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CITY OF SAN DIEGO PROPOSITION D:
“THE CITIZENS’ PLAN FOR THE RESPONSIBLE MANAGEMENT OF MAJOR
TOURISM AND ENTERTAINMENT RESOURCES”
August 2016

SDCTA Position: OPPOSE

Rationale for Position:

Though this measure has the potential to increase transient occupancy tax revenues to the City of San Diego and protections for the taxpayer in constructing major civic resources, there are troubling governance elements severely restricting future policy makers. This “ballot box” land use planning also precludes the contiguous expansion of the convention center, which SDCTA supports.

Title: Proposition D – The Citizens’ Plan for the Responsible Management of Major Tourism and Entertainment Resources

Jurisdiction: City of San Diego

Type: Transient Occupancy Tax (TOT or hotel tax), dedicated to specific purposes

Vote: (Under contention) Two-thirds of Voters in the City of San Diego

Status: On the November 8, 2016 General Election Ballot

Issue: Tourism and Recreation

Description: A 5% increase in the TOT with up to 4% credit for hotel operators in new tourism-financed improvement districts; land use determinations related to the waterfront, downtown, and Mission Valley; and restrictions on public subsidies to a convention center expansion and potential football stadium.

Governance Impact: This proposal would remove flexibility in land use planning without requiring another vote of the people.

Fiscal Impact: This proposal would potentially generate a minimum additional \$17.6 million annually for the City of San Diego from the transient occupancy tax. It would restrict any public funds from being utilized for the construction of a football stadium.

Reference A: SDCTA Position Paper of August 2016 on Proposition C, the Chargers’ “San Diego Integrated Convention Center Expansion/ Stadium and Tourism Initiative.” Available on the SDCTA website at www.sdcta.org.



Introduction and Background

San Diegans for Open Government have sponsored and developed a ballot initiative entitled “The Citizens’ Plan for Responsible Management of Major Tourism and Entertainment Resources,” which will go before City of San Diego voters in the November 2016 General Election. It is an innovative, yet complex measure that ties together numerous issues, most notably public finance, governance related to tourism districts, and land use.

The proposal breaks down into these components:

1. Public Finance Components:
 - a. Raises the transient occupancy tax (TOT) by 5% to a total of 15.5% for hotels with thirty rooms or more and by 3.5% to a total of 14% for hotels with less than thirty rooms.
 - b. Creates tax credits from TOT remittances of up to 4% total (2% for a non-contiguous convention center expansion, 2% for marketing of San Diego) for hoteliers who participate in the new TFIDs created in the measure.
 - c. Prohibits any tax credit for expenditure on a professional sports stadium.
 - d. Provides \$15 million in matching funds to the Port of San Diego if the Port commits to at least \$35 million for increasing public access to the waterfront.
2. Governance Components:
 - a. Eliminates the San Diego Tourism Marketing District in its current form.
 - b. Authorizes the ministerial creation by City Council of TFIDs and requires that if such TFIDs are formed, the first one will be the “Downtown TFID” and the second the “Suburban TFID.”
3. Land Use:
 - a. Prohibits a waterfront expansion of the Convention Center.
 - b. Allows for transfer of Qualcomm Stadium to other uses if the Chargers leave Mission Valley, and should this occur, requires 50 acres of restored habitat and the balance of the land be used for transit-oriented, higher education purposes.

History of SDCTA and the San Diego Convention Center, the Tourism Marketing District, and Professional Sports Stadiums

The history of SDCTA positions related to the San Diego Convention Center, professional sports stadiums, and the San Diego Tourism Marketing District (SDTMD) are included by reference (Reference A), which is the SDCTA position paper on the concurrent ballot proposition by the San Diego Chargers to build an integrated convention center annex/stadium facility in the East Village neighborhood of San Diego. Salient points related to this proposal, however, are below:



- SDCTA supported the SDTMD extension in 2012 because of its demonstrated return on investment to the taxpayer.
- SDCTA supported the Convention Center Expansion because of the anticipated increase in TOT revenues, but provided such support on the conditions that the Convention Center Financing District was found legal and that SDTMD, if also found legal, would cover all charges in excess of \$3.5 million to the taxpayer. In other words, SDCTA supported economic growth and subsequent TOT revenue increases so long as there were financial protections for the taxpayers in the expansion of the Convention Center.
- SDCTA supported the original construction of the Convention Center to increase downtown's contribution to the tax base.

Governance Impact

SDCTA historically does not take positions on land use decisions unless there are significant fiscal implications.

Regardless of the specific purposes allowed or disallowed, this proposal does, however, significantly limit the flexibility of future elected officials in making land use choices. The proposal is written such that any change to its components would require another election.

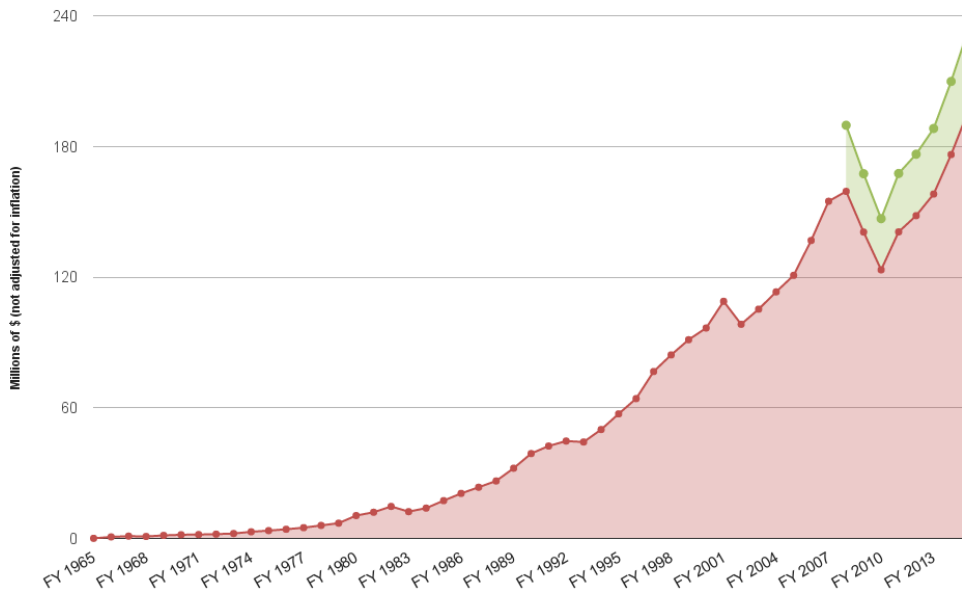
Though it is qualified for the ballot, SDCTA should note that the current City Attorney argues this proposal violates the single-subject rule and that the proponents argue it does not. SDCTA does not take a position on this, but acknowledges that should this pass, there will likely be significant legal challenges to its components regardless.

The proposal does authorize the proponents of the measure to defend the ordinance in the event the City of San Diego decides not to pursue a legal defense against any challenges. There is significant potential that the City of San Diego will become party to multi-year legal proceedings should this pass and should an individual or organization challenge this ordinance within ninety days of its going into effect. Taxpayers will have to cover the costs of any such legal defense.

Fiscal Impact

The proposal raises TOT from its current level of 10.5% (though effectively 12.5% with the self-assessment of the existing SDTMD) to 15.5% for large hotels and 14% for small hotels.

The City of San Diego has levied TOT since FY1965. In FY2015, the City of San Diego received \$186 million in TOT revenue.



Previous recent analyses by SDCTA when considering increases to TOT in the past concluded that urban hotel demand is generally inelastic to changes in prices. SDCTA supported the Convention Center Expansion because the increase in TOT revenue was expected to cover the financing. Continuing with that assumption then, the City of San Diego has the potential to bring in significant revenue of an additional \$88 million per year (based on inelastic demand and FY2015 TOT revenue of \$186 million).

The proposal allows up to 4% of that TOT increment to be credited back to hotel operators who participate in a TFID, and if hotel operators claimed that full amount, the City of San Diego would still increase the general fund by \$17.6 million annually.

Though eliminating the current SDTMD (which currently expends the 2% increment above the 10.5% TOT currently set for marketing of the region), this proposal does give hotel operators the opportunity to credit 2% of the TOT increment when expended via a new TFID. While there would be potentially a period of time between the time the existing TMD would have to transition to the new TFID, the new structure—in theory—would not have to be substantively different from what we have today and could continue the marketing of the region that has resulted in significant rates of return for the City of San Diego.

The proposal creates protections for the City of San Diego in capping the amount of public funds that can go towards the building of a non-contiguous expansion of the convention center. The remaining 2% of the total 4% available for credit to hotel operators is the maximum public subsidy that would go to a non-contiguous convention center expansion.



The proposal also explicitly restricts any public subsidy for a professional football stadium. In this proposal, the public would spend nothing on a professional football stadium, and private entities would be fully responsible for building, operating, and maintaining such a facility.

Proponents:

- Former Councilmember Donna Frye
- JMI Realty
- Save Our Bolts
- United Senior Advisory Council
- California Taxpayers Action Network
- San Diego Stadium Coalition
- Partnership for the Advancement of New Americans (PANA)
- League of Women Voters
- League of Conservation Voters
- Chargers
- Ballpark Village
- Scott Barnett, Former Executive Director of SDCTA
- San Diego Sports Domination
- Bolt Pride
- Holy Complex

Proponent Arguments: the proposal incentivizes hotel operators to invest in developing tourism-related assets while protecting the public and generating TOT revenue for the City of San Diego.

Opponents:

- San Diego City Councilmember Scott Sherman
- San Diego City Attorney Jan Goldsmith
- Steve Cushman
- Coalition for Fair Employment in Construction
- San Diego Tourism Authority

Opponent Arguments: while there are varied arguments against, the prevention of a waterfront expansion to the convention center is a driving reason for opposition.