

000001

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ON) 200
11/17

TO: CITY ATTORNEY
2. FROM (ORIGINATING DEPARTMENT): CITY PLANNING AND COMMUNITY INVESTMENT
3. DATE: 10/21/2008

4. SUBJECT: Special Promotional Programs Appropriation Change and Transient Occupancy Tax Use Waivers

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.): SCOTT KESSLER x66421 MS-56D
6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.): Alicia Martinez-Higgs x66488 MS-56D
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	10220	10220	102212	9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	922	921	102212	Request of waivers on certain provisions of Council Policy 100-03 (TOT) for entities which receive FY 2009 TOT funding.
ORGANIZATION	2019	2008	1000	
OBJECT ACCOUNT	4222	4222	79810	In addition, transfer budgeted expenditure of \$142,210 within in the Special Promotional Programs budget.
JOB ORDER	002019	002008	001000	
C.I.P. NUMBER	none	none	none	
AMOUNT	\$142,210	-\$142,210	-\$142,210	

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	SCOTT KESSLER	10/21/08	8	DEPUTY CHIEF	WILLIAM ANDERSON	10/21/08
2	ORIGINATING DEPARTMENT	WILLIAM ANDERSON	10/21/08	9	COO	JAY GOLDSTONE	10/27/08
3	FINANCIAL MANAGEMENT	JULIO CANIZAL	10/21/08	10	CITY ATTORNEY	KIMBERLY KAELEN	10/29/08
4	ENVIRONMENTAL REVIEW	KENNETH FEASLEY	10/24/08	11	ORIGINATING DEPARTMENT	ALICIA MARTINEZ-HIGGS	10/30/08
5	COMPTROLLER	PAM HALBERT	10/21/08	DOCKET COORD: _____ COUNCIL LIAISON: 11/4/08 SC			
6	LIAISON OFFICE	ED PLANK	10/27/08	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 11/17/08			
7							

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

- Allow waivers on certain provisions of Council Policy 100-03 (Transient Occupancy Tax), Attachment A (See Attachment 1) for the following entities:
 - San Diego Regional Economic Development Corporation. Section B3
 - Horton Plaza Theatre Foundation. Sections B1, B2, and B4
- Amend the Fiscal Year 2009 Appropriation Ordinance (O-19774) to authorize the City Comptroller to:
 - Transfer \$142,210 in expenditure appropriations within Special Promotional Programs (Transient Occupancy Tax Fund 10220) from the Convention Center Expansion Project Fund TOT transfer allocation (Dept 921, Org 2008) to the entity San Diego World Trade Center/Local Access to Global Markets allocation (Dept 922, Org 2019).
 - Reduce the revenue budget of the Convention Center Expansion Project Fund (Fund 102212, Dept 102212, Org 1000) by \$142,210.

11A. STAFF RECOMMENDATIONS:
a. Approve request.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060 (c) (3).

HOUSING IMPACT: None

OTHER ISSUES: None

DATE ISSUED: October 21, 2008
 ATTENTION: Council President and City Council
 ORIGINATING DEPARTMENT: City Planning and Community Investment
 SUBJECT: Special Promotional Programs Appropriation Change and
 Transient Occupancy Tax Use Waivers
 COUNCIL DISTRICT(S): ALL
 CONTACT/PHONE NUMBER: Scott Kessler/ 619-236-6045

REQUESTED ACTION:

1. Allow waivers on certain provisions of Council Policy 100-03 (Transient Occupancy Tax), Attachment A (See Attachment 1) for the following entities:
 - a. San Diego Regional Economic Development Corporation. Section B3
 - b. Horton Plaza Theatre Foundation. Sections B1, B2, and B4
2. Amend the Fiscal Year 2009 Appropriation Ordinance (O-19774) to authorize the City Comptroller to:
 - a. Transfer \$142,210 in expenditures within the expenditure budget of Special Promotional Programs (Transient Occupancy Tax Fund 10220) from the TOT transfer to the Convention Center Expansion Project Fund (Fund 102212) to the entity San Diego World Trade Center/Local Access to Global Markets.
 - b. Reduce the revenue budget of the Convention Center Expansion Project Fund (Fund 102212) by \$142,210.

STAFF RECOMMENDATION: Approve the requested action.

EXECUTIVE SUMMARY:

Waivers are requested on certain provisions of Council Policy 100-03 which sets forth the policies and guidelines regarding the funding, budgeting and granting of TOT funds to private non-profit organizations. Waivers of certain provisions of this Policy have been requested in prior years in the Appropriation Ordinance and approved by Council. These waivers were not included in the Fiscal Year 2009 Appropriation Ordinance but are still essential to a few organizations. The provisions are highlighted below along with the organizations requiring the waivers:

Section B-1

Waiving Section B-1 of Council Policy 100-03 allows organizations contracted with the City to receive advances of City funding. With the waiver approved, and according to the contracts in place with these organizations, funding is distributed in advance of expenditures in prorated installments throughout the fiscal year. All financial reporting requirements of the policy must still be met, including monthly and annual reporting of expenditures subject to audit. A waiver to Section B-1 is requested for the following organization for the following purpose:

Horton Plaza Theatres Foundation (Horton Plaza)

Horton Plaza is funded solely by the City's TOT. This waiver is necessary for Horton Plaza to meet its cash flow obligations related to management and maintenance of the theatre. Horton Plaza was formed in 1983 by the City Council to oversee the Lyceum Theatre, which is owned by the City of San Diego's Redevelopment Agency.

Section B-2

Waivers to section B-2 of Council Policy 100-03 allow organizations to incur expenses outside of the City's fiscal year (July 1 – June 30) for which the program is funded. A waiver to section B-2 is requested by the following organization for the following purpose:

Horton Plaza Theatres Foundation (Horton Plaza)

Funding for repairs and maintenance of the theatre may carryover from one fiscal year to the next.

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Section B-3

Council Policy 100-03 allows waivers to section B-3 for travel, meals, and lodging when travel, meals, or lodging are required in order for the organization to perform the contractual scope of services to the City. The policy does not allow waivers for alcoholic beverages and further states that alcoholic beverages consumed with meals are not reimbursable with City funds. Waivers to Section B-3 are requested by the following organization for these purposes:

San Diego Regional Economic Development Corporation

Funding is needed for travel, meals, and lodging related to trade shows, conferences, and business meetings in order attract companies to San Diego.

Section B-4

Waivers to section B-4 of Council Policy 100-03 allow organizations to use City funding for capital or equipment outlay; for purchase of awards, trophies, gifts, or uniforms; and/or for the buildup of reserves. A waiver to section B-4 is requested by the following organization for the following purpose:

Horton Plaza Theatres Foundation (Horton Plaza)

Funding is needed for repairs, maintenance, equipment replacement, equipment purchases, and capital reserves in order to maintain the theatre in operable condition.

Additionally, due to a technical error during the fiscal year 2009 budget preparation, the San Diego World Trade Center only received \$69,790, of their fully allocated amount of \$212,000. It is requested that a transfer of \$142,210 in expenditure appropriations within Special Promotional Programs (Transient Occupancy Tax Fund 10220) from the Convention Center Expansion Project Fund TOT transfer allocation (Dept. 921, Org. 2008) to the entity San Diego World Trade Center/Local Access to Global Markets (Dept. 922, Org. 2019). This will also reduce the revenue budget of the Convention Center Expansion Project Fund (Fund 102212, Dept. 102212, Org. 1000) by \$142,210.

FISCAL CONSIDERATIONS: There is no fiscal impact resulting from the waivers requested on specific provisions in Council Policy 100-03. There is no fiscal impact to the Transient Occupancy Tax Fund due to the transfer of \$142,210 in expenditures. The Convention Center Expansion Project Fund would expend \$142,210 from fund balance to mitigate the revenue budget reduction.

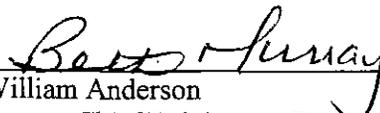
PREVIOUS COUNCIL and/or COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None



Scott Kessler
Originating Department



William Anderson
Deputy Chief/Oriinating Department

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING ORDINANCE NO. O-19774 (NEW SERIES) ENTITLED "AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR 2009 AND APPROPRIATING THE NECESSARY MONEY TO OPERATE THE CITY OF SAN DIEGO FOR SAID FISCAL YEAR" AUTHORIZING THE TRANSFER OF FUNDS IN THE AMOUNT OF \$142,210 FROM THE CONVENTION CENTER EXPANSION PROJECT FUND TO THE SAN DIEGO WORLD TRADE CENTER/LOCAL ACCESS TO GLOBAL MARKETS ALLOCATION.

WHEREAS, on July 28, 2008, the City Council adopted Ordinance No. O-19774 entitled An Ordinance Adopting The Annual Budget For The Fiscal Year 2009 And Appropriating The Necessary Money To Operate The City Of San Diego For Said Fiscal Year [Appropriation Ordinance]; and

WHEREAS, only \$69,790 in TOT funding of the fully allocated amount of \$212,000 was budgeted in the Appropriation Ordinance for the San Diego World Trade Center/Local Access to Global Markets; and

WHEREAS, \$142,210 was unbudgeted for the nonprofit organization, San Diego World Trade Center/Local Access to Global Markets; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Comptroller is authorized to transfer \$142,210 in expenditure appropriations within the Special Promotional Programs (Transient Occupancy Tax Fund 10220) from the Convention Center Expansion Project Fund TOT transfer allocation (Dept. 921, Org. 2008) to the entity San Diego World Trade Center/Local Access to Global Markets allocation (Dept. 922, Org. 2019).

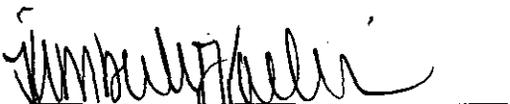
Section 2. That the Comptroller is authorized to reduce the revenue budget of the Convention Center Expansion Project Fund (Fund 102212, Dept. 102212, Org. 1000) by \$142,210.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance is declared to take effect and be in force immediately upon its final passage after two public hearings pursuant to the authority contained in sections 71, 275 and 295 of the Charter of the City of San Diego.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Kimberly K. Kaelin
Deputy City Attorney

KKK:nda
10/29/08
Or.Dept:CP&CI
O-2009-69
MMS#6974

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

A RESOLUTION BY THE COUNCIL OF THE CITY OF
SAN DIEGO WAIVING CERTAIN PROVISIONS OF
COUNCIL POLICY NO. 100-03 REGARDING THE
TRANSIENT OCCUPANCY TAX [TOT] ALLOCATIONS.

WHEREAS, Council Policy 100-03, Transient Occupancy Tax [TOT], sets forth the mission, purpose, allocation guidelines and general requirements and conditions for funding, budgeting and granting TOT allocations to nonprofit organizations; and

WHEREAS, waivers of Council Policy 100-03, have been granted by City Council via the Annual Appropriations Ordinance in prior years for a few organizations; and

WHEREAS, in Fiscal Year 2009 such waivers were not included in the Annual Appropriations Ordinance; and

WHEREAS, waivers of certain provisions of Council Policy 100-03 for two nonprofit organizations are essential for the operations of such organizations; and

WHEREAS, Horton Plaza Theatres Foundation [Horton Plaza] is funded solely by the City's TOT allocations and Horton Plaza requires advances of TOT allocations to meet cash flow obligations related to maintenance and management of the theatre, requiring a waiver of Section B1; and

WHEREAS, funding for repairs and maintenance of the Horton Plaza theatre may carryover from one fiscal year to the next, requiring a waiver of Section B2; and

WHEREAS, Horton Plaza requires funding for repairs, maintenance, equipment replacement, equipment purchases, and capital reserves in order to maintain the theatre in operable condition, requiring a waiver of Section B4; and

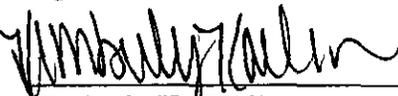
WHEREAS, San Diego Regional Economic Development Corporation requires funding for travel, meals and lodging related to trade shows, conferences, and business meetings in order to perform the contractual scope of services to the City, requiring a waiver of Section B3; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council hereby waives certain provisions of Council Policy 100-03 as follows:

1. Section B1 of Attachment A is waived for Horton Plaza Theatres Foundation (Horton Plaza) to allow for funding advances;
2. Section B2 of Attachment A is waived for Horton Plaza to allow the organization to incur expenses outside of the fiscal year;
3. Section B4 of Attachment A is waived for Horton Plaza to allow funding for capital or equipment outlay for repairs, maintenance, equipment replacement, equipment purchases and capital reserves to maintain the theatre in operable condition; and
4. Section B3 of Attachment A is waived for San Diego Regional Economic Development Corporation to allow funding for travel, meals, and lodging related to trade shows, conferences, and business meetings in order for the organization to perform the contractual scope of services to the City.

BE IT FURTHER RESOLVED, by the City Council of the City of San Diego,
that nothing contained in this resolution shall be deemed to constitute a waiver of the ban
prohibiting the use of TOT funds for the purchase of alcoholic beverages.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 

Kimberly K. Kaelin
Deputy City Attorney

KKK:nda
10/29/08
Or.Dept:CP&CI
R-2009-551
MMS#6974

I hereby certify that the foregoing Resolution was passed by the Council of the City of San
Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor