

ORDINANCE NUMBER O- 20722 (NEW SERIES)

DATE OF FINAL PASSAGE AUG 02 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 GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, SECTION 55.2, RELATING TO MISSION BAY PARK AND REGIONAL PARKS IMPROVEMENT FUNDS.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (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 San Diego Ordinance O-20671, introduced and adopted on July 11, 2016, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 8, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, Charter section 55.2 requires excess revenue from leases of City-owned property in Mission Bay Park be spent on certain capital improvements in Mission Bay Park and in San Diego's Regional Parks, which include Chollas Lake Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Park, open space parks and coastal beaches and contiguous coast parks; and

WHEREAS, under the current formula, Charter section 55.2 divides excess lease revenues (defined as annual lease revenues in excess of \$20 million) between the San Diego Regional Parks and Mission Bay Park by allocating the greater of \$2.5 million or 25% of the excess lease revenues to the San Diego Regional Parks Improvement Fund and the remainder of the excess lease revenues or 75% to the Mission Bay Park Improvement Fund; and

WHEREAS, Charter section 55.2 expires on June 30, 2039 and requires City Council to place an amendment on the ballot to extend section 55.2 for an additional 30 years; and

WHEREAS, the original language of Charter section 55.2 was approved by City voters on November 4, 2008, and it has not been amended; and

WHEREAS, the proposed amendments would increase the allocation to the Regional Parks Improvement Fund from the greater of \$2.5 million or 25% of the excess lease revenues to the greater of \$3.5 million or 35% of those revenues and would correspondingly reduce the excess lease revenues allocated to the Mission Bay Park Improvement Fund to 65% of the excess lease revenues or the remainder of those revenues if less than 65% is available after allocation to the San Diego Regional Park Improvement Fund; and

WHEREAS, the proposed amendment clarifies the process for completing prioritized capital improvement projects in Mission Bay Park and allows the City to undertake these projects concurrently; and

WHEREAS, the proposed amendment would allow the City Council, by ordinance, to expand the boundaries of Mission Bay Park to include City-owned dedicated parkland property contiguous to Mission Bay Park, as that term is defined in the Charter; and

WHEREAS, the proposed amendment would also extend the expiration date of Charter section 55.2 to June 30, 2069 and require the City Council to place an amendment on the ballot to extend section 55.2 for an additional 30 years prior to the last regularly scheduled election prior to June 30, 2069; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one measure amending the Charter to amend section 55.2 to extend operation of section 55.2 for an additional 30 years, to clarify the Charter's language to expedite priority project completion in Mission Bay Park and implement cash management best practices, and to modify the disbursement formula to provide additional funds to the City's Regional Parks; and

WHEREAS, amendments to this Charter provision were proposed initially by the Mayor;
and

WHEREAS, this proposed Charter amendment was heard and reviewed by the Council's
Infrastructure Committee, and the Council, through this Ordinance, now seeks to place the
proposed amendment on the November 8, 2016 Municipal Special Election ballot; and

WHEREAS, the Council's proposal, on its own motion, of a Charter amendment is
governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2),
and 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 measure amending the City Charter by amending Article V,
section 55.2, related to Mission Bay Park and Regional Parks Improvement Funds, is hereby
submitted to the qualified voters at the Municipal Special Election to be held on November 8,
2016, and consolidated with the California State General Election to be held on the same date,
with the measure to read as follows:

MEASURE

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

**SECTION 55.2: MISSION BAY PARK AND REGIONAL PARKS
IMPROVEMENT FUNDS**

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

(1)-(2) [No change in text.]

(3) *Mission Bay Park* means the area described in the Mission Bay Park Record of Survey 16891, filed on February 28, 2001, in the Office of the County Recorder as File No. 2001-0113422, and any City-owned property heretofore or hereafter dedicated for park purposes that is contiguous to *Mission Bay Park* and has been determined by ordinance of the City Council to be part of *Mission Bay Park* for purposes of this Charter section 55.2.

(4)-(11) [No change in text.]

(b) Subject to the City of San Diego's State law obligations as a trustee of tidelands within *Mission Bay Park*, *Mission Bay Park Lease Revenues* up to the threshold amount in each fiscal year shall be deposited into the San Diego General Fund and may be used for any municipal purpose, including but not limited to, police, fire, streets, sewers, water delivery, roads, bridges, and operation of parks. All *Mission Bay Park Lease Revenues* in excess of the threshold amount shall be allocated in the City of San Diego budget to two distinct funds. ~~Twenty~~Thirty-five percent (~~23~~35%) of the *Mission Bay Park Lease Revenues* in excess of the threshold amount, or ~~two~~three million five hundred thousand dollars (\$~~23~~23,500,000) whichever is greater, shall be allocated to the *San Diego Regional Parks Improvement Fund* that solely benefits the *San Diego Regional Parks* and ~~seventy~~sixty-five percent (~~76~~65%) of the *Mission Bay Park Lease Revenues* over the threshold amount, or the remainder of those revenues if less than ~~76~~65% is available after the allocation to the *San Diego Regional Parks Improvement Fund*, shall be allocated to the *Mission Bay Park Improvement Fund* that solely benefits the *Mission Bay Park Improvement Zone*. The threshold amount shall be \$23 million beginning fiscal year 2010 and ending fiscal year 2014. The threshold amount shall be \$20 million beginning fiscal year 2015 and shall remain \$20 million thereafter.

(c) Funds in the *Mission Bay Park Improvement Fund* may be expended only in the *Mission Bay Park Improvement Zone*, to restore wetlands, wildlife habitat, and other environmental assets within the *Mission Bay Park Improvement Zone*; to preserve the beneficial uses of the *Mission*

Bay Park Improvement Zone including, but not limited to, water quality, boating, swimming, fishing, and picnicking by maintaining navigable waters and eliminating navigational hazards; to restore embankments and other erosion control features; and to improve the conditions of the *Mission Bay Park Improvement Zone* for the benefit and enjoyment of residents and visitors, consistent with the *Mission Bay Park Master Plan*.

(1) To achieve these goals, all of the following identified priorities are intended to be authorized, ~~funded, and completed~~ have a funding plan adopted by City Council, and proceed to completion in the order provided below, subject to section (c)(2) below authorizing projects to proceed concurrently:

(A) Restoration of navigable waters within *Mission Bay Park* and elimination of navigational hazards. When depth conditions no longer support and ensure safe navigation, those areas that pose a danger or impede the passage of watercraft shall be dredged in accordance with the *Mission Bay Baseline Chart*.

(B) Wetland expansion and water quality improvements and the protection and expansion of eelgrass beds as identified in the *Mission Bay Park Master Plan*.

(C) Restoration of shoreline treatments within the *Mission Bay Park Improvement Zone* including restoration of beach sand and stabilization of erosion control features.

(D) Expansion of endangered or threatened species preserves and upland habitats on North Fiesta Island and along the levee of the San Diego River floodway as identified in the *Mission Bay Park Master Plan*.

(E) Deferred maintenance projects that are also *Capital Improvements* within the *Mission Bay Park Improvement Zone* as may be recommended by the *Mission Bay Park Improvement Fund Oversight Committee* and approved by the City Council such as, but not limited to, ~~Completion~~ of bicycle and pedestrian paths and bridges as identified in the *Mission Bay Park Master Plan*, installation of sustainable lighting in the *Mission Bay Park Improvement Zone*, installation of

signage and landscaping at points of entry to *Mission Bay Park* and the South Shores, ~~and the~~ repair, resurfacing and restriping of parking lots within the *Mission Bay Park Improvement Zone*, the repair of playgrounds and comfort stations, and the restoration of the seawall and bulkhead on Oceanfront Walk to a condition no less than the quality of restoration previously performed in 1998 from Thomas Street to Pacific Beach Drive or to conditions as may be required by historic standards.

~~(F) Restoration of the seawall bulkhead on Oceanfront Walk to a condition no less than the quality of restoration previously performed in 1998 from Thomas Street to Pacific Beach Drive or to conditions as may be required by historic standards.~~

~~(G) Deferred maintenance that are also *Capital Improvements* hereunder on existing assets within the *Mission Bay Improvement Zone* as may be recommended by the *Mission Bay Park Improvement Fund Oversight Committee* and approved by the City Council.~~

~~(2) After each a priority project identified in (c)(1)(A-GE) above has been budgeted and approved by the City Council and authorized and has a funding plan adopted for it by City Council, funds may be committed to and expended on a subsequent project of a lesser priority and construction of a subsequent project may proceed concurrently with a greater priority project provided construction of a lesser priority project does not unreasonably delay, prolong, or preclude completion of a greater priority project. To the extent funds become available from grants or other sources for a lower priority before a higher priority has been completed, or in the event of substantial delay in proceeding with a higher priority, funds may be committed to the next lower priority in the order set forth in (c)(1)(A-G), provided such expenditure of a lesser priority does not unreasonably delay, prolong, or preclude completion of a greater priority. The City Council shall be required to make findings that completion of a higher greater priority project will not be unreasonably delayed, prolonged, or precluded by expending funds on a lower lesser priority project before approving said expenditure.~~

(3) Once the projects identified in (c)(1)(A-~~GE~~) have ~~been fully budgeted or an adopted funding plan or a project is completed~~, additional projects shall be prioritized and funded only for *Capital Improvements* as identified in the *Mission Bay Park Master Plan*, recommended by the *Mission Bay Park Improvement Fund Oversight Committee*, and approved by the City Council.

(4) To the extent items (c)(1)(A-~~GE~~) ~~that have been completed herein~~ require additional funding or are later in need of additional *Capital Improvements*, then those items shall again have priority over other *Capital Improvements* only if approved by the City Council.

(5) Except as may be specifically authorized above in this subsection, funds in the *Mission Bay Park Improvement Fund* may not be expended for commercial enterprises or improvements of leasehold interests; for any costs associated with utilities, including, but not limited to, water and sewage; or for roads, vehicle bridges, or vehicular ramps; or on costs that cannot be capitalized; or on daily, weekly, monthly, or annual upkeep of the *Mission Bay Park Improvement Zone* and there shall be no expenditure for contracted labor or services or for city employee salaries, pensions or benefits unless those expenses can be capitalized, and only then at the then-standard rates used by the City of San Diego for all other capital improvement projects.

(d) [No change in text.]

(e) The *Mission Bay Park Improvement Fund Oversight Committee* and the *San Diego Regional Parks Improvement Fund Oversight Committee* shall meet at least quarterly to audit and review the implementation of this Charter Section, to recommend priorities for expenditures and *Capital Improvements* hereunder in accordance with the master plans for each of the *San Diego Regional Parks* or with the *Mission Bay Park Master Plan* or within the priorities identified in (c)(1)(A-~~GE~~), as applicable; and to verify that the appropriate funds are collected, segregated, retained and allocated according to the intent of this Section, and spent as prioritized in this Section and consistent herewith.

The San Diego City Auditor, in cooperation with each committee, shall establish and oversee a mechanism to ensure public accountability by effectively reporting and communicating the extent and nature of revenues, expenses and improvements generated hereunder and compliance with the requirements outlined herein. This shall include, at a minimum, an annual audit report to the Mayor, City Council and public. Each report shall, at a minimum, contain a complete accounting of all revenues received, the amount and nature of all expenditures, a report as to whether in each committee's view the expenditures have been consistent with the priorities and provisions hereof, whether the City of San Diego has complied with sections (c)(2), (d), (f), (g) and (h). In the event that either committee finds that there has been a violation of this Charter Section by the City of San Diego, it should set forth the alleged violation in a written communication to the City Manager and members of the San Diego City Council. If the alleged violation is not resolved to the satisfaction of the aggrieved committee within 30 days, the San Diego City Council shall docket an action item for a public meeting of the San Diego City Council within 60 days. If evidence presented to the San Diego City Council by the aggrieved committee establishes a violation of this Section, the San Diego City Council shall forthwith cure the violation including but not limited to the restoration of inappropriately expended funds.

(f)-(i) [No change in text.]

(j) This Section shall take effect and be in force on July 1, 2009, and will expire on June 30, 20369. Before the expiration of this Section, the City Council shall place on the ballot no later than the last regularly scheduled election prior to June 30, 20369 a measure to amend the Charter to extend the effect of this Section for an additional 30 years.

(k) [No change in text.]

END OF MEASURE

Section 2. The measure 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:

MEASURE __. CHARTER AMENDMENT REGARDING USE OF LEASE REVENUE FROM MISSION BAY PARK. Shall Charter section 55.2 be amended to: increase, from 25% to 35%, the allocation of annual Mission Bay Park lease revenues exceeding \$20 million, for capital improvements in San Diego Regional Parks; allow Council to add City-owned parkland to Mission Bay Park’s boundaries; combine and coordinate construction of Mission Bay Park improvements identified in this section; and extend operation of this section until 2069?	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 measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure 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.

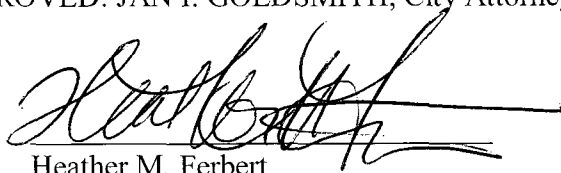
Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate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



Heather M. Ferbert
Deputy City Attorney

SBS:HMF:jdf
07/19/16
Or.Dept: Mayor
Doc. No.: 1324937

Passed by the Council of The City of San Diego on AUG 02 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 AUG 02 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 Sty Ready, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on AUG 02 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 16 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.

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

(Seal)

By Sty Ready, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20722