

1 William A. Smelko (Bar No. 96970)
E-mail: bill.smelko@procopio.com
2 James Joseph (Bar No. 309883)
E-mail: james.joseph@procopio.com
3 PROCOPIO, CORY, HARGREAVES
& SAVITCH LLP
4 525 B Street, Suite 2200
San Diego, CA 92101
5 Telephone: 619.238.1900
Facsimile: 619.235.0398

6 James R. Sutton (Bar No. 135930)
E-mail: jsutton@campaignlawyers.com
7 Nicholas L. Sanders (Bar No. 307402)
E-mail: nsanders@campaignlawyers.com
8 THE SUTTON LAW FIRM
9 150 Post Street, Suite 405
San Francisco, CA 94108
10 Telephone: 415.732.7700
Facsimile: 415.732.7701

11 Attorneys for Real Parties in Interest
12 Haney Hong, Jack Harkins, Cara A. Lacey, Mary Enyeart,
Allan Arrollado, Joseph Hunt, August F. Ghio, James D.
13 Stone, Jacqueline Considine, and Robert Carter

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF SAN DIEGO

16 GRETCHEN K. NEWSOM,

17 Petitioner,

18 v.

19 MICHAEL VU, in his official capacity as Registrar
of Voters for the County of San Diego; and DOES
20 1 through 10, inclusive,

21 Respondents.

22
23
24 HANEY HONG; JACK HARKINS; CARA A.
LACEY; MARY ENYEART; ALLAN
25 ARROLLADO; JOSEPH HUNT; AUGUST F.
GHIO; JAMES D. STONE; JACQUELINE
26 CONSIDINE; and ROBERT CARTER,

27 Real Parties in Interest.
28

Case No. 37-2016-00030650-CU-WM-CTL

DECLARATION OF GARY GALLEGOS IN SUPPORT OF REAL PARTIES' OPPOSITION TO PETITION FOR WRIT OF MANDATE

Date: September 14, 2016

Time: 9:15 a.m.

Dept: 69

Judge: Hon. Katherine A. Bacal

Petition Filed: September 2, 2016

Trial Date: Not Set

1 I, Gary Gallegos, declare as follows:

2 1. I am over the age of 18 and am a San Diego County resident.

3 2. I have personal knowledge of the facts set forth below, except as those matters
4 stated on information and belief and as to those matters I believe them to be true. If called upon to
5 testify I could and would testify competently thereto.

6 3. I have served as the Executive Director for the San Diego Association of
7 Governments (SANDAG) since 2001. I am a Registered Professional Engineer in the State of
8 California. I have a Bachelor of Science degree in civil engineering from the University of New
9 Mexico. Prior being employed by SANDAG, I worked for the California Department of
10 Transportation (Caltrans) for 19 years where I served as the District Director for District 11 (San
11 Diego and Imperial counties) from 1993 until 2001.

12 4. In October 2015, the SANDAG Board of Directors adopted a long-range
13 transportation plan for the San Diego Region, "San Diego Forward: The Regional Plan." This
14 long-range plan identifies over \$203 billion dollars of investment over a 35-year period that will be
15 made in the San Diego region. That document is publically available for review. (See Regional
16 Plan, Chapters 1 and 4, available at http://www.sdforward.com/pdfs/RP_final/The%20Plan%20-%20combined.pdf.) The plan is financially constrained as required by Federal law based on
17 reasonable revenues expected over the 35-year period. The plan calls for a new local revenue
18 source for transportation.
19

20 5. Between February and June of 2016, the SANDAG Board of Directors held nine
21 meetings to discuss the contents of a funding measure that could serve as the new local revenue
22 source, culminating in the Board of Directors' adoption of an Ordinance and Expenditure Plan that
23 is now known as Measure A. The Board of Directors held public meetings on the following dates:
24 February 12, 2016; March 25, 2016; April 8, 2016; April 22, 2016; April 29, 2016; May 13, 2016;
25 May 27, 2016; and June 10, 2016. The first reading of the Ordinance and Expenditure Plan (audio
26 recordings of these meetings are also publically available) occurred on June 24, 2016 and the
27 second reading of the Ordinance and Expenditure Plan occurred on July 8, 2016. All of the official
28

1 agendas, reports and audio recordings for these meetings are kept in the normal course of business
2 on the following webpage: sandag.org/board.

3 6. In addition to these public meetings, SANDAG held Telephone Town Hall
4 Meetings. An online priorities survey was conducted allowing residents from throughout San
5 Diego County to voice which projects and programs were most important for inclusion in Measure
6 A. Residents suggested new transit services and increased frequency for existing services,
7 highway and connector improvements, local projects like fixing pot holes and repairing streets and
8 sidewalks, protecting open space, and creating more places to bike and walk. During testimony at
9 these public meetings, speakers suggested the need for expanded transit services as well as reduced
10 costs for seniors, students, disabled, low-income residents, and veterans.

11 7. In response to this public input the Board included in Measure A programs that
12 could provide for those needs. Language providing for discounted fares for youth and seniors was
13 included in the measure.

14 8. First, Measure A specifically includes the “LOCAL INFRASTRUCTURE
15 PROJECTS PROGRAM.” This program provides funding to all 18-cities and the County for
16 investment in local projects including transit operations and maintenance costs, which includes a
17 discounted youth pass program (see Section 6(B)(1) of the Ordinance).

18 9. Second, Measure A specifically includes the “SPECIALIZED
19 TRANSPORTATION PROGRAM”. This grant program provides funding specifically designed to
20 address the needs of transportation-disadvantaged populations, i.e. seniors, students, disabled, low-
21 income, and veterans, (see Section 11(C) of the Ordinance).

22 10. During the public meetings, the need to address and improve water quality was also
23 highlighted. To address this need the Board established water quality improvements and storm-
24 water conveyance facilities as eligible uses of the revenues from Measure A. Section 2 of the
25 Ordinance, entitled “Eligible Uses,” reads in part: “provide each community with funds to repair
26 potholes and streets and protect waterway and beaches from polluted runoff.”
27
28

1 11. The Ordinance also establishes the preparation and implementation of watershed
2 management plans and “projects that capture, treat, and recycle or dispose of stormwater” as an
3 eligible use for the Local Infrastructure Projects Program (see Section 6(B)(6) of the Ordinance).

4 12. Under Section 22(F) of the Ordinance, entitled “Implementation of the Ordinance,”
5 there is contained a *requirement* that all new transportation infrastructure projects in the Regional
6 Corridors and Local Infrastructure Projects Programs, or major reconstruction projects in these
7 programs:

8 SHALL accommodate water quality improvement and/or storm water conveyance facilities
9 which meet or exceed water quality standards, except where such accommodation is infeasible or
10 where the costs of including such improvements would be excessively disproportionate to the need
11 or probable benefit. Such facilities for water quality improvement and/or storm water conveyance
12 SHALL be designed to the best currently available standard and guidelines. [Emphasis added.]

13 13. All major transportation infrastructure projects in California *require* a permit from
14 the Regional Water Quality Board. Measure A includes major improvements to I-5 North, I-5
15 South, I-8, SR-52, SR-78, SR-94, SR-56, and SR-67. The Measure also includes a new trolley line
16 from San Ysidro to Kearny Mesa as well as double tracking of the Coaster and Sprinter Rail
17 Corridors.

18 14. Improving water quality continues to be an evolving science with regulators adding
19 new permit requirements for organizations like SANDAG and Caltrans which construct major
20 transportation infrastructure projects. This means transportation infrastructure projects that were
21 designed and constructed decades ago are not as effective at improving water quality as those
22 designed and constructed today. SANDAG contracts with Caltrans to construct highway projects
23 such as those in Measure A.

24 15. For any and all future major transportation projects, SANDAG and Caltrans *must*
25 use biofiltration swales, infiltration devices, detention devices, and dry weather flow diversions,
26 water pollution treatment and runoff prevention techniques which were not in use decades ago.
27 This means transportation facilities being rehabilitated or expanded today incorporate these best
28

1 management practices, which will improve the quality of the water coming off all rehabilitated or
2 expanded road systems which will be improved through Measure A.

3 16 Measure A will require that improvements to the transportation system improve
4 water quality by incorporating these new best management practices into the projects it will fund.
5 Using the improvements to I-5 North as an example, Caltrans has identified 121.56 acres of storm
6 water drainage. Using an average rainfall of 10.34 inches per year and a conversation factor of
7 27,154 gallons per inch over an acre, the storm water treated due to construction of the I-5 project,
8 alone, is as follows:

9 121.56 acres x 10.34 inches of rain/yr x 27,154 gallon/ inch-acre which = the treatment of
10 34,130,688 gallons of wastewater road runoff per year. And these millions of gallons of future
11 treated water and watershed pollution prevented will come from just one project, alone.

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct.

14 Executed this 9th day of September, 2016, in the County of San Diego, California.

15 
16 Gary Gallegos