

ORDINANCE NUMBER O- 20622 (NEW SERIES)DATE OF FINAL PASSAGE MAR 08 2016

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON JUNE 7, 2016, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE VII, BY ADDING A NEW SECTION 77.1, REQUIRING CERTAIN UNRESTRICTED GENERAL FUND REVENUES TO BE DEPOSITED IN A NEWLY-CREATED INFRASTRUCTURE FUND AND USED TO PAY FOR GENERAL FUND INFRASTRUCTURE DEFINED IN THE SECTION.

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

WHEREAS, by Ordinance No. O-20603, introduced and adopted on February 8, 2016, the Council has called a Municipal Special Election to be consolidated with the California State Primary Election to be held June 7, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one proposition amending the Charter by adding a new section which will require that certain unrestricted General Fund revenues be deposited into a newly-created Infrastructure Fund and used exclusively to fund General Fund infrastructure; and

WHEREAS, amendment to the City's laws was proposed initially by Councilmember Mark Kersey and City staff involved with the preparation of the proposed Charter amendment; and

WHEREAS, the proposed Charter amendments were heard and reviewed by the City Council's Infrastructure Committee, and the Council, through this Ordinance, now seeks to place the proposed amendments on the June 7, 2016 Municipal Special Election ballot; and

WHEREAS, the City Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. That one proposition amending the City Charter by amending Article VII, by adding a new section 77.1, is hereby submitted to the qualified voters in the City of San Diego at the Municipal Special Election to be held on June 7, 2016, and consolidated with the California State Primary Election to be held on the same date, with the proposition to read as follows:

PROPOSITION

ARTICLE VII

FINANCE

SECTION 77.1: INFRASTRUCTURE FUND

There is hereby created a fund in the General Fund that shall be called the Infrastructure Fund. The intent of the Infrastructure Fund is to require the City to dedicate specific sources of revenue to fund General Fund infrastructure.

(a) For the purpose of this section, the following definitions shall apply and the words shall appear in italics:

- (1) *Base Year* means the City's fiscal year 2016 audited actual revenues and expenditures.
- (2) *Exempt Revenues* means revenues that would be included in *Infrastructure Revenues* but are otherwise legally committed to other uses, such as sales tax rebate agreements.
- (3) *General Fund Share* means the amount budgeted annually in the General Fund for maintenance and repair functions related to *Infrastructure*, including but not limited to streets, storm water systems, and facilities. The City Council may, by ordinance, more specifically define included functions.
- (4) *Infrastructure* means General Fund capital improvements including streets, sidewalks, bridges, bike paths and related right-of-way features.

storm water and drainage systems, public buildings such as libraries, recreational and community centers, public safety facilities such as police, fire and lifeguard stations, and park facilities. New convention center facilities and new professional sports venues are expressly excluded from the definition of *Infrastructure*. Software and other technology that is capital in nature (having a useful life in excess of five (5) years) may be included in the definition of *Infrastructure* by the City Council by ordinance.

- (5) *Infrastructure Revenues* means *Major Revenues Increment, Sales Tax Increment, and Pension Cost Reduction* dedicated to the Infrastructure Fund pursuant to this section, as specified, and excluding *Exempt Revenues*.
- (6) *Major Revenues* means property tax revenues, unrestricted General Fund transient occupancy tax revenues and unrestricted General Fund franchise fees. Sales tax revenues are excluded from the definition of *Major Revenues* as are any components of revenues otherwise identified as *Major Revenues* that are already dedicated to other purposes by this Charter or other law.
- (7) *Major Revenues Increment* means fifty percent (50%) of the year to year growth in *Major Revenues* beginning with the *Base Year*.
- (8) *Pension Cost* means, for each enumerated item herein, the General Fund portion of:

(A) the City's Actuarial Determined Contribution (ADC) as provided to the City by the San Diego City Employees' Retirement System (SDCERS) plus (B) any payments required under the City's Preservation of Benefits Plan, plus (C) any payments made pursuant to the Supplemental COLA benefit, plus (D) any employer contributions made to an interim or final defined contribution plan on behalf of City employees initially hired on or after July 20, 2012 and who are not members of SDCERS. Pension Cost, as defined herein, is not intended to define, limit, or otherwise modify the City's obligation to fund any vested retirement benefit for any City employee.

- (9) Pension Cost Reduction means the amount by which the Pension Cost in the proposed budget for each fiscal year beginning in Fiscal Year 2018, is lower than the Pension Cost in the Base Year. If the Pension Cost in any fiscal year is higher than the Pension Cost in the Base Year there is no Pension Cost Reduction in that fiscal year.
- (10) Sales Tax Baseline means Sales Tax Revenue in the Base Year adjusted for the annual change in the statewide Consumer Price Index (CPI) for California.
- (11) Sales Tax Increment means the annual change in Sales Tax Revenue compared to the Sales Tax Baseline.
- (12) Sales Tax Revenue means any unrestricted sales tax revenue received by the City. In the Base Year, Sales Tax Revenue is the Bradley-Burns Sales

Tax received by the City including the Triple Flip Property Tax
reimbursement.

- (b) Beginning with the Mayor's Fiscal Year 2018 proposed budget, and for each fiscal year through Fiscal Year 2022, Infrastructure Revenues shall include Sales Tax Increment plus Major Revenues Increment, plus Pension Cost Reduction, minus Exempt Revenues.
- (c) Beginning with the Mayor's Fiscal Year 2023 proposed budget, Infrastructure Revenues shall include Sales Tax Increment plus Pension Cost Reduction, minus Exempt Revenues.
- (d) Beginning with the Mayor's Fiscal Year 2043 proposed budget, all funds previously budgeted in the Infrastructure Fund shall be budgeted in the General Fund as unrestricted revenues and the requirements of this section shall cease.
- (e) Each fiscal year, as part of the presentation of the proposed budget, the Chief Financial Officer shall certify as to the accuracy of the calculations used in determining the amount of Infrastructure Revenues.
- (f) Infrastructure Revenues shall be used exclusively for the acquisition of real property, construction, reconstruction, rehabilitation, repair and maintenance of Infrastructure, including all costs associated with financing such acquisition of real property, construction, reconstruction, rehabilitation, repair and maintenance. Personnel costs associated with such use are also permitted. Infrastructure Revenues may not be used to fund debt service on General Fund lease revenue bonds issued before the effective date of this section. Infrastructure Revenues

may not be used to fund operations, such as utility costs, janitorial services, waste management and upkeep of grounds. Operations may be more specifically defined by the City Council by ordinance.

- (g) The Mayor may request the suspension of the requirements of this section for one fiscal year or for the remainder of a fiscal year. After at least one public hearing on the request for suspension, the City Council may approve a one-year suspension by a vote of two-thirds of the City Council.
- (h) Except in the event of the suspension of the requirements of this section, in no fiscal year may the *General Fund Share* be less than the amounts included in the *Base Year*.
- (i) The adopted budget in any fiscal year must comply with the requirements of this section.
- (j) The City Council shall, by ordinance, establish policies and definitions, not inconsistent with this section, related to the use of the Infrastructure Fund.
- (k) Nothing in this section prohibits the City Council from transferring additional revenues to the Infrastructure Fund or otherwise funding infrastructure projects within the General Fund.
- (l) *Infrastructure* otherwise approved by voters in a general obligation bond election shall not be included in permitted uses of *Infrastructure Revenues* except with respect to maintenance and repair.

END OF PROPOSITION

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 Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

PROPOSITION __. CHARTER AMENDMENT: INFRASTRUCTURE FUND. Shall the Charter be amended to require certain unrestricted General Fund revenues to be deposited in an Infrastructure Fund used exclusively to pay for capital improvements including streets, sidewalks, bridges, bike paths, storm water and drainage systems; public buildings including libraries, recreational and community centers; public safety facilities including police, fire and lifeguard stations; and park facilities, but expressly not used for new convention center facilities and new professional sports venues?	YES	
	NO	

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. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

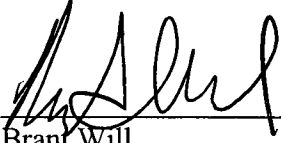
Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate 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 of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By  _____
Brant Will
Deputy City Attorney

BCW:SBS:sc:jdf
02/19/16
02/23/16 COR. COPY
03/02/16 REV.
Or.Dept: Council District 5
Doc. No.: 1228795_5

Passed by the Council of The City of San Diego on MAR 08 2016, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 08 2016.

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on MAR 08 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 295 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

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