

ORDINANCE NUMBER O- 18560 (NEW SERIES)

*Re*-ADOPTED ON AUG 07 1998

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 1998, ONE PROPOSITION AMENDING THE CITY CHARTER BY ADDING SECTION 90.3 RELATING TO VOTER APPROVAL FOR MAJOR PUBLIC PROJECTS CONFERRING SIGNIFICANT PRIVATE BENEFIT.

WHEREAS, pursuant to Section 223 of The San Diego City Charter, Section 3 (b), Article XI, of the California Constitution, and Section 9255(a)(2) of the California Elections Code, the City Council has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O- 18559, adopted on AUG 07 1998, the Council of The City of San Diego is calling a Municipal Election to be consolidated with the Statewide General Election on November 3, 1998, for the purpose of submitting to the qualified voters of the City one or more ballot propositions ; and

WHEREAS, the City Council desires to submit to the voters at that Municipal Election one proposition amending the Charter of The City of San Diego by adding Section 90.3 titled "Voter Approval for Major Public Projects Conferring Significant Private Benefit"; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. One proposition amending the City Charter by adding Section 90.3 is hereby submitted to the qualified voters of the City at the Municipal Election to be held November 3, 1998, the proposition to read as follows:

**PROPOSITION**

**SEC. 90.3 VOTER APPROVAL FOR MAJOR PUBLIC PROJECTS CONFERRING SIGNIFICANT PRIVATE BENEFIT**

(a) The City may not enter into the agreements necessary for financing, development, and construction of a major public project that confers a significant private benefit, unless that project is submitted to a vote at a municipal election and a majority of those voting in that election approve the project.

(b) For purposes of this section 90.3:

(1) the term "major public project" means any capital improvement for which the expenditure of City funds is proposed, other than capital improvements for water, sewer or other public infrastructure, and for which the City's total cost is in excess of an amount equal to ten percent (10%) of the City's General Fund budget for the fiscal year in which the project is proposed to be approved by the electorate;

(2) the term "cost" means the amount paid to directly develop or construct the project, and does not include costs related to financing or interest;

(3) the term “significant private benefit” means that one or more identifiable private individuals or entities will have the exclusive use of any portion of the proposed capital improvement, pursuant to any type of agreement, for more than ten percent (10%) of the days during any calendar year that the proposed capital improvement is available for use, for the purpose of generating federal or state taxable income for such private individual or entity;

(4) the term “City funds” means funds authorized to be spent pursuant to an appropriation in the City’s annual budget and derived through any type of financing mechanism, including cash, loans, revenue bonds, lease revenue bonds or certificates of participation, but not including funds generated by a financing mechanism in which the City acts solely as a conduit, and where all costs and financial risks associated with the financing, development and construction are the responsibility of individuals or entities other than the City; and

(5) the term “identifiable private individuals or entities” means those individuals or entities which can be clearly identified, prior to the development of a project, as the party or parties who will ultimately use, rent, lease, or operate the facility for their own benefit. Not included within this definition are private individuals, business interests, groups, trades, associations or any other private

entity that may derive private benefit indirectly as a result of the major public project.

(c) Nothing in this section supersedes or nullifies the application of the voter approval requirements of section 90 of this Charter, governing any major public project financed by the City's issuance of general obligation bonds.

(d) Any major public project that has been submitted to a vote at a municipal election and has been approved by a majority of those voting in that election on or before the effective date of this section shall be deemed to have complied with and fulfilled the requirements of this section.

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>PROPOSITION __. AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 90.3, VOTER APPROVAL FOR MAJOR PUBLIC PROJECTS CONFERRING SIGNIFICANT PRIVATE BENEFIT.</b>	YES	
	NO	
Shall the City Charter be amended to require majority voter approval for any major public project conferring "significant private benefit", as defined in the proposition?		

Section 4. An appropriate mark placed in the voting square after the word "yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. The City Clerk shall cause this ordinance to be published once in the official newspaper on the Friday following adoption by the City Council. No other notice of the election on this proposition need be given.

Section 6. Pursuant to California Elections Code Section 9295, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice in his office the specific dates that the examination period will run.

Section 7. Pursuant to section 17 of the San Diego City Charter, this ordinance relating to elections shall take effect on AUG 07 1998, which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By Cristie C. McGuire  
Cristie C. McGuire  
Deputy City Attorney

CCM:jrl  
07/29/98  
Or.Dept:Clerk  
Aud.Cert:  
O-99-2 (Rev. 1)