requests for funding must, additionally, be accompanied by documents that evidence the existence of the organization as a legal entity in good standing. Such documents shall be determined by the City Manager and promulgated in a procedural guide.~~

~~D.4.~~ Evaluation of ~~Requests~~Applications

- ~~1. All requests for support by private nonprofit organizations will be referred to the appropriate review panel for each funding subcategory application process for analysis and subsequent recommendations to the Mayor and City Council. These subcategories include Festivals and Celebrations, Organizational Support, Citywide Economic Development and Economic Development and Tourism Support. All requests will be reviewed and evaluated in the light of the criteria of this Council Policy.~~
  - ~~a. To assess and recommend funding under this Council Policy, departments evaluating applications for the Economic Development and Arts, Culture, and Community Festivals priority areas, will create a review and evaluation process that is consistent with this Council Policy.~~
  - ~~b. Unsuccessful applicants are encouraged to seek feedback from City staff on their application.~~

~~E.~~ 5. Funding Agreements

- ~~1.a. No expenditure may be made out of any appropriation until~~All successful applicants are required to enter into a written agreement with the City setting out the terms and obligations of the parties has been consummated conditions before any funds are released. The agreement will specify in detail the services or functions to be performed, the nature of the payment or ~~reimbursement-~~payment schedule, and the financial reporting requirements.

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- b. Eligible expenses must be both incurred and paid by the recipient, and proof provided to the City, before the City will release funding to the recipient, except as otherwise may be provided.
- c. Expenditures must be incurred during the City's fiscal year (July 1 – June 30) for which the recipient receives funding, except as otherwise may be provided.
- ~~2-d.~~ All agreements will provide that the City may withhold funds from the contracting ~~organizations~~recipients and terminate its entire obligation upon notice to the ~~organization~~recipient if the ~~organization~~recipient violates any of the terms of the agreement, or for other good cause shown ~~that is~~ not related to a violation of the terms of the agreement, including any determination by the City Manager or City Council to reappropriate or reprogram such funds. The City Manager shall thereafter advise the City Council of the notification of termination made to the ~~organization~~recipient. All awarded funds not utilized by recipient in accordance with the terms of the applicable written agreement, will revert back to City for any appropriate use.
- ~~3-e.~~ Compliance with the terms and conditions of agreements shall be determined by the City Manager.

Performance

~~F-6.~~ Mandatory Reporting

- a. Performance reporting shall be required of all funding recipients. ~~Organizations receiving funding shall provide the Contract Administrator, each~~
- b. Recipients may be required to deliver quarterly reports, or a mid-year, ~~a Final Performance Report~~ report to the City's contract administrator detailing the organization's ~~their~~ progress ~~towards~~in meeting the ~~goals and objectives outlined in the contract's~~agreed upon scope of services.
- c. Recipients must also deliver a final performance report to the City's contract administrator detailing their success in meeting the agreed upon scope of services. The Contract Administrator may require additional documentation to substantiate City's contract administrator will not approve the ~~information~~recipient's final invoice, or release payment for such invoice, until the recipient has submitted, and the City's contract administrator has approved, recipient's final performance report. The report shall also include a ~~Statement of Compliance signed by the executive director or other chief executive officer~~statement of the ~~organization~~compliance certifying that the ~~organization~~recipient has complied with the terms and conditions of the ~~City's~~ agreements. This information must be submitted within ninety (90) days of the end of ~~that fiscal year~~their written agreement with the City.

~~G-7.~~ Financial Disclosure

- 1. ~~Any organization~~Recipients receiving \$500,000 or more of TOT funding, ~~when that funding represents more than 10 percent of the organization's annual budget, must~~

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include in their applications salary and wage ranges for each of their job classifications, including actual executive salaries and benefits packages applicable for the contract period, during the annual budget process each fiscal year. Organizations receiving less than \$500,000 may voluntarily comply with these disclosure requirements.

2. Financial disclosure information shall be required of all funding recipients receiving \$10,000 or more in City funds. Organizations receiving funding shall provide the Contract Administrator, each year, must submit copies of true, accurate, and complete financial disclosure documentation evidencing the financial status of the organization's recipient's last complete fiscal year within ninety (90) days of the end of that fiscal year. All organizations receiving funding in the amount of \$10,000 or more shall submit the following documents:
- a) A statement of the expenditure of City funds by program to be identified in the same expenditure classifications as contained in the City funded final budget approved through the application process and compared with the budgeted amounts follows:
    - b) A statement of revenues and expenditures and a balance sheet of all funds received by the organization.
  - i. If City funding is Recipients receiving TOT funds of \$10,000 or more, but less than \$75,000 or greater, audited financial statements, including items a and b above, must, within a single fiscal year must submit required financial disclosure documentation with their final performance report within 30 days of the end of the fiscal year. Such financial disclosure documentation must include a statement of activities for that fiscal year, and a statement of financial position for that fiscal year. Upon written request by the recipient, and in the sole discretion of the City's contract administrator, the recipient may be granted up to 60 additional days to comply with this requirement.
  - ii. Recipients receiving TOT funds equaling \$75,000 or more within a single fiscal year, in addition to the documents required above, must submit the following:
    - A. Recipients with an operating budget under \$2 million must submit a financial review of the recipient's most recently completed fiscal year conducted by an independent certified public accountant within 150 days of the end of that fiscal year. The financial review must be prepared in accordance with generally accepted accounting principles (GAAP) and audited.
    - B. Recipients with an operating budget of \$2 million or more must submit audited financial statements of the recipient's most recently completed fiscal year conducted by an independent Certified Public Accountant, in accordance with generally accepted auditing standards (GAAS) and submitted to the Contract Administrator within one hundred fifty (150) certified public accountant within 150 days of the end of that fiscal year. The Contract Administrator may grant extensions of up to thirty (30) days to these deadlines when deemed necessary, upon The audit must be



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prepared in accordance with generally accepted auditing principles.

3. Upon written request by the ~~funded organization~~ recipient, and in the sole discretion of the City's contract administrator, the recipient may be granted up to 60 additional days to comply with this requirement.

~~An organization receiving funding support will~~

iii. Recipients receiving TOT funds in the amount of \$500,000 or more within a single fiscal year, when that funding represents more than 10% of the recipient's annual budget, must submit, in addition to the documents required above, salary and wage ranges for each of its job classifications, including actual executive salaries and benefits packages.

4.b. Recipients must permit the City to inspect all ~~books~~ financial documents and records at any time, and to perform or require any audits the City reasonably desires. The City shall periodically monitor the records of ~~contracting organizations~~ recipients. As with all documents submitted to the City, the financial documents discussed above are subject to the California Public Records Act.

H.8. Compliance with General Requirements and Conditions

a. All applicants must be in good standing as determined by the City's contract administrator during the application phase.

4.b. Failure to comply with the ~~City's~~ terms and conditions of the written agreement could result in the suspension of any current remaining funding, at the discretion of the ~~Contract Administrator~~ City's contract administrator.

c. ~~All organizations must be in good standing at the time of application for future funding.~~ Non-compliance with any terms and conditions of the written agreement could result in ~~the disqualification of funding requests~~ being disqualified from reapplying to or ~~contracting with the City~~ for future fiscal years, until ~~such time as organization~~ the recipient comes into full compliance.

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