

S401
7/28/2008



**CITY COUNCIL
CITY OF SAN DIEGO**

MEMORANDUM

DATE: July 23, 2008
TO: Honorable Councilmembers
FROM: Councilmember Kevin Faulconer
Councilmember Donna Frye
SUBJECT: Mission Bay Charter Amendment Draft

Kevin Faulconer
Donna Frye

Attached is a revised draft of the ballot proposition that will amend the City Charter to designate how Mission Bay Park lease revenues are used.

This draft incorporates a wide range of community input and ideas offered by the City's Independent Budget Analyst and our Council colleagues. We believe it reflects the best solutions that have emerged from the many interested individuals and groups involved.

We look forward to discussing this item at our next Council meeting.

cc: Honorable Mayor Jerry Sanders
Ms. Andrea Tevlin, Independent Budget Analyst

COMMITTEE ACTION SHEET

COUNCIL DOCKET OF July 15, 2008

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

R -

O -

Mission Bay Park and Regional Parks Improvement Funds Charter Amendment

Reviewed Initiated By Rules On 6/25/08 Item No. 3b

RECOMMENDATION TO:

Refer this item to the full City Council for consideration, with comments by the Rules Committee members noted.

VOTED YEA: Madaffer, Peters, Frye, Hueso, Young

VOTED NAY:

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Charter Amendment Proposed by Councilmembers Kevin Faulconer and Donna Frye

COUNCIL COMMITTEE CONSULTANT

Elyse Lowe

**MISSION BAY PARK AND REGIONAL PARKS IMPROVEMENT FUNDS
CHARTER AMENDMENT PROPOSED BY
COUNCILMEMBERS
KEVIN FAULCONER AND DONNA FRYE**

09 12 10 PM
AND FOR CALL

Background:

FY 2009 Mission Bay Park (MBP) commercial lease revenues for the City will be nearly \$30 million. Under an existing City ordinance, only \$5 million of MBP revenues are dedicated to Regional Park capital projects: \$2.5 million for Mission Bay Park, and \$2.5 for other Regional Parks. What is often forgotten is that commercial leases were allowed inside MBP to help pay for the creation of the park. Once the initial bonds from 1945, 1950 and 1956 were paid off, commercial lease revenues were diverted to the City's General Fund. As a result, major capital projects have been neglected for many years.

The failure to adequately fund the Mission Bay Park public improvements has made the park less desirable for families, threatens wildlife, and has created safety hazards for boaters and sailors. Mission Bay Park requires a stable dedicated funding source to ensure San Diegans and visitors benefit from the full enjoyment of one of our most important regional recreational assets; to protect the Mission Bay ecosystem; and to increase City revenues as the park becomes a more desirable tourist-destination.

Like Mission Bay Park, other Regional Parks – Balboa Park, Mission Trails Park, San Diego River Park, Otay River Valley Park, and wildlife conservation areas throughout San Diego – require a reliable funding source.

The Proposed Charter Amendment:

- The first \$20 million in MBP commercial lease revenues will remain in the General Fund.
- Additional revenues from MBP will be dedicated with 75% for Mission Bay Park and 25% for other Regional Parks and Multiple Species Conservation Program areas.
- Two committees are created to ensure funds dedicated from the MBP revenues are used solely for MBP and Regional Park capital improvements.

Effect on Mission Bay Park:

Increases dedicated lease revenues for MBP improvements from \$2.5 million to approximately \$7.5 million in FY 2010. As MBP lease revenues grow, capital improvement funds for MBP will also grow. This dedicated funding source can enable the City to finance more capital projects from annual revenues and obtain revenue bonds to finance major long-term projects. Priority projects in MBP include 80-acre marshland restoration at the Rose Creek outfall; navigation channels to improve both the Mission Bay environment and boating safety; 140 acres of new parkland; expanded picnic areas; and infrastructure for more overnight camping, fee-generating hotel rooms, and recreational attractions, primarily at existing commercial locations. Benefits include protecting all beneficial uses such as improved water quality for family enjoyment of Mission Bay; increased habitat for wildlife and better water circulation keep Mission Bay healthy; greater enjoyment of Mission Bay by boat, canoe or kayak; and enhanced future park revenue to maintain and improve Mission Bay Park.

Effect on Regional Parks and Wildlife Habitat Areas:

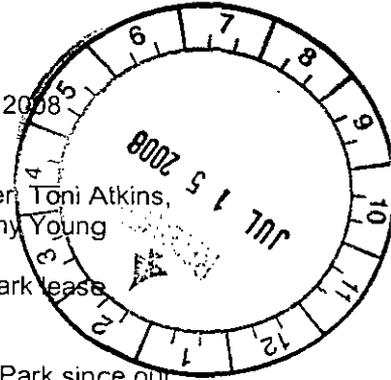
Lifts the \$2.5 million cap on using MBP revenues for other Regional Parks effective FY 2010. As MBP lease revenues grow, capital improvement funds for other parks grow with it.



Citizens Coordinate for Century 3

P. O. Box 87381 San Diego CA 92138-7381 619/232-7196

July 14, 2008



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TO: Council President Scott Peters and Council members Kevin Faulconer, Toni Atkins, Ben Hueso, Brian Mainschein, Donna Frye, Jim Madaffer and Tony Young

RE: ITEM 334 - Proposed Charter Amendment regarding Mission Bay Park lease revenues

Citizens Coordinate for Century 3 has taken an active role in Mission Bay Park since our beginning in 1961. In the early 1990s, many members participated in developing the current Mission Bay Park Master Plan. C3 is very pleased to see a proposal for increased funding to help pay for numerous major deferred maintenance and Master Plan capital improvement projects in Mission Bay Park and other Regional Parks.

Commercial leases were allowed in Mission Bay Park specifically to pay for the creation and maintenance of Mission Bay Park. When the original bonds were paid off, however, lease revenues were re-directed to the General Fund with only a small fraction returned to Mission Bay for basic operations and maintenance. We agree that the time has come to keep more of the lease revenues for Mission Bay Park projects, to improve water quality and navigability, and to complete some of the public recreational projects such as Fiesta Island, South Shores and the Rose Creek bicycle/pedestrian bridge.

That being said, we have some concerns regarding the process by which the proposed Charter Amendment Ordinance has been rushed forward with minimal public discussion or review, and by the two-tier prioritization of projects that would defer recreational parkland improvements on Fiesta Island and South Shores for years while focusing on the "first tier" projects listed.

In March, 2002, the Coastal Commission approved the Sea World Master Plan and incorporated it into the Mission Bay Park Master Plan (MBPMP). The Commission recognized that improvements to "the major undeveloped public areas of Mission Bay Park" have not "kept pace with intensification of commercial leaseholds", adding language that directs the City to place public improvement projects "as the first priority under this [MBPMP] plan" [Section IV: Land Use/Regional Parkland, p. 38]. The MBPMP further states that "the capital improvement program will include a phasing component in order to ensure that the recreational improvements will be developed commensurate with new commercial development approved in the Park. **The City agrees to make recreational improvements on Fiesta Island and South Shores the highest priority.**"

The Fiesta Island GDP, which has been under way for at least 2 years, is listed as a "second tier" project in the draft ordinance, yet is currently in the public review process and could be ready to go forward within a year once funding is identified. If the Charter amendment is approved by voters, badly needed public parkland projects such as this could not be pursued until all of the identified "first tier" projects have been accomplished.

C3 does not disagree with the importance of all of the "first tier" projects in the Draft Charter Amendment Ordinance. However it does appear that recreational improvements are equally high priorities that should not be placed at the end of the funding line. We urge that the two-tier project list be changed to state that each project should go forward as appropriate funding is identified and obtained for each project.

Page 2 of 2
July 14, 2008

Lastly, we question why the Mission Beach boardwalk and seawall are listed as Mission Bay Park "first tier" projects. The Mission Beach and Pacific Beach boardwalk is not part of Mission Bay Park; it is a Shoreline Park, thus falls within the Developed Regional Parklands category, as they are presently described in the existing Mission Bay Park Ordinance. We question the appropriateness of funding it from Mission Bay Park lease revenue, putting it in direct competition with so many desperately needed projects within Mission Bay Park.

In closing, C3 agrees with the importance of retaining more lease revenues in Mission Bay Park to support the many Master Plan and deferred maintenance projects but we ask that you modify the wording by removing the strict order of priorities and by listing the Mission Beach Boardwalk & seawall under "Developed Regional Parks".

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith A. Swink".

for

Howard M. Blackson III



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: July 11, 2008

IBA Report Number: 08-000

City Council Docket Date: July 15, 2008

Item Number: 334

RECEIVED
08 JUL 11 AM 11:41
CITY CLERKS OFFICE
SAN DIEGO, CA

Submitting to the Voters a Ballot Proposition Amending the City Charter to Designate the Use of Lease Revenues from Mission Bay Park

OVERVIEW

At the Rules Committee meeting of June 25, 2008, Councilmembers Faulconer and Frye presented a proposal for a ballot measure to amend the City Charter, adding Section 55.2, requiring that annual lease revenue generated in Mission Bay Park in excess of \$20 million be appropriated for public capital improvements in Mission Bay Park (75%) and in current and future Regional Parks (25%).

The Rules Committee voted to refer the item to the full City Council for consideration, with comments by the Rules Committee members noted.

FISCAL/POLICY DISCUSSION

Current Municipal Code Requirements

At present, Municipal Code §22.0229, entitled "Preparation of the Annual Budget: Mission Bay Park and Other Regional Park Improvements" is in effect for a period of ten years, terminating with the Fiscal Year 2013 budget. The section states that:

- City Manager (Mayor) is to prepare the annual budget with appropriations for the Mission Bay Improvement Fund and the Regional Park Improvement Fund from Mission Bay Park lease revenues in excess of \$20 million, with 25% of the excess lease revenues allocated to each park improvement fund, up to a maximum of

Office of Independent Budget Analyst

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\$2.5 million each. The remaining 50% of excess lease revenues is deposited in the General Fund.

- City Council may temporarily suspend compliance if City Manager (Mayor) determines that anticipated revenues in any fiscal year will be insufficient to maintain existing City services
- The Mission Bay Improvement Fund is to be used only for permanent public capital improvements and deferred maintenance of existing facilities in Mission Bay Park pursuant to the Mission Bay Park Master Plan, with priority given to Fiesta Island and South Shores
- The Regional Park Fund is to be used only for permanent public capital improvements, planning, deferred maintenance, and land acquisitions for Regional Parks
- Allocation of the Regional Park Fund for specific projects shall be equitably distributed over the effective term to:
 - Balboa Park
 - Mission Trails Regional Park
 - Otay River Valley Park
 - San Diego River Park
 - Multiple Species Conservation Program open space areas
 - Coastal beaches along with coastal parks contiguous thereto

In Fiscal Year 2008, Mission Bay Park lease revenues total \$27.8 million. Based on this, allocations to the Mission Bay Improvement Fund and the Regional Park Fund will total \$1.95 million each, with the net revenue to the General Fund totaling \$23.9 million.

Original estimates for lease revenues for FY 2008 totaled \$30 million, which would have resulted in

allocations to each fund of \$2.5 million, reaching the capped amount for the first time since the ordinance was adopted. This chart shows the allocations made since FY 2005.

Amount in excess of \$20 million split:				
		25%	25%	50%
FY	Actual Lease Revenue	Mission Bay	Regional Parks	Net to General Fund
2005	23,177,612	-	-	23,177,612
2006	27,020,561	-	-	27,020,561
2007	27,383,052	1,940,200	1,940,200	23,502,652
2008	27,800,000	1,950,000	1,950,000	23,900,000

Note: Ordinance suspended in Fiscal Years 2005 and 2006

According to the Mayor's Five Year Financial Outlook, Mission Bay rents and concessions are projected to increase by 3.0% annually through Fiscal Year 2013. This reflects a reduction from the 5.0% annual growth projected in the earlier 2007 Financial Outlook, and the Outlook assumed compliance with the Mission Bay Ordinance in all years. As a result, increases in Mission Bay lease revenues are already anticipated to be received by the General Fund.

During the recent City Council budget deliberations, a project status was provided for both the Mission Bay and Regional Parks Improvement Funds. As of May 6, 2008,

unexpended funds totaled \$3.0 million for the Mission Bay Fund and \$3.4 million for the Regional Parks Improvement Fund, from funds that were allocated in previous fiscal years.

Proposed Ballot Measure

As currently drafted, the proposed ballot measure would include Charter language to:

- Define San Diego Regional Parks as those parks that serve regional residents and/or visitor populations as defined in the General Plan, which currently include:
 - Balboa Park
 - Mission Trails Regional Park
 - Otay River Valley Park
 - San Diego River Park
 - **Chollas Creek**
 - Multiple Species Conservation Program open space areas
- Require Mission Bay Park lease revenues up to \$20 million to be deposited to the City's General Fund, with funds in excess of \$20 million to be deposited with 75% to the Mission Bay Park Improvement Fund and 25% to the San Diego Regional Parks Improvement Fund
- Define and prioritize capital improvement projects to be undertaken in Mission Bay Park
- Establish Mission Bay Park Committee and Park and Recreation Board as entities to recommend projects for funding to the City Council
- Require City Auditor to prepare an annual audit
- Require City to increase current annual expenditure levels for park operations and maintenance by an amount at least equivalent to the annual percentage growth of the General Fund
- Establish a start date of July 1, 2009 and an effective period of thirty years, with requirement for ballot measure to extend for an additional thirty years

Comparing to the current municipal code, the Charter amendment does not permit a suspension of the requirements in the event of a fiscal emergency, eliminates the funding cap of \$2.5 million annually for allocation to each park improvement fund, includes Chollas Creek and excludes coastal parks from the definition of regional parks, and allows the addition of future regional parks. The Charter amendment also does not include a requirement to equitably distribute funds among the regional parks, as does the municipal code, nor does it describe how funding for the regional parks would be allocated among the various parks.

Issues for Consideration

During the Rules Committee discussion, concerns were raised about the proposal's negative impact to the City's General Fund, the term of effectiveness of the dedication of these revenues, the division of lease revenues to the various uses/funds, and the inability of the City to suspend the requirements to deal with a fiscal or other emergency.

Earmarking of Discretionary Revenues

This proposal earmarks discretionary General Fund revenues. As a policy, earmarking of City revenues is not desirable or recommended. It reduces budgetary flexibility by committing current revenues for specific and enhanced purposes, and in this case, will cause an immediate and increasingly negative impact to the City’s General Fund, which is already facing serious budgetary challenges.

<i>Assumes annual growth of 3%; FY 2009 based on adopted budget</i>					
FY	Estimated Lease Revenue	General Fund	Mission Bay	Regional Parks	Proposal Annual Loss to General Fund
2009	29,867,208	24,933,604	2,466,802	2,466,802	-
2010	30,763,224	20,000,000	8,072,418	2,690,806	5,381,612
2011	31,686,121	20,000,000	8,764,591	2,921,530	5,843,060
2012	32,636,705	20,000,000	9,477,528	3,159,176	6,318,352
2013	33,615,806	20,000,000	10,211,854	3,403,951	6,807,903

Creating New Financial Commitments

The Charter amendment requires the City to commit an increased level of resources each year for the annual operations and maintenance of parks. This requirement is an effort to ensure that new funds dedicated for park improvements supplement current funding levels, and would not be permitted to supplant current budget allocations for park operations and maintenance. According to the proposed language, this funding level will be required to increase by the same percentage of growth in the City’s General Fund. However, the ballot language does not clearly delineate the sources of funding to be included in these calculations, and whether it is limited to the General Fund, or would include other sources of City funding, which may include grants from other agencies, the City’s Environmental Growth Fund or various other sources. As this amount is not stated, the ongoing commitment of funding to ensure the increased requirement will be met is not estimated, but needs to be in order to fully identify the impact of the measure.

Staffing and Workload Implications

The dedication of significant funding for new park improvements will create additional workload and will likely require the addition of staffing to various City departments, including Park Planning within City Planning and Community Investment, and Engineering and Capital Projects. These costs should be estimated to allow the City Council and the public to have a clear understanding of the fiscal considerations and effect on future budgets, and if the funding of staffing costs will be permitted from these dedicated funding sources. Given the current levels of funding on hand for park improvements, additional staffing may already be needed in order to complete existing projects in a timely manner.

Ability to Use Long-Term Financing

The effective term of thirty years together with a dedicated, irrevocable revenue stream is designed to permit the use of long-term financing options to fund significant park improvement projects. In the past, the City increased the Transient Occupancy Tax to fund improvements for Balboa Park and Mission Bay Park, and long-term debt was issued, with these funds utilized for annual debt repayment. The FY 2009 budget includes \$6.6 million for debt repayment for Balboa Park and Mission Bay Park Improvements. One series of these bonds will be fully repaid in Fiscal Year 2011. The City could consider the issuance of additional long-term debt, at that time, utilizing a portion of this source of existing funding totaling \$3.5 million, without negatively impacting the General Fund. As was discussed at the Rules Committee meeting, the Charter amendment is not necessarily required in order for the City to issue long-term debt for park improvements.

Alternatives

- 1) To mitigate the impact to the General Fund, the \$20 million allocation to the General Fund could be increased to the current level of \$25 million, eliminating the \$5 million reduction that would otherwise occur in FY 2010.
- 2) The \$20 million General Fund allocation could be phased in over a period of time, possibly starting at the current level of \$25 million, with reductions of \$2.5 million each year for two years, allowing other General Fund resources to grow during that period in order to offset the revenue loss.
- 3) The \$20 million allocation to the General Fund could be allowed to increase each year by some factor, such as the annual increase to the Consumer Price Index (CPI), or by the annual percentage growth in the General Fund.
- 4) Consideration could be given to the issuance of long-term debt for park improvements utilizing General Fund or other discretionary resources, without a Charter amendment. However, a discussion of priorities should occur that could assist to determine the relative importance and urgency for the initiation of capital improvement projects for public safety, libraries or park improvements.



Elaine DuVal
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)

TO:
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
Council President Pro Tem Madaffer

3. DATE:
6/26/2008

4. SUBJECT:
Submitting to the voters a ballot proposition amending the City Charter to designate the use of lease revenues from Mission Bay Park.

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)
Steve McNally, x66622 MS 10A

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)
Mary Ann Kempczenski, x66616 MS 10A

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	DEPT.	ORGANIZATION	OBJECT ACCOUNT	JOB ORDER	C.I.P. NUMBER	AMOUNT	9. ADDITIONAL INFORMATION / ESTIMATED COST:

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	7/2/08	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY		
4	LIAISON OFFICE			11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	7/2/08
5				DOCKET COORD: _____ COUNCIL LIAISON: _____			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT	<input type="checkbox"/> SPOB	<input type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> ADOPTION
7				<i>[Signature]</i>	<input type="checkbox"/> REFER TO: _____	COUNCIL DATE: 7/15/08	

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Election to be held on November 4, 2008, one proposition amending the City Charter by amending Article V, section 55, by adding section 55:2, requiring annual lease revenue generated in Mission Bay Park that exceeds \$20 million, 75% be appropriated for public capital improvements in Mission Bay Park and 25% be appropriated for public capital improvements in current and future Regional Parks. 2. Directing the City Attorney to prepare a ballot title and summary. 3. Directing the City Attorney to prepare an impartial analysis. 4. Directing the Mayor's Office to prepare a fiscal analysis. 5. Assigning authorship of the ballot argument.

11A. STAFF RECOMMENDATIONS:

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): N/A

COMMUNITY AREA(S): N/A

ENVIRONMENTAL IMPACT: This activity is not a "project" and therefore exempt from CEQA pursuant to State CEQA guidelines Sect. 15060 (C)(3).

HOUSING IMPACT: N/A

OTHER ISSUES:

ORDINANCE NO. O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2008. ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, BY ADDING CHARTER SECTION 55.2, DESIGNATING THE USE OF LEASE REVENUE FROM MISSION BAY PARK.

WHEREAS, San Diego's regional parks contain environmental and recreational resources unique to our city and help provide our city's identity, enrich the quality of life for all San Diegans, provide wildlife habitat, and serve as visitor attractions that strengthen the local economy; and

WHEREAS, the City receives millions of dollars of revenues each year from leases sited within regional parks, primarily in Mission Bay Park, but little of the monies generated from those leases such as lease revenues, sales taxes, possessory interest taxes have been specifically allocated to fund capital improvements to protect and maintain beneficial uses of water quality, scenic and recreational opportunities, or to maintain wildlife habitat or navigable waterways in Mission Bay Park or other regional parks; and

WHEREAS, the environmental, scenic and recreational quality of these parks is threatened if a significant portion of the revenues generated by the parks is not retained in the parks for purposes of making capital improvements and maintaining the beneficial uses of the parks; and

WHEREAS, pursuant to Section 223 of the San Diego City Charter, article XIV, section 3(b), article 11 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 Special Election; and

WHEREAS, by Ordinance No. O-19770 adopted on July 15, 2008, the City Council of the City of San Diego is calling a Municipal Special Election to be consolidated with the Statewide General Election on November 4, 2008, 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 the Municipal Special Election one proposition amending the Charter of the City of San Diego by adding Charter Section 55.2; and

WHEREAS, the City Council's proposal, on its own motion, of a charter amendment is governed by article XI, section 3(b) of the California Constitution, 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. One proposition amending the Charter of the City of San Diego by amending article V, by adding Charter Section 55.2 is hereby submitted to the qualified voters of the City at the Municipal Special Election to be held on November 4, 2008, the proposition to read as follows:

PROPOSITION

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. *Capital Improvement* means physical assets, constructed or purchased, or the restoration of some aspect of a physical or natural asset that will increase its useful life by one year or more or which constitutes an environmental improvement of a natural asset. It does not include money used 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.
2. *Mission Bay Baseline Chart* shall be defined as the Mission Bay dredging plans on file with the City Clerk. It shall serve as the baseline for depths for navigable waters within Mission Bay. Depths may be increased or decreased for specific areas within Mission Bay only if, after review of these areas by the San Diego Fire Department or the *Mission Bay Park Improvement Fund Oversight Committee*, it is found that either the original depth no longer supports or ensures safe navigation, is inconsistent with the *Mission Bay Park Master Plan* or needs to be modified in order to create sustainable shorelines. Any changes must be adopted by ordinance of the City Council and shall act as amendments to the original dredging plans.
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.
4. *Mission Bay Park Improvement Zone* means those areas encompassed within the boundaries of *Mission Bay Park*, Oceanfront Walk from the Mission Beach jetty to Crystal Pier and the adjoining seawall, coastal parks and ocean beaches contiguous thereto, Rose Creek from its terminus in Mission Bay to the southern end of the Santa Fe Road flood control channel, Tecolote Creek from its terminus in Mission Bay to the eastern end of the Tecolote Creek flood control channel and the San Diego River as it passes through the boundaries of Mission Bay Park as described herein. The boundaries of the San Diego River, Rose Creek and Tecolote Creek shall be the width of those waterways to the nearest property line.
5. *Mission Bay Park Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *Mission Bay Park Improvement Zone*.
6. *Mission Bay Park Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
7. *Mission Bay Park Lease Revenues* means all revenues collected by the City of San Diego from commercial and non-profit sources within *Mission Bay Park*, including but not limited to all monetary consideration received under leases

of city owned property within *Mission Bay Park*, as well as revenue collected from contracts for concessions or any other revenues collected for the use of city owned property within *Mission Bay Park*. The term does not include revenue from the Mission Bay Golf Course (unless it should revert to a private lease), mooring fees,, Transient Occupancy Taxes, sales taxes, possessory interest taxes, property taxes, or permit fees (e.g. park and recreation fees, special event permit fees, etc.) to the extent those fees are levied to recover actual costs incurred by the City of San Diego.

8. *Mission Bay Park Master Plan* means the Master Plan adopted by the City Council for Mission Bay Park in 1994, the Natural Resources Management Plan and any amendments or updates that are subsequently adopted by the City Council or any such similar replacement plan that may be subsequently adopted by the City Council. For purposes of this Section, the definition shall also include adopted plans for areas located within the *Mission Bay Park Improvement Zone*.
 9. *San Diego Regional Parks* means those parks that serve regional residents and/or visitor populations as determined by ordinance of the City Council. *San Diego Regional Parks* shall initially include Chollas Lake Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Park, the Multiple Species Conservation Program open space areas, and coastal beaches along with coastal parks contiguous thereto. For the purposes of this Section, this definition shall specifically exclude areas within the *Mission Bay Park Improvement Zone*.
 10. *San Diego Regional Parks Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *San Diego Regional Parks*.
 11. *San Diego Regional Parks Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
- (b) *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-five percent (25%) of the *Mission Bay Park Lease Revenues* in excess of the threshold amount, or two million five hundred thousand dollars (\$2,500,000) whichever is greater, shall be allocated to the *San Diego Regional Parks Improvement Fund* that solely benefits the *San Diego Regional Parks* and seventy-five percent (75%) of the *Mission Bay Park Lease Revenues* over the threshold amount, or the remainder of those revenues if

less than 75% 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) **Authorized Expenditures of Mission Bay Park Improvement Funds**

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*.

- i. To achieve these goals, all of the following identified priorities are intended to be authorized, funded, and completed in the order provided below:
 1. 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*.
 2. Wetland expansion and water quality improvements and the protection and expansion of eelgrass beds as identified in the *Mission Bay Park Master Plan*.
 3. Restoration of shoreline treatments within the *Mission Bay Park Improvement Zone* including restoration of beach sand and stabilization of erosion control features.
 4. 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*.
 5. 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*.
 6. 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.

7. 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
- ii. After each priority project identified in (c)i 1-7 above has been budgeted and approved by the City Council and a funding plan adopted for it, construction of a subsequent project may proceed concurrently provided construction of a lesser priority does not unreasonably delay, prolong, or preclude completion of a greater priority. 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)i 1-7, 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 priority project will not be unreasonably delayed, prolonged, or precluded by expending funds on a lower priority project before approving said expenditure.
- iii. Once the projects identified in (c)i 1-7 have been fully budgeted or 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.
- iv. To the extent items (c)i 1 - 7 that have been completed herein are later in need of additional *Capital Improvements*, then those items shall again have priority over other *Capital Improvements* after a public hearing at City Council.
- v. 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*.
- (d) **Authorized Expenditures of San Diego Regional Parks Improvement Funds** Funds in the *San Diego Regional Parks Improvement Fund* may be expended only for non-commercial public *Capital Improvements* for the *San Diego Regional Parks* and only for park uses. Funds in the *San Diego Regional Parks 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 daily, weekly, monthly, or annual upkeep of the *San Diego Regional Parks*.

Priority for *Capital Improvements* hereunder shall be recommended by the *San Diego Regional Parks Improvement Fund Oversight Committee*, in accordance with the master plans for each of the *San Diego Regional Parks*, and approved by the City Council.

- (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 Master Plan* or within the priorities identified in (c)i 1-7, 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 City Manager, 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 paragraphs (c)ii, (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/or his designee, 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) The City of San Diego shall take all steps necessary to ensure the collection and retention of all *Mission Bay Park Lease Revenues* for purposes described herein and to utilize those revenues only for the purposes described herein and consistent with the priorities and intentions described herein. The City of San Diego may issue bonds, notes or other obligations to expedite the *Capital Improvements* contemplated herein, utilizing the revenue stream from *Mission Bay Park Lease Revenues* designated herein.

- (g) The annual budgets allocated for park operations and maintenance in the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks* shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of park and recreation as a result of monies available hereunder.
- (h) The City of San Diego is encouraged to seek other sources of funding for the purposes of improving the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks*, including but not limited to grant funding from other governmental agencies, private individuals, or foundations. In the event the City of San Diego receives any such additional funds, they shall be in addition to, and shall not offset or reduce funds dedicated to the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* under this Section.
- (i) Nothing contained herein shall prevent the City of San Diego from seeking and spending funds in excess of the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* for the purposes of improving the *Mission Bay Park Improvement Zone* or the *San Diego Regional Parks*.
- (j) This Section shall take effect and be in force on July 1, 2009, and will expire on June 30, 2039. 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, 2039 a measure to amend the Charter to extend the effect of this Section for an additional 30 years.
- (k) In the event of a conflict between any provision of Section 55.2 and any other provision of this Charter or the Municipal Code, Section 55.2 shall govern

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 ___ AMENDS THE CHARTER OF THE CITY OF SAN DIEGO DESIGNATING THE USE OF LEASE REVENUE FROM MISSION BAY PARK. Shall the City Charter be amended requiring that annual lease revenue generated in Mission Bay Park exceeding \$23 million initially and decreasing to \$20 million after 5 years be appropriated 75% for capital improvements in	YES	
	NO	

Mission Bay Park and 25% for capital improvements in San Diego Regional Parks (Chollas River Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Valley Park, MSCP areas, and future regional parks)?		
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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 these qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause a digest of 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 7. Pursuant to San Diego Municipal Code [SDMC] 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, and the Clerk shall post a public notice of the specific dates that the examination period will run.

Section 8. Pursuant to SDMC Section 27.0403(a), the public examination period will end on the 75th calendar day prior to the date set for the Municipal Special Election.

Section 9. Pursuant to SDMC Section 27.0404, during the public 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.

Section 10. A full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 11. Upon adoption of this Measure, §22.0229 of the San Diego Municipal Code shall be repealed.

Section 12. Prior to the effective date of this Measure, the City Council shall by ordinance designate the Mission Bay Park Committee to fulfill the role of the *Mission Bay Park Improvement Fund Oversight Committee* and the Park and Recreation Board to fulfill the role of the *San Diego Regional Parks Improvement Fund Oversight Committee* in accordance with Section 55.2 (a) 5 and 55.2 (a)10

Section 13. Pursuant to sections 295(b) and 295(d) of the San Diego City Charter, this ordinance relating to elections shall take effect on the date of its passage by the City Council, which is deemed the date of its final passage.

S401
7/28

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2008, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, BY ADDING CHARTER SECTION 55.2, DESIGNATING THE USE OF LEASE REVENUE FROM MISSION BAY PARK.

RECEIVED
08 JUL 25 AM 9:17
CITY CLERKS OFFICE
SAN DIEGO, CA

WHEREAS, San Diego's regional parks contain environmental and recreational resources unique to our city and help provide our city's identity, enrich the quality of life for all San Diegans, provide wildlife habitat, and serve as visitor attractions that strengthen the local economy; and

WHEREAS, the City receives millions of dollars of revenues each year from leases sited within regional parks, primarily in Mission Bay Park, but little of the monies generated from those leases such as lease revenues, sales taxes, or possessory interest taxes have been specifically allocated to fund capital improvements to protect and maintain beneficial uses of water quality, scenic and recreational opportunities, or to maintain wildlife habitat or navigable waterways in Mission Bay Park or other regional parks; and

WHEREAS, the environmental, scenic and recreational quality of these parks is threatened if a significant portion of the revenues generated by the parks is not retained in the parks for purposes of making capital improvements and maintaining the beneficial uses of the parks; and

WHEREAS, pursuant to Section 223 of the San Diego City Charter, article XIV, section 3(b), article 11 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 Special Election; and

WHEREAS, by Ordinance No. O-19770 adopted on July 15, 2008, the City Council of the City of San Diego is calling a Municipal Special Election to be consolidated with the Statewide General Election on November 4 2008, 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 the Municipal Special Election one proposition amending the Charter of the City of San Diego by adding Charter Section 55.2; and

WHEREAS, the City Council's proposal, on its own motion, of a charter amendment is governed by article XI, section 3(b) of the California Constitution, 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. One proposition amending the Charter of the City of San Diego by amending article V, by adding Charter Section 55.2 is hereby submitted to the qualified voters of the City at the Municipal Special Election to be held on November 4, 2008, the proposition to read as follows:

PROPOSITION

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) *Capital Improvement* means physical assets, constructed or purchased, or the restoration of some aspect of a physical or natural asset that will increase its useful life by one year or more or which constitutes an environmental improvement of a natural asset. It does not include money used 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.
- (2) *Mission Bay Baseline Chart* shall be defined as the Mission Bay dredging plans on file with the City Clerk as Document No. OO- _____. It shall serve as the baseline for depths for navigable waters within Mission Bay. Depths may be increased or decreased for specific areas within Mission Bay only if, after review of these areas by the San Diego Fire Department or the *Mission Bay Park Improvement Fund Oversight Committee*, it is found that either the original depth no longer supports or ensures safe navigation, is inconsistent with the *Mission Bay Park Master Plan*, or needs to be modified in order to create sustainable shorelines. Any changes must be adopted by ordinance of the City Council and shall act as amendments to the original dredging plans.
- (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.
- (4) *Mission Bay Park Improvement Zone* means those areas encompassed within the boundaries of *Mission Bay Park*, Oceanfront Walk from the Mission Bay jetty to Crystal Pier and the adjoining seawall, coastal parks and ocean beaches contiguous thereto, Rose Creek from its terminus in Mission Bay to the southern end of the Santa Fe Road flood control channel, Tecolote Creek from its terminus in Mission Bay to the eastern end of the Tecolote Creek flood control channel and the San Diego River as it passes through the boundaries of *Mission Bay Park* as described herein. The boundaries of the San Diego River, Rose Creek and Tecolote Creek shall be the width of those waterways to the nearest property line.
- (5) *Mission Bay Park Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *Mission Bay Park Improvement Zone*.
- (6) *Mission Bay Park Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
- (7) *Mission Bay Park Lease Revenues* means all revenues collected by the City of San Diego from commercial and non-profit sources within *Mission Bay*

Park, including but not limited to all monetary consideration received under leases of city owned property within *Mission Bay Park*, as well as revenue collected from contracts for concessions or any other revenues collected for the use of city owned property within *Mission Bay Park*. The term does not include revenue from the Mission Bay Golf Course, unless privately leased, mooring fees, Transient Occupancy Taxes, sales taxes, possessory interest taxes, property taxes, or permit fees such as park and recreation fees or special event fees to the extent those fees are levied to recover actual costs incurred by the City of San Diego.

- (8) *Mission Bay Park Master Plan* means the Master Plan adopted by the City Council for Mission Bay Park in 1994 and any amendments or updates that are subsequently adopted by the City Council or any such similar replacement plan that may be subsequently adopted by the City Council. For purposes of this Section, the definition shall also include adopted plans for areas located within the *Mission Bay Park Improvement Zone*.
- (9) *San Diego Regional Parks* means those parks that serve regional residents and/or visitor populations as determined by ordinance of the City Council. *San Diego Regional Parks* shall initially include Chollas Lake Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Park, the Multiple Species Conservation Program, open space areas, and coastal beaches along with coastal parks contiguous thereto. For the purposes of this Section, this definition shall specifically exclude the *Mission Bay Park Improvement Zone*.
- (10) *San Diego Regional Parks Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *San Diego Regional Parks*.
- (11) *San Diego Regional Parks Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
- (b) *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-five percent (25%) of the *Mission Bay Park Lease Revenues* in excess of the threshold amount, or two million five hundred thousand dollars (\$2,500,000) whichever is greater, shall be allocated to the *San Diego Regional Parks Improvement Fund* that solely benefits the *San Diego Regional Parks* and seventy-five percent (75%) of the *Mission Bay Park Lease Revenues* over the threshold amount, or the remainder of those revenues if less than 75% 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, boating, swimming, fishing, and picnicking by maintaining navigable waters and eliminating navigational hazards; to restore embankments and other erosion control features; to protect water quality; 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 in the order provided below:
 - (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) 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*.

- (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 priority project identified in (c)(1)(A-G) above has been budgeted and approved by the City Council and a funding plan adopted for it, construction of a subsequent project may proceed concurrently provided construction of a lesser priority does not unreasonably delay, prolong, or preclude completion of a greater priority. 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 priority project will not be unreasonably delayed, prolonged, or precluded by expending funds on a lower priority project before approving said expenditure.
 - (3) Once the projects identified in (c)(1)(A-G) have been fully budgeted or 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-G) that have been completed herein are later in need of additional *Capital Improvements*, then those items shall again have priority over other *Capital Improvements*.
 - (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*.
- (d) Funds in the *San Diego Regional Parks Improvement Fund* may be expended only for non-commercial public *Capital Improvements* for the *San Diego Regional Parks* and only for park uses. Funds in the *San Diego Regional Parks 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 daily, weekly, monthly, or annual upkeep of the *San Diego Regional Parks*.

Priority for *Capital Improvements* hereunder shall be recommended by the *San Diego Regional Parks Improvement Fund Oversight Committee*, in accordance with the master plans for each of the *San Diego Regional Parks*, and approved by the City Council.

- (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 Master Plan* or within the priorities identified in (c)(1)(A-G), 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), (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) The City of San Diego shall take all steps necessary to ensure the collection and retention of all *Mission Bay Park Lease Revenues* for purposes described herein and to utilize those revenues only for the purposes described herein and consistent with the priorities and intentions described herein. The City of San Diego may issue bonds, notes or other obligations to expedite the *Capital Improvements*

contemplated herein, utilizing the revenue stream from *Mission Bay Park Lease Revenues* designated herein.

- (g) The annual budgets allocated for park operations and maintenance in the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks* shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of park and recreation as a result of monies available hereunder.
- (h) The City of San Diego is encouraged to seek other sources of funding for the purposes of improving the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks*, including but not limited to grant funding from other governmental agencies, private individuals, or foundations. In the event the City of San Diego receives any such additional funds, they shall be in addition to, and shall not offset or reduce funds dedicated to the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* under this Section.
- (i) Nothing contained herein shall prevent the City of San Diego from spending funds in excess of the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* for the purposes of improving the *Mission Bay Park Improvement Zone* or the *San Diego Regional Parks*.
- (j) This Section shall take effect and be in force on July 1, 2009, and will expire on June 30, 2039. 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, 2039 a measure to amend the Charter to extend the effect of this Section for an additional 30 years.
- (k) In the event of a conflict between any provision of Section 55.2 and any other provision of this Charter or the Municipal Code, Section 55.2 shall govern.

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 ___ AMENDS THE CHARTER OF THE CITY OF SAN DIEGO DESIGNATING THE USE OF LEASE REVENUE FROM MISSION BAY PARK. Shall the City Charter be amended requiring that annual lease revenue generated in Mission Bay Park exceeding	YES	
	NO	

<p>\$23 million initially and decreasing to \$20 million after 5 years be appropriated 75% for capital improvements in Mission Bay Park and 25% for capital improvements in Chollas Lake, Balboa, Mission Trails, Otay River Valley, Presidio and San Diego River Valley Parks; MSCP areas; coastal beaches and contiguous coastal parks; and future regional parks?</p>		
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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 these qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause a digest of 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 7. Pursuant to San Diego Municipal Code [SDMC] 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, and the Clerk shall post a public notice of the specific dates that the examination period will run.

Section 8. Pursuant to SDMC Section 27.0403(a), the public examination period will end on the 75th calendar day prior to the date set for the Municipal Special Election.

Section 9. Pursuant to SDMC Section 27.0404, during the public 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.

Section 10. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 11. Upon adoption of this Measure, §22.0229 of the San Diego Municipal Code shall be repealed.

Section 12. Prior to the effective date of this Measure, the City Council shall by ordinance designate the Mission Bay Park Committee to fulfill the role of the *Mission Bay Park Improvement Fund Oversight Committee* and the Park and Recreation Board to fulfill the role of the *San Diego Regional Parks Improvement Fund Oversight Committee* in accordance with Section 55.2 (a)6 and 55.2 (a)10, respectively.

Section 13. Pursuant to sections 295(b) and 295(d) of the San Diego City Charter, this ordinance relating to elections shall take effect on the date of its passage by the City Council, which is deemed the date of its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

ST:sc
07/23/08
Or.Dept:Park & Rec
O-2009-13

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Monday, July 21, 2008 9:03 PM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form Submitted on Monday, July 21, 2008 at 21:03:07

Name: Katheryn Rhodes and Conrad Hartsell, M.D.

Email: rhodes@laplayaheritage.com

Address: 371 San Fernando Street

City: San Diego

State: CA

Zip: 92106

Area Code: 619

Telephone: 523-4350

Source: San Diego City Council Meeting Agenda Comment Form at
<http://www.sandiego.gov/city-clerk/officialdocs/docketcomment.shtml>

Agenda Item: S-502 Mission Bay Lease Revenue

Comments: City Council Meeting of Tuesday, July 22, 2008, Item S-502 - Mission Bay Park Leases

Dear City of San Diego:

We are in favor of Ms. Frye and Mr. Faulconer's Charter Amendment for Lease Revenues in Mission Bay Park.

Using existing laws, even more revenue can be gained for the public parks. All City of San Diego leases greater than 15 years should be renegotiated according to City Charter Section 219. Please follow the law.

The following link and the attached document is is to Article XIV, Miscellaneous Provisions, Section 219 of the City Charter dealing with Pueblo Lands (see Page 4).

RECEIVED
08 JUL 22 AM 8:33
CITY CLERKS OFFICE
SAN DIEGO, CA

<http://docs.sandiego.gov/citycharter/Article%20XIV.pdf>

The last sentence of Section 219 states:

"No lease shall be valid for a period of time exceeding fifteen years."

Most San Diegans do not know the meaning of Pueblo Lands. The Pueblo Lands of San Diego are the original City of San Diego boundaries from National City to the South, Interstate 805 to the east, and Del Mar to the North as described in the Official Map of Pueblo Lands of San Diego by Charles H. Poole, September 8, 1856, and the James Pascoe Map, May 1870.

http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_A_Case_35818_Eugene_Scharr_v_San_Diego.pdf

http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_B_Case_35818_Eugene_Scharr_v_San_Diego.pdf

Currently, there are many sweetheart leases within the Pueblo Lands within Mission Bay, and other locations including Torrey Pines which exceed the 15 year limit. The leases older than 15 years are no longer valid according to the City Charter.

The only question is: Does City Charter Section 219 on leases mean that only Pueblo Lands of San Diego situated North of the San Diego River, or all the Pueblo Lands North and South of the San Diego River?

The City of San Diego can make multi-millions of dollars by renegotiated invalid leases on the original Pueblo Lands of San Diego for fair market value. Please think of enforcing existing laws for the benefit of the public and future generations of San Diegans.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

REMOTE_ADDR: 198.180.31.12
HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1;
FunWebProducts; .NET CLR 1.0.3705; .NET CLR 1.1.4322; Media Center PC 4.0; .NET
CLR 2.0.50727; .NET CLR 3.0.04506.30)

From: CLK City Clerk
Sent: Tuesday, July 22, 2008 8:13 AM
To: Yepiz, Lauren
Subject: FW: City Council Meeting Agenda Comment Form

I will be placing in 343 binder

*Sandy

-----Original Message-----

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Monday, July 21, 2008 9:03 PM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form Submitted on Monday, July 21, 2008 at 21:03:07

Name: Katheryn Rhodes and Conrad Hartsell, M.D.

Email: rhodes@laplayaheritage.com

Address: 371 San Fernando Street

City: San Diego

State: CA

Zip: 92106

Area Code: 619

Telephone: 523-4350

Source: San Diego City Council Meeting Agenda Comment Form at <http://www.sandiego.gov/city-clerk/officialdocs/docketcomment.shtml>

Agenda Item: S-502 Mission Bay Lease Revenue

Comments: City Council Meeting of Tuesday, July 22, 2008, Item S-502 - Mission Bay Park Leases

Dear City of San Diego:

We are in favor of Ms. Frye and Mr. Faulconer's Charter Amendment for Lease Revenues in Mission Bay Park.

Using existing laws, even more revenue can be gained for the public parks. All City of San Diego leases greater than 15 years should be renegotiated according to City Charter Section 219. Please follow the law.

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<http://docs.sandiego.gov/citycharter/Article%20XIV.pdf>

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RECEIVED
08 JUL 22 AM 8:37
CITY CLERKS OFFICE
SAN DIEGO, CA

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http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_A_Case_35818_Eugene_Scharr_v_San_Diego.pdf

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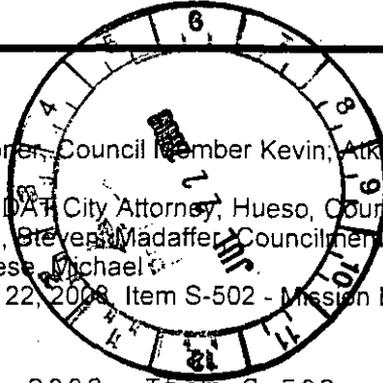
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REMOTE_ADDR: 198.180.31.12
HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; FunWebProducts; .NET CLR 1.0.3705; .NET CLR 1.1.4322; Media Center PC 4.0; .NET CLR 2.0.50727; .NET CLR 3.0.04506.30)

From: rhodes@laplayaheritage.com
Content: Monday, July 21, 2008 9:00 PM
To: Aguirre, Michael; Frye, Donna; Faulconer, Council Member Kevin; Atkins, Councilmember; CLK Hearings1
Cc: Maland, Elizabeth; Young, Anthony; SDAT City Attorney, Hueso, Councilmember Ben; Maienschein, Councilmember; Hadley, Steven; Madaffer, Councilmember Jim; Awbrey, Matt; Peters, Councilmember Scott; Calabrese, Michael
Subject: City Council Meeting of Tuesday, July 22, 2008, Item S-502 - Mission Bay Park Leases



City Council Meeting of Tuesday, July 22, 2008, Item S-502 - Mission Bay Park Leases

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http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_B_Case_35818_Eugene_Scharr_v_San_Diego.pdf

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619-523-4350
rhodes@laplayaheritage.com

ARTICLE XIV
MISCELLANEOUS PROVISIONS

Section 211: Oath of Office

Every officer or member of a Committee, Board or of a Commission of the City shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation as provided by the Constitution or General Law of the State to be filed and kept in the office of the City Clerk.

(Amendment voted 09-17-1963; effective 02-11-1964.)

(Amendment voted 11-04-1969; effective 01-29-1970.)

Section 212: Continuance of Present Officers

All persons holding office at the time the provisions of this Charter or any amendments thereto shall take effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The regular Municipal elections shall be held in the odd-numbered years, as in Article II provided. The terms of all elective officers who are in office at the time this Charter or any amendments thereto become effective shall terminate on the first Monday after the first day of December following the holding of such election except as in this Charter otherwise provided.

The powers conferred and the duties imposed upon any Officer, Commission, Board, Committee or Department of the City by the laws of the State and by this Charter or ordinance shall be thereafter exercised and discharged by the Officer, Board, Committee or Department designated by this Charter or by ordinances passed by the Council, unless otherwise provided herein. The members of the Legislative body of The City of San Diego in office at the time the State Legislature ratifies and approves this Charter or any amendments thereto shall take the necessary action and do everything necessary or incidental for the purpose of holding the first election at which municipal officers are elected pursuant to the terms and provisions of this Charter or any amendments thereto.

(Amendment voted 11-06-1962; effective 01-21-1963.)

Section 219: Pueblo Lands

No sale of Pueblo Lands owned by The City of San Diego which are situated North of the North line of the San Diego River shall ever be valid and binding upon said City unless such sale shall have been first authorized by an ordinance duly passed by the Council and thereafter ratified by the electors of The City of San Diego at any special or general municipal election. The City Manager shall have authority to lease Pueblo Lands, provided that any lease for a term exceeding one year shall not be valid unless first authorized by ordinance of the Council. No lease shall be valid for a period of time exceeding fifteen years.

Section 220: Eminent Domain

The Council shall have power to acquire by eminent domain proceedings such property as may be needed for public use.

Section 221: Sale of Real Property

Real property owned by The City of San Diego consisting of eighty (80) contiguous acres or more, whether or not in separate parcels, shall not be sold or exchanged unless such sale or exchange shall have first been authorized by ordinance of the Council and thereafter ratified by the electors of The City of San Diego. The foregoing shall not apply to the sale or exchange of real property to a governmental agency for bona fide governmental purposes which sale or exchange was duly authorized by ordinance of the Council, nor shall it apply to properties previously authorized for disposition by the electors of The City of San Diego.

Formerly Section 221. CITY OFFICES TO BE KEPT OPEN.

(Repeal voted 09-17-1963; effective 02-11-1964.)

New Section 221. SALE OF REAL PROPERTY.

(Addition voted 11-06-1990; effective 02-19-1991.)

Section 222: Effect of Invalidity in Part

If any clause, sentence, paragraph, section or part of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.



OFFICIAL

MAP OF THE PUEBLO LANDS OF SAN DIEGO

COMPILED FROM ALL THE EXISTING AUTHORITIES

And embracing the lots conveyed by the City Trustees,

to the San Diego and Gila Railroad Co.

by authority of an act of the State Legislature, approved April 30, 1856.

under the direction of the Board of Trustees for the years

1854-1855
FRANK JAMES
GEORGE LEVINE
E. W. MORSE

1856 and 1856

JOSEPH SMITH
TILMAN COLMAN
THOS. H. DARRANT

By CHARLES H. POOLE, C. E., U. S. Dept. Surveyor

1856

1856

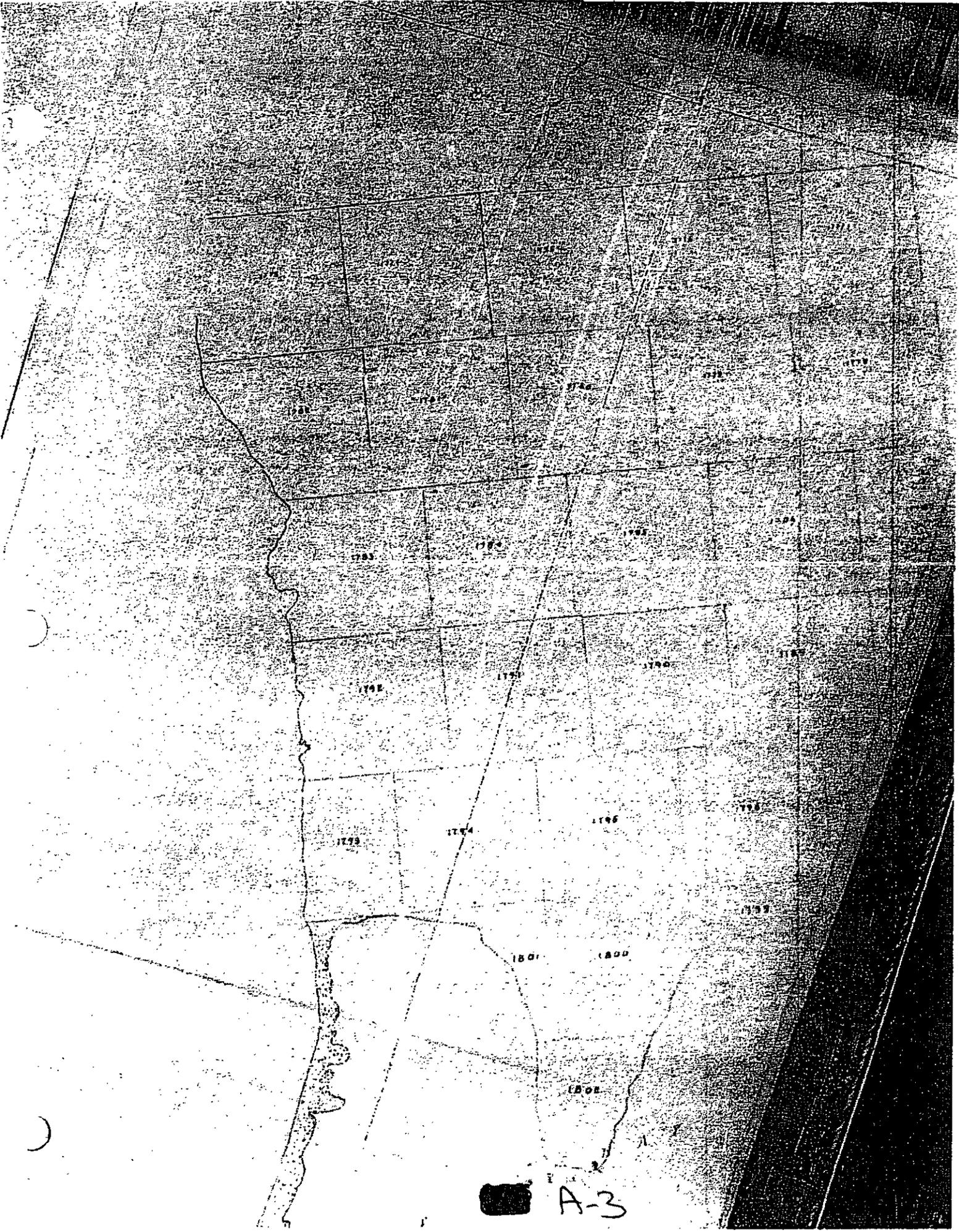
Charles H. Poole

Exhibit

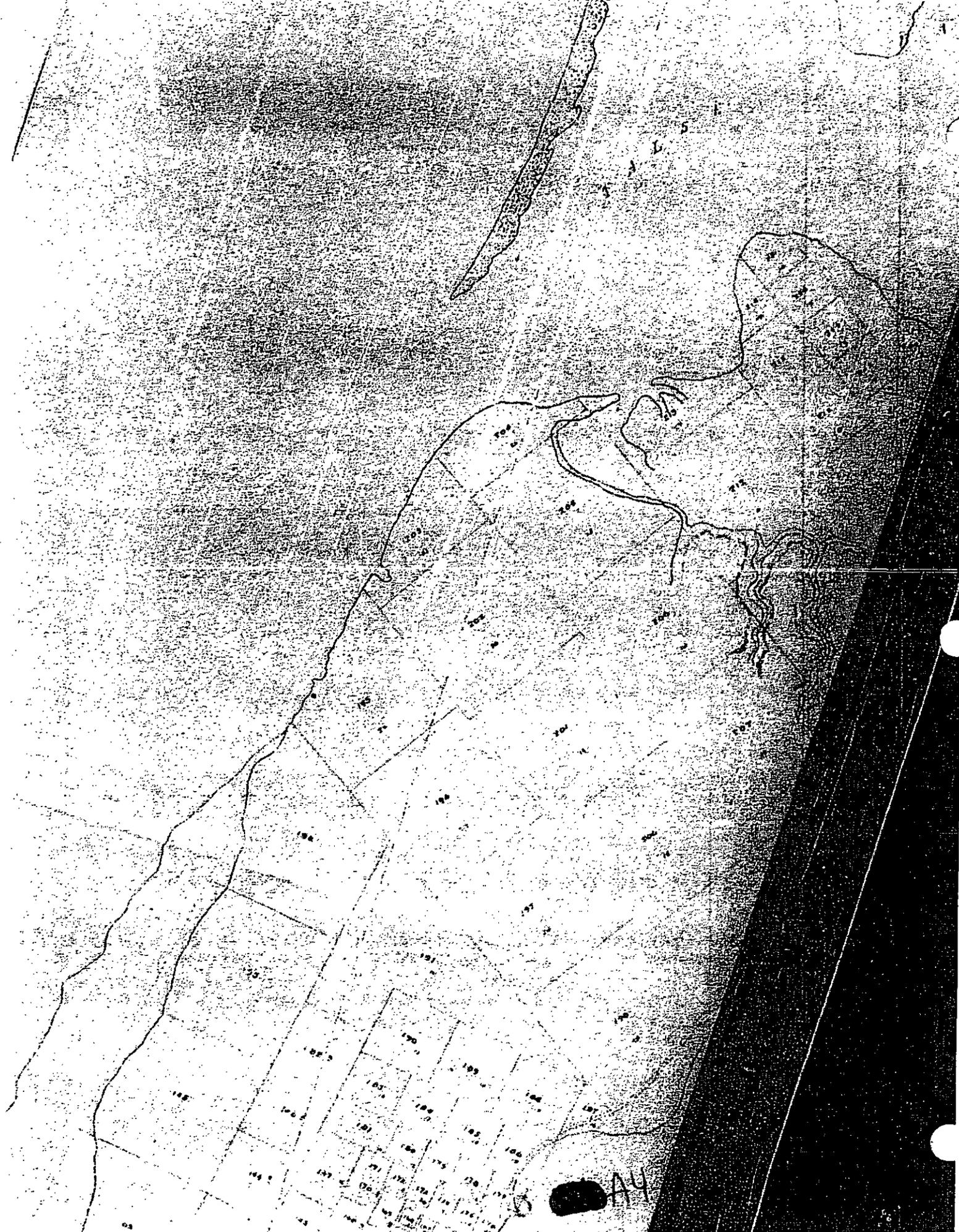
Exhibit A

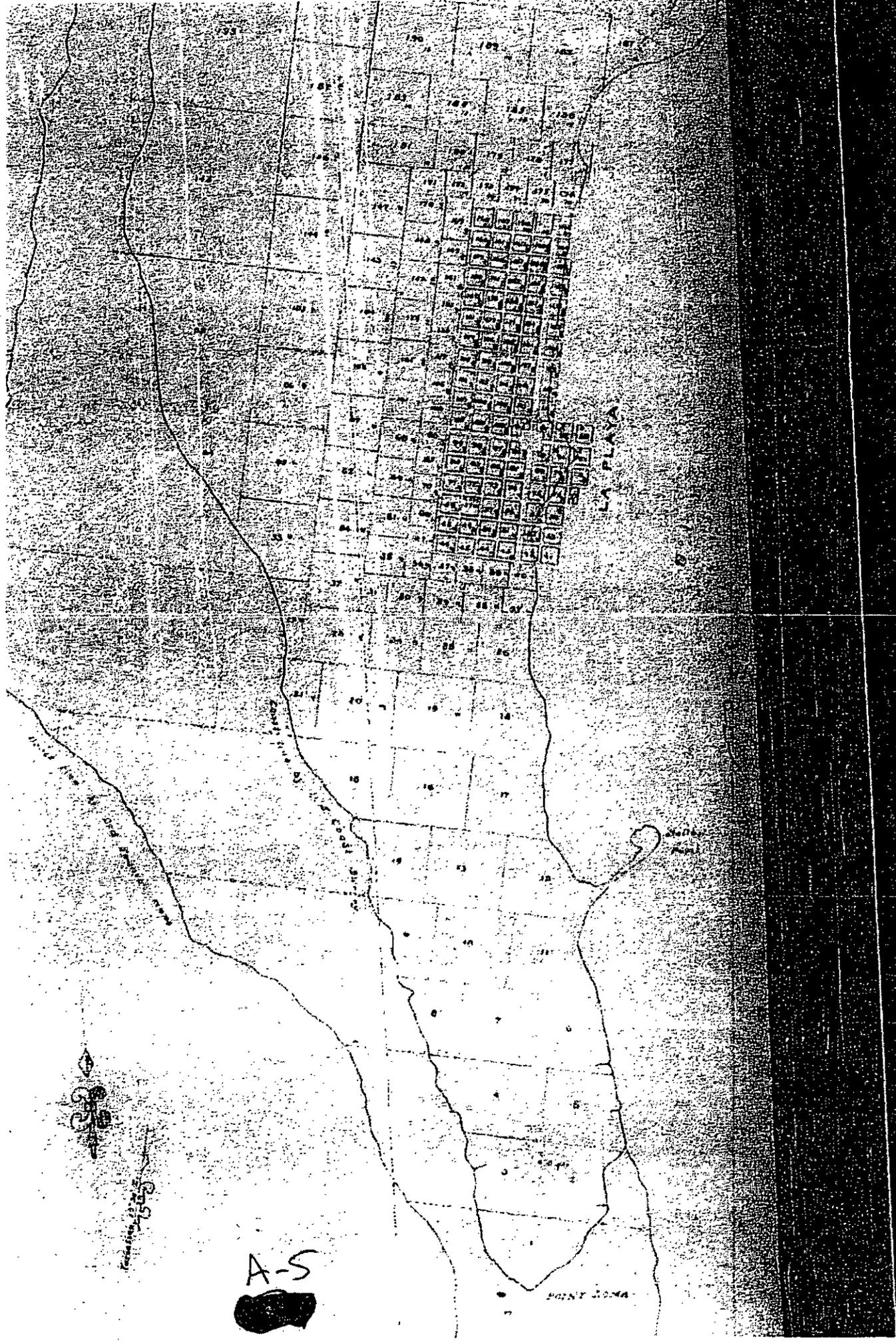


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A-3





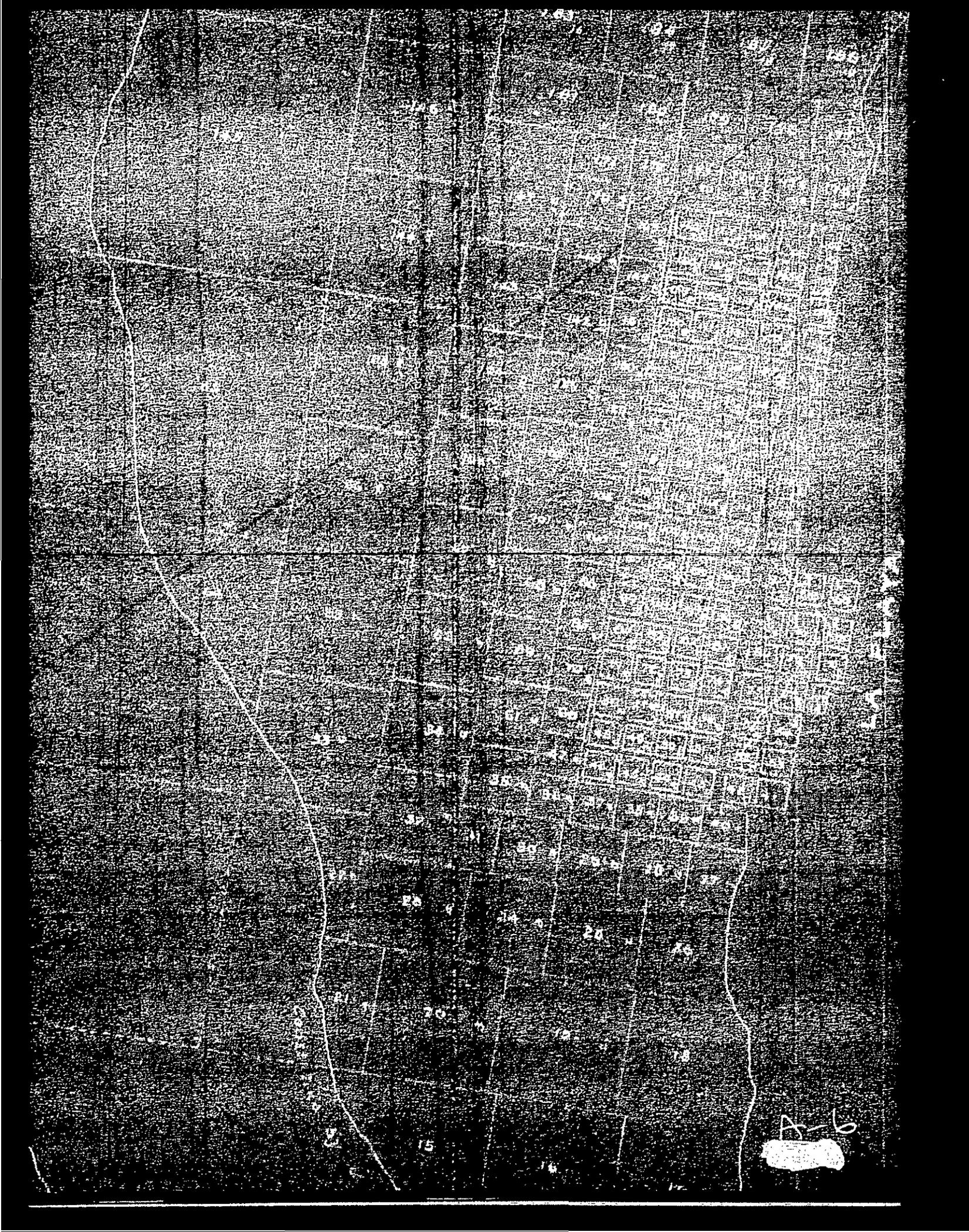
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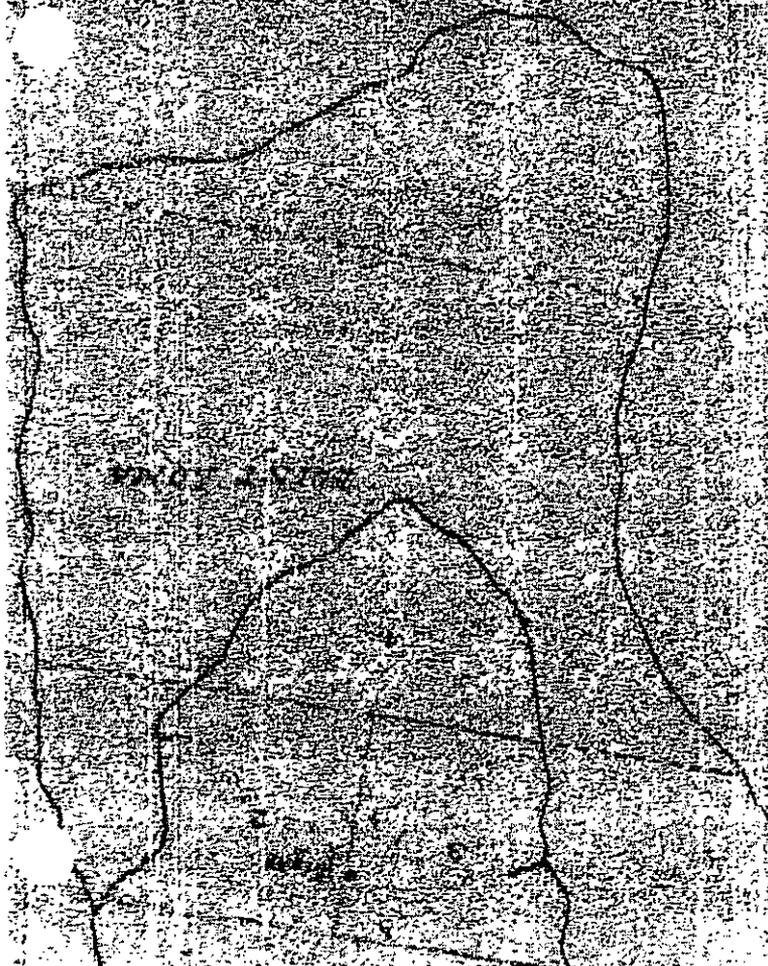


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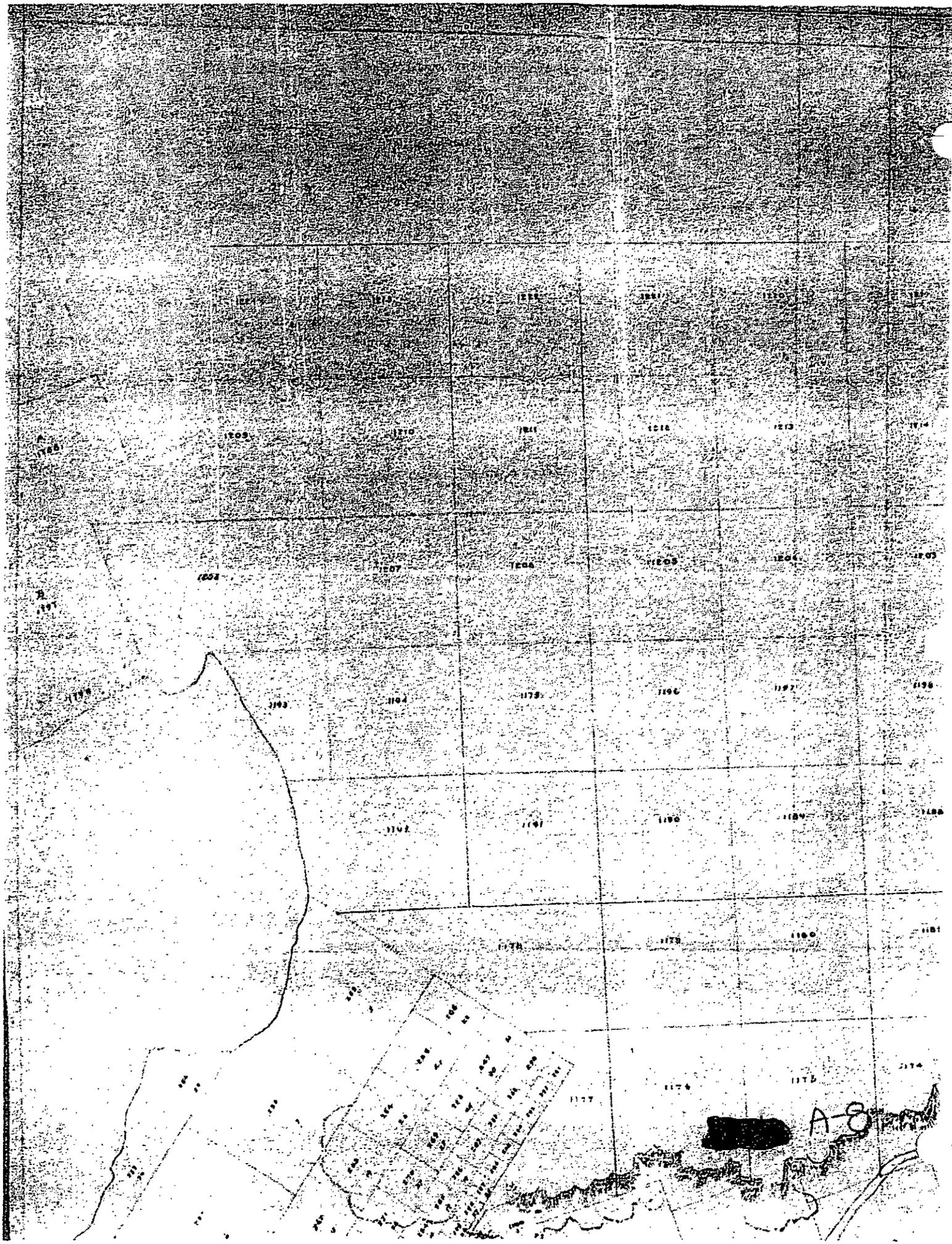


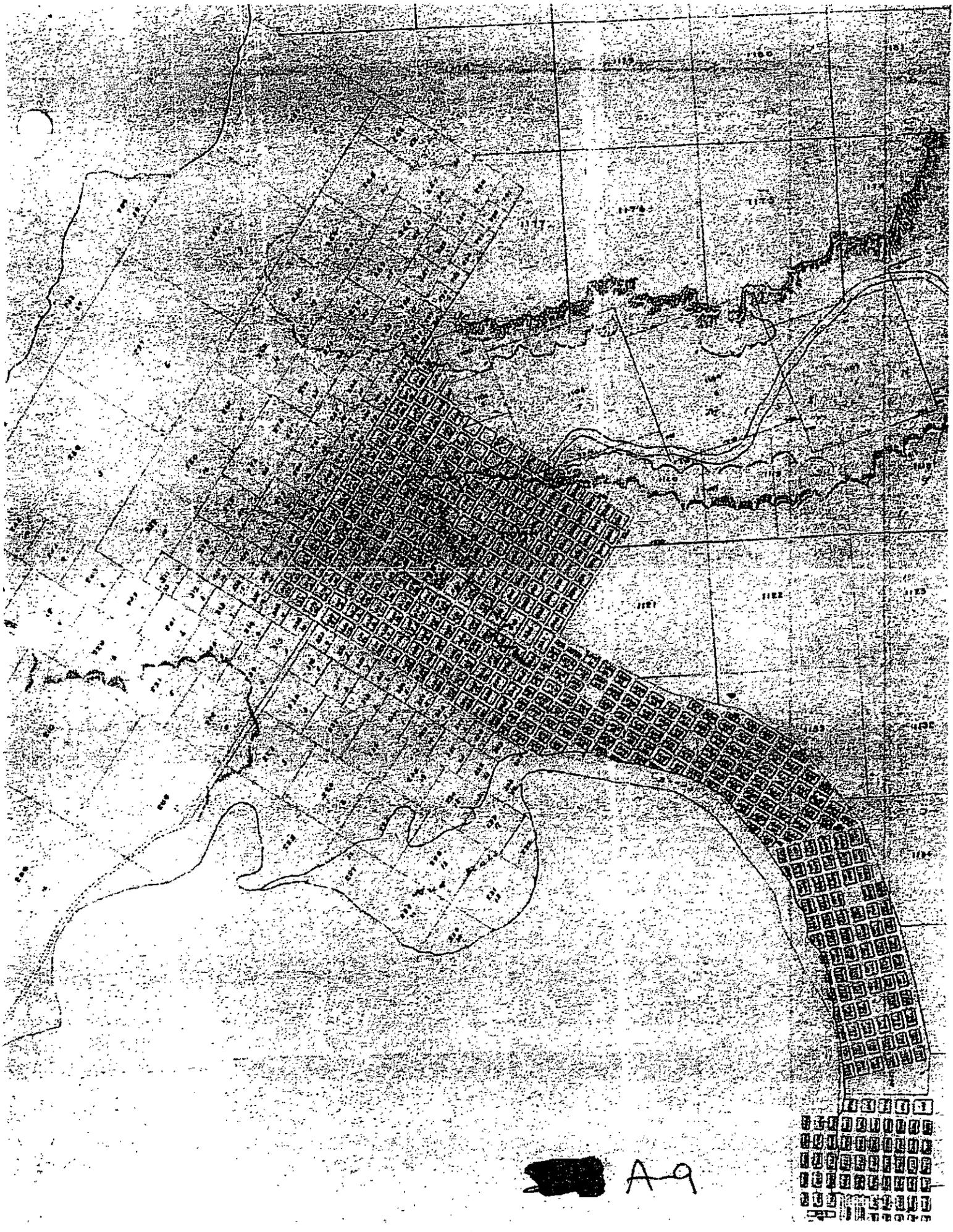
Filed: 4th February 1876

M. Keating Clerk



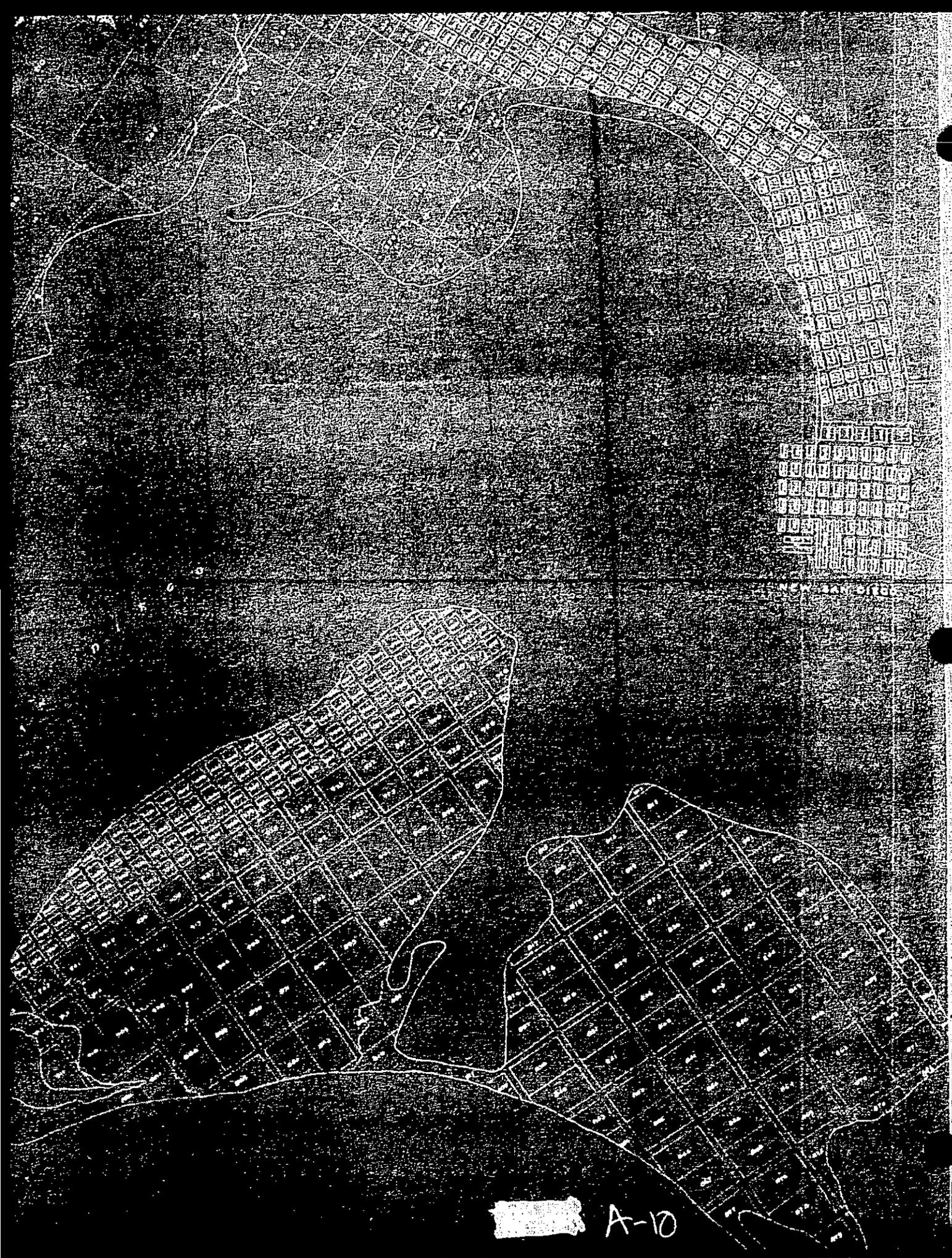
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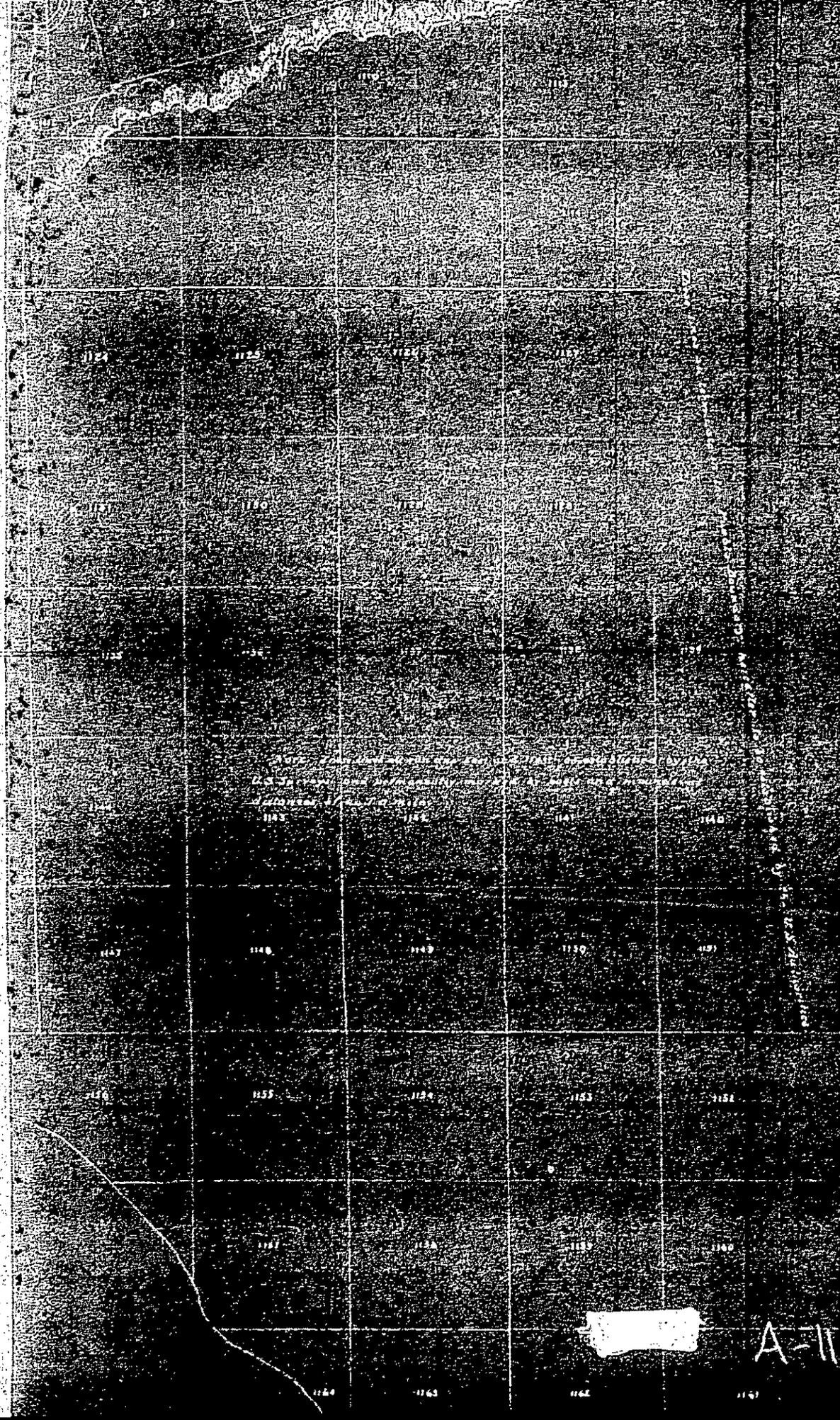


[REDACTED] A9

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21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
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51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
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[REDACTED] A-10



A-11

NOTE

The large numbers are from the original survey and were carried to the Standard Company.
The small numbers are those of the different surveys from which this map is compiled.

A-12

~~SECRET~~

Exhibit B

MAP

of the

LANDS OF SAN DIEGO

SAN DIEGO COUNTY

CALIFORNIA

James Pascoe - City Engineer

May 1870

Exhibit B

MAY-1870



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Exhibit

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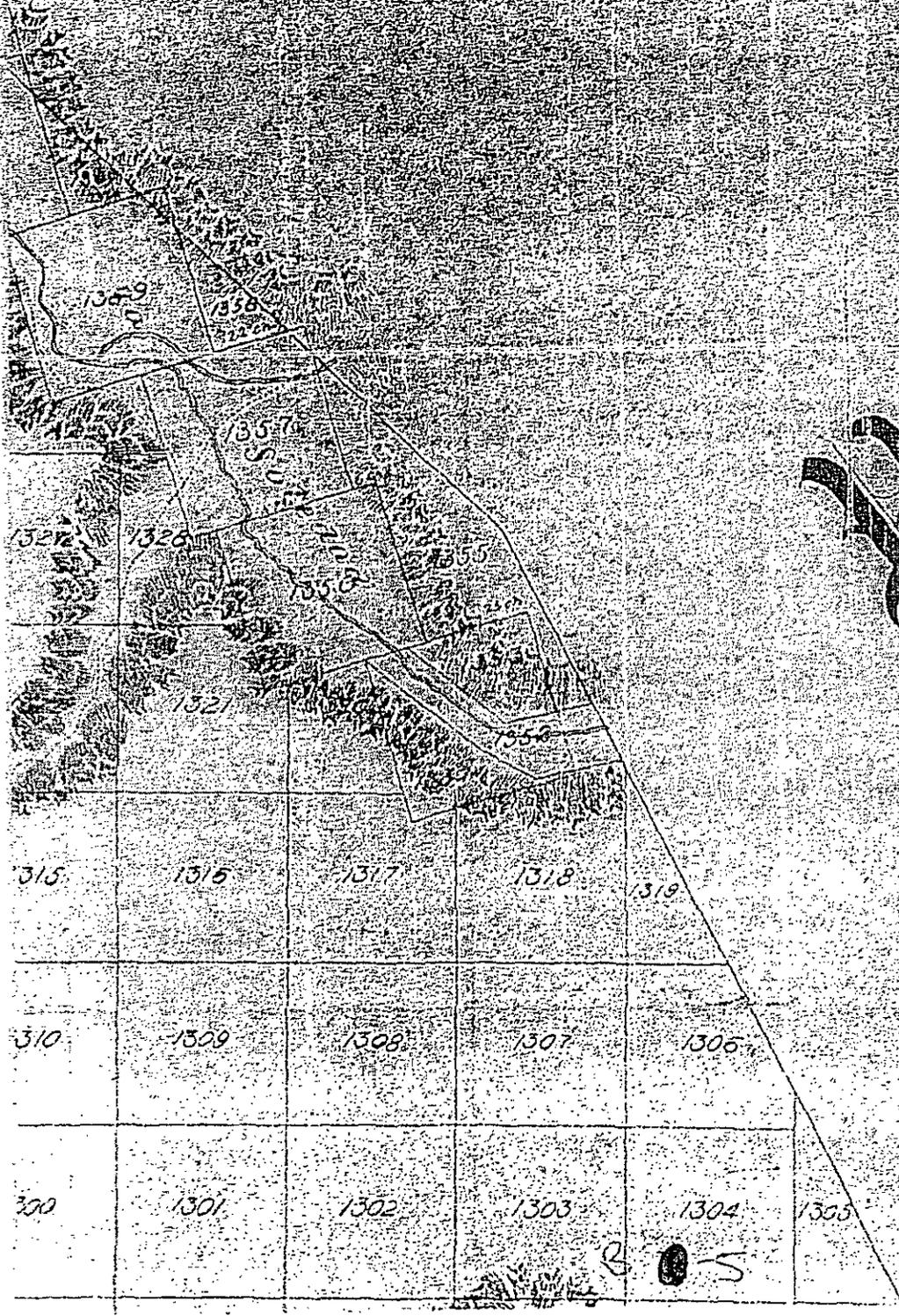
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Cord Mine

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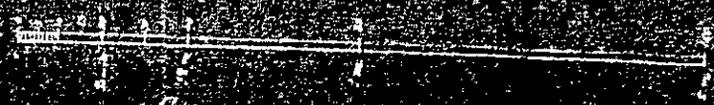
Filed Feb 11 1876
in Kentucky



Admitted

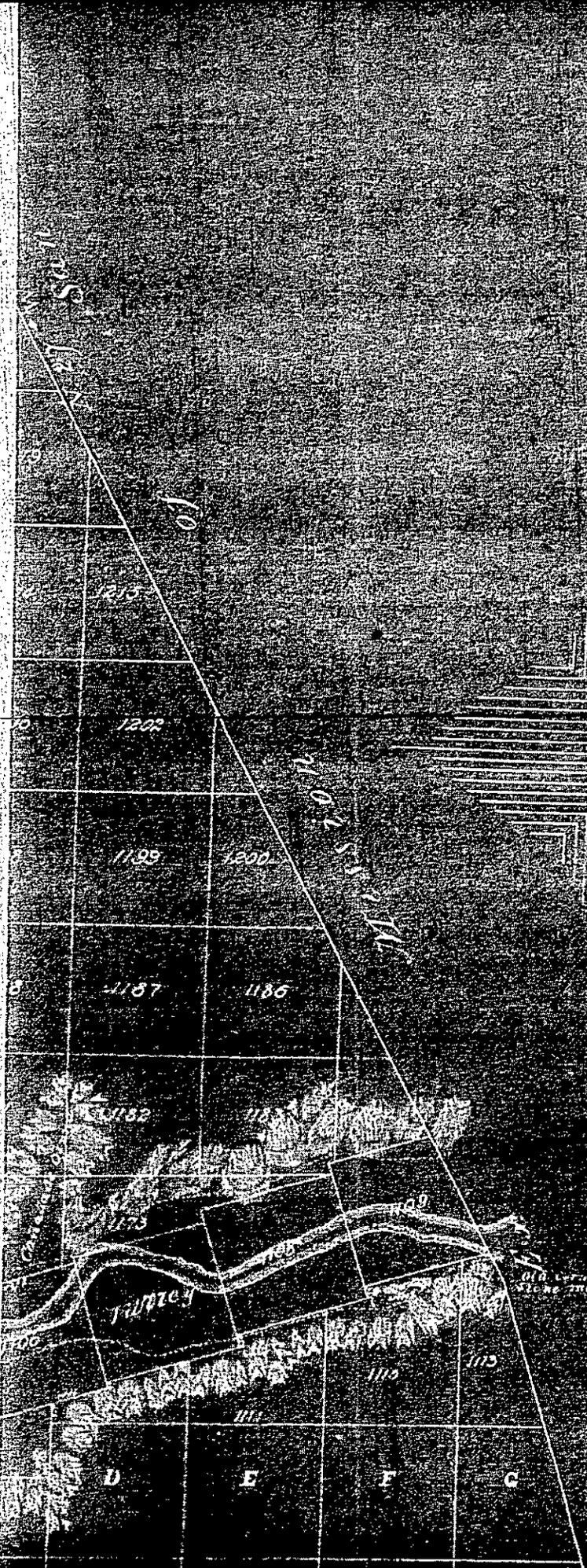
CA





Scale 50 meters to 1 inch

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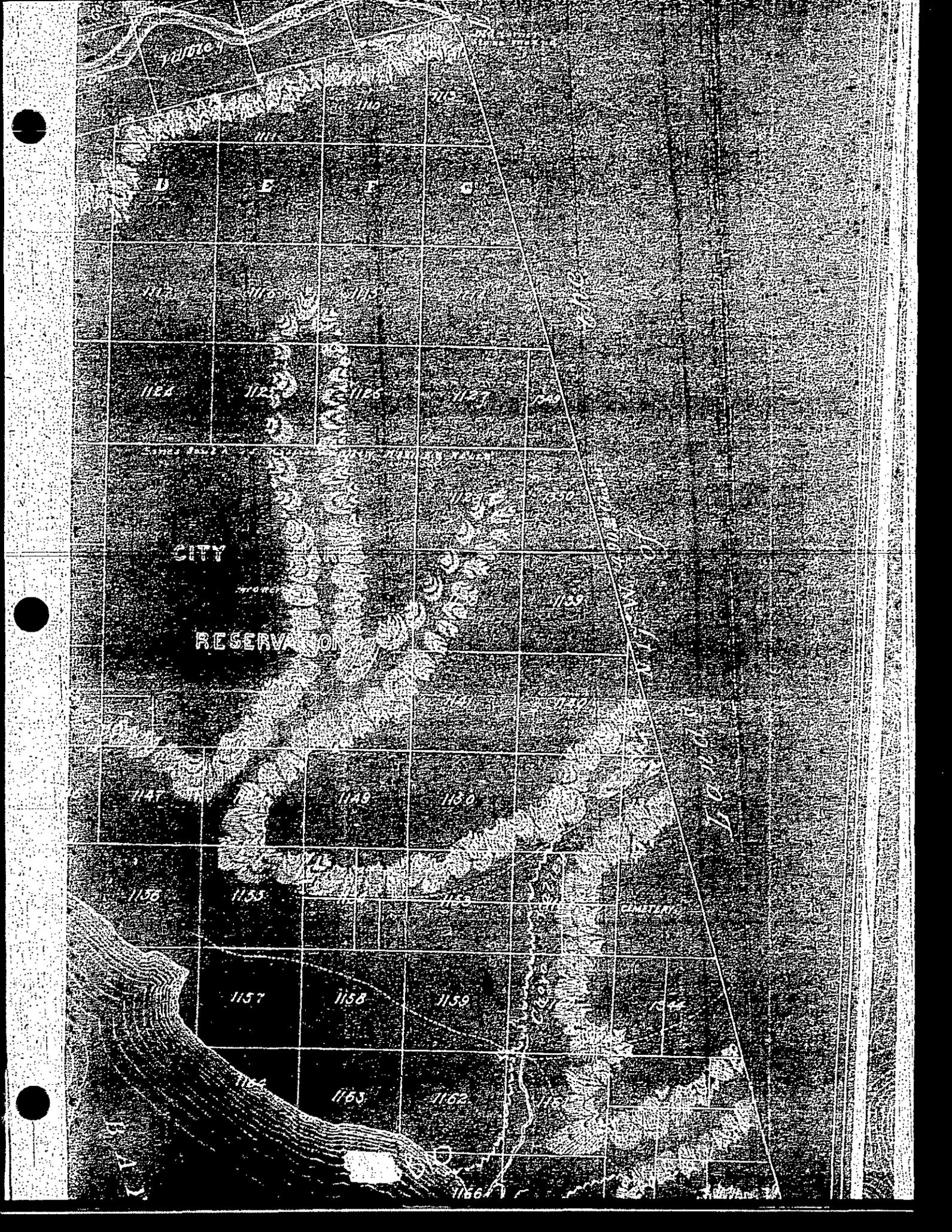
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CITY BANK

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RANCH OF LA NACION

B77

From: CLK City Clerk
Sent: Monday, July 14, 2008 10:25 AM
To: Atkins, Councilmember; Faucett, Aimee; Faulconer, Council Member Kevin; Frye, Donna; Hueso, Councilmember Ben; Lujan, Magdalena; Madaffer, Councilmember Jim; Maienschein, Councilmember; Peters, Councilmember Scott; Pickens, Sonia; Soria, Patricia; Vetter, Gary; Yepiz, Lauren; ZZZYoung, Anthony
Subject: FW: City Council Meeting Agenda Comment Form

-----Original Message-----

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Monday, July 14, 2008 10:09 AM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form Submitted on Monday, July 14, 2008 at 10:08:47

Name: Carolyn Chase

Email: cdchase@sdearthtimes.net

Address:

City: San Diego

State: CA

Zip: 92109

Source: San Diego City Council Meeting Agenda Comment Form at <http://www.sandiego.gov/city-clerk/officialdocs/docketcomment.shtml>

Agenda Item: ITEM-334 July 15, 2008 Mission Bay Park Charter Change

Comments:

City Council Hearing of July 15, 2008

RE: ITEM-334: Ballot Proposition Amending the City Charter to Designate the Use of Lease Revenues from Mission Bay Park.

1. What are the estimated dollar amounts for each of the priority items 1-7?

With only an estimated \$2 million/year, realistically what's going to get done? You've got dredging, boardwalk replacement, environmental restoration projects, parking maintenance, as we know the list is long and the funds are limited. Therefore it's important for the public and the Council to understand the order of magnitude of each of the items being put on the priority list.

Has there been any consideration of allocating a minimum amount for Master Plan improvements? Otherwise, depending on the income, nothing might ever be spent on that for quite awhile. Without estimates for items 1-7 the public cannot determine whether or not anything not on the priority list will ever get done.

2. Cost of Parking / Sustainable parking design?

RECEIVED
08 JUL 14 AM 10:48
CITY CLERKS OFFICE
SAN DIEGO, CA

What are the costs associated with repairing, resurfacing and restriping parking (Item 7 on the priority list)?

Why is maintenance for parking lots being included but not "costs associated with utilities, including but not limited to water, sewage, roads, vehicle bridges or vehicular ramps."? Why shouldn't parking also be on this prohibited list as ongoing maintenance is?

Most people really only care that they have a parking space, not how often the lot is paved.

Also this item would seem to make a long term commitment to keeping in place the lots that contribute quite a bit to storm water runoff pollution rather than planning to replace the lots overtime with new, less polluting alternatives. It might in fact be cheaper to let the existing surfaces degrade and then replace them rather than putting significant sums into maintaining the out-dated status quo designs for parking lots from the 50s.

3. What is the legal definition of a "beneficial use"? (Item (c)i Page 4)

4. Relating to the definition of Capital Improvements and "costs that cannot be capitalized."

First, the clarifying sentence that Capital Improvements do "not include money used for contracted labor or services or for city employee salaries, pensions or benefits unless those expenses can be capitalized."

When can those expenses be capitalized?

And perhaps a related question, under Item c, the Priority for expenditures from the Mission Bay Park Improvement Fund first lists under Item i. "Priority for Capital Improvements hereunder shall be given to restoring wildlife habitat, wetlands and other environmental assets within the ...Zone and preserving beneficial uses of the ...Zone including, but not limited to...etc.

These kinds of projects are not traditionally necessarily looked as "Capital Improvements." i.e. they are not usually building things, but often removing things, or monitoring things. The language in the definition does state that CI includes restoration or improvement of natural assets but also states funds cannot be used for "contracted labor or services." Then how could these projects be done?

The City itself contracts out for these kinds of projects. I want to ensure that the funds can be spent on contracts that do include contracted labor or services to accomplish projects. Isn't this the intent?

5. Include "orphan" areas in the Mission Bay Park Improvement Zone Add to the definition of the Mission Bay Park Improvement Zone to include Rose Creek extending up to the end of the Santa Fe Road flood control channel and for Tecolote Creek up to the end of the Tecolote Creek flood control channel.

Both these orphan areas need improvements for the downstream (Mission Bay Park just downstream) water quality improvements to really matter.

6. What happens to the revenues from the Golf Course? How much is involved?

7. Include adopted land use plans and ordinances in Mission Bay Park Master Plan definition You should include other related adopted land use plans and ordinances for instance the Rose Creek Watershed Plan covers the area up to the I-5 already covered in this draft.

Add to definition of Mission Bay Park Master Plan to: the Master Plan adopted for Mission Bay Park in 1994 and any amendments or updates subsequently adopted to it, any other related adopted land use plans and ordinances applicable to Mission Bay Park and the Mission Bay Park Improvement Zone.

9. The Mission Bay Park Improvement Fund Oversight Committee The definition for this is missing.

The way it's written now, "shall initiate the recommendation or consider the

recommendations of other as to whether to issue such bonds....etc."

What is the idea here? Just to hold a public hearing?

Do we really need another committee? Elsewhere it says the MBP Committee will review items quarterly.

10. Regarding issuance of new bonds.

Regarding the Independent Budget Analyst report 08-75 noting that "the Charter amendment is not necessarily required in order for the City to issue long-term debt for park improvements."

Given the amounts of funding involved, it doesn't make sense to put this in the Charter, nor does it make sense to go for borrowing more money since it only make less funding available in the future.

I would like to request that the IBA issues a report that informs decision makers and the public of the amount of funding that would be saved and therefore the amount of additional funds that would be available if the City did not issue more bonds.

11. Chollas Creek should be more specific and say "Chollas Creek Watershed Parks"

Carolyn Chase
cdchase@sdearthtimes.net
858-272-7370

REMOTE_ADDR: 198.180.31.12
HTTP_USER_AGENT: Mozilla/5.0 (Macintosh; U; PPC Mac OS X 10_4_11; en) AppleWebKit/525.18
(KHTML, like Gecko) Version/3.1.2 Safari/525.22

S401
7/28/2008



**CITY COUNCIL
CITY OF SAN DIEGO**

MEMORANDUM

DATE: July 23, 2008
TO: Honorable Councilmembers
FROM: Councilmember Kevin Faulconer
Councilmember Donna Frye
SUBJECT: Mission Bay Charter Amendment Draft

Kevin Faulconer
Donna Frye

Attached is a revised draft of the ballot proposition that will amend the City Charter to designate how Mission Bay Park lease revenues are used.

This draft incorporates a wide range of community input and ideas offered by the City's Independent Budget Analyst and our Council colleagues. We believe it reflects the best solutions that have emerged from the many interested individuals and groups involved.

We look forward to discussing this item at our next Council meeting.

cc: Honorable Mayor Jerry Sanders
Ms. Andrea Tevlin, Independent Budget Analyst

COMMITTEE ACTION SHEET

COUNCIL DOCKET OF July 15, 2008

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

R -

O -

Mission Bay Park and Regional Parks Improvement Funds Charter Amendment

Reviewed Initiated By Rules On 6/25/08 Item No. 3b

RECOMMENDATION TO:

Refer this item to the full City Council for consideration, with comments by the Rules Committee members noted.

VOTED YEA: Madaffer, Peters, Frye, Hueso, Young

VOTED NAY:

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Charter Amendment Proposed by Councilmembers Kevin Faulconer and Donna Frye

COUNCIL COMMITTEE CONSULTANT

Elyse Lowe

**MISSION BAY PARK AND REGIONAL PARKS IMPROVEMENT FUNDS
CHARTER AMENDMENT PROPOSED BY
COUNCILMEMBERS
KEVIN FAULCONER AND DONNA FRYE**

09 12 10 PM
AND FOR CALL

Background:

FY 2009 Mission Bay Park (MBP) commercial lease revenues for the City will be nearly \$30 million. Under an existing City ordinance, only \$5 million of MBP revenues are dedicated to Regional Park capital projects: \$2.5 million for Mission Bay Park, and \$2.5 for other Regional Parks. What is often forgotten is that commercial leases were allowed inside MBP to help pay for the creation of the park. Once the initial bonds from 1945, 1950 and 1956 were paid off, commercial lease revenues were diverted to the City's General Fund. As a result, major capital projects have been neglected for many years.

The failure to adequately fund the Mission Bay Park public improvements has made the park less desirable for families, threatens wildlife, and has created safety hazards for boaters and sailors. Mission Bay Park requires a stable dedicated funding source to ensure San Diegans and visitors benefit from the full enjoyment of one of our most important regional recreational assets; to protect the Mission Bay ecosystem; and to increase City revenues as the park becomes a more desirable tourist-destination.

Like Mission Bay Park, other Regional Parks – Balboa Park, Mission Trails Park, San Diego River Park, Otay River Valley Park, and wildlife conservation areas throughout San Diego – require a reliable funding source.

The Proposed Charter Amendment:

- The first \$20 million in MBP commercial lease revenues will remain in the General Fund.
- Additional revenues from MBP will be dedicated with 75% for Mission Bay Park and 25% for other Regional Parks and Multiple Species Conservation Program areas.
- Two committees are created to ensure funds dedicated from the MBP revenues are used solely for MBP and Regional Park capital improvements.

Effect on Mission Bay Park:

Increases dedicated lease revenues for MBP improvements from \$2.5 million to approximately \$7.5 million in FY 2010. As MBP lease revenues grow, capital improvement funds for MBP will also grow. This dedicated funding source can enable the City to finance more capital projects from annual revenues and obtain revenue bonds to finance major long-term projects. Priority projects in MBP include 80-acre marshland restoration at the Rose Creek outfall; navigation channels to improve both the Mission Bay environment and boating safety; 140 acres of new parkland; expanded picnic areas; and infrastructure for more overnight camping, fee-generating hotel rooms, and recreational attractions, primarily at existing commercial locations. Benefits include protecting all beneficial uses such as improved water quality for family enjoyment of Mission Bay; increased habitat for wildlife and better water circulation keep Mission Bay healthy; greater enjoyment of Mission Bay by boat, canoe or kayak; and enhanced future park revenue to maintain and improve Mission Bay Park.

Effect on Regional Parks and Wildlife Habitat Areas:

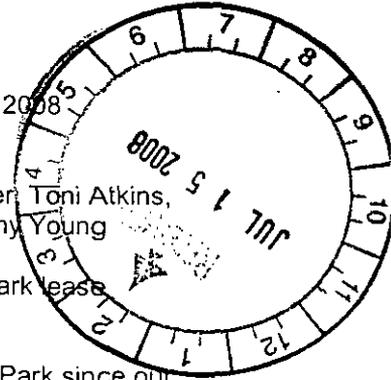
Lifts the \$2.5 million cap on using MBP revenues for other Regional Parks effective FY 2010. As MBP lease revenues grow, capital improvement funds for other parks grow with it.



Citizens Coordinate for Century 3

P. O. Box 87381 San Diego CA 92138-7381 619/232-7196

July 14, 2008



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TO: Council President Scott Peters and Council members Kevin Faulconer, Toni Atkins, Ben Hueso, Brian Mainschein, Donna Frye, Jim Madaffer and Tony Young

RE: ITEM 334 - Proposed Charter Amendment regarding Mission Bay Park lease revenues

Citizens Coordinate for Century 3 has taken an active role in Mission Bay Park since our beginning in 1961. In the early 1990s, many members participated in developing the current Mission Bay Park Master Plan. C3 is very pleased to see a proposal for increased funding to help pay for numerous major deferred maintenance and Master Plan capital improvement projects in Mission Bay Park and other Regional Parks.

Commercial leases were allowed in Mission Bay Park specifically to pay for the creation and maintenance of Mission Bay Park. When the original bonds were paid off, however, lease revenues were re-directed to the General Fund with only a small fraction returned to Mission Bay for basic operations and maintenance. We agree that the time has come to keep more of the lease revenues for Mission Bay Park projects, to improve water quality and navigability, and to complete some of the public recreational projects such as Fiesta Island, South Shores and the Rose Creek bicycle/pedestrian bridge.

That being said, we have some concerns regarding the process by which the proposed Charter Amendment Ordinance has been rushed forward with minimal public discussion or review, and by the two-tier prioritization of projects that would defer recreational parkland improvements on Fiesta Island and South Shores for years while focusing on the "first tier" projects listed.

In March, 2002, the Coastal Commission approved the Sea World Master Plan and incorporated it into the Mission Bay Park Master Plan (MBPMP). The Commission recognized that improvements to *"the major undeveloped public areas of Mission Bay Park"* have not *"kept pace with intensification of commercial leaseholds"*, adding language that directs the City to place public improvement projects *"as the first priority under this [MBPMP] plan"* [Section IV: Land Use/Regional Parkland, p. 38]. The MBPMP further states that *"the capital improvement program will include a phasing component in order to ensure that the recreational improvements will be developed commensurate with new commercial development approved in the Park. The City agrees to make recreational improvements on Fiesta Island and South Shores the highest priority"*.

The Fiesta Island GDP, which has been under way for at least 2 years, is listed as a "second tier" project in the draft ordinance, yet is currently in the public review process and could be ready to go forward within a year once funding is identified. If the Charter amendment is approved by voters, badly needed public parkland projects such as this could not be pursued until all of the identified "first tier" projects have been accomplished.

C3 does not disagree with the importance of all of the "first tier" projects in the Draft Charter Amendment Ordinance. However it does appear that recreational improvements are equally high priorities that should not be placed at the end of the funding line. We urge that the two-tier project list be changed to state that each project should go forward as appropriate funding is identified and obtained for each project.

Page 2 of 2
July 14, 2008

Lastly, we question why the Mission Beach boardwalk and seawall are listed as Mission Bay Park "first tier" projects. The Mission Beach and Pacific Beach boardwalk is not part of Mission Bay Park; it is a Shoreline Park, thus falls within the Developed Regional Parklands category, as they are presently described in the existing Mission Bay Park Ordinance. We question the appropriateness of funding it from Mission Bay Park lease revenue, putting it in direct competition with so many desperately needed projects within Mission Bay Park.

In closing, C3 agrees with the importance of retaining more lease revenues in Mission Bay Park to support the many Master Plan and deferred maintenance projects but we ask that you modify the wording by removing the strict order of priorities and by listing the Mission Beach Boardwalk & seawall under "Developed Regional Parks".

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith A. Swink".

for

Howard M. Blackson III



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: July 11, 2008

IBA Report Number: 08-000

City Council Docket Date: July 15, 2008

Item Number: 334

CITY CLERKS OFFICE
SAN DIEGO, CA

08 JUL 11 AM 11:41

RECEIVED

Submitting to the Voters a Ballot Proposition Amending the City Charter to Designate the Use of Lease Revenues from Mission Bay Park

OVERVIEW

At the Rules Committee meeting of June 25, 2008, Councilmembers Faulconer and Frye presented a proposal for a ballot measure to amend the City Charter, adding Section 55.2, requiring that annual lease revenue generated in Mission Bay Park in excess of \$20 million be appropriated for public capital improvements in Mission Bay Park (75%) and in current and future Regional Parks (25%).

The Rules Committee voted to refer the item to the full City Council for consideration, with comments by the Rules Committee members noted.

FISCAL/POLICY DISCUSSION

Current Municipal Code Requirements

At present, Municipal Code §22.0229, entitled "Preparation of the Annual Budget: Mission Bay Park and Other Regional Park Improvements" is in effect for a period of ten years, terminating with the Fiscal Year 2013 budget. The section states that:

- City Manager (Mayor) is to prepare the annual budget with appropriations for the Mission Bay Improvement Fund and the Regional Park Improvement Fund from Mission Bay Park lease revenues in excess of \$20 million, with 25% of the excess lease revenues allocated to each park improvement fund, up to a maximum of

Office of Independent Budget Analyst

202 C Street, MS 3A • San Diego, CA 92101

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\$2.5 million each. The remaining 50% of excess lease revenues is deposited in the General Fund.

- City Council may temporarily suspend compliance if City Manager (Mayor) determines that anticipated revenues in any fiscal year will be insufficient to maintain existing City services
- The Mission Bay Improvement Fund is to be used only for permanent public capital improvements and deferred maintenance of existing facilities in Mission Bay Park pursuant to the Mission Bay Park Master Plan, with priority given to Fiesta Island and South Shores
- The Regional Park Fund is to be used only for permanent public capital improvements, planning, deferred maintenance, and land acquisitions for Regional Parks
- Allocation of the Regional Park Fund for specific projects shall be equitably distributed over the effective term to:
 - Balboa Park
 - Mission Trails Regional Park
 - Otay River Valley Park
 - San Diego River Park
 - Multiple Species Conservation Program open space areas
 - Coastal beaches along with coastal parks contiguous thereto

In Fiscal Year 2008, Mission Bay Park lease revenues total \$27.8 million. Based on this, allocations to the Mission Bay Improvement Fund and the Regional Park Fund will total \$1.95 million each, with the net revenue to the General Fund totaling \$23.9 million.

Original estimates for lease revenues for FY 2008 totaled \$30 million, which would have resulted in

allocations to each fund of \$2.5 million, reaching the capped amount for the first time since the ordinance was adopted. This chart shows the allocations made since FY 2005.

Amount in excess of \$20 million split:				
		25%	25%	50%
FY	Actual Lease Revenue	Mission Bay	Regional Parks	Net to General Fund
2005	23,177,612	-	-	23,177,612
2006	27,020,561	-	-	27,020,561
2007	27,383,052	1,940,200	1,940,200	23,502,652
2008	27,800,000	1,950,000	1,950,000	23,900,000

Note: Ordinance suspended in Fiscal Years 2005 and 2006

According to the Mayor's Five Year Financial Outlook, Mission Bay rents and concessions are projected to increase by 3.0% annually through Fiscal Year 2013. This reflects a reduction from the 5.0% annual growth projected in the earlier 2007 Financial Outlook, and the Outlook assumed compliance with the Mission Bay Ordinance in all years. As a result, increases in Mission Bay lease revenues are already anticipated to be received by the General Fund.

During the recent City Council budget deliberations, a project status was provided for both the Mission Bay and Regional Parks Improvement Funds. As of May 6, 2008,

unexpended funds totaled \$3.0 million for the Mission Bay Fund and \$3.4 million for the Regional Parks Improvement Fund, from funds that were allocated in previous fiscal years.

Proposed Ballot Measure

As currently drafted, the proposed ballot measure would include Charter language to:

- Define San Diego Regional Parks as those parks that serve regional residents and/or visitor populations as defined in the General Plan, which currently include:
 - Balboa Park
 - Mission Trails Regional Park
 - Otay River Valley Park
 - San Diego River Park
 - **Chollas Creek**
 - Multiple Species Conservation Program open space areas
- Require Mission Bay Park lease revenues up to \$20 million to be deposited to the City's General Fund, with funds in excess of \$20 million to be deposited with 75% to the Mission Bay Park Improvement Fund and 25% to the San Diego Regional Parks Improvement Fund
- Define and prioritize capital improvement projects to be undertaken in Mission Bay Park
- Establish Mission Bay Park Committee and Park and Recreation Board as entities to recommend projects for funding to the City Council
- Require City Auditor to prepare an annual audit
- Require City to increase current annual expenditure levels for park operations and maintenance by an amount at least equivalent to the annual percentage growth of the General Fund
- Establish a start date of July 1, 2009 and an effective period of thirty years, with requirement for ballot measure to extend for an additional thirty years

Comparing to the current municipal code, the Charter amendment does not permit a suspension of the requirements in the event of a fiscal emergency, eliminates the funding cap of \$2.5 million annually for allocation to each park improvement fund, includes Chollas Creek and excludes coastal parks from the definition of regional parks, and allows the addition of future regional parks. The Charter amendment also does not include a requirement to equitably distribute funds among the regional parks, as does the municipal code, nor does it describe how funding for the regional parks would be allocated among the various parks.

Issues for Consideration

During the Rules Committee discussion, concerns were raised about the proposal's negative impact to the City's General Fund, the term of effectiveness of the dedication of these revenues, the division of lease revenues to the various uses/funds, and the inability of the City to suspend the requirements to deal with a fiscal or other emergency.

Earmarking of Discretionary Revenues

This proposal earmarks discretionary General Fund revenues. As a policy, earmarking of City revenues is not desirable or recommended. It reduces budgetary flexibility by committing current revenues for specific and enhanced purposes, and in this case, will cause an immediate and increasingly negative impact to the City’s General Fund, which is already facing serious budgetary challenges.

<i>Assumes annual growth of 3%; FY 2009 based on adopted budget</i>					
FY	Estimated Lease Revenue	General Fund	Mission Bay	Regional Parks	Proposal Annual Loss to General Fund
2009	29,867,208	24,933,604	2,466,802	2,466,802	-
2010	30,763,224	20,000,000	8,072,418	2,690,806	5,381,612
2011	31,686,121	20,000,000	8,764,591	2,921,530	5,843,060
2012	32,636,705	20,000,000	9,477,528	3,159,176	6,318,352
2013	33,615,806	20,000,000	10,211,854	3,403,951	6,807,903

Creating New Financial Commitments

The Charter amendment requires the City to commit an increased level of resources each year for the annual operations and maintenance of parks. This requirement is an effort to ensure that new funds dedicated for park improvements supplement current funding levels, and would not be permitted to supplant current budget allocations for park operations and maintenance. According to the proposed language, this funding level will be required to increase by the same percentage of growth in the City’s General Fund. However, the ballot language does not clearly delineate the sources of funding to be included in these calculations, and whether it is limited to the General Fund, or would include other sources of City funding, which may include grants from other agencies, the City’s Environmental Growth Fund or various other sources. As this amount is not stated, the ongoing commitment of funding to ensure the increased requirement will be met is not estimated, but needs to be in order to fully identify the impact of the measure.

Staffing and Workload Implications

The dedication of significant funding for new park improvements will create additional workload and will likely require the addition of staffing to various City departments, including Park Planning within City Planning and Community Investment, and Engineering and Capital Projects. These costs should be estimated to allow the City Council and the public to have a clear understanding of the fiscal considerations and effect on future budgets, and if the funding of staffing costs will be permitted from these dedicated funding sources. Given the current levels of funding on hand for park improvements, additional staffing may already be needed in order to complete existing projects in a timely manner.

Ability to Use Long-Term Financing

The effective term of thirty years together with a dedicated, irrevocable revenue stream is designed to permit the use of long-term financing options to fund significant park improvement projects. In the past, the City increased the Transient Occupancy Tax to fund improvements for Balboa Park and Mission Bay Park, and long-term debt was issued, with these funds utilized for annual debt repayment. The FY 2009 budget includes \$6.6 million for debt repayment for Balboa Park and Mission Bay Park Improvements. One series of these bonds will be fully repaid in Fiscal Year 2011. The City could consider the issuance of additional long-term debt, at that time, utilizing a portion of this source of existing funding totaling \$3.5 million, without negatively impacting the General Fund. As was discussed at the Rules Committee meeting, the Charter amendment is not necessarily required in order for the City to issue long-term debt for park improvements.

Alternatives

- 1) To mitigate the impact to the General Fund, the \$20 million allocation to the General Fund could be increased to the current level of \$25 million, eliminating the \$5 million reduction that would otherwise occur in FY 2010.
- 2) The \$20 million General Fund allocation could be phased in over a period of time, possibly starting at the current level of \$25 million, with reductions of \$2.5 million each year for two years, allowing other General Fund resources to grow during that period in order to offset the revenue loss.
- 3) The \$20 million allocation to the General Fund could be allowed to increase each year by some factor, such as the annual increase to the Consumer Price Index (CPI), or by the annual percentage growth in the General Fund.
- 4) Consideration could be given to the issuance of long-term debt for park improvements utilizing General Fund or other discretionary resources, without a Charter amendment. However, a discussion of priorities should occur that could assist to determine the relative importance and urgency for the initiation of capital improvement projects for public safety, libraries or park improvements.



Elaine DuVal
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)

TO:
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):
Council President Pro Tem Madaffer

3. DATE:
6/26/2008

4. SUBJECT:
Submitting to the voters a ballot proposition amending the City Charter to designate the use of lease revenues from Mission Bay Park.

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)
Steve McNally, x66622 MS 10A

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)
Mary Ann Kempczenski, x66616 MS 10A

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	DEPT.	ORGANIZATION	OBJECT ACCOUNT	JOB ORDER	C.I.P. NUMBER	AMOUNT	9. ADDITIONAL INFORMATION / ESTIMATED COST:

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	7/2/08	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY		
4	LIAISON OFFICE			11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	7/2/08
5				DOCKET COORD: _____ COUNCIL LIAISON: _____			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 7/15/08			
7							

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide Election to be held on November 4, 2008, one proposition amending the City Charter by amending Article V, section 55, by adding section 55:2, requiring annual lease revenue generated in Mission Bay Park that exceeds \$20 million, 75% be appropriated for public capital improvements in Mission Bay Park and 25% be appropriated for public capital improvements in current and future Regional Parks. 2. Directing the City Attorney to prepare a ballot title and summary. 3. Directing the City Attorney to prepare an impartial analysis. 4. Directing the Mayor's Office to prepare a fiscal analysis. 5. Assigning authorship of the ballot argument.

11A. STAFF RECOMMENDATIONS:

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): N/A

COMMUNITY AREA(S): N/A

ENVIRONMENTAL IMPACT: This activity is not a "project" and therefore exempt from CEQA pursuant to State CEQA guidelines Sect. 15060 (C)(3).

HOUSING IMPACT: N/A

OTHER ISSUES:

ORDINANCE NO. O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2008. ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, BY ADDING CHARTER SECTION 55.2, DESIGNATING THE USE OF LEASE REVENUE FROM MISSION BAY PARK.

WHEREAS, San Diego's regional parks contain environmental and recreational resources unique to our city and help provide our city's identity, enrich the quality of life for all San Diegans, provide wildlife habitat, and serve as visitor attractions that strengthen the local economy; and

WHEREAS, the City receives millions of dollars of revenues each year from leases sited within regional parks, primarily in Mission Bay Park, but little of the monies generated from those leases such as lease revenues, sales taxes, possessory interest taxes have been specifically allocated to fund capital improvements to protect and maintain beneficial uses of water quality, scenic and recreational opportunities, or to maintain wildlife habitat or navigable waterways in Mission Bay Park or other regional parks; and

WHEREAS, the environmental, scenic and recreational quality of these parks is threatened if a significant portion of the revenues generated by the parks is not retained in the parks for purposes of making capital improvements and maintaining the beneficial uses of the parks; and

WHEREAS, pursuant to Section 223 of the San Diego City Charter, article XIV, section 3(b), article 11 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 Special Election; and

WHEREAS, by Ordinance No. O-19770 adopted on July 15, 2008, the City Council of the City of San Diego is calling a Municipal Special Election to be consolidated with the Statewide General Election on November 4, 2008, 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 the Municipal Special Election one proposition amending the Charter of the City of San Diego by adding Charter Section 55.2; and

WHEREAS, the City Council's proposal, on its own motion, of a charter amendment is governed by article XI, section 3(b) of the California Constitution, 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. One proposition amending the Charter of the City of San Diego by amending article V, by adding Charter Section 55.2 is hereby submitted to the qualified voters of the City at the Municipal Special Election to be held on November 4, 2008, the proposition to read as follows:

PROPOSITION

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. *Capital Improvement* means physical assets, constructed or purchased, or the restoration of some aspect of a physical or natural asset that will increase its useful life by one year or more or which constitutes an environmental improvement of a natural asset. It does not include money used 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.
2. *Mission Bay Baseline Chart* shall be defined as the Mission Bay dredging plans on file with the City Clerk. It shall serve as the baseline for depths for navigable waters within Mission Bay. Depths may be increased or decreased for specific areas within Mission Bay only if, after review of these areas by the San Diego Fire Department or the *Mission Bay Park Improvement Fund Oversight Committee*, it is found that either the original depth no longer supports or ensures safe navigation, is inconsistent with the *Mission Bay Park Master Plan* or needs to be modified in order to create sustainable shorelines. Any changes must be adopted by ordinance of the City Council and shall act as amendments to the original dredging plans.
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.
4. *Mission Bay Park Improvement Zone* means those areas encompassed within the boundaries of *Mission Bay Park*, Oceanfront Walk from the Mission Beach jetty to Crystal Pier and the adjoining seawall, coastal parks and ocean beaches contiguous thereto, Rose Creek from its terminus in Mission Bay to the southern end of the Santa Fe Road flood control channel, Tecolote Creek from its terminus in Mission Bay to the eastern end of the Tecolote Creek flood control channel and the San Diego River as it passes through the boundaries of Mission Bay Park as described herein. The boundaries of the San Diego River, Rose Creek and Tecolote Creek shall be the width of those waterways to the nearest property line.
5. *Mission Bay Park Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *Mission Bay Park Improvement Zone*.
6. *Mission Bay Park Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
7. *Mission Bay Park Lease Revenues* means all revenues collected by the City of San Diego from commercial and non-profit sources within *Mission Bay Park*, including but not limited to all monetary consideration received under leases

of city owned property within *Mission Bay Park*, as well as revenue collected from contracts for concessions or any other revenues collected for the use of city owned property within *Mission Bay Park*. The term does not include revenue from the Mission Bay Golf Course (unless it should revert to a private lease), mooring fees,, Transient Occupancy Taxes, sales taxes, possessory interest taxes, property taxes, or permit fees (e.g. park and recreation fees, special event permit fees, etc.) to the extent those fees are levied to recover actual costs incurred by the City of San Diego.

8. *Mission Bay Park Master Plan* means the Master Plan adopted by the City Council for Mission Bay Park in 1994, the Natural Resources Management Plan and any amendments or updates that are subsequently adopted by the City Council or any such similar replacement plan that may be subsequently adopted by the City Council. For purposes of this Section, the definition shall also include adopted plans for areas located within the *Mission Bay Park Improvement Zone*.
 9. *San Diego Regional Parks* means those parks that serve regional residents and/or visitor populations as determined by ordinance of the City Council. *San Diego Regional Parks* shall initially include Chollas Lake Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Park, the Multiple Species Conservation Program open space areas, and coastal beaches along with coastal parks contiguous thereto. For the purposes of this Section, this definition shall specifically exclude areas within the *Mission Bay Park Improvement Zone*.
 10. *San Diego Regional Parks Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *San Diego Regional Parks*.
 11. *San Diego Regional Parks Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
- (b) *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-five percent (25%) of the *Mission Bay Park Lease Revenues* in excess of the threshold amount, or two million five hundred thousand dollars (\$2,500,000) whichever is greater, shall be allocated to the *San Diego Regional Parks Improvement Fund* that solely benefits the *San Diego Regional Parks* and seventy-five percent (75%) of the *Mission Bay Park Lease Revenues* over the threshold amount, or the remainder of those revenues if

less than 75% 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) **Authorized Expenditures of Mission Bay Park Improvement Funds**

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*.

- i. To achieve these goals, all of the following identified priorities are intended to be authorized, funded, and completed in the order provided below:
 1. 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*.
 2. Wetland expansion and water quality improvements and the protection and expansion of eelgrass beds as identified in the *Mission Bay Park Master Plan*.
 3. Restoration of shoreline treatments within the *Mission Bay Park Improvement Zone* including restoration of beach sand and stabilization of erosion control features.
 4. 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*.
 5. 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*.
 6. 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.

7. 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
 - ii. After each priority project identified in (c)i 1-7 above has been budgeted and approved by the City Council and a funding plan adopted for it, construction of a subsequent project may proceed concurrently provided construction of a lesser priority does not unreasonably delay, prolong, or preclude completion of a greater priority. 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)i 1-7, 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 priority project will not be unreasonably delayed, prolonged, or precluded by expending funds on a lower priority project before approving said expenditure.
 - iii. Once the projects identified in (c)i 1-7 have been fully budgeted or 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.
 - iv. To the extent items (c)i 1 - 7 that have been completed herein are later in need of additional *Capital Improvements*, then those items shall again have priority over other *Capital Improvements* after a public hearing at City Council.
 - v. 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*.
- (d) **Authorized Expenditures of San Diego Regional Parks Improvement Funds** Funds in the *San Diego Regional Parks Improvement Fund* may be expended only for non-commercial public *Capital Improvements* for the *San Diego Regional Parks* and only for park uses. Funds in the *San Diego Regional Parks 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 daily, weekly, monthly, or annual upkeep of the *San Diego Regional Parks*.

Priority for *Capital Improvements* hereunder shall be recommended by the *San Diego Regional Parks Improvement Fund Oversight Committee*, in accordance with the master plans for each of the *San Diego Regional Parks*, and approved by the City Council.

- (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 Master Plan* or within the priorities identified in (c)i 1-7, 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 City Manager, 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 paragraphs (c)ii, (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/or his designee, 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) The City of San Diego shall take all steps necessary to ensure the collection and retention of all *Mission Bay Park Lease Revenues* for purposes described herein and to utilize those revenues only for the purposes described herein and consistent with the priorities and intentions described herein. The City of San Diego may issue bonds, notes or other obligations to expedite the *Capital Improvements* contemplated herein, utilizing the revenue stream from *Mission Bay Park Lease Revenues* designated herein.

- (g) The annual budgets allocated for park operations and maintenance in the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks* shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of park and recreation as a result of monies available hereunder.
- (h) The City of San Diego is encouraged to seek other sources of funding for the purposes of improving the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks*, including but not limited to grant funding from other governmental agencies, private individuals, or foundations. In the event the City of San Diego receives any such additional funds, they shall be in addition to, and shall not offset or reduce funds dedicated to the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* under this Section.
- (i) Nothing contained herein shall prevent the City of San Diego from seeking and spending funds in excess of the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* for the purposes of improving the *Mission Bay Park Improvement Zone* or the *San Diego Regional Parks*.
- (j) This Section shall take effect and be in force on July 1, 2009, and will expire on June 30, 2039. 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, 2039 a measure to amend the Charter to extend the effect of this Section for an additional 30 years.
- (k) In the event of a conflict between any provision of Section 55.2 and any other provision of this Charter or the Municipal Code, Section 55.2 shall govern

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 ___ AMENDS THE CHARTER OF THE CITY OF SAN DIEGO DESIGNATING THE USE OF LEASE REVENUE FROM MISSION BAY PARK. Shall the City Charter be amended requiring that annual lease revenue generated in Mission Bay Park exceeding \$23 million initially and decreasing to \$20 million after 5 years be appropriated 75% for capital improvements in	YES	
	NO	

Mission Bay Park and 25% for capital improvements in San Diego Regional Parks (Chollas River Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Valley Park, MSCP areas, and future regional parks)?		
---	--	--

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 these qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause a digest of 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 7. Pursuant to San Diego Municipal Code [SDMC] 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, and the Clerk shall post a public notice of the specific dates that the examination period will run.

Section 8. Pursuant to SDMC Section 27.0403(a), the public examination period will end on the 75th calendar day prior to the date set for the Municipal Special Election.

Section 9. Pursuant to SDMC Section 27.0404, during the public 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.

Section 10. A full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 11. Upon adoption of this Measure, §22.0229 of the San Diego Municipal Code shall be repealed.

Section 12. Prior to the effective date of this Measure, the City Council shall by ordinance designate the Mission Bay Park Committee to fulfill the role of the *Mission Bay Park Improvement Fund Oversight Committee* and the Park and Recreation Board to fulfill the role of the *San Diego Regional Parks Improvement Fund Oversight Committee* in accordance with Section 55.2 (a) 5 and 55.2 (a)10

Section 13. Pursuant to sections 295(b) and 295(d) of the San Diego City Charter, this ordinance relating to elections shall take effect on the date of its passage by the City Council, which is deemed the date of its final passage.

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Monday, July 21, 2008 9:03 PM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form Submitted on Monday, July 21, 2008 at 21:03:07

Name: Katheryn Rhodes and Conrad Hartsell, M.D.

Email: rhodes@laplayaheritage.com

Address: 371 San Fernando Street

City: San Diego

State: CA

Zip: 92106

Area Code: 619

Telephone: 523-4350

Source: San Diego City Council Meeting Agenda Comment Form at
<http://www.sandiego.gov/city-clerk/officialdocs/docketcomment.shtml>

Agenda Item: S-502 Mission Bay Lease Revenue

Comments: City Council Meeting of Tuesday, July 22, 2008, Item S-502 - Mission Bay Park Leases

Dear City of San Diego:

We are in favor of Ms. Frye and Mr. Faulconer's Charter Amendment for Lease Revenues in Mission Bay Park.

Using existing laws, even more revenue can be gained for the public parks. All City of San Diego leases greater than 15 years should be renegotiated according to City Charter Section 219. Please follow the law.

The following link and the attached document is is to Article XIV, Miscellaneous Provisions, Section 219 of the City Charter dealing with Pueblo Lands (see Page 4).

RECEIVED
08 JUL 22 AM 8:33
CITY CLERKS OFFICE
SAN DIEGO, CA

<http://docs.sandiego.gov/citycharter/Article%20XIV.pdf>

The last sentence of Section 219 states:

"No lease shall be valid for a period of time exceeding fifteen years."

Most San Diegans do not know the meaning of Pueblo Lands. The Pueblo Lands of San Diego are the original City of San Diego boundaries from National City to the South, Interstate 805 to the east, and Del Mar to the North as described in the Official Map of Pueblo Lands of San Diego by Charles H. Poole, September 8, 1856, and the James Pascoe Map, May 1870.

http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_A_Case_35818_Eugene_Scharr_v_San_Diego.pdf

http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_B_Case_35818_Eugene_Scharr_v_San_Diego.pdf

Currently, there are many sweetheart leases within the Pueblo Lands within Mission Bay, and other locations including Torrey Pines which exceed the 15 year limit. The leases older than 15 years are no longer valid according to the City Charter.

The only question is: Does City Charter Section 219 on leases mean that only Pueblo Lands of San Diego situated North of the San Diego River, or all the Pueblo Lands North and South of the San Diego River?

The City of San Diego can make multi-millions of dollars by renegotiated invalid leases on the original Pueblo Lands of San Diego for fair market value. Please think of enforcing existing laws for the benefit of the public and future generations of San Diegans.

Regards,

Katheryn Rhodes and Conrad Hartsell, M.D.
371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

REMOTE_ADDR: 198.180.31.12
HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1;
FunWebProducts; .NET CLR 1.0.3705; .NET CLR 1.1.4322; Media Center PC 4.0; .NET
CLR 2.0.50727; .NET CLR 3.0.04506.30)

From: CLK City Clerk
Sent: Tuesday, July 22, 2008 8:13 AM
To: Yepiz, Lauren
Subject: FW: City Council Meeting Agenda Comment Form

I will be placing in 343 binder

*Sandy

-----Original Message-----

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Monday, July 21, 2008 9:03 PM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

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RECEIVED
08 JUL 22 AM 8:37
CITY CLERKS OFFICE
SAN DIEGO, CA

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http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_A_Case_35818_Eugene_Scharr_v_San_Diego.pdf

http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_B_Case_35818_Eugene_Scharr_v_San_Diego.pdf

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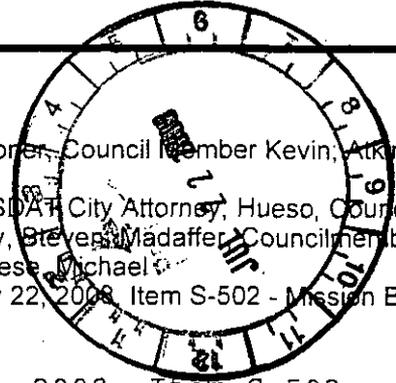
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Regards,

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371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

REMOTE_ADDR: 198.180.31.12
HTTP_USER_AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; FunWebProducts; .NET CLR 1.0.3705; .NET CLR 1.1.4322; Media Center PC 4.0; .NET CLR 2.0.50727; .NET CLR 3.0.04506.30)

From: rhodes@laplayaheritage.com
Content: Monday, July 21, 2008 9:00 PM
To: Aguirre, Michael; Frye, Donna; Faulconer, Council Member Kevin; Atkins, Councilmember; CLK Hearings1
Cc: Maland, Elizabeth; Young, Anthony; SDAT City Attorney, Hueso, Councilmember Ben; Maienschein, Councilmember; Hadley, Steven; Madaffer, Councilmember Jim; Awbrey, Matt; Peters, Councilmember Scott; Calabrese, Michael
Subject: City Council Meeting of Tuesday, July 22, 2008, Item S-502 - Mission Bay Park Leases



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http://www.laplayaheritage.com/Documents/LA_PLAYA_PENINSULA/Nichols_Street_Exhibit_B_Case_35818_Eugene_Scharr_v_San_Diego.pdf

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Regards,

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371 San Fernando Street
San Diego, California 92106
619-523-4350
rhodes@laplayaheritage.com

ARTICLE XIV
MISCELLANEOUS PROVISIONS

Section 211: Oath of Office

Every officer or member of a Committee, Board or of a Commission of the City shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation as provided by the Constitution or General Law of the State to be filed and kept in the office of the City Clerk.

(Amendment voted 09-17-1963; effective 02-11-1964.)

(Amendment voted 11-04-1969; effective 01-29-1970.)

Section 212: Continuance of Present Officers

All persons holding office at the time the provisions of this Charter or any amendments thereto shall take effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The regular Municipal elections shall be held in the odd-numbered years, as in Article II provided. The terms of all elective officers who are in office at the time this Charter or any amendments thereto become effective shall terminate on the first Monday after the first day of December following the holding of such election except as in this Charter otherwise provided.

The powers conferred and the duties imposed upon any Officer, Commission, Board, Committee or Department of the City by the laws of the State and by this Charter or ordinance shall be thereafter exercised and discharged by the Officer, Board, Committee or Department designated by this Charter or by ordinances passed by the Council, unless otherwise provided herein. The members of the Legislative body of The City of San Diego in office at the time the State Legislature ratifies and approves this Charter or any amendments thereto shall take the necessary action and do everything necessary or incidental for the purpose of holding the first election at which municipal officers are elected pursuant to the terms and provisions of this Charter or any amendments thereto.

(Amendment voted 11-06-1962; effective 01-21-1963.)

Section 219: Pueblo Lands

No sale of Pueblo Lands owned by The City of San Diego which are situated North of the North line of the San Diego River shall ever be valid and binding upon said City unless such sale shall have been first authorized by an ordinance duly passed by the Council and thereafter ratified by the electors of The City of San Diego at any special or general municipal election. The City Manager shall have authority to lease Pueblo Lands, provided that any lease for a term exceeding one year shall not be valid unless first authorized by ordinance of the Council. No lease shall be valid for a period of time exceeding fifteen years.

Section 220: Eminent Domain

The Council shall have power to acquire by eminent domain proceedings such property as may be needed for public use.

Section 221: Sale of Real Property

Real property owned by The City of San Diego consisting of eighty (80) contiguous acres or more, whether or not in separate parcels, shall not be sold or exchanged unless such sale or exchange shall have first been authorized by ordinance of the Council and thereafter ratified by the electors of The City of San Diego. The foregoing shall not apply to the sale or exchange of real property to a governmental agency for bona fide governmental purposes which sale or exchange was duly authorized by ordinance of the Council, nor shall it apply to properties previously authorized for disposition by the electors of The City of San Diego.

Formerly Section 221. CITY OFFICES TO BE KEPT OPEN.

(Repeal voted 09-17-1963; effective 02-11-1964.)

New Section 221. SALE OF REAL PROPERTY.

(Addition voted 11-06-1990; effective 02-19-1991.)

Section 222: Effect of Invalidity in Part

If any clause, sentence, paragraph, section or part of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.



OFFICIAL

MAP OF THE PUEBLO LANDS OF SAN DIEGO

COMPILED FROM ALL THE EXISTING AUTHORITIES

And embracing the lots conveyed by the City Trustees,

to the San Diego and Gila Railroad Co.

by authority of an act of the State Legislature, approved April 30, 1856.

under the direction of the Board of Trustees for the years

FRANK JAMES,
GEORGE LEVINE,
E. W. MORSE.

1855 and 1856.

JOSEPH SMITH,
TILMAN COLMAN,
THOS. H. DARRANT.

By CHARLES H. POOLE, C. E., U.S. Dept. Surveyor

1856

1856

Charles H. Poole

Exhibit

Exhibit A



A1

1125

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Note: These lines on the East and West are established by the U.S. Surveys and permanently marked by posts and mounds at distances of half a mile.

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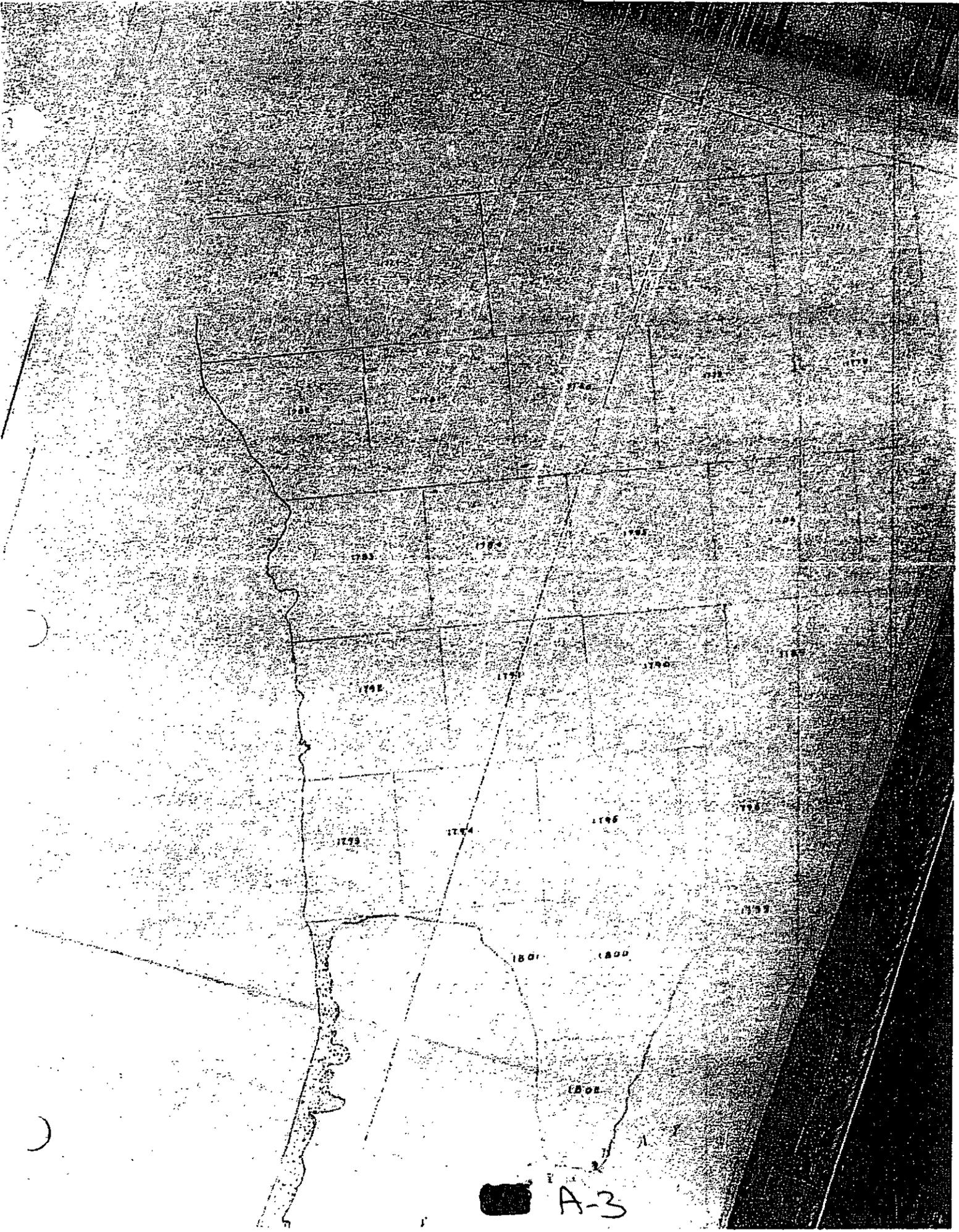
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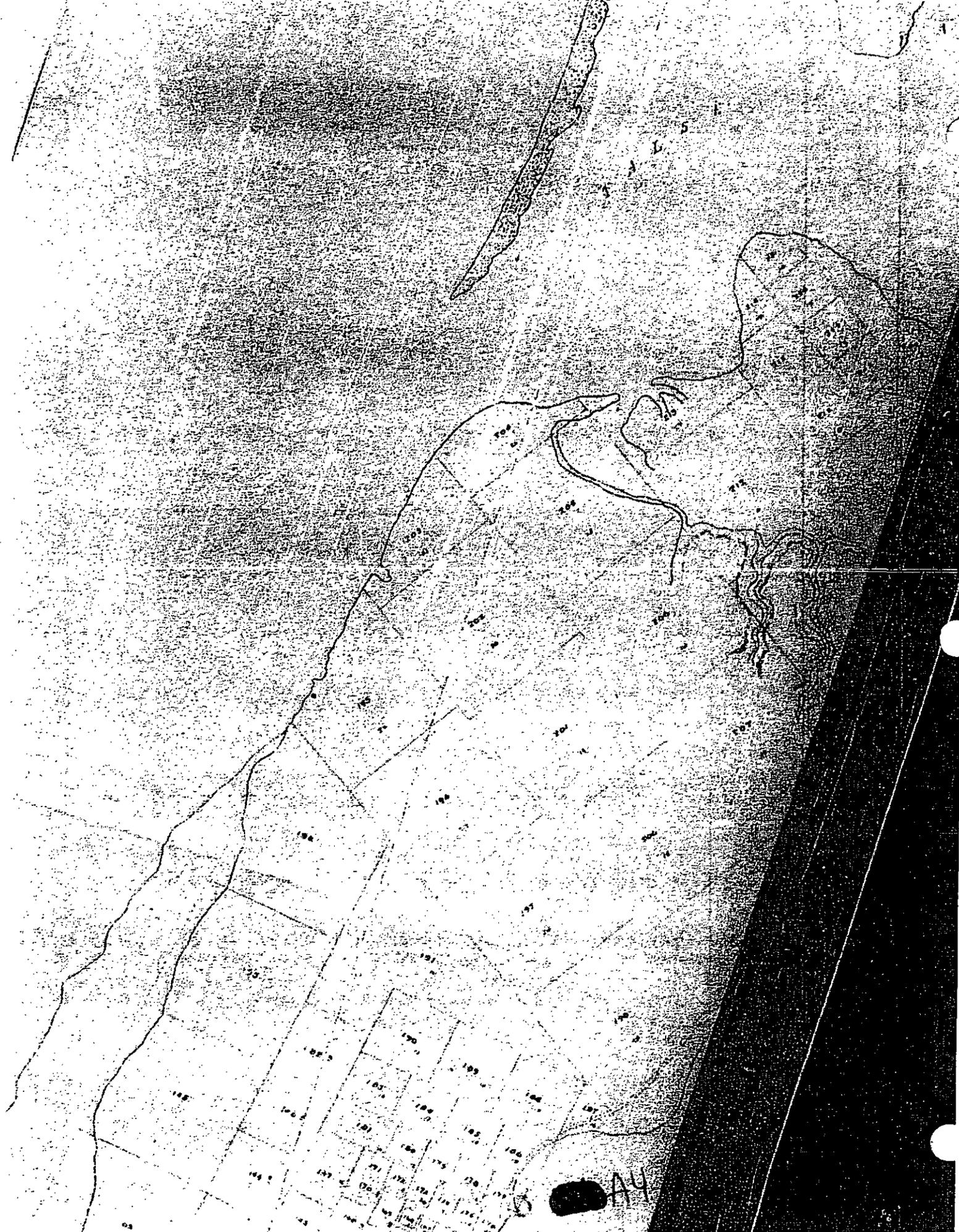
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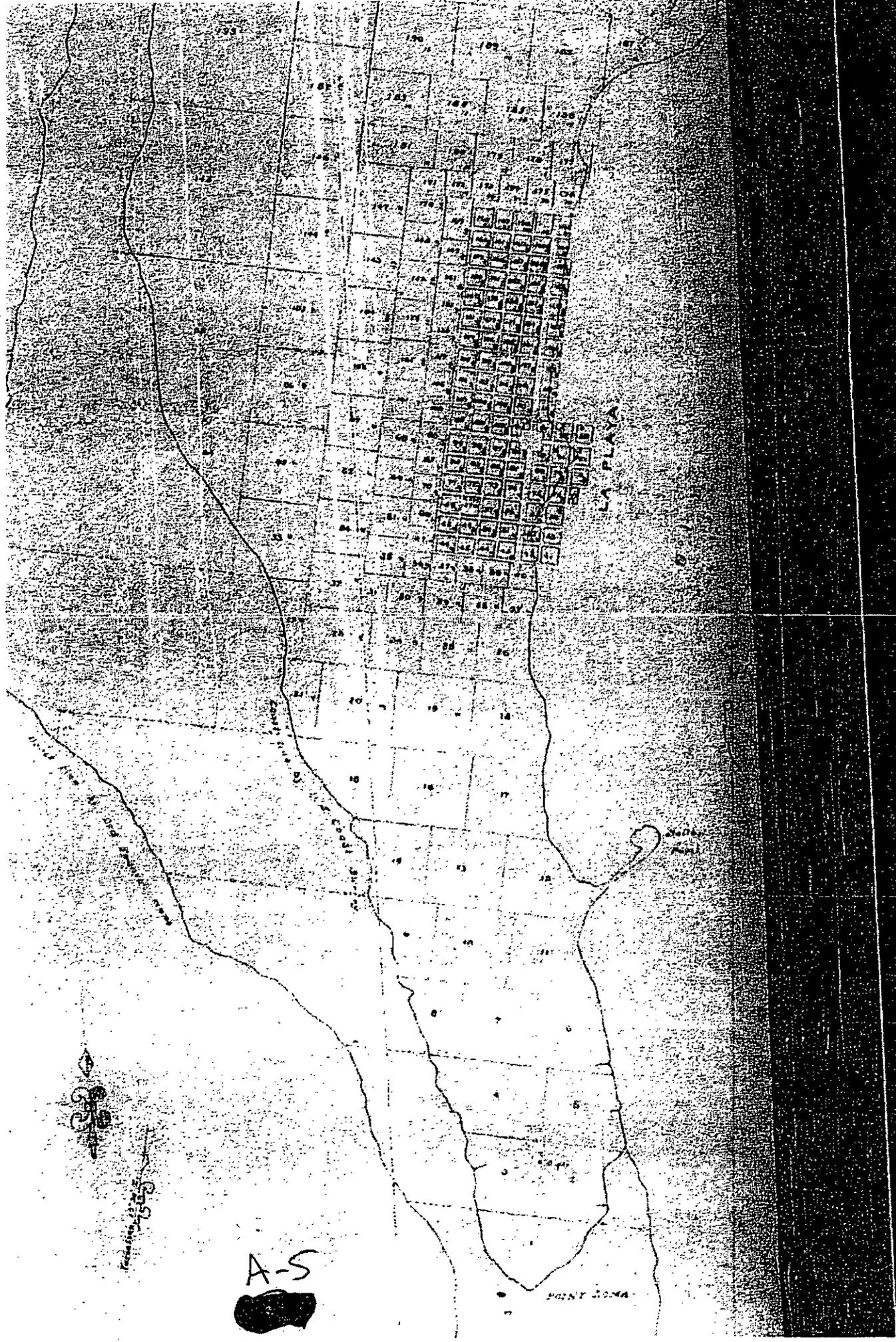
1151

SECTION 12, TOWNSHIP 12N, RANGE 12E, COUNTY OF ...
 NEBRASKA
 SECTION 12, TOWNSHIP 12N, RANGE 12E, COUNTY OF ...
 NEBRASKA
 SECTION 12, TOWNSHIP 12N, RANGE 12E, COUNTY OF ...
 NEBRASKA

A-2



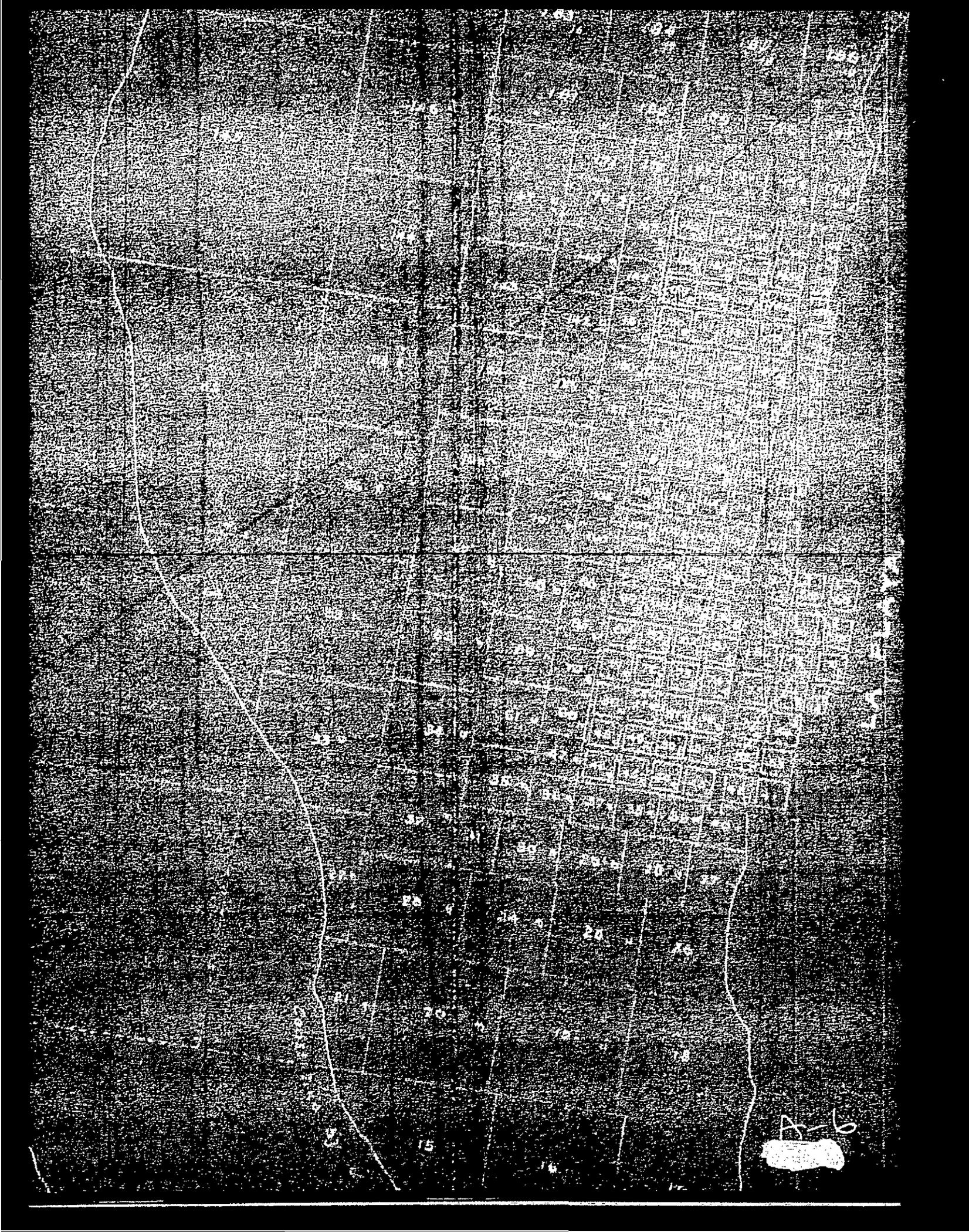




A-5



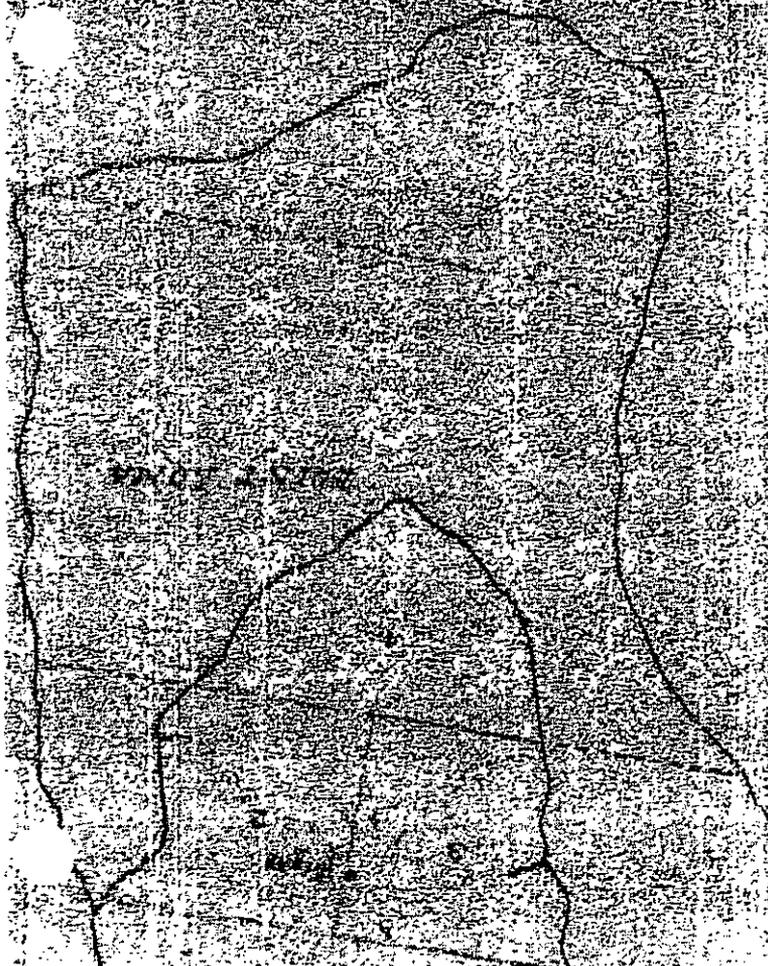
POINT ROMA



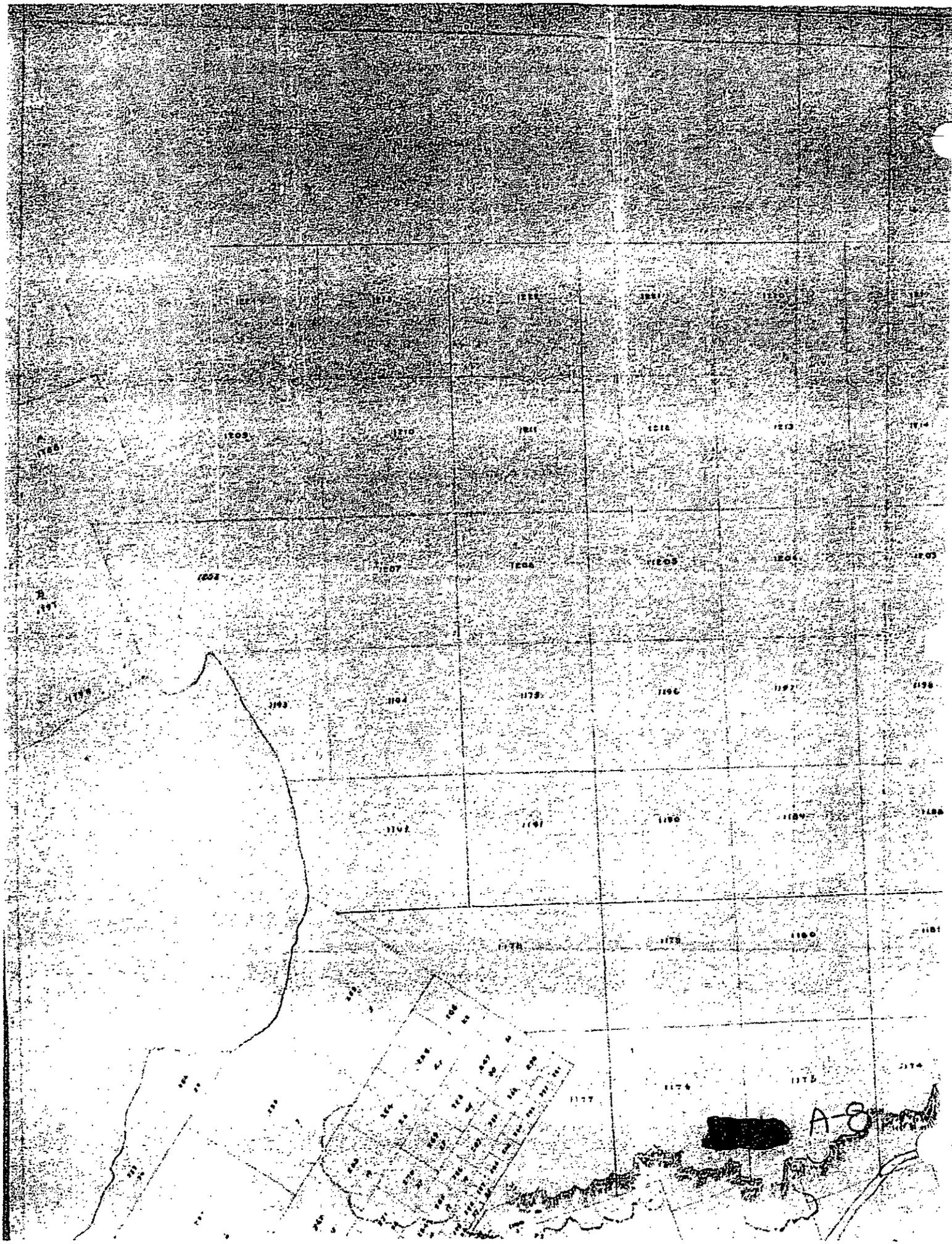
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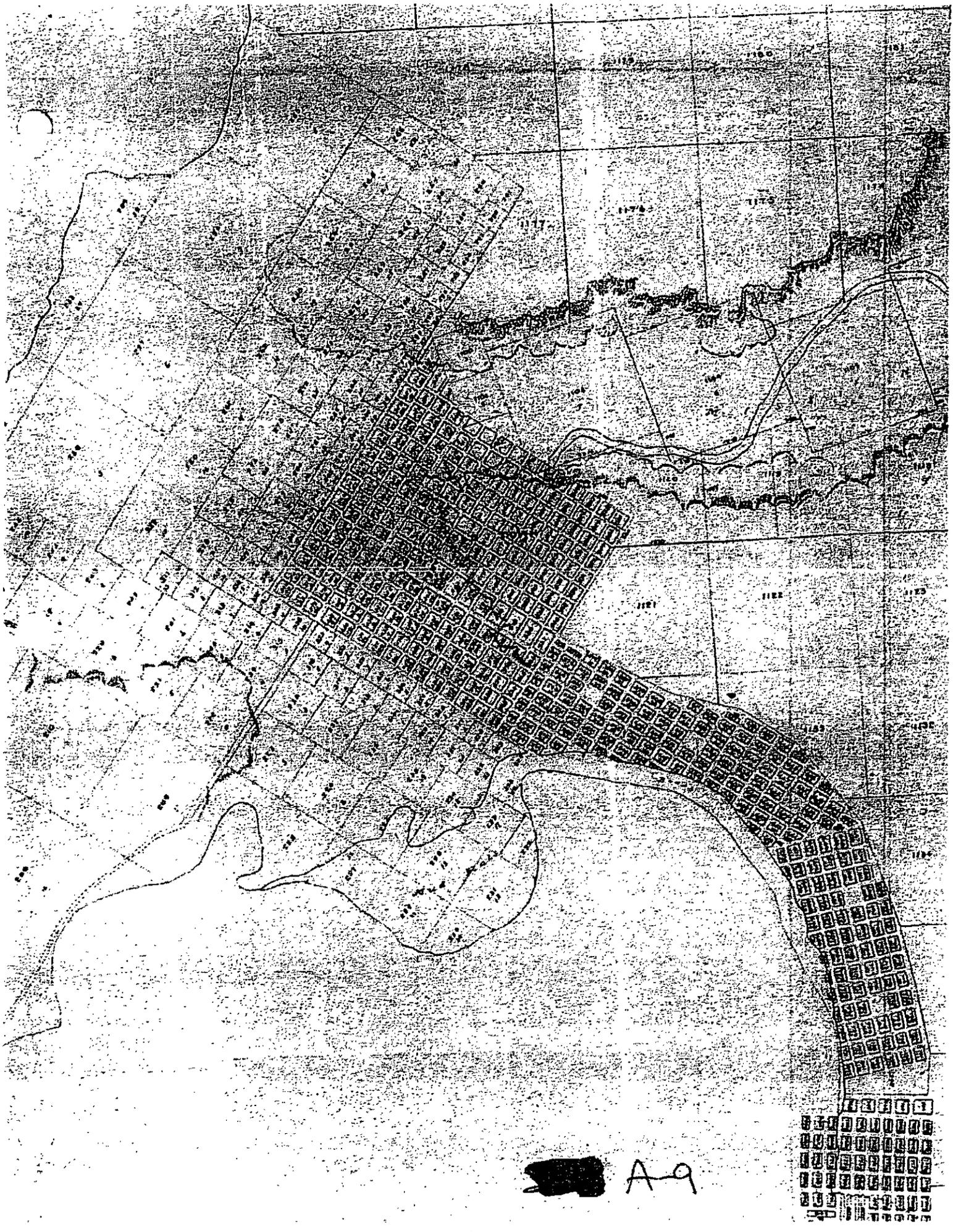
Filed: 4th February 1876

M. Keating Clerk



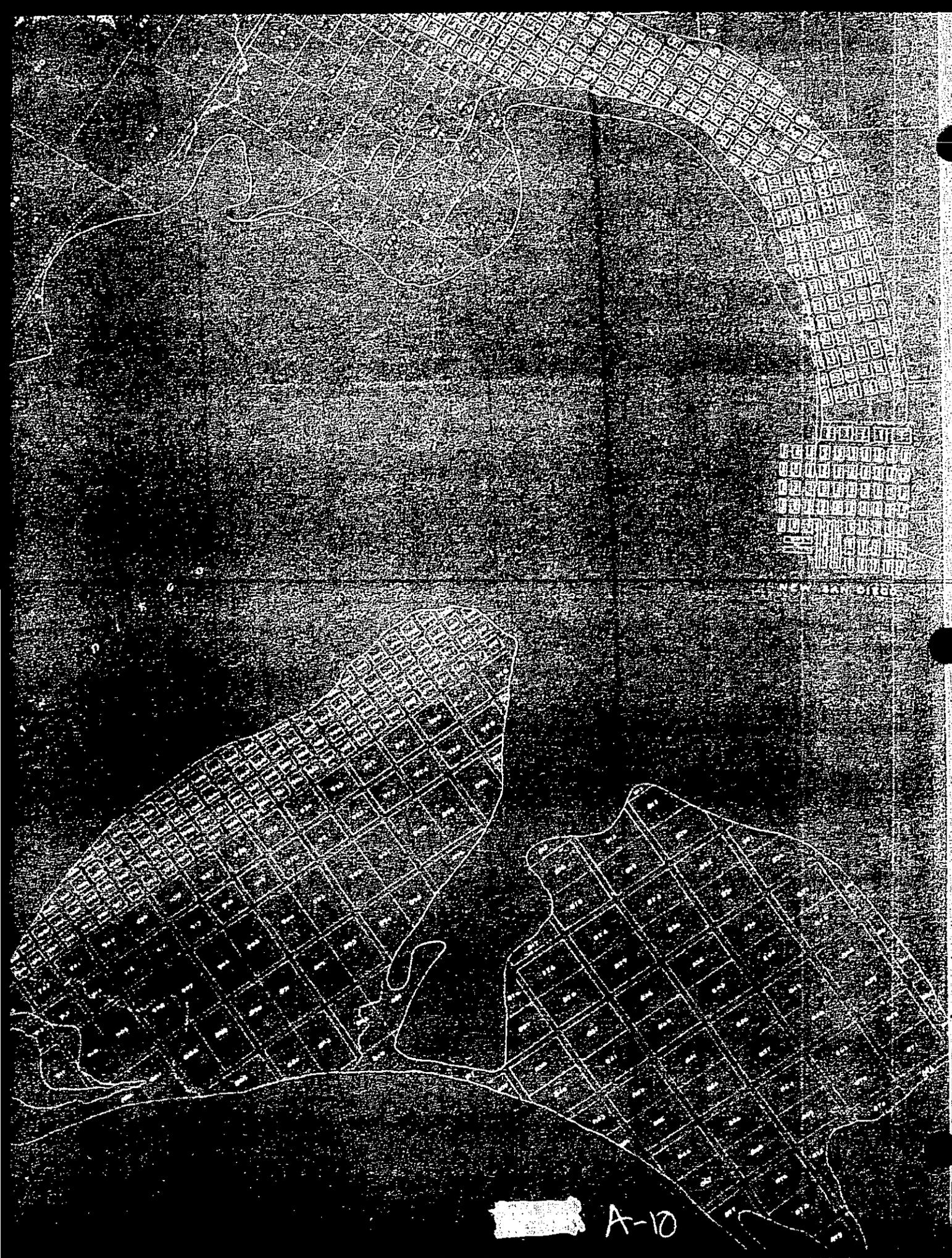
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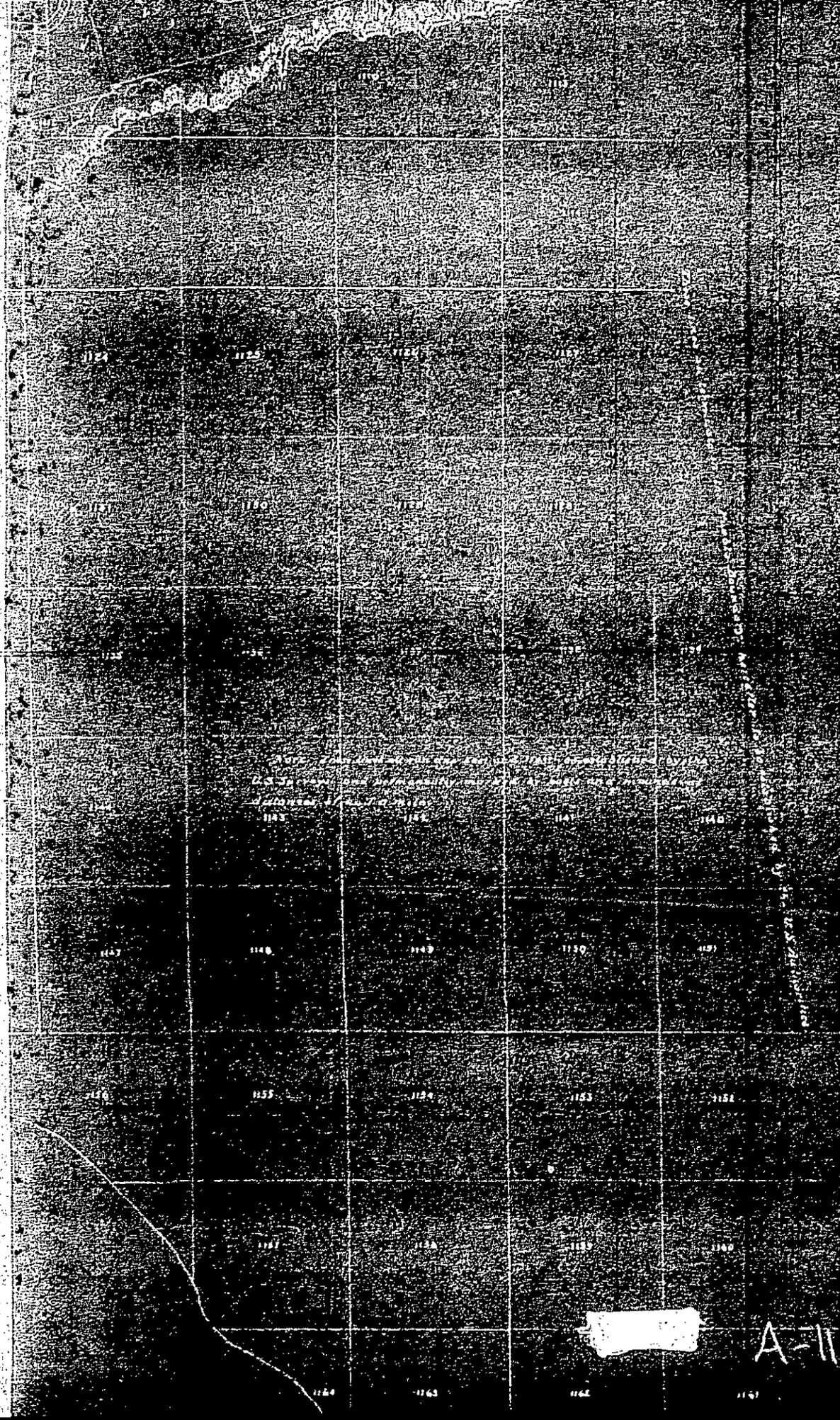


[REDACTED] A9

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71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100



A-10



A-11

NOTE

The large numbers are those of the different surveys from which this map is compiled.

A-12

~~SECRET~~

Exhibit B

MAP

of the

LANDS OF SAN DIEGO

SAN DIEGO COUNTY

CALIFORNIA

James Pascoe - City Engineer

May 1870

Exhibit B

MAY-1870



B-0

P

A

Q

Exhibit

B-1

B





B-3



W

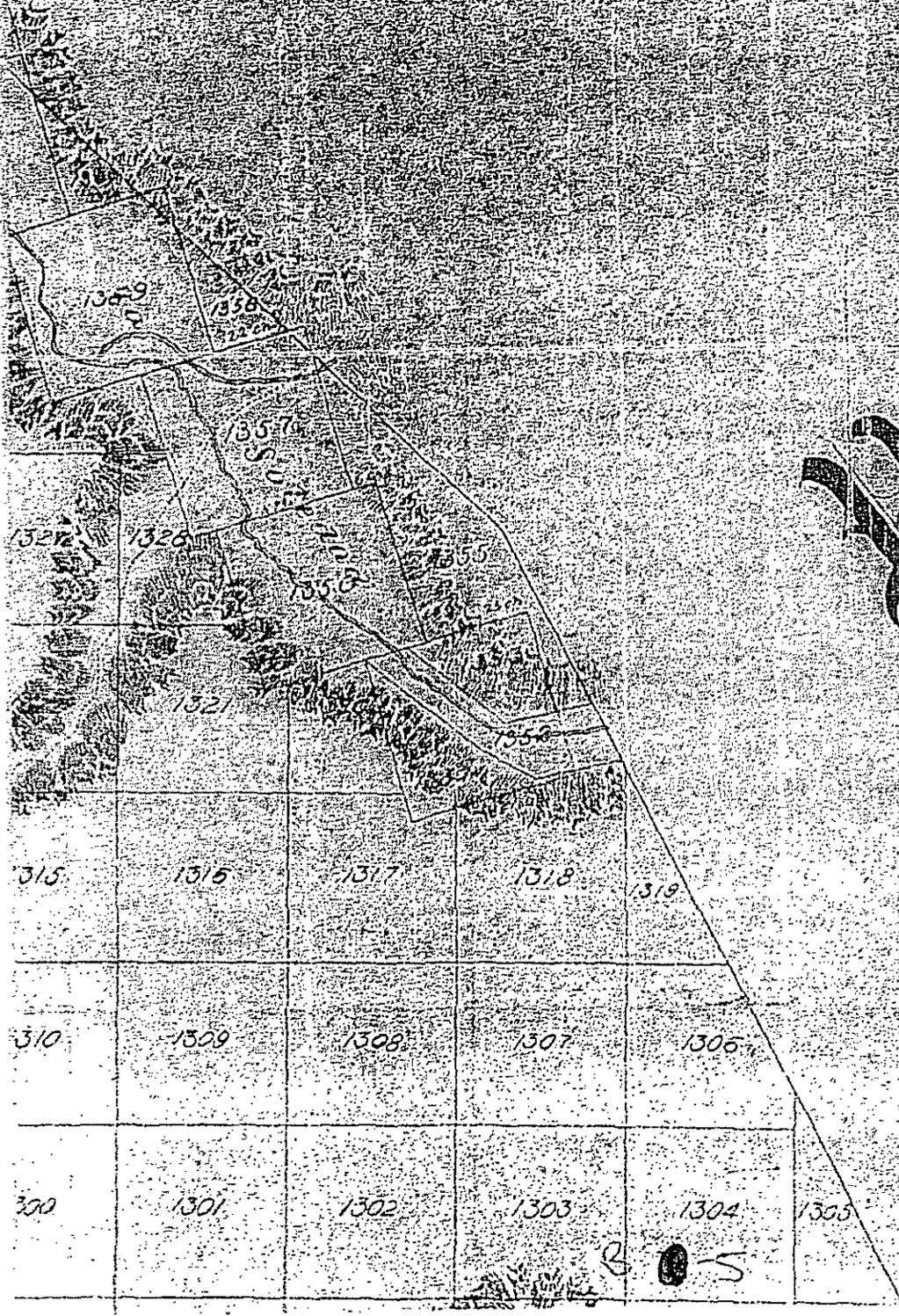
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Filed Feb 11 1876
in Kentucky

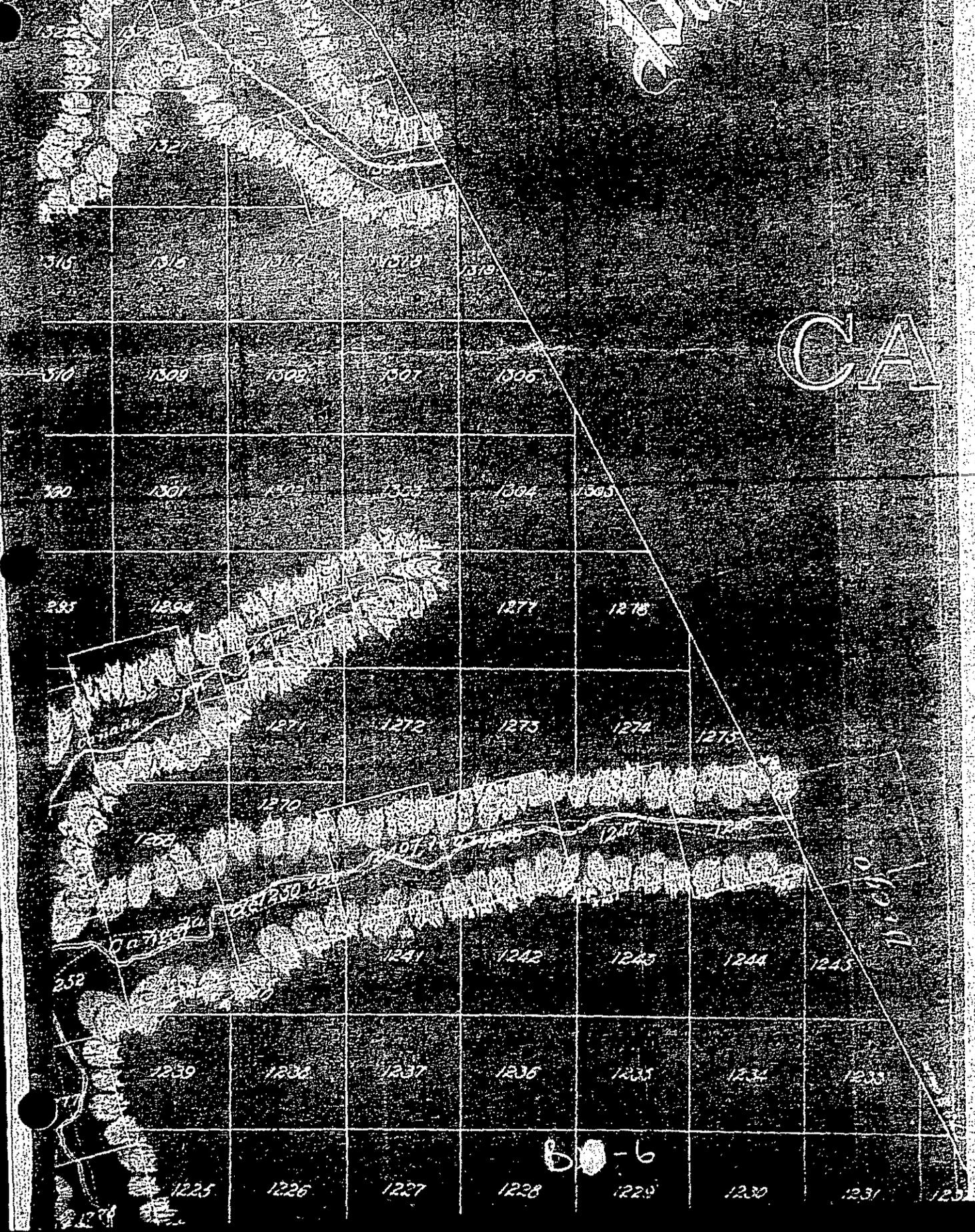


Maple

CA

Marble

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60-6



BAY

OLD TOWN

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B

C

MIDDLE

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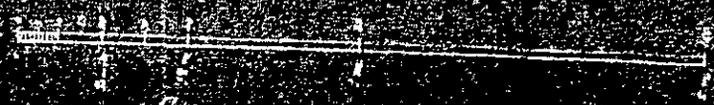
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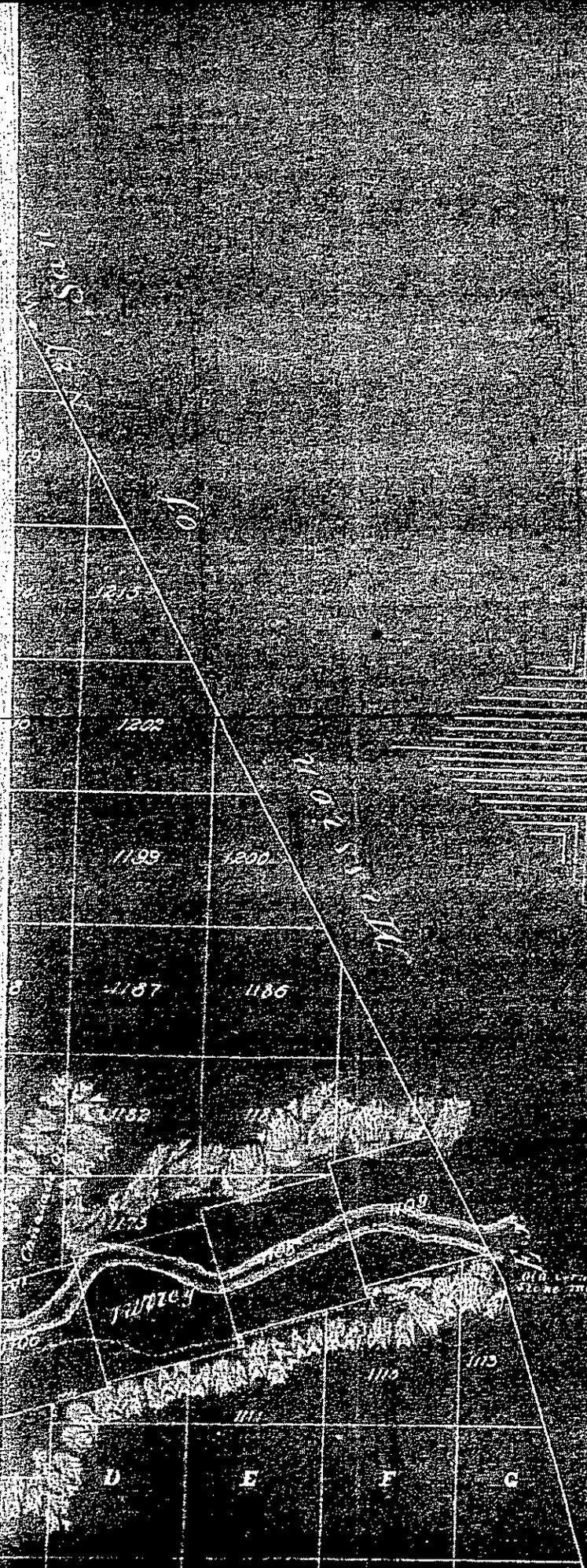
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Scale 50 meters to 1 inch
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1122 1123 1124 1125 1126

CITY

RESERVATION

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CHURCH

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CITY BANK

RESERVATION

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B77

From: CLK City Clerk
Sent: Monday, July 14, 2008 10:25 AM
To: Atkins, Councilmember; Faucett, Aimee; Faulconer, Council Member Kevin; Frye, Donna; Hueso, Councilmember Ben; Lujan, Magdalena; Madaffer, Councilmember Jim; Maienschein, Councilmember; Peters, Councilmember Scott; Pickens, Sonia; Soria, Patricia; Vetter, Gary; Yepiz, Lauren; ZZZYoung, Anthony
Subject: FW: City Council Meeting Agenda Comment Form

-----Original Message-----

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Monday, July 14, 2008 10:09 AM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form Submitted on Monday, July 14, 2008 at 10:08:47

Name: Carolyn Chase

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City: San Diego

State: CA

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Source: San Diego City Council Meeting Agenda Comment Form at <http://www.sandiego.gov/city-clerk/officialdocs/docketcomment.shtml>

Agenda Item: ITEM-334 July 15, 2008 Mission Bay Park Charter Change

Comments:

City Council Hearing of July 15, 2008

RE: ITEM-334: Ballot Proposition Amending the City Charter to Designate the Use of Lease Revenues from Mission Bay Park.

1. What are the estimated dollar amounts for each of the priority items 1-7?

With only an estimated \$2 million/year, realistically what's going to get done? You've got dredging, boardwalk replacement, environmental restoration projects, parking maintenance, as we know the list is long and the funds are limited. Therefore it's important for the public and the Council to understand the order of magnitude of each of the items being put on the priority list.

Has there been any consideration of allocating a minimum amount for Master Plan improvements? Otherwise, depending on the income, nothing might ever be spent on that for quite awhile. Without estimates for items 1-7 the public cannot determine whether or not anything not on the priority list will ever get done.

2. Cost of Parking / Sustainable parking design?

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What are the costs associated with repairing, resurfacing and restriping parking (Item 7 on the priority list)?

Why is maintenance for parking lots being included but not "costs associated with utilities, including but not limited to water, sewage, roads, vehicle bridges or vehicular ramps."? Why shouldn't parking also be on this prohibited list as ongoing maintenance is?

Most people really only care that they have a parking space, not how often the lot is paved.

Also this item would seem to make a long term commitment to keeping in place the lots that contribute quite a bit to storm water runoff pollution rather than planning to replace the lots overtime with new, less polluting alternatives. It might in fact be cheaper to let the existing surfaces degrade and then replace them rather than putting significant sums into maintaining the out-dated status quo designs for parking lots from the 50s.

3. What is the legal definition of a "beneficial use"? (Item (c)i Page 4)

4. Relating to the definition of Capital Improvements and "costs that cannot be capitalized."

First, the clarifying sentence that Capital Improvements do "not include money used for contracted labor or services or for city employee salaries, pensions or benefits unless those expenses can be capitalized."

When can those expenses be capitalized?

And perhaps a related question, under Item c, the Priority for expenditures from the Mission Bay Park Improvement Fund first lists under Item i. "Priority for Capital Improvements hereunder shall be given to restoring wildlife habitat, wetlands and other environmental assets within the ...Zone and preserving beneficial uses of the ...Zone including, but not limited to...etc.

These kinds of projects are not traditionally necessarily looked as "Capital Improvements." i.e. they are not usually building things, but often removing things, or monitoring things. The language in the definition does state that CI includes restoration or improvement of natural assets but also states funds cannot be used for "contracted labor or services." Then how could these projects be done?

The City itself contracts out for these kinds of projects. I want to ensure that the funds can be spent on contracts that do include contracted labor or services to accomplish projects. Isn't this the intent?

5. Include "orphan" areas in the Mission Bay Park Improvement Zone Add to the definition of the Mission Bay Park Improvement Zone to include Rose Creek extending up to the end of the Santa Fe Road flood control channel and for Tecolote Creek up to the end of the Tecolote Creek flood control channel.

Both these orphan areas need improvements for the downstream (Mission Bay Park just downstream) water quality improvements to really matter.

6. What happens to the revenues from the Golf Course? How much is involved?

7. Include adopted land use plans and ordinances in Mission Bay Park Master Plan definition You should include other related adopted land use plans and ordinances for instance the Rose Creek Watershed Plan covers the area up to the I-5 already covered in this draft.

Add to definition of Mission Bay Park Master Plan to: the Master Plan adopted for Mission Bay Park in 1994 and any amendments or updates subsequently adopted to it, any other related adopted land use plans and ordinances applicable to Mission Bay Park and the Mission Bay Park Improvement Zone.

9. The Mission Bay Park Improvement Fund Oversight Committee The definition for this is missing.

The way it's written now, "shall initiate the recommendation or consider the

recommendations of other as to whether to issue such bonds....etc."

What is the idea here? Just to hold a public hearing?

Do we really need another committee? Elsewhere it says the MBP Committee will review items quarterly.

10. Regarding issuance of new bonds.

Regarding the Independent Budget Analyst report 08-75 noting that "the Charter amendment is not necessarily required in order for the City to issue long-term debt for park improvements."

Given the amounts of funding involved, it doesn't make sense to put this in the Charter, nor does it make sense to go for borrowing more money since it only make less funding available in the future.

I would like to request that the IBA issues a report that informs decision makers and the public of the amount of funding that would be saved and therefore the amount of additional funds that would be available if the City did not issue more bonds.

11. Chollas Creek should be more specific and say "Chollas Creek Watershed Parks"

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