

“FOR A BETTER SAN DIEGO”

Be it ordained by the people of the City of San Diego:

Section 1. Title.

This measure is a citizen initiative measure and it shall be known, cited and referred to as the “For a Better San Diego” measure.

Section 2. Findings and Purpose

San Diego has long been considered a “world class destination city” for tourists and visitors. Our tourism industry is one of the largest contributors to our local economy. And tourism revenues from visitor taxes, paid by overnight lodging guests – are the third largest source of revenue to the City of San Diego.

However, today, our tourism economy and local community are facing unprecedented challenges. Tourism and lodging leaders have identified three major factors that are diminishing San Diego’s status as a desirable world class destination for tourists and visitors. These factors are: a spiraling homelessness crisis, city streets full of potholes and in urgent need of repair, as well as outdated and inadequate convention and tourist facilities. Together, these factors are restricting the healthy expansion of the tourism economy which provide money for the local economy and funds for city services.

Yet, while “*America’s Finest City*” today faces multiple challenges to our status as a world-class destination city, we have increasingly limited financial resources available to address those challenges. Taken together, these challenges threaten our City’s reputation, quality of life, the health of our local economy, and our attractiveness to millions of tourists and visitors.

This measure, if adopted, will provide significant new revenues to address these challenges and will provide a “turning point” that will restore and secure San Diego’s status as a world-class destination city for tourists and visitors for years to come. To accomplish this purpose, this measure will provide additional finding to: (1) reduce homelessness, (2) improve city streets, and (3) significantly expand visitor/tourist facilities – with revenues being raised from hotel visitors only.

With this purpose in mind, San Diego’s tourism and lodging leaders have joined with homeless advocates, community activists, business leaders, and others who represent a broad cross-section of the San Diego community to sponsor “A Better San Diego” to address these problems which are diminishing San Diego’s stature as an attractive destination for visitors and tourists. This citizen initiative measure will increase the overnight lodging tax paid by visitors to San Diego which will then generate hundreds of millions of dollars needed to address the leading problems affecting our status as a world class destination city.

Reducing Homelessness

As mentioned before, San Diego's homeless crisis has been a major concern for visitors and residents alike. Yet, the crisis continues to grow year by year. Recent counts suggest there are more than 5,000 homeless women and children, military veterans, individuals with mental health and physical challenges, and other vulnerable populations, in our City. Many of these individuals live on city streets, sidewalks, open space, canyons, beaches, parks, riverbeds and natural lands, which results in impacts on tourists and visitors, and puts strain on those resources.

San Diego's homeless crisis is certainly a humanitarian crisis. But it is also a public health threat, a public safety issue, and an economic issue all of which detrimentally effects our status as a world class destination city. The current situation is of grave concern to many San Diego residents, businesses, and visitors and requires immediate action. The Regional Task Force on the Homeless (an integrated array of stakeholders committed to preventing and alleviating homelessness in San Diego) has determined that more funds are critically needed for shelter and services that will help the homeless to get off the streets and to improve their condition. This group has also cited the lack of affordable housing in San Diego as a major contributor to the homeless crisis. These needs must be addressed.

Lodging and tourism businesses are especially concerned about the impacts of the homeless crisis. If potential visitors worry about health, safety, or security issues associated with rampant homelessness then they won't come to our city. Indeed, the Hepatitis A outbreak in late 2016 has had a profoundly negative impact on tourism. This negative image, if it goes unchecked, will reduce city revenues from tourism which will negatively impact city services.

Yet, Federal, State and County leaders have provided insufficient funding and assistance to the City to make a meaningful difference in solving the homelessness issue. This situation is unlikely to improve anytime soon. We therefore need a meaningful infusion of resources and we need it now.

This measure provides a permanent new source of dedicated funding that is expected to generate more than \$140 million in just the first five years to address the homelessness crisis. For the first time, our community will have significant new funds to help provide food, shelter, and other assistance to those in need. This measure will help to significantly reduce homelessness in San Diego.

Improving City Streets

Next, in order to make San Diego a world class destination for visitors and residents, we need to fix San Diego's deteriorating streets, roads, sidewalks, and related infrastructure which are in dire need of additional funding so that they may be brought up to the modern standards that tourists, visitors, and residents want, need, and expect.

Yet, current city funds are woefully inadequate to keep up with the ongoing repair of streets, sidewalks, and related infrastructure. There are too many streets, roads, and sidewalks in our city that are badly outdated, in urgent need of repair, or dotted with broken pavement and deep potholes. This situation is harmful and dangerous to both vehicles, residents, and visitors. Unless these needs are addressed people will choose to not come to San Diego.

This measure provides a permanent new source of dedicated funding—paid by out of town visitors and not by local residents—which will generate tens of millions of dollars to help bring San Diego’s streets, roads, sidewalks and associated infrastructure up to modern standards.

Expanding Visitor/Tourist Facilities

Finally, our outdated and inadequately sized San Diego Convention Center has been losing multiple major conventions to competitors in Orange County, Los Angeles and other markets. Comic-Con and many other major conventions have long asked for a larger and more modern Convention Center.

When we lose multiple major conventions, we lose tens of thousands of overnight lodging guests and WE LOSE MANY MILLIONS OF TAX DOLLARS that those visitors would have paid. Instead they’ve taken their business to Anaheim, Los Angeles, San Francisco and other competing markets.

San Diego depends on the steady growth of visitor tax revenues to fund needed public safety, firefighting, park and recreation, senior assistance programs, and many other services. Until we can modernize and expand our Convention Center to attract and accommodate visitors to San Diego, we will continue to lose major conventions and tens of millions in tax revenues that our City needs.

Independent studies have estimated that a modernized and expanded Convention Center would create more than 6,900 permanent new local jobs and several thousand additional construction related jobs. It would also increase General Fund revenues by \$10 to \$15 million per year.

For the reasons above, San Diego’s tourism and lodging businesses have teamed up to sponsor and support this effort, which will raise taxes on their own customers, in order to restore San Diego to its position as a world class destination city. These businesses are supporting a tiered lodging tax on overnight visitors that will be EARMARKED BY LAW exclusively for programs to reduce homelessness, programs to improve city streets, roads, sidewalks and associated infrastructure, as well as to modernize and expand the San Diego Convention Center. A tiered overnight lodging tax will total 1.25 percent for those on the outskirts of our city, 2.25 percent for lodging facilities on the periphery of downtown, and 3.25 percent for downtown lodging facilities closest to a modernized and expanded Convention Center. This proposal ensures that customers of hotels likely to benefit the most from the results of this measure will pay the most. Alternatively, occupants of hotels who are expected to derive relatively less overall benefit from the results of the measure will be subject to lower tax rates.

This measure will also require an annual independent audit of the uses of these funds to ensure that they are spent as intended by the voters and by law. This measure prohibits these funds from being used for other purposes.

The additional overnight visitor tax proposed in this measure will still keep San Diego’s tourism and lodging industry at or below the visitor tax charged by cities competing with San Diego for convention and tourism related business. It will keep San Diego’s tourism economy competitive

with other markets. It will help keep current large conventions and attract many more major conventions – thus helping to significantly expand our tourism economy.

Tourism and lodging businesses AND San Diego residents will benefit from the increase in tourism (an estimated 6,900 permanent new jobs), significant new revenues to the City’s General Fund, a reduction in homelessness, improved streets, roads, and sidewalks and improved tourist/visitor facilities that this measure will bring. Adopting this measure will help to ensure that San Diego will once again become a world class destination city for tourists and visitors and a source of pride for all San Diegans.

Section 3. Amendment to the San Diego Municipal Code

Chapter 3, Article 5 of the San Diego Municipal Code is amended to add a new Division 2, numbered, titled, and to read as follows:

Division 2: Additional, Voter-Approved Transient Occupancy Tax and Related Bonds

§35.0201 Imposition of Special Tax

(a) Notwithstanding the tax imposed by Sections 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, or 35.0108, and in addition thereto, for the privilege of *Occupancy* in any *Hotel*, any *Recreational Vehicle Park*, or any *Campground*, or other overnight lodging facility required to pay the Transient Occupancy Tax either currently or in the future, each *Transient* is subject to and shall pay the *Additional Tax* in a specified percentage of the *Rent* charged by the *Operator*, as follows:

- (i) One and one-quarter percent (1.25%) in *Tax Zone 1*.
- (ii) Two and one-quarter percent (2.25%) in *Tax Zone 2*.
- (iii) Three and one-quarter percent (3.25%) in *Tax Zone 3*.

(b) The *Additional Tax* shall be effective on January 1, 2019 and shall continue for 42 consecutive years from the final calendar day of the month in which the *Convention Center Long-Term Expansion Bonds* are issued, except as follows:

(i) If no *Convention Center Long-Term Expansion Bonds* have been issued within 10 years after the date the tax is first imposed, then this additional tax shall cease 10 years after the date of imposition

(ii) Notwithstanding the above provisions, if the imposition of the *Additional Tax* is scheduled to cease 10 years after it is first imposed in accordance with clause (i) immediately above, but any issued earlier to finance *Homeless Programs*, *Street Repairs*, or *Convention Center Improvements* remain outstanding, then the *Additional Tax* shall continue in effect in the amount necessary to fund payments of principal and interest on the *Bonds* until those *Bonds* have been fully satisfied.

§35.0202 Special Purposes of Additional Tax Revenues

(a) The *Additional Tax* is a special tax that will generate *Additional Tax Revenues* to the City for the *Special Purpose Activities*, specifically including:

- (i) *Homeless Programs;*
- (ii) *Street Repairs;*
- (iii) *Convention Center Improvements;*
- (iv) *Convention Center Operations;*
- (v) *Convention Center Support Activities; and*
- (vi) *Convention Center Business Development Programs*

(b) All *Additional Tax Revenues* shall be applied only to the *Special Purpose Activities*, as more specifically described in Section 35.0204 and Section 35.0206.

(c) The People of the City of San Diego intend that the *Additional Tax Revenues* will supplement, rather than replace, any existing revenue sources (as outlined in the Fiscal Year 2016-2017 budget adopted by the San Diego City Council) to the *Convention Center*, *Street Repairs* and *Homelessness Programs* before imposition of the *Additional Tax*.

§35.0203 Collection and Allocation of Additional Tax Revenues

(a) The *Additional Tax* shall consist of the *Homelessness Program Tax Component*, the *Street Repair Tax Component*, and the *Convention Center Tax Component*.

(b) Except as otherwise specified in Section 35.0204(a) the *Homelessness Program Tax Component* shall equal thirty-one percent (31%) of the *Additional Tax Revenues*, the *Street Repair Tax Component* shall equal ten percent (10%) of the *Additional Tax Revenues*, and the *Convention Center Tax Component* shall equal fifty-nine percent (59%) of the *Additional Tax Revenues*.

(c) If a *Tax Allocation Triggering Event* has occurred with respect to any fiscal year, the Mayor may propose as part of any annual budget required by Section 35.0206 and the City Council may approve, a revised percentage allocation that allocates a lesser percentage of the *Additional Tax Revenues* to the *Convention Center Tax Component* and a greater percentage to either or both of the *Homeless Program Tax Component* or the *Street Repair Tax Component* than shown in Section 35.0204. Any revised percentage allocation shall be operative only for that fiscal year.

(d) The City Treasurer shall collect the *Additional Tax* and deposit the *Additional Tax Revenues* in the appropriate *Revenue Accounts*, consistently with the revenue allocations identified in this Section. The Chief Financial Officer shall disburse funds from each *Revenue Account* consistently with the *Special Purpose Activities* identified in Section 35.0204 and approved annual budgets described in Section 35.0206.

(e) Proceeds of the *Homelessness Program Tax Component* shall be deposited into the *Homelessness Revenue Account*.

The City's proceeds of the *Street Repair Tax Component* shall be deposited into the *Street Repair Revenue Account*.

(g) The City's proceeds of the *Convention Center Tax Component* shall be deposited into the *Convention Center Revenue Account*.

§35.0204 Utilization of Additional Tax Revenues

(a) Special Homeless Crisis Allocation. Through fiscal year 2023–2024, forty-one percent of the total revenues shall be allocated to the Homeless Revenue Account and fifty-nine percent to the Convention Center Revenue Account. From and after fiscal year 2024–2025, the revenue allocations shall be as stated in Section 35.0203(b).

(b) All funds in the *Homelessness Revenue Account* shall be used exclusively for *Homelessness Program Costs*, and not for any other *Special Purpose Activity* or any other governmental purpose. The City, another public entity, a nonprofit entity, or a private entity, as permitted by law, may operate, manage, and own an *Affordable Housing* project subsidized by funds from the *Homelessness Revenue Account*. If funds in the *Homelessness Revenue Account* are allocated to construction of a project that includes both market-rate elements and *Affordable Housing*, the allocation of funds in the *Homelessness Revenue Account* to the project shall not exceed the actual, reasonable construction cost of *Affordable Housing* units, as reasonably determined by the Mayor. The City Council may from time to time establish by resolution standards to implement, monitor, and enforce each *Affordability Covenant* consistently with prevailing standards in the affordable housing industry. The City Council shall also adopt a resolution establishing an advisory seven-member Citizens Oversight Committee appointed by the Mayor and confirmed by the City Council as provided in City Charter sections 43, 265(b)(11) & (12), and 265(g) to have the following duties and responsibilities: (1) provide input on, and review plans for, expenditures of bond proceeds, including an annual allocation plan or expenditure plan; and (2) advise and make recommendations to the Mayor and City Council relative to all expenditures in this program, including plans, policies, funding guidelines and funded projects. Except as otherwise provided herein, the members' terms and qualifications, and any other duties and scope of the Citizens Oversight Committee, shall be established by the City Council.

(c) All funds in the *Street Repair Revenue Account* shall be used exclusively for *Street Repair Costs*, and not for any other *Special Purpose Activity* or any other governmental purpose.

(d) All funds in the *Convention Center Revenue Account* shall be used exclusively for *Convention Center Expansion and Modernization Costs*, *Convention Center Operating Costs*, *Convention Center Support Costs*, and *Convention Center Business Development Costs*, and not for any other *Special Purpose Activity* or any other governmental purpose.

(e) The City Council may amend this Division to clarify the scope of *Special Purpose*

Activities, to clarify the manner of collection of the *Additional Tax* (or the collection of any *Additional Tax Component*, if Section 35.0201, subdivision(b) is triggered or to clarify the use of funds in any *Revenue Account*, so long as:

- (i) the ordinance is not inconsistent with the purpose and intent of the *Additional Tax* as described in both this Division and the voter-approved ordinance adopting it;
- (ii) the ordinance does not in any way change the nature of the *Special Purpose Activities* or increase the *Additional Tax*;
- (iii) the ordinance does not change the percentage of *Additional Tax Revenues* allocated toward each *Special Purpose Activity* under Section 35.0203(b) except as permitted under Sections 35.0202(b) and 35.0203(c); and,
- (iv) the ordinance does not allow the transfer of any funds from one *Revenue Account* to another *Revenue Account*.

§35.0205 Expenditure Restrictions

The *Additional Tax Revenues* shall not be subject to the expenditure restrictions set forth in Section 35.0101 or Sections 35.0128 through 35.0133, inclusive, but instead shall be subject to the expenditure restrictions of this Division. Given that the *Additional Tax* has been proposed by local citizens as an initiative and approved by the local electorate, and is restricted transient occupancy tax revenue, the *Additional Tax Revenues* shall not be subject to any provisions of San Diego Charter section 77.1 related to the City's Infrastructure Fund because they are *Exempt Revenues* as defined in that section.

§35.0206 Annual Budgets

- (a) Commencing with the Fiscal Year 2019–2020 annual budget, and continuing in each successive fiscal year until all funds in the *Revenue Accounts* have been exhausted, the Mayor shall propose, and the City Council shall approve (with any modifications that the City Council deems appropriate), an itemized annual budget for the expenditure of funds in each of the *Revenue Accounts* in a manner consistent with this Section and Section 35.0204. A budget need not authorize expenditure of all available funds in the upcoming fiscal year and may reserve any portion of a *Revenue Account* to promote effective long-term fiscal planning of the applicable *Special Purpose Activities* or for other purposes consistent with the *Special Purpose Activities*.
- (b) In accordance with its budgeting authority under Section 11.1 of the City Charter, the City Council's allocation concerning the portion of each annual budget relating to the Convention Center may in the Council's discretion reflect the following expenditure priorities, in descending order of importance:
 - (i) *Convention Center Expansion and Modernization Costs*, utilizing Construction Manager At-Risk or any other contracting method consistent with Section 20175 of the California Public Contract Code as adopted by Chapter 821 of the Statutes of 2017 as it may hereafter be amended, including, but not limited to, servicing any outstanding Bonds.

- (ii) *Convention Center Operating Costs*;

(iii) *Convention Center Support Costs*; and

(iv) *Convention Center Business Development Costs*.

(c) In accordance with its budgeting authority under Section 11.1 of the City Charter, the City Council's allocation concerning the portion of each annual budget relating to the Convention Center may in the Council's discretion reflect the following principles:

(i) the *Convention Center Corporation* shall expend *Convention Center Annual Operating Revenues* to fulfill the reasonable operational and capital needs of the *Convention Center* and to maintain a reasonable financial reserve for *Convention Center Operations*;

(ii) the *Convention Center Corporation* shall not incur expenditures for *Convention Center Operations* that are excessive or unnecessary in comparison to established industry standards for large convention facilities; and shall maintain labor peace among both its direct and contracted workforces, and continue to recognize the representatives, and their successors, of the represented workforce at the facility, to reduce the risk of operational disruptions and revenue loss; and

(iii) the *Convention Center Corporation* shall not accumulate a total financial reserve for *Convention Center Operations* that is unreasonably high in comparison to established industry standards for large convention facilities.

(d) Unless reasonably necessary to address emergency situations or unforeseen circumstances associated with operation of the permanent dewatering system at the Convention Center, the City Council may in its discretion use its budgeting authority under Section 11.1 of the City Charter such that the portion of the annual budget relating to *Convention Center Support Activities* includes a funding allocation of no greater than \$4.5 million for Fiscal Year 2019–2020 and thereafter should be not more than 5 percent more than the previous year's appropriation.

(e) In accord with its budgeting authority under Section 11.1 of the City Charter, the City Council's allocations concerning the portion of the annual budget relating to *Convention Center Business Development Programs* may include a funding allocation of no greater than \$4.5 million for Fiscal Year 2019–2020, and thereafter increase no more than 5 percent from the previous year's appropriation.

§35.0207 Five-Year Implementation Plans

(a) In Fiscal Year 2019-2020 and every five years thereafter until all funds in the *Homelessness Revenue Account* have been exhausted, the Mayor shall propose, and the City Council shall approve (with any modifications that the City Council deems appropriate), a five-year implementation plan describing how the City will allocate existing and projected funds in the *Homelessness Revenue Account* to specific *Homelessness Programs* and identifying the order of priority among those *Homelessness Programs*. Respecting the Council's budget authority under Section 11.1 of the Charter, voters express their intention that homeless

expenditures reflect a considered, long-term strategy to address homelessness. The Council may implement the Community Plan proposed by the Regional Taskforce on the Homeless or other similar long-term plans for addressing homelessness developed before or after the imposition of the Additional Tax. The *Affordable Housing* shall be prioritized for Extremely Low Income and Very Low Income households as defined by the U.S. Department of Housing and Urban Development. Commencing in Fiscal Year 2021-2022, the City Council shall hold a public hearing during the second year of each five-year planning period to consider whether any amendments or updates to the plan are warranted.

(b) In Fiscal Year 2023-2024 and every five years thereafter until all funds in the Street Repair Revenue Account have been exhausted, the Mayor shall propose, and the City Council shall approve (with any modifications that the City Council deems appropriate), a five-year implementation plan describing how the City will allocate existing and projected funds in the Street Repair Revenue Account to specific Street Repairs and identifying the order of priority among those Street Repairs. Commencing in Fiscal Year 2025-2026, the City Council shall hold a public hearing in the second year of each five-year planning period to consider whether any amendments or updates to the plan are warranted.

§35.0208 Annual Reports for *Additional Tax Revenues*

(a) Within 270 days after the close of each fiscal year (commencing in Fiscal Year 2019-2020 with respect to the close of Fiscal Year 2018-2019), and continuing in each successive fiscal year until all funds in the *Revenue Accounts* have been exhausted, the Chief Financial Officer shall retain an independent auditor to submit to the City Council an annual report describing:

(i) the *Additional Tax Revenues* collected by the City during the fiscal year, itemized by each of the *Additional Tax Components*;

(ii) the *Additional Tax Revenues* expended by the City for *Special Purpose Activities* during the fiscal year, itemized by each of the *Additional Tax Components*; and

(iii) the status of all *Special Purpose Activities* required or authorized to be funded by *Additional Tax Revenues*, consistent with the annual budget approved by the City Council for the fiscal year.

(c) Each report shall be included as an information item on the City Council's agenda within 60 days after the Chief Financial Officer submits the report to the City Council.

§35.0209 Performance Audits

(a) The City Auditor shall conduct a performance audit of each *Revenue Account* in accordance with San Diego Charter Section 39.2, as follows:

(i) Commencing in Fiscal Year 2022-2023, and continuing with respect to each successive three-year period until all funds in the *Homelessness Revenue Account* have been exhausted, the City Auditor shall conduct a performance audit of *Special Purpose Activities*

funded by the *Homelessness Revenue Account*.

(ii) Commencing in Fiscal Year 2023-2024, and continuing with respect to each successive three-year period until all funds in the *Street Repair Revenue Account* have been exhausted, the City Auditor shall conduct a performance audit of *Special Purpose Activities* funded by the *Street Repair Revenue Account*.

(iii) Commencing in Fiscal Year 2024-2025, and continuing with respect to each successive three-year period until all funds in the *Convention Center Revenue Account* have been exhausted, the City Auditor shall conduct a performance audit of *Special Purpose Activities* funded by the *Convention Center Revenue Account*.

(b) Each performance audit shall determine whether that expenditures were made and *Special Purpose Activities* conducted in accordance with this Division. The City Auditor shall issue to the City Council a written report of each performance audit. Upon the City Council's request, the City Auditor shall present the results of any performance audit during a public meeting of the City Council or a Council Committee.

§35.0210 Authorization of Debt and Issuance of Bonds

(a) The City is authorized to issue and sell *Bonds*, from time to time, payable from and secured by the *Additional Tax Revenues* attributable to the *Homelessness Program Tax Component*, to fund *Homelessness Program Costs*.

(b) The City is authorized to issue and sell *Bonds* payable from and secured by the *Additional Tax Revenues* attributable to the *Street Repair Tax* to fund *Street Repair Costs*.

(c) The City is authorized to issue and sell *Bonds* payable from and secured by the *Additional Tax Revenues* attributable to the *Convention Center Tax Component*, to fund *Convention Center Expansion and Modernization Costs*.

(d) The maximum bonded indebtedness for *Bonds* issued pursuant to this Section for *Homelessness Program Costs*, including financing costs, shall not exceed the lesser of the *Additional Tax Revenues* attributable to the *Homelessness Program Tax Component*, projected over the life of those *Bonds*, and \$750,000,000.

(e) The maximum bonded indebtedness for *Bonds* issued pursuant to this Section for *Street Repair Costs*, including financing costs, shall not exceed the lesser of the *Additional Tax Revenues* attributable to the *Street Repair Tax Component*, projected over the life of those *Bonds* and \$400,000,000.

(f) The maximum bonded indebtedness for *Bonds* issued pursuant to this Section for *Convention Center Expansion and Modernization Costs*, including financing costs, shall not exceed the lesser of (i) the *Additional Tax Revenues* attributable to the *Convention Center Tax Component*, projected over the life of those *Bonds* and (ii) \$850,000,000 provided, however, that the City Council may lift that latter, \$850,000,000, cap by a resolution adopted after a noticed

public hearing.

(g) All of the *Bonds* authorized to be issued pursuant to this Section shall be limited obligations of the City payable solely from the *Additional Tax Revenues* attributable to the pertinent *Additional Tax Component*. Notwithstanding the foregoing, the City may, but is not obligated to, supplement *Additional Tax Revenues* with other legally available funds to make payments on the *Bonds*. The issuance of *Bonds* pursuant to this Section shall not directly, indirectly, or contingently obligate the City to levy or pledge any form of taxation other than the *Additional Tax*.

(h) Upon the issuance and sale of any such *Bonds*, the Chief Financial Officer shall establish an account into which the proceeds of those *Bonds* will be deposited. Separate accounts shall be established for *Bonds* issued for each specific purpose identified in this Section.

(i) As long as any proceeds of such *Bonds* remain unexpended, the Chief Financial Officer shall report in writing to the City Council no later than 270 days after the close of each year, commencing upon the issuance of any *Bonds*: (1) the proceeds of *Bonds* received and expended in that year, and (2) the status of any *Special Purpose Activities* funded or to be funded from proceeds of those *Bonds*. Such report may relate to calendar year, fiscal year, or other appropriate annual period as the Chief Financial Officer may determine, and may be incorporated into, or presented with, the City's annual budget, the City's audited annual financial statements, or another report to the City Council.

(j) *Bonds* authorized by this Section shall be issued and shall mature at such time or times not to exceed forty (40) years, and shall bear interest at such fixed or variable rate or rates approved by the City Council, but not to exceed the maximum rate permitted by law. *Bonds* authorized by this Section shall be sold at either public or private sale and for such prices as the City shall determine.

(k) The voters intend their approval of this Division to approve the *Bonds* authorized by this Section and understand that San Diego Charter Section 90.1 applies to the City Council and other City officials but not to the voters under the analysis of *California Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924 and other applicable law. Should a court of competent jurisdiction determine that *Bonds* authorized by this Section are governed by Charter Section 90.1, the voters express their desire that the City Council exercise its authority under that Section 90.1 to approve those *Bonds*.

(l) The authority to issue *Bonds* in this Section is not exclusive and is not intended to prevent the City from entering into any *Financing Agreement* or using any other legal mechanism to finance any *Special Purpose Activities*.

(m) The City is authorized to issue *Bonds* to replace or refund *Bonds* issued pursuant to this Section.

§35.0211 Definitions

(a) The terms defined in Section 35.0102 shall apply to this Act and are italicized in this Division for emphasis.

(b) In addition, the following definitions are applicable to this Act:

“*Additional Tax*” means the special tax levied by this Division consisting of three components: the *Homelessness Program Tax Component*, the *Street Repair Tax Component*, and the *Convention Center Tax Component*.

“*Additional Tax Components*” means, collectively, the *Convention Center Tax Component*, the *Street Repair Tax Component*, and the *Homelessness Program Tax Component*.

“*Additional Tax Revenues*” means revenues derived from the *Additional Tax* collected by the City Treasurer.

“*Affordability Covenant*” means a restrictive covenant that imposes income eligibility requirements and rental amount restrictions on a residential dwelling unit and remains in effect for the City’s benefit for the longest feasible time, which shall not be less than 55 years.

“*Affordable Housing*” means any dwelling unit subject to an *Affordability Covenant* and available for rental occupancy, whether on a transitional or long-term basis, by a *Targeted Rental Household* at an annual cost that, together with estimated annual utility expenses, does not exceed thirty percent (30%) of that household’s annual income, subject to any deductions or exclusions from annual income allowable by the U.S. Department of Housing and Urban Development.

“*Bonds*” means debt instruments, taxable or tax-exempt revenue bonds (including, without limitation, transient occupancy tax revenue bonds), notes, debentures, or other similar financial instruments payable from *Additional Tax Revenues* and authorized by this Division.

“*Convention Center*” means the San Diego Convention Center generally located in the area bounded on the South by San Diego Bay and bounded on the North by the Santa Fe Railway easement at the time of passage of this citizen initiative measure as well as land included in any future contiguous extensions of the Convention Center.

“*Convention Center Annual Operating Revenues*” means annual revenues collected by the *Convention Center Corporation* with respect to the management, marketing, and operation of the *Convention Center*, as disclosed in an annual financial report or similar report prepared by or on behalf of the *Convention Center Corporation*.

“*Convention Center Business Development Costs*” means all costs and expenses associated with the establishment, implementation, operation, and completion of *Convention Center Business Development Programs*, including, but not limited to, the payment of all staff, consultant, and legal expenses reasonably necessary to effectuate all or any part of *Convention Center Business Development Programs*. *Convention Center Business Development Costs* shall exclude all *Convention Center Support Costs*.

“*Convention Center Business Development Programs*” means, collectively, rent credits, discounts on service charges (e.g., food and beverage charges or telecommunications charges), and similar customer incentives to secure convention and trade show commitments at the *Convention Center*, and direct marketing at meeting planner conventions or trade shows aimed at promoting the *Convention Center*.

“*Convention Center Corporation*” means the San Diego Convention Center Corporation, or its assignee or successor-in-interest, to the extent that such entity has primary, day-to-day responsibility for *Convention Center Operations*.

“*Convention Center Expansion and Modernization Costs*” means all costs and expenses associated with the financing, acquisition of land or right of way to enable construction, permitting, design, development, and construction of the *Convention Center Improvements*, including, but not limited to, payment of land or site acquisition costs reasonably necessary to effectuate the *Convention Center Improvements*, payment of debt service obligations on one or more series of *Bonds* issued to finance or refinance *Convention Center Improvements* (including the establishment and, where necessary, replenishment of any reserves required under the documents governing such *Bonds*), and the payment of all staff, consultant, and legal expenses reasonably necessary to effectuate the *Convention Center Improvements*.

“*Convention Center Improvements*” means the contiguous (meaning physically connected to the existing Convention Center) expansion of the *Convention Center*, all associated infrastructure or improvements, as well as any additional capital improvements to modernize the *Convention Center*, consistently with the applicable land use planning documents, as amended from time to time, that govern the *Convention Center* and improvements to the *Convention Center*, which may include, but are not necessarily limited to, the San Diego Unified Port District’s Port Master Plan and any applicable coastal development permit.

“*Convention Center Long-Term Expansion Bonds*” means an initial series of long-term *Bonds* issued to fund *Convention Center Improvements*.

“*Convention Center Operating Costs*” means all costs and expenses associated with *Convention Center Operations*, including the funding of appropriate capital reserve accounts for the *Convention Center*, the funding of reserve accounts to pay the anticipated costs of issuance of the *Convention Center Long-Term Expansion Bonds*, and the payment of debt service or related lease payments associated with existing debt for capital improvements at the *Convention Center*. *Convention Center Operating Costs* shall exclude all *Convention Center Support Costs*.

“*Convention Center Operations*” means the maintenance, operation, and repair of the *Convention Center*, as such facility may be expanded and modernized through the *Convention Center Improvements*, so as to maintain the *Convention* as a first-class, visitor-serving facility in a safe, usable condition and so the *Convention Center* can achieve and maintain a *Facility Condition Index* that meets or exceeds the standard of a good physical condition and to provide a visitor-serving experience that remains competitive in the convention market among cities comparable in size to San Diego. If the construction industry ceases to publish or commonly use

the *Facility Condition Index* to assess the physical condition of a facility or building, the Mayor may rely upon any alternative publication or metric the Mayor deems to be an objectively reasonable indicator the condition of the *Convention Center*. *Convention Center Operations* shall exclude all *Convention Center Support Activities*.

“*Convention Center Revenue Account*” means a special revenue account that is hereby created in the City treasury, to account for the City’s proceeds of the *Convention Center Tax Component*.

“*Convention Center Support Activities*” means, collectively, the *Convention Center Corporation’s* operation of a permanent dewatering system to alleviate hydrostatic pressure on the foundation of the *Convention Center* and the *Convention Center Corporation’s* efforts to market and promote the *Convention Center* as a visitor destination.

“*Convention Center Support Costs*” means annual support payments by the City to the *Convention Center Corporation* for *Convention Center Support Activities*.

“*Convention Center Tax Component*” means the portion of the *Additional Tax* intended to fund *Convention Center Expansion and Modernization Costs*, *Convention Center Operating Costs*, *Convention Center Support Costs*, and *Convention Center Business Development Costs*, as described in Section 35.0204.

“*Facility Condition Index*” is described in the construction industry publication titled “Asset Lifecycle Model for Total Cost of Ownership Management” and used to measure the physical condition of a facility or building, and is expressed as a ratio of the cost of remedying deficiencies, as well as the cost of capital renewal requirements, to current replacement value. The benchmark is represented on a scale of zero to 100 percent, with higher percentages representing a poorer condition and lower percentages representing a better condition.

“*Financing Agreement*” means any lease agreement, installment sale agreement, irrevocable assignment, or other similar financing agreement or contract entered into by the City and payable from *Additional Tax Revenues* or other funds available to the City.

“*Homeless Population*” means: (i) vulnerable individuals and families who are present in the City and who do not have adequate permanent shelter or are at risk of losing access to adequate permanent shelter, such as: homeless veterans, homeless women and children, victims of domestic violence, senior citizens, individuals with disabilities, individuals with severe mental illness, or individuals with a chronic substance abuse disorder; or (ii) individuals and families who are present in the City who meet the definition of “homelessness” in the Homeless Emergency Assistance and Rapid Transition to Housing Act, as it may be amended from time to time.

“*Homelessness Program Costs*” means all costs and expenses associated with the financing, establishment, implementation, operation, and completion of *Homelessness Programs*, including, but not limited to, payment of debt service obligations on one or more series of *Bonds* issued to finance or refinance any *Homelessness Programs* (including the establishment and, where necessary, replenishment of any reserves required under the documents governing such

Bonds), and the payment of all staff, consultant, and legal expenses reasonably necessary to effectuate any *Homelessness Programs*.

“*Homelessness Program Tax Component*” means the portion of the *Additional Tax* to be used for *Homelessness Program Costs*, as described in Section 35.0204.

“*Homelessness Programs*” means any of the following activities performed in the City: the financing (through a grant, loan, or other financial assistance), permitting, design, development, and construction of *Affordable Housing* (including payment of land acquisition costs and tenant relocation costs) and other capital projects and payment of related land acquisition costs to assist the *Homeless Population* or to prevent or reduce homelessness; rapid rehousing programs; transitional housing programs or facilities; permanent supportive housing programs or facilities; shared housing programs; homelessness prevention and diversion programs; programs, services, or facilities intended to increasing the use or receipt of available public benefits and subsidies by the *Homeless Population*; educational programs, job training, and related services or facilities intended to increase or subsidize the employment of the *Homeless Population*; the creation and operation of support services assessment centers, including the provision of temporary beds, bridge housing opportunities, and triage and assessment services intended to assist the *Homeless Population*; capacity building assistance for the *Homeless Population*; temporary shelter facilities, shower facilities, and other facilities used to provide supportive services or goods to, or otherwise benefit, the Homeless Population; mental health treatment, substance abuse treatment, counseling services, and related services or facilities intended to assist the *Homeless Population*; any other public benefits, goods, and services, including landlord incentive payments, rental vouchers, other subsidies used to pay rent or security deposits, community outreach services, and case navigation services, including street outreach, intended to assist the *Homeless Population*; the creation and operation of a regional homeless crisis response system that provides for centralized delivery of services intended to assist the *Homeless Population*; the purchase of a landowner’s agreement to impose an *Affordability Covenant* on five or more residential dwelling units located on one or more contiguous taxable parcels, effectively converting those dwelling units from market-rate housing into *Affordable Housing*; and, any other capital improvements, programs, services, or activities that, in the Mayor’s reasonable discretion, will assist in reducing, alleviating, or preventing problems or challenges frequently encountered by the *Homeless Population* that contribute to homelessness.

“*Homelessness Revenue Account*” means a special revenue account hereby created in the City treasury to account for the City’s proceeds of the *Homelessness Program Tax Component*.

“*Imposition Date*” is January 1, 2019. This is the day the *Additional Tax* goes into effect.

“*Overall Condition Index*” means the benchmark developed by the U.S. Army Corps of Engineers and used by many jurisdictions nationwide to measure the general condition of publicly-maintained streets. This benchmark is represented by numerical values ranging from 0 to 100, with lower values representing poorer conditions and higher values representing better conditions. If the *Overall Condition Index* ceases to be used commonly by municipalities to assess the condition of public streets, the Mayor may rely upon any alternative publication or

metric the Mayor deems to be an objectively reasonable indicator of the physical condition of City streets.

“*Revenue Accounts*” means, collectively, the *Convention Center Revenue Account*, the *Street Repair Revenue Account*, and the *Homelessness Revenue Account*.

“*Special Purpose Activities*” means, collectively, *Convention Center Improvements*, *Convention Center Operations*, *Convention Center Support Activities*, *Convention Center Business Development Programs*, *Street Repairs*, and *Homelessness Programs*.

“*Street Repair Costs*” means all costs and expenses associated with the financing, permitting, design, development, and construction of *Street Repairs*, including, but not limited to, the payment of debt service obligations on one or more series of *Bonds* issued to finance or refinance any *Street Repairs* (including the establishment and, where necessary, replenishment of any reserves required under the documents governing such *Bonds*), and the payment of all staff, consultant, and legal expenses reasonably necessary to effectuate any *Street Repairs*.

“*Street Repair Revenue Account*” means a special revenue account hereby created in the City treasury to account for the City’s proceeds of the *Street Repair Tax Component*.

“*Street Repair Tax Component*” means the portion of the *Additional Tax* to be used for *Street Repair Costs*, as described in Section 35.0204.

“*Street Repairs*” means any of the following activities performed in the City, to the extent they will enable the City to achieve and maintain an *Overall Condition Index* of City streets that meets or exceeds the standard of a good physical condition: the repair and maintenance of streets, alleys, and bridges; street sweeping; the resurfacing and reconstruction of streets, including the use of slurry seal, paving, overlay, and inlay of asphalt, and the replacement of concrete; the striping and re-striping of streets; the widening of streets; the installation, repair, and maintenance of sidewalks, pedestrian paths, bikeways, curbs, guardrails, streetlights, traffic signals, street signs, street furniture, traffic calming measures, transit stops, and traffic signs; the installation, relocation, repair, and maintenance of utilities or stormwater infrastructure related to streets and public rights-of-way; the installation, repair, and maintenance of accessibility upgrades or improvements to streets and public rights-of-way in compliance with the Americans with Disabilities Act of 1990, as hereafter amended, and Title 24 of the California Code of Regulations, as hereafter amended; the installation of general street infrastructure and public right-of-way improvements; the maintenance, repair or improvements to landscaping and trees and parks, parkways and open space related to circulation; transportation demand management programs to manage and reduce traffic congestion by providing mobility options and encouraging the use of transportation alternatives; and, any similar projects, improvements, or activities that, in the Mayor’s reasonable discretion, will enable the City to achieve and maintain an *Overall Condition Index* on City streets that meets or exceeds the standard of a good physical condition at all times.

“*Targeted Rental Household*” means any household as to which the combined annual gross income for all members does not exceed eighty percent (80%) of the area median income,

adjusted for household size, published annually by the U.S. Department of Housing and Urban Development (HUD) for the San Diego Standard Metropolitan Statistical Area. If HUD ceases to publish the area median income figures, the Mayor may rely upon any alternative publication or data source the Mayor deems to be an objectively reasonable indicator of the local area median income.

“*Tax Allocation Triggering Event*” means a circumstance, commencing no earlier than twenty years after the *Additional Tax* is first imposed, in which the Mayor and a majority of the board of directors of the *Convention Center Corporation* agree that, after accounting for payment of anticipated *Convention Center Expansion and Modernization Costs* during an upcoming fiscal year, the fixed percentage of the *Additional Tax Revenues* that otherwise would be allocated to the *Convention Center Tax Component* under Section 35.0203(b) is expected to generate more funds than reasonably necessary to pay *Convention Center Operating Costs*, *Convention Center Support Costs*, and *Convention Center Business Development Costs*.

“*Tax Zone 1*” means two noncontiguous portions of the City, one of which is north of California State Route 56, and the other is south of California State Route 54, as depicted on the *Tax Zone Map*.

“*Tax Zone 2*” means a contiguous portion of the City that does not comprise Tax Zone 1 or Tax Zone 3, as depicted on the Tax Zone Map.

“*Tax Zone 3*” means a contiguous portion of the City located generally in the downtown area, as depicted on the *Tax Zone Map*, and more specifically described as the area east of West Laurel Street and south of Laurel Street through its intersection with Sixth Avenue, west of Sixth Avenue through its intersection with Interstate 5 Freeway, south of Interstate 5 Freeway through its intersection with B Street, south of B Street through its intersection with 22nd Street, west of 22nd Street through its intersection with Commercial Street, south of Commercial Street through its intersection with Ocean View Boulevard, west of Ocean View Boulevard through its intersection with Dewey Street, west of Dewey Street, and west of California State Route 75 (San Diego/Coronado Bridge).

“*Tax Zone Map*” refers to “Exhibit A” attached to this ordinance and incorporated herein by this reference which depicts *Tax Zones 1, 2 and 3*.

“Tax Zones” means, collectively, Tax Zone 1, Tax Zone 2, and Tax Zone 3.

§35.0212 Administration of the tax.

(a) Consistency with Transient Occupancy Tax Rules.

The People of the City of San Diego intend this Division to be enforced consistently with Division 1 of Article 5 of Chapter 3 of this Code and any rule or regulation promulgated under that Division except as expressly provided to the contrary in this Division.

Section 4. Amendment.

(a) Except as otherwise expressly provided herein, this Measure may only be changed by the

voters at a Citywide election.

(b) The City Council is authorized to amend this Division in any manner that does not alter the tax rate or constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution. The People of the City affirm that the following actions shall not constitute an increase of the rate of a tax:

1. An action that interprets or clarifies the methodology of the *Additional Tax*, or any definition applicable to the *Additional Tax*, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Division; or
2. The collection of the *Additional Tax*, even if the City had, for some period of time, failed to collect the *Additional Tax* or to collect it in the amount imposed or authorized by this Division.

Section 5. Conflicting Measures

If this Measure and another measure that imposes a transient occupancy tax, or redirects the uses of existing transient occupancy taxes, appear on the same ballot; the provisions of the other measure shall be deemed to be in conflict with this Measure. If this Measure receives a greater number of affirmative votes than the measure deemed to be in conflict with it, the provisions of this Measure shall prevail in their entirety and the other measure shall be null and void in its entirety.

Section 6. Severability

If any provision of this Measure, or its application to any *person* or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Measure or the application of this Measure to any other *person* or circumstance and, to that end, the provisions of this Measure are severable.

Section 7. Certification; Publication. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

* * * * *

It is hereby certified that this Ordinance was duly adopted by the voters at the [date] Election and took effect 10 days following adoption of a resolution declaring the results of the election at a regular meeting of the City Council held on [date] by the following vote:

AYES:
NOES:
ABSENT:

ATTEST: ELIZABETH MALAND
CITY CLERK

CITY OF SAN DIEGO

BY: _____