



January 17, 2018

Council President Georgette Gomez  
San Diego City Council  
202 "C" Street, 10th Floor  
San Diego, CA 92101

**Re: Proposal for a Council-initiated conversation on increasing the TOT**

Dear President Gomez,

We write to propose a City Council-initiated conversation about a potential Council-generated ballot measure for a general increase to the Transient Occupancy Tax (TOT) to help meet the needs of city residents now and into the future. We believe that bringing this conversation into Council with the opportunity for public input would strengthen decision-making about how best to generate revenue and fund the priorities that will move us *all* forward together.

Alliance San Diego is an organization founded on the principle of inclusion. Our vision is a San Diego where *all* people can reach their full potential in an environment of harmony, safety, equality, and justice. To realize that vision, we must expand our democracy so that *all have the opportunity to be included* in the decisions that affect us all.

We are concerned about the way decisions are being made behind closed doors about public resources. This undermines our democracy as well as trust in elected officials. One clear example is the decision-making involved in a proposed increase to the TOT to pay for the expansion of a convention center, among other things. The proposal has constantly crossed the lines between private interests and City Hall, and bypassed any meaningful public input on how any potential increase in a TOT should be used.

We believe an increase to the TOT, which will generate billions of public dollars into perpetuity, should not be tied up in a privately-generated ballot measure, especially when it dictates how the revenue will be used. This ties the hands of City Council and locks away critical dollars that might be needed more urgently for other purposes in the future. This is not good governance.

**It's time to move away from private deal-making and move towards public decision-making. That means open conversations with meaningful opportunities for public input at City Council.**

Public input does not mean privately funded opinion polls, nor does it mean straight up-and-down votes on ballot measures that were shaped out of the public eye. These are not appropriate substitutes for what should be public deliberation about public resources to meet public needs.

In the spirit of promoting good governance, we propose that City Council initiate public meetings about a potential general increase to the TOT that could meet the changing needs of city residents now and into the future. We offer the following to get the discussion started:

The California Constitution and the City Charter require a two-thirds voter approval for special taxes, which put legal constraints on how the tax revenues may be spent. General taxes, which may be used for any governmental purpose, require only a simple majority.

A recent appellate decision allows local governments to put general-tax measures on the ballot along with companion "advisory" measures. See *Johnson v. County of Mendocino*, 25 Cal. App. 5<sup>th</sup> 1017 (2018). In *Johnson*, the county placed two measures on the ballot for voter approval. The first measure, which passed with a little over 63% of the vote, was a general business tax on cannabis cultivation and dispensaries. Passing with more than 86% of the vote, a second measure, which was advisory and not binding, asked voters how a majority of the new revenues "should" be spent "if" the first measure passed. The court ruled that combining the general tax measure and the advisory measure on the same ballot did not convert the tax measure into a special tax that required a two-thirds vote. The tax measure made clear that the money could be used for "general governmental purposes" and was not "earmarked or dedicated" for any specific project, leaving the second measure to serve as guidance only.

We believe the City Council should bring to the voters a proposal to raise the TOT for general governmental purposes, without any earmarks or dedication, and simultaneously ask the voters how they believe the new revenues should be spent. However, we believe that the City Council should place multiple advisory measures on the same ballot so that voters can articulate their priorities. For example, the City Council could put forward three companion advisory measures. One could ask whether a majority of the money should be spent to support affordable housing and provide assistance to the homeless. Another could ask whether the money should be spent to improve streets, roads, and other infrastructure. A third could ask whether the money should be spent to expand the convention center. These are just examples.

If the general TOT increase is approved, the results on the advisory measures would provide the City Council with valuable insight on how the new revenues should be spent.

We thank you for your consideration of this proposal. We look forward to working with you and the council to continue to meet the needs of city residents, increase good governance practices, and build an inclusive environment to ensure that all of us are a part of creating a better future for the city.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Andrea'.

Andrea Guerrero  
Executive Director

A handwritten signature in blue ink, appearing to read 'Chris'.

Christopher R. Wilson  
Associate Director

Cc: San Diego City Council President Pro Tem Barbara Bry