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Honorable Council President Sherri S. Lightner
City of San Diego, City Council
202 C Street
San Diego, CA 92101

Dear Council President Lightner and Members of the San Diego City Council:

Please find enclosed the San Diego County Taxpayers Association's recommendations for Councilmember Mark Kersey's "Rebuild San Diego" ballot proposal.

We look forward to working closely with your office and the City Council to ensure these principles are integrated as "Rebuild San Diego" is further developed.

Yours respectfully,

A handwritten signature in blue ink, appearing to read "Haney Hong", is written over a light blue horizontal line.

Haney Hong
President and CEO
San Diego County Taxpayers Association

CC:

Mayor Kevin Faulconer
Council President Pro Tem Marti Emerald
Councilmember Lorie Zapf
Councilmember Todd Gloria
Councilmember Myrtle Cole
Councilmember Mark Kersey
Councilmember Chris Cate
Councilmember Scott Sherman
Councilmember David Alvarez
Independent Budget Analyst Andrea Tevlin

“Rebuild San Diego” Policy Recommendations

January 2016

Executive Summary

While the SDCTA has historically taken a position against “ballot box budgeting” measures like the “Rebuild San Diego” ballot proposal, we also recognize that San Diego city leadership has for years underfunded its obligations to taxpayers to maintain infrastructure as the city has grown. Because taxpayers need creative solutions to mitigate these infrastructure funding shortfalls, SDCTA suggests the San Diego City Council integrate the following principles into the Rebuild San Diego proposal:

- A. The measure should contain a suspension clause with a supermajority vote of the City Council**
- B. Baseline programmatic expenditures should be allowed to increase along with the Consumer Price Index**
- C. The proposal must include a narrow, concise definition of infrastructure**
- D. The proposal must contain a maintenance of effort clause to prevent newly gained funds from being diverted to other budgetary items**
- E. Council should consider a time-limited duration of 15-20 years**
- F. The performance of the ordinance should be put to regular evaluation by the City Audit Committee**

Discussion

On December 9, 2015, Councilmember Kersey presented his Rebuild San Diego ballot proposal to the City Council's Infrastructure Committee. The proposal seeks to secure greater financing for infrastructure than in past years by reallocating revenue increases in three major categories for a 30 year period following its passage. These three revenue increases are as follows:

Stream A: Half of all major general fund revenue (defined as a combination of property taxes, transient occupancy tax, and franchise fees for 5 years).

Stream B: Dedicates all general fund sales tax increases above a FY 2016 sales tax baseline for 30 years. This baseline will be allowed to increase by a specified percentage year over year. This percentage has not been concretely defined by CM Kersey's office. The Independent Budget Analyst has also modeled scenarios in which revenue increases over a certain percentage are also returned to the general fund.

Stream C: Savings garnered from five year pensionable pay freeze resulting from recent public employee pension negotiations.

This measure, as currently drafted, constitutes "ballot box budgeting." When structured improperly, allocating funding by voter mandate can cause lasting damage by not allowing government flexibility to respond to crises and unpredicted budgetary scenarios. This can result in budgetary earmarks crowding out other important line items by not leaving enough available funds for them to function properly.

The SDCTA has historically taken a position against such measures. However, the SDCTA recognizes that the city's leadership has for years underfunded its obligations to taxpayers to maintain infrastructure as the city has grown and that remedying this situation is absolutely crucial to the continued health of the region.

Taxpayers need creative solutions to mitigate these issues. The SDCTA suggests the following principles be integrated within the final language of the proposition, which will help to maintain current service levels while allowing flexibility and ensuring the initial purpose of the proposition is fulfilled.

A. The measure should contain a suspension clause with a supermajority vote of the City Council

Creating a scenario in which the conditions of the proposal can be set aside in the face of genuine crisis allows the city council to respond to developing conditions. It also serves to hold City Council members accountable for their decision to reduce infrastructure funding by making that decision a matter of deliberation and record.

Councilmember Kersey has voiced his support of an opt-out clause, which would end the measure with a supermajority vote of council conditionally. The SDCTA recommends that rather than an opt-out clause, the measure should include a suspension clause. This suspension clause would allow for a suspension of the ordinance for a period of no more than 3 years with a super majority of the City Council. This suspension protocol should only be able to be used as many as 3 times in the duration of the ordinance.

B. Baseline programmatic expenditures should be allowed to increase along with the Consumer Price Index

The intention of a baseline growth rate that Councilmember Kersey has included in his proposal is to maintain the adequate service levels in key city functions such as public safety. This serves to ameliorate typical concerns that ballot box budgeting could result in loss of services in departments not covered by earmarks. Rather than trying to approximate these needs with a flat percentage or attempting to forecast those needs in absence of context, baseline growth rate should be pegged to the consumer price index to keep pace with inflation.

C. The proposal must include a narrow, concise definition of infrastructure

The proposal must clearly state for what expenditures the earmarked funds can be used. The SDCTA supports the IBA and Councilmember Kersey's assertion that maintenance must be included to avoid expanding the current deferred maintenance backlog with new projects. The SDCTA also recommends that the asset classes covered by the proposal should be limited to streets, sidewalks, firestations, police stations, city facilities/park and recs, affordable housing, and storm drains. Much like a school bond, the purpose of this measure is to ensure that capital and maintenance financing is increased over past years. For this reason, non-maintenance operating costs such as personnel needs should not be covered by the proposal.

D. The proposal must contain a maintenance of effort clause to prevent newly gained funds from being diverted to other budgetary items

Currently, the measure only specifies that a certain quantity of new funds added to the budget each year must be set aside for infrastructure. It is therefore currently possible that funds allocated toward infrastructure in past years could be diverted back toward other general fund liabilities if the ballot proposition's language is not properly structured. For this reason, the SDCTA suggests a "maintenance of effort" clause similar in structure to the one proposed by the SDCTA for SANDAG's Transnet Extension in 2004.¹ In this case, the clause would state that the level of general fund spending

¹ SANDAG TransNet Extension and Ordinance: Section 8 http://www.sandag.org/uploads/publicationid/publicationid_1283_6596.pdf

allocated toward infrastructure and its maintenance must be the greater than or equal to the mean amount allocated toward infrastructure in the last three years (or if this is not possible, it should be greater to or equal to FY 2016). Similarly, the level of general fund spending allocated toward the capital budget must remain greater than or equal to the mean amount allocated over the three preceding years. In order to do this, the City must properly itemize maintenance across all asset classes covered in the ordinance. Because the measure is designed to not only gain new money for capital expenditures but also to ensure that funds are set aside for maintenance, the maintenance of effort clause included in the proposal's language should specify that funds earmarked by the proposal may only be spent on projects for which maintenance is currently itemized and able to be tracked.

E. Council should consider a time-limited duration of the ordinance of 15-20 years

The program outlined by this proposal is ambitious and unprecedented, and it is possible that unforeseen circumstances could arise. For example, it is possible that within 15 years considerable increases in revenue in the form of a large bond or citywide sales tax obviates the need for Councilmember Kersey's proposal. On the other hand, it is possible that the revenue falls below current projections and the measure simply does not achieve the original goals of its drafting. It is also possible that using the precedent set by this measure, other interest groups could craft similar measures, effectively causing many of the same problems typically associated with ballot box budgeting. In the interest of good governance and due diligence, the SDCTA believes that a time-limited duration of 15-20 years with the option for renewal is appropriate. The City Council can then re-assess whether this measure has had the effect sought by CM Kersey's office.

F. The performance of the ordinance should be put to annual evaluation by the City Audit Committee and the Independent Budget Analyst

Due its unprecedented nature, the proposal's performance should be consistently monitored by City staff to ensure it is not negatively affecting service levels in other areas. This will inform the City Council's decision whether or not to use the aforementioned opt-out clause in future years.

With these additions, the SDCTA believes that Councilmember Kersey's Rebuild SD ordinance would greatly improve. The SDCTA applauds Councilmember Kersey's determination to tackle the City's pressing infrastructure needs, and looks forward to working with his office as well as the rest of city council to further develop this proposal.