

# **Proposed Stipulations on any new San Jose City taxes**

August 12, 2013

The objective of the following proposals is to enhance the city's ability to be fiscally responsible and accountable to its citizens by providing quality services at reasonable costs using management best practices.

To accomplish this goal, all new ballot proposals requiring the imposition of new taxes should include the following:

- A. Be specific in scope and funding sources for both completion of proposed projects and services as well as any identified ongoing operating and maintenance costs required.
- B. Be results-driven by leveraging both private and public sector entities to deliver best value for each proposed project and service.
- C. Include citizen participation and oversight for transparency.

Implementing this strategy and promoting the advantages to the taxpayers who must fund future initiatives will serve to greatly enhance public acceptance for necessary new tax proposals.

To this end, following are proposed stipulations for each new ballot measure requiring additional taxes for funding and support:

## **Scope and Funding**

1. An inclusive list of specific projects/services/objectives must be set forth in the ballot language.
2. An estimate of funds needed to cover all (present value) costs anticipated in the successful delivery of specified projects/services/objectives must be prepared, certified by a qualified entity, and set forth in the ballot language.
3. The ballot measure must specify that no diversion of funds from other uses will be allowed to be used for specified projects/services/objectives without public approval by the city council.
4. The ballot language must establish a limit of no more than 5% of total new tax expenditures for administration of specified projects/services/objectives.
5. The ballot language must establish a sunset date after which the new tax shall expire and, except for delinquencies, cease to be collected. That date will be set by
  - a. an estimate of the time required for successful delivery of specified projects, services, and/or objectives;
  - b. an estimate of the time required to collect funds needed to cover all specified costs for successful delivery of specified projects/services/objectives.
6. The ballot language must require maintenance of effort by city departments, prohibiting diversion to other uses of any existing funds or funding streams, assets, or staffing until after successful delivery of specified projects/services/objectives. The ballot language must assure that the new tax revenue will not be used for purposes other than those specified.
7. An estimate of increases in ongoing operating and maintenance costs resulting from successful delivery of specified projects/services/objectives must accompany the ballot measure along with a statement of proposed remedial revenue sources.

## **Best Value Contracting**

8. The ballot language must allow competitive contracting involving public- and private-sector entities. Bids must allow the awardees' use of any equipment and/or supplies that a competing city department would employ in fulfilling their contract, if awarded.
9. The ballot language must specify that each bidder may employ its own pay rates and fringe benefits without prejudice in award or conduct of work or imposition by the city of prevailing or living wage requirements.
10. Schedule and quality performance criteria must be specified in the ballot language along with defined compensatory penalties for failure to perform in strict conformance with contract.

11. The ballot language must specify that each bidder's work rules shall apply without prejudice in award or conduct of work in successful delivery of specified projects/services/objectives.
12. Failure to perform based on schedule, price, or quality shall, at the city council's option in a public vote, be cause for immediate renegotiation or cessation of contract.
13. The ballot language must include a warranty period of no less than 12 months requiring that any necessary repairs due to defects or deficiencies in workmanship be performed and paid for by the contractor. Contractors must be bonded or provide cash in escrow up to a defined percentage of the bid price.
14. The ballot language must specify who will comprise the award evaluation body and the weighting each bid element (price, schedule, experience, quality, etc.) will receive in determining contract awards. The city council will publicly approve award of all contracts.

## **Oversight**

15. The ballot measure must establish a citizen oversight committee and specify its membership representation; the oversight committee shall report directly to the city council, select its own chairperson, meet regularly as needed, set its own agenda, have power of subpoena in obtaining staff and contractor reports and program-related documents, and publish an annual public report.