

CITY OF SAN DIEGO

Proposition C

(This proposition will appear on the ballot in the following form.)

PROP C EMERGENCY SERVICES, ROADS, PARKS, TOURISM AND OTHER SPECIFIED USES ORDINANCE.

Shall the City increase the transient occupancy tax (TOT) paid by hotel and motel visitors by 2.5%, and shall these funds, along with some current TOT funds, be earmarked to fund Fire-Rescue and Police emergency services, equipment and facilities; road improvements; park and coastal improvements; tourism promotion; and library and arts programs; and shall public audits be conducted of the uses of these funds?

This proposition requires approval by two-thirds of the voters.

Full text of this proposition follows the arguments.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council has authorized the placement on the ballot a proposition seeking voter approval of a measure that would amend the City's Municipal Code by raising the Transient Occupancy Tax [TOT] from the current rate of 10.5% to 13%. The TOT is a tax paid by hotel and motel guests who reside for one month or less in a hotel or motel in the City. Because the revenues derived from raising the TOT rate would be dedicated for specific purposes, this ballot measure proposes a special tax as defined by article XIII C of the California Constitution. Accordingly, this ballot measure will take effect only if passed by two-thirds of the City's voters.

This ballot measure would require that one-half of all TOT revenues be allocated in the City Manager's budget for designated purposes. For every 13 cents projected for collection:

- a. Three quarters of a cent would go to a TOT Fire-Rescue Fund for the repair, replacement, and improvement of fire-rescue facilities, equipment, and infrastructure, over and above expenditure levels currently being used for such purposes;
- b. One quarter of a cent would go to a TOT Police Fund for Police facilities and equipment, over and above expenditure levels currently being used for such purposes;
- c. Three quarters of a cent, up to \$7,689,632, would go to the Police Department budget. Any amount projected for collection exceeding \$7,689,632 would go to the TOT Police Fund;
- d. Three quarters of a cent would go to a Community Infrastructure Fund for improvements to neighborhood roads, Mission Bay, and Balboa Park; open space acquisition; and the development of a Parks Systems Master Plan;
- e. One-half cent would go to the TOT Library System Fund for Library System facility improvements;
- f. One cent would go to the TOT Arts and Culture Fund for Arts and Culture projects, programs, and support of the Arts and Culture Commission; and,
- g. Two and one-half cents would go to the Tourism Marketing and Promotion Fund, from which allocations shall be made to the Convention and Visitors Bureau, the Convention Center, and other entities engaging in the promotion of San Diego as a tourist destination.

These allocations of TOT revenue may not be repealed or amended except by two-thirds vote of the City's voters, but may be temporarily suspended in the event of a public emergency as determined by two-thirds vote of the City Council. TOT revenues not subject to allocation may be used for general governmental purposes according to the discretion of the City Council.

This ballot measure would create a Tourism Promotion Review Board composed of representatives of the lodging and restaurant industries and the San Diego-Imperial Counties Labor Council. This Board would have responsibilities over the budget of the Tourism Marketing and Promotion Fund. Its budget would be submitted to the Council for approval, with the Council having the final authority to approve the budget, subject only to certain minimum funding levels.

ARGUMENT IN FAVOR OF PROPOSITION C

Our tax dollars have been wasted on pet projects while urgent needs – such as emergency fire helicopters – go unfunded. Prop. C prohibits such waste.

VISITORS PAY

Proposition C raises the hotel/motel tax paid by visitors by 2.5 percent – providing millions annually in *new funds* for urgent PUBLIC SAFETY and ROAD IMPROVEMENT priorities. It is supported by tourism businesses because it provides accountability for tourism revenues and NEW FUNDS to promote tourism and expand our economy.

UPGRADES 9-1-1 – REDUCES EMERGENCY RESPONSE TIMES

Major crimes are UP in San Diego yet DOWN in other major cities. Our firefighters, paramedics and 9-1-1 personnel are forced to work with obsolete, inadequate or simply inferior equipment and facilities.

San Diego now ranks near the bottom of major cities in emergency response times. Those critical extra emergency response minutes cost lives every year – *as recent fires have painfully reminded us*.

Proposition C earmarks \$20 million per year to address urgent public safety needs – putting money in a LOCK BOX that can only be used to:

- Upgrade our aging, outdated, 9-1-1 emergency network.
- Purchase new fire and paramedic equipment and new fire stations.
- Purchase modern police equipment and supplies.

These investments will help reduce crime and reduce emergency response times – saving lives and improving the safety of every local resident.

MILLIONS FOR NEIGHBORHOOD ROAD IMPROVEMENTS

Proposition C also earmarks millions annually for urgent neighborhood street and road improvements – helping to reduce traffic congestion.

With the city facing huge deficits these critical needs will go unfunded without Proposition C.

TAXPAYER PROTECTIONS

Proposition C protects taxpayers by:

- REQUIRING elected officials to spend the money as directed by the voters.
- MANDATING INDEPENDENT PUBLIC AUDITS to ensure the funds are spent as intended.

Vote YES on C – For a safer city and a stronger economy.

RON SAATHOFF
President
San Diego City Firefighters

BILL FARRAR
President
San Diego Police Officers Association

LISA BRIGGS
Executive Director
San Diego County Taxpayers Association

JESSIE KNIGHT
President
San Diego Chamber of Commerce

TERRY BROWN
Chairman
San Diego Lodging Industry Association

ARGUMENT AGAINST PROPOSITION C

Prop C, as an editorial in the Union-Tribune noted, is a “**badly flawed measure**” pushed by “**special interests**” that would place “off limits to the City Council” a “**huge chunk**” of the City’s revenues.

Is it any wonder that Mayor Dick Murphy and two other members of the Council voted against Prop C? The Mayor was quoted saying that Prop C “**limits the city’s flexibility to respond to the changing needs of our citizens.**”

Prop C mixes apples and lemons. Higher taxes on tourists may or may not be a good idea, but with Prop C, those taxes come at too high a price – a price extracted by special interests that shouldn’t be permitted to lock in city revenues free of the normal annual review during budget deliberations.

But Prop C isn’t just bad public policy. Prop C is a Trojan Horse, with provisions that will probably shock you.

For example, using recent estimates based on FY2004 by the City Manager, while Prop C would raise over \$26 million in new tax revenues, Prop C mandates where the City spend over \$68 million. **That’s right – Prop C locks in 2.6 times more spending commitments than it would raise.**

Prop C isn’t just bad public policy – it’s fiscal lunacy.

And, who gets the really big bucks out of Prop C? Fire? No! Police? Not according to the City Manager. The really big bucks go to the tourist industry. The so-called Tourism Fund is mandated by Prop C to receive – you have probably already guessed – over \$26 million, no doubt just by chance the same amount that the tax increase would raise.

Is it any wonder we think Prop C is corporate welfare at its worst?

Please join us and **Vote No On Prop C.**

RICHARD RIDER
Chair
San Diego Tax Fighters

KATHLEEN BLATTNER
Nurse Practitioner

J. BRUCE HENDERSON
President
Association of Concerned Taxpayers

EDWARD M. TEYSSIER
Chair
San Diego Libertarian Party

STEVEN CURRIE
Information Systems Manager

MUNICIPAL CODE AMENDMENT

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, and 35.0108, which collectively have imposed a 10.5 percent transient occupancy tax for the privilege of occupancy in hotels, recreational vehicle parks, and campgrounds.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new section 35.0103, to read as follows:

§35.0103 Tax Imposed

For the privilege of Occupancy in any Hotel, any Recreational Vehicle Park, or any Campground, each Transient is subject to and shall pay a tax in the amount of 13 percent (13%) of the Rent charged by the Operator.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0128, 35.0129, 35.0130, 35.0131, 35.0132, and 35.0133, which collectively have established the process for utilizing revenues collected from transient occupancy taxes.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new sections 35.0128, 35.0129, 35.0130, 35.0131, 35.0132, 35.0135, 35.0140, 35.0141, 35.0142, and 35.0143 which sections may not be repealed or amended except at an election and by a two-thirds vote of the qualified voters of the City of San Diego, to read as follows:

§35.0128 Utilization of Revenues from Tax Imposed by Section 35.0103

- a. There are hereby created the following funds: TOT Fire-Rescue Fund, TOT Police Fund, TOT Community Infrastructure Fund; TOT Library System Fund; TOT Arts and Culture Fund, and Tourism Marketing and Promotion Fund.
- b. Except as set forth in section 35.0135, all revenues collected pursuant to the transient occupancy tax imposed by the City under section 35.0103 shall be utilized and expended solely in accordance with this section, as follows:
 - (1) Three quarters of a cent (\$0.0075) of every 13 cents projected for collection shall be included in the City Manager's budget for deposit in the TOT Fire-Rescue Fund to be appropriated by the City Council for the repair, replacement, and improvement of fire-rescue facilities, equipment, and infrastructure described in section 35.0129. Revenues from said TOT shall not be used for personnel stationed at existing facilities, but may be used to provide personnel related to new stations as described in section 35.0129. The TOT Fire-Rescue Fund budget shall be adjusted to actual revenues in the succeeding fiscal year.
 - (2) One quarter of a cent (\$0.0025) of every 13 cents projected for collection shall be included in the City Manager's budget for deposit in the TOT Police Fund to be appropriated by the City Council for the Police facilities and equipment described in section 35.0130. The TOT Police Fund budget shall be adjusted to actual revenues in the succeeding fiscal year.
 - (3) Three quarters of a cent (\$0.0075) of every 13 cents projected for collection, up to \$7,689,632, shall be allocated in the City Manager's budget for the Police Department. Any amount projected for collection that exceeds \$7,689,632 shall be allocated in accordance with the provisions of subsection (b)(2).
 - (4) Three quarters of a cent (\$0.0075) of every 13 cents projected for collection shall be included in the City Manager's budget for deposit in the Community Infrastructure Fund to be appropriated by the City Council as described in section 35.0131. The Community Infrastructure Fund budget shall be adjusted to actual revenues in the succeeding fiscal year.

- (5) One-half cent (\$0.0050) of every 13 cents projected for collection shall be included in the City Manager's budget for deposit in the TOT Library System Fund to be appropriated by the City Council solely for Library System facility improvements, except in any fiscal year that the TOT allocation for Library System facility improvements is less than the TOT allocation provided for in the Library System Financing Plan dated November 18, 2002, then the amount of the shortfall will be proportionately deducted from the amounts allocated pursuant to paragraph (4), (6) and (7) of this section and deposited into the TOT Library System Fund. The TOT Library System Fund budget shall be adjusted to actual revenues in the succeeding fiscal year.
- (6) One cent (\$0.01) of every 13 cents projected for collection shall be included in the City Manager's budget for deposit in the TOT Arts and Culture Fund to be appropriated by the City Council solely for Arts and Culture projects, programs, and administrative support of the Arts and Culture Commission. The TOT Arts and Culture Fund budget shall be adjusted to actual revenues in the succeeding fiscal year.
- (7) Two and one-half cents (\$0.025) of every 13 cents projected for collection shall be included in the City Manager's budget for deposit in the Tourism Marketing and Promotion Fund to be used in the manner described in section 35.0132. The Tourism Marketing and Promotion Fund budget shall be adjusted to actual revenues in the succeeding fiscal year.
- (8) All transient occupancy tax revenues not allocated pursuant to subsections (b)(1) through (b)(7) shall be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's Annual Appropriation Ordinance.

§35.0129 TOT Fire-Rescue Fund

Expenditures from the TOT Fire-Rescue Fund shall be in addition to and shall supplement current expenditure levels being used for fire protection equipment, communications systems, apparatus, deferred maintenance and facilities. Current expenditure levels are defined as Fiscal Year 2003 actual expenses increased annually by an amount equivalent to the annual percentage growth of the General Fund. However, in any given fiscal year the City Council may make a finding to waive the requirement to maintain current expenditure level funding, but only if revenue from the TOT Fire-Rescue Fund and any other funding dedicated for the purposes described in this section are found to be sufficient to meet the goals and objectives outlined in this section. Appropriations are eligible to be made from the TOT Fire-Rescue Fund as follows:

- (a) to purchase and maintain fire apparatus to replace the existing fleet; and
- (b) to purchase and maintain public safety communications systems and equipment, including a new Mobile Data Communications System to allow for greater efficiency and improved emergency response time; and
- (c) to eliminate the backlog of deferred maintenance on equipment, apparatus, and facilities; and
- (d) To develop a needs assessment to (1) identify funding requirements for maintenance of equipment, apparatus, and fire-rescue facilities; and (2) create a maintenance plan to ensure that current equipment, apparatus, and fire-rescue facilities do not become maintenance deferred once the backlog identified in the needs assessment has been eliminated; and
- (e) After funding is completed for priorities identified in subsections (a) through (d), to fund development of a long-term plan to address the goal of six-minute emergency response times in each community and neighborhood, including use of the funds for purchase of land, construction, equipment and apparatus, and personnel for new fire stations; and
- (f) Prior to implementing the long-term emergency response time plan, a maintenance account shall be established to pay for maintenance and repair on all new facilities and equipment; and

- (g) To maintain a reserve in the TOT Fire-Rescue Fund of no less than ten percent (10%) of the TOT funds projected for the fiscal year to be deposited into the TOT Fire-Rescue Fund.

§35.0130 TOT Police Fund

Expenditures from the TOT Police Fund shall be in addition to and shall supplement current expenditure levels being used for public safety equipment, communications systems, police vehicles, deferred maintenance and facilities.

Current expenditure levels are defined as Fiscal Year 2003 actual expenses increased annually by an amount equivalent to the annual percentage growth of the General Fund. However, in any given fiscal year the City Council may make a finding to waive the requirement to maintain current expenditure level funding, but only if revenue from the TOT Police Fund and any other funding dedicated for the purposes described in this section are found to be sufficient to meet the goals and objectives outlined in this section. Appropriations are eligible to be made from the TOT Police Fund as follows:

- (a) to purchase and maintain police vehicles to replace the existing fleet; and
- (b) to purchase and maintain public safety communications systems equipment; and
- (c) To eliminate the backlog of deferred maintenance on equipment, apparatus, and facilities; and
- (d) To develop a needs assessment to (1) identify funding requirements for maintenance of equipment, vehicles, and police facilities; and (2) create a maintenance plan to ensure that current equipment, apparatus, and police facilities do not become maintenance deferred once the backlog identified in the needs assessment has been eliminated; and
- (e) After funding is completed for priorities identified in subsections (a) through (d), TOT revenues shall be used to develop and implement a long-term plan to address the goal of maintaining two officers per 1,000 residents within the City of San Diego; and
- (f) Prior to implementing the long-term plan of officers per residents, a maintenance account shall be established to pay for maintenance and repair of police facilities and equipment; and
- (g) To maintain a reserve in the TOT Police Fund of no less than ten percent (10%) of the TOT funds projected for the fiscal year to be deposited into the TOT Police Fund.

§35.0131 TOT Community Infrastructure Fund

Appropriations are eligible to be made from the TOT Community Infrastructure Fund as follows:

- (a) Neighborhood Road Improvements. Twenty-three percent (23%) of revenue projected for deposit into this fund shall be budgeted for deferred maintenance of City roads and streets, and to mitigate traffic congestion on local neighborhood streets in the City of San Diego through the implementation of regular repairs and upgrades including in priority order, but not limited to, neighborhood intersection signal timing and synchronization, street resurfacing and slurry sealing, and regular street maintenance equipment purchases.
- (b) Mission Bay Improvements. Twenty-five percent (25%) of revenue projected for deposit into this fund shall be budgeted for the implementation and new construction of all capital projects described in and located within the boundaries of the Mission Bay Park Plan, as amended from time to time.
- (c) Balboa Park Improvements. Twenty-five percent (25%) of revenue projected for deposit into this fund shall be budgeted for implementation and new construction of all capital projects described in and located within the boundaries of the Balboa Park Master Plan, as amended from time to time.
- (d) Coastal Improvements. Seventeen percent (17%) of revenue projected for deposit into this fund shall first be budgeted as necessary to develop a Coastal Infrastructure Master Plan for coastal and lifeguard infrastructure capital projects. A

priority of the Coastal Infrastructure Master Plan shall be the completion of coastal erosion projects set forth in the City of San Diego Coastal Erosion Assessment Update from Sunset Cliffs to Torrey Pines State Beach, Document No. C-11542. After approval of the Coastal Infrastructure Master Plan by the City Council and certification by the California Coastal Commission, any funds projected for collection thereafter shall be budgeted for implementation and new construction of all capital projects described in and located within the boundaries of the Coastal Infrastructure Master Plan.

- (e) Open Space Acquisition. Ten percent (10%) of revenue projected for deposit into this fund shall be budgeted to acquire, maintain, and monitor property within the Multiple Habitat Planning Area's core biological resource areas and linkages as identified in the Multiple Species Conservation Program, and other designated park and open space.
- (f) Parks System Master Plan. For the first three years after this fund is established, from the revenue projected for deposit into this fund and allocated pursuant to subsections (b), (c), (d) and (e), an equal dollar amount from these allocations shall be deducted, not to exceed one quarter of a cent (\$.0025) of every 13 cents projected for collection pursuant to section 35.0128, and budgeted as necessary for the preparation of a Parks System Master Plan as proposed by the Park and Recreation Department Budget Working Group and more fully described in City Manager's Report No. 03-115, issued May 30, 2003.

§35.0132 Tourism Marketing and Promotion Fund

Appropriations are eligible to be made from the Tourism Marketing and Promotion Fund as follows:

- (a) Not less than fifty-five percent (55%) of the revenue projected for deposit into this fund shall be budgeted for use by the operating entity of the San Diego Convention and Visitors Bureau, to be used solely for the sales, marketing, advertising, promotions, public relations, operations, and administrative functions of the San Diego Convention and Visitors Bureau. Provided, further, that a minimum of fifty percent (50%) of the funds allocated under this subsection shall be used for sales and marketing functions, programs, and projects. This allocation of Transient Occupancy Tax shall supplement the revenue generated from the business operations and membership dues of the San Diego Convention and Visitors Bureau and shall be used solely for the sales, marketing, advertising, promotions, public relations, operations, and administrative functions of the San Diego Convention and Visitors Bureau. Should the San Diego Convention and Visitors Bureau cease to exist, this revenue shall be automatically, specifically, and exclusively allocated to its duly empowered successor, as determined by the City Council, whose sole purpose is to market and promote San Diego in order to increase the collection of the Transient Occupancy Tax.
- (b) Not less than twenty-two percent (22%) of the revenue projected for deposit into this fund shall be budgeted for use by the operating entity of the San Diego Convention Center, including any governmental entity, to be used solely for the operations, maintenance, and capital requirements (including capital and operating reserves and financing debt service for future capital projects) of the San Diego Convention Center. This allocation of Transient Occupancy Tax shall supplement the revenue generated from the business operations of the San Diego Convention Center and used solely for the operation, maintenance and capital requirements (including capital and operating reserves and debt service for future capital projects) of the San Diego Convention Center. Should the operating entity of the San Diego Convention Center cease to exist, this revenue shall be automatically, specifically and exclusively be allocated to its duly empowered successor, as determined by the City Council, that is identified as the operating entity of the San Diego Convention Center.
- (c) Not less than two and three tenths percent (2.3%) of the revenue projected for deposit into this fund shall be budgeted for use by the operating entity of the San Diego North Convention and Visitors Bureau, to be used solely for the sales, marketing, advertising, promotions, public relations, operations, and

administrative functions of the San Diego North Convention and Visitors Bureau. Provided, further, that a minimum of fifty percent (50%) of the funds allocated under this subsection shall be used for sales and marketing functions, programs and projects. This allocation of Transient Occupancy Tax shall supplement the revenue generated from the business operations and membership dues of the San Diego North Convention and Visitors Bureau to be used solely for the sales, marketing, advertising, promotions, public relations, operations, and administrative functions of the San Diego North Convention and Visitors Bureau. Should the San Diego North Convention and Visitors Bureau cease to exist, this revenue shall be automatically, specifically and exclusively allocated to its duly empowered successor, as determined by the City Council, or to the San Diego Convention and Visitors Bureau, should no successor exist.

- (d) The allocations described above in subsections (a) through (c) are subject to adjustment every five years by a concurring two-thirds vote of the Tourism Promotion Board and the San Diego City Council.
- (e) The balance of the revenue projected for deposit into this fund shall be budgeted for uses in furtherance of the purpose of generating the collection of additional Transient Occupancy Taxes by promoting tourism in the City of San Diego, and for no other purpose. In addition to the budget allocations described above in subsection (a) through (c), the initial budget shall include allocations to the following recipients: the San Diego Film Commission; Accessible San Diego; the San Diego African American Sports Association/Gold Coast Classic; the San Diego Bowl Game Association/Holiday Bowl; the San Diego International Sports Council; and the Major Event Revolving Fund and any successors thereto.
- (f) A contingency reserve shall be maintained within the Tourism Marketing and Promotion Fund of no less than 10 percent and no more than 30 percent of revenues projected for collection. Reserves shall be administered on recommendations made by the City of San Diego Tourism Promotion Review Board and a majority vote of the City Council.

§35.0135 Suspension of Section 35.0128

The City Council may temporarily suspend compliance with section 35.0128 and utilize the revenues from the tax imposed by section 35.0103 for general governmental purposes in the event of a public emergency, including any fiscal emergency, when it is declared and determined by the affirmative vote of at least two-thirds of the members elected to the Council that such a waiver is necessary in order to make General Fund expenditures to insure the safety and lives and property of the City or its inhabitants.

§35.0140 City of San Diego Tourism Promotion Review Board

There is hereby created the City of San Diego Tourism Promotion Review Board. The Board shall have review and advisory responsibility over the budgeting of all funds deposited into the Tourism Marketing and Promotion Fund, as provided in section 35.0132.

§35.0141 Membership of San Diego Tourism Promotion Review Board

The membership of the City of San Diego Tourism Promotion Review Board shall be appointed by the Mayor and confirmed by the Council and shall consist of seven (7) members as follows:

- (a) One (1) person appointed from a nominating slate of no less than three and no more than six persons submitted by the San Diego County Hotel and Motel Association who are owners of one or more lodging establishments.
- (b) One person (1) appointed from a nominating slate of no less than three and no more than six persons submitted by the San Diego County Hotel & Motel Association who holds the title of General Manager, or its functional equivalent, at one or more lodging establishments.
- (c) One (1) person appointed from a nominating slate of no less than three and no more than six persons submitted by the San Diego Lodging Industry Association who are owners of one or more lodging establishments.

- (d) One (1) person appointed from a nominating slate of no less than three and no more than six persons submitted by the San Diego Lodging Industry Association who holds the title of General Manager, or its functional equivalent, at one or more lodging establishments.
- (e) One (1) person appointed from a nominating slate of no less than three and no more than six persons submitted by the California Restaurant Association, San Diego Chapter, who owns an establishment licensed by the City to operate as a restaurant.
- (f) One (1) person appointed from nominating slates of two (2) persons each submitted by the San Diego Hotel & Motel Association, San Diego Lodging Industry Association, and the California Restaurant Association, San Diego Chapter, for a maximum of six nominees, who holds the title of General Manager, or its functional equivalent, at a major tourist destination located within the City.
- (g) One (1) person appointed from a nominating slate of no less than three and no more than six persons submitted by the San Diego-Imperial Counties Labor Council.

§35.0142 Terms of Members of the City of San Diego Tourism Promotion Review Board

- (a) The members of the City of San Diego Tourism Promotion Review Board shall serve without compensation for terms of four (4) years and until their successors are appointed and qualified. In order to provide for staggered terms, initial appointments to this Board shall be made so as to provide that the terms of office of two members shall be for four years; two members for three (3) years; two members for two (2) years; and one member for one (1) year. The staggering of terms will be established at the first meeting by a draw of lots.
- (b) Members of this Board may be re-nominated and reappointed, subject to the term limitations set forth in San Diego City Charter section 43(a). Members of the Board may be removed, for cause, by a two-thirds (2/3) vote of the City Council. If the status of a person appointed to this Board changes, so that he or she no longer serves in a representative capacity that would qualify for eligibility for appointment under section 35.0141 for membership on this Board, then his or her position shall be deemed vacant, and the Mayor shall appoint a qualified successor, selecting from the appropriate slate that provided the original nomination as provided in section 35.0141 to fill out the remainder of the unexpired term as provided in this section.
- (c) The Board shall have the power and authority upon a majority vote to annually elect a Chairperson.
- (d) A conflict of interest code shall be adopted for this Board. All members shall be required to complete and file a Statement of Economic Interests in accordance with the conflict of interest code. Failure to file a Statement of Economic Interests will be considered cause for removal.

§35.0143 Responsibilities and Duties of the San Diego Tourism Promotion Review Board

The City of San Diego Tourism Promotion Review Board shall have the following responsibilities and duties:

- (a) The Board shall prepare on an annual basis, by no later than April 30th of each year, a proposed funding budget, based on revenue projections provided by the City Manager, for the upcoming fiscal year for the allocation, application, and disbursement of 100 percent (100%) of the funds held in or to be paid to the Tourism Marketing and Promotion Fund. This budget shall be submitted to the Council for approval consistent with Article VII of the City Charter with the Council having the final authority to approve the budget, subject only to the minimum funding levels outlined in section 35.0132.
- (b) City staff supporting the San Diego Promotion Review Board, in conjunction with the City Manager and the City Auditor and Comptroller, shall be responsible for letting, administering and auditing all contracts awarded pursuant to the budget described in this section in accordance with City Policy 100-3. The City shall have the authority to audit any and all aspects of the contracts awarded, as well as any and all aspects of any other expenditures allocated by the Board.

- (c) The Board is authorized and empowered to take acts and actions necessary, in its discretion, in furtherance of the generation of Transient Occupancy Taxes in the City by the promotion of tourism in the City, including the power and authority, from time to time, to:
- (1) Evaluate the status and effectiveness of tourism promotion for the City; and
 - (2) Establish priorities in the allocation of funds from the Tourism Marketing and Promotion Fund; and
 - (3) Review and audit the programs of those entities that receive funding from the Tourism Marketing and Promotion Fund as a supplement to the audits referenced above in subsection (b) conducted by the City Auditor and Comptroller. This Board may establish criteria for the review and contract for a regularly scheduled performance audit of all recipients of revenue from the Tourism Marketing and Promotion Fund, relative to that portion of the recipients' budget represented by Tourism Marketing and Promotion Fund expenditures. The audit of a recipient shall occur no more frequently than biennially and at least once every four years. This audit shall be performed by a nationally recognized company qualified in this subject; and
 - (4) Adopt rules and regulations, consistent with applicable law, that relate to and otherwise guide the Board's operations and procedures.
- (d) The City of San Diego Tourism Promotion Review Board shall not duplicate, replicate or in any way replace or compete with the mission, programs or marketing responsibilities or activities of recipients of Tourism Marketing and Promotion Fund revenue.
- (e) The City of San Diego Tourism Promotion Review Board shall not, as a Board, engage in political activity.
- (f) All costs incurred in administering the activities of the City of San Diego Tourism Promotion Review Board, including, but not limited to, the cost of a contracted auditor(s), shall be paid annually from the Tourism Marketing and Promotion Fund, and shall represent no more than 2 percent of the total annual Tourism Marketing and Promotion Fund.
- (g) City overhead expenses allocated to and used for administering the City of San Diego Tourism Promotion Review Board and the Tourism Marketing and Promotion Fund will be included in the budget of the City of San Diego Tourism Promotion Review Board, and shall represent no more than 2 percent of the total annual Tourism Marketing and Promotion Fund.
- (h) All meetings of the City of San Diego Tourism Promotion Review Board shall be open to the public and all persons shall be permitted to attend except as to those matters exempted by the Ralph M. Brown Act (California Government Code sections 54950, et seq.).
- (i) The City of San Diego Tourism Promotion Review Board and City Council shall provide annual minimum funding for those organizations specified in section 35.0132.
- (j) Discretionary allocations by the City of San Diego Tourism Promotion Review Board shall follow these guidelines:
- (1) The balance of the annual distribution of Tourism Marketing and Promotion Fund revenue shall be provided and distributed directly related to the demonstrated return on investment (ROI) of recipient groups, organizations, and events.
 - (2) The Board shall establish and maintain a Tourism Contingency Reserve, into which all unallocated annual revenue shall be deposited and held in trust to be utilized for emergency purposes to maintain the level of tourism business in the City of San Diego. Except as provided in this section, the criteria for utilization of the funds of the Tourism Contingency Reserve shall be within the sole discretion of, be established, or changed only by a two-thirds vote of the Board. Upon recommendation of the Board, any disbursement of funds from the Tourism Contingency Reserve shall require a majority vote of the City Council.

That the amendments to Chapter 3, Article 5, Division 1, of the San Diego Municipal Code described in this proposition shall not take effect until July 1, 2004, and that in the event any of the amendments to Chapter 3, Article 5, Division 1, of the San Diego Municipal Code described in this proposition are found to be unconstitutional or otherwise repealed by act of law, that all amendments to Chapter 3, Article 5, Division 1, of the San Diego Municipal Code made effective by the passage of this proposition shall be null and void. In such event, all sections of Chapter 3, Article 5, Division 1, of the San Diego Municipal Code deemed repealed by this proposition shall return to full force and effect, and the City shall have the authority to collect a transient occupancy tax in the amount of 10.5% and allocate such revenues in the manner authorized prior to the passage of this proposition.

If, at the time this ballot measure is presented to the people for their approval, there is on the same ballot any additional ballot measures relating to an increase in transient occupancy taxes, and more than one ballot measure relating to an increase in transient occupancy taxes is approved by the voters, the ballot measure receiving the most votes shall be declared the prevailing measure, and shall be given full force and effect.