

Article 1: Public Improvement and Assessment Proceedings

Division 20: San Diego Park Facilities District Procedural Ordinance

*(“San Diego Park Facilities District Procedural Ordinance”
added 2–23–1977 by O–12027 N.S.)*

Part 1: General Provisions

(Editors note: Chapter 6, Article 1, Division 20 added 8–24–1988.)

§61.2000 Title

This Division shall be known as the San Diego Park Facilities District Procedural Ordinance.

(“Title” added 2–23–1977 by O–12027 N.S.)

§61.2001 Municipal Affairs

This Division is adopted pursuant to the municipal affairs provisions of the City Charter.

(“Municipal Affairs” added 2–23–1977 by O–12027 N.S.)

§61.2002 Purpose

The whole or any part of the City may be formed into one or more park facilities districts pursuant to the provisions of this Division.

(“Purpose” added 2–23–1977 by O–12027 N.S.)

§61.2003 Powers

A park facilities district may acquire, construct, improve, maintain and operate park facilities.

(“Powers” added 2–23–1977 by O–12027 N.S.)

§61.2004 Procedure

Excepting as to matters therein inconsistent with the intent, purposes and provisions of this Division, the provisions of the Community Facilities Law of 1911, being Chapter 1, (commencing with Section 4600, Part 3, Division 5, Health and Safety Code of the State of California, excepting Article 2a, subdivision (d) of Section 4616, Section 4618, the first sentence of Section 4623 and Sections 4623.5 and 4638, 4625,

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thereof, and the provisions of Article 9 (commencing with Section 53550), as modified by Article 11 (commencing with Section 53580), Chapter 3, Part 1, Division 2, Title 5, Government Code of the State of California, excepting Section 53569, thereof, shall apply to the formation and government of such districts.
(Amended 9-17-1990 by O-17527 N.S.)

§61.2005 Alternate Procedure

The procedures provided in this Division are alternative and in addition to those provided by any other law, ordinance or provision of the Municipal Code.
(“Alternate Procedure” added 2-23-1977 by O-12027 N.S.)

§61.2006 Complete Procedure

This Division is full authority for the formation and government of park facilities districts.
(“Complete Procedure” added 2-23-1977 by O-12027 N.S.)

§61.2007 Other Laws

In the performance of any act or the conduct of any proceeding pursuant to this Division, the Council may act pursuant to any other law, ordinance or provision of the Municipal Code when, in its opinion, the objects and purposes of this Division will be better effectuated thereby.
(“Other Laws” added 2-23-1977 by O-12027 N.S.)

§61.2008 Necessary or Convenient Procedure

Any act or procedure not expressly provided in this Division, which is deemed necessary or convenient to carry out its purposes, may be provided by the Council or other board, commission or officer that provides or performs such act or procedure.
(“Necessary or Convenient Procedure” added 2-23-1977 by O-12027 N.S.)

§61.2009 Notice, By Whom

When any notice is required to be given, it shall be given by or on behalf of the City Clerk.
(“Notice, By Whom” added 2-23-1977 by O-12027 N.S.)

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§61.2010 Advances

The City may advance available City funds for any purpose in the formation or government of a park facilities district and recover them from the proceeds of bonds, taxes or other revenues of such district.

(“Advances” added 2–23–1977 by O–12027 N.S.)

§61.2011 Contributions

The City may contribute available City funds for any purpose of a park facilities district.

(“Contributions” added 2–23–1977 by O–12027 N.S.)

§61.2012 Waiver

All owners who shall have failed to:

- (a) File timely written statements, state a ground in a timely statement, or present evidence at the hearing as to a ground stated therein, in a proceeding under Part 3 of this Division; or
- (b) Appear, orally or in writing, or to state a ground, or to present evidence as to a ground stated at the hearing, in a proceeding under Part 5 of this Division; shall have waived such right or ground, respectively.

(“Waiver” added 2–23–1977 by O–12027 N.S.)

§61.2013 Finality

A resolution ordering a district formed, the inclusion of an acquisition or improvement in, or the annexation of territory to, a district, under Parts 3, 5 or 7 of this Division, shall be final and conclusive as to all rights and grounds waived under Section 61.2012 of this Part.

(“Finality” added 2–23–1977 by O–12027 N.S.)

§61.2014 Limitations of Action

No action or defense questioning the validity of (a) the formation of a district, (b) the inclusion of an acquisition or improvement, (c) the annexation of territory, or (d) an election at which bonded indebtedness was authorized or maximum rate of tax or a change therein was approved, shall be had or maintained in any Court of competent

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jurisdiction unless commenced or raised in an answer filed within 30 days after the date of adoption of the resolution so ordering as to (a), (b) or (c) or the resolution of canvass as to (d) of this section, nor shall any timely pleading be so amended; and all persons shall thereafter be forever barred.

(“Limitations of Action” added 2–23–1977 by O–12027 N.S.)

§61.2015 Actions, By Whom and Effect

No timely action or defense may be maintained in any Court of competent jurisdiction, nor shall any restraining order, mandate, or mandatory or prohibitive injunction or other provisional remedy be available, to question the validity of any act or proceeding had or taken pursuant to this Division, excepting only as it shall apply to the specific property of an owner who, in his proper name, is a party in such action; and such action shall not apply to any other properties or to the owners thereof, as to all of which and whom the District may continue to take such action or proceeding, including, but not limited to, the issuance and sale of bonds and the levy and collection of taxes.

(“Actions, By Whom and Effect” added 2–23–1977 by O–12027 N.S.)

§61.2016 Liberal Construction

This Division shall be liberally construed to promote and effectuate its purposes.

(“Liberal Construction” added 2–23–1977 by O–12027 N.S.)

§61.2017 Irregularities

No error, irregularity, informality, omission or illegality, and no neglect or omission of any official, in any proceeding taken pursuant to this Division, which does not amount to a failure of due process of law under the State or Federal constitutions, shall void or invalidate any action or proceeding taken pursuant hereto.

(“Irregularities” added 2–23–1977 by O–12027 N.S.)

§61.2018 Severability

If any provision of this Division or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or their application to other persons or circumstances which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

(“Severability” added 2–23–1977 by O–12027 N.S.)

Part 2: Definitions

(Editors note: Chapter 6, Article 1, Division 20 added 8-24-1988.)

§61.2020 Acquisition

Acquisition means and includes, without limiting the generality thereof:

- (a) The acquisition of lands, easements, rights of way, improvements, interest in real property, and personal property useful for the purposes of a district, and includes construction;
- (b) The acquisition of property which has been or is in the process of being acquired by the City or for which jurisdiction has been or is in the process of being acquired pursuant to a special assessment procedural law or ordinance or the Municipal Code;
- (c) The payment in full to owners, as described in part (a) of Section 61.2055, as to land on which has been paid the whole or any part of the principal amount of any special assessments which shall have been levied and become a lien, together with any interest, or any premiums for payment of any bonds in advance of their maturity, which shall have been issued to represent said assessments, which assessments were levied and bonds were issued to provide funds for the acquisition of park facilities;
- (d) The principal of, interest on or any premiums required to be paid in the call and retirement of any improvement bonds issued to represent unpaid special assessments levied pursuant to a special assessment procedural law ordinance for the purpose of acquiring park facilities, or for the purchase of said bonds in the open market at prices not to exceed those required for advancing the maturity thereof; and
- (e) The costs incurred in canceling unpaid assessments represented by improvement bonds retired pursuant to subdivisions (b), (c) or (d) of this section.

(“Acquisition” added 2-23-1977 by O-12027 N.S.)

§61.2021 Construct

Construct means to install, fabricate, form or put together and includes reconstruct, alter, improve, repair, replace or acquire.

(“Construct” added 2-23-1977 by O-12027 N.S.)

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§61.2022 Improve

Improve means to acquire, construct, install, extend, repair, replace, better, equip, develop, embellish or otherwise improve.

(“Improve” added 2–23–1977 by O–12027 N.S.)

§61.2023 Open Space

Open space means any area that is characterized by existing openness and undeveloped or substantially undeveloped natural conditions, provided, however, that an open space is a park, and it may at any time be improved or utilized for any additional park or recreational purpose.

(“Open Space” added 2–23–1977 by O–12027 N.S.)

§61.2024 Park

Park means and includes open space and other parks and recreational areas, purposes and facilities.

(“Park” added 2–23–1977 by O–12027 N.S.)

§61.2025 Park Facilities

Park facilities means lands and improvements utilized or useful for park and recreational purposes.

(“Park Facilities” added 2–23–1977 by O–12027 N.S.)

§61.2026 Recreational

Recreational means and includes any activity, voluntarily engaged in, which contributes to the education, entertainment, or physical, mental, cultural or moral development of the individual or group attending, observing or participating therein, and includes any activity in the field of music, drama, art, hand sports and athletics or any of them, and any informal play incorporating any such activities.

(“Recreational” added 2–23–1977 by O–12027 N.S.)

Part 3: Formation of District

(Editors note: Chapter 6, Article 1, Division 20 added 8-24-1988.)

§61.2030 Resolutions

The Council may adopt such resolutions and take such actions and proceedings as are necessary or useful in the formation of a park facilities district.

(“Resolutions” added 2-23-1977 by O-12027 N.S.)

§61.2031 Resolution of Intention

The resolution of intention to form a park facilities district shall be sufficient if it states:

- (a) The name and any number of the proposed district.
- (b) That the Council proposes to form a park facilities district for the purpose of submitting to the voters of the district a proposition of incurring a bonded indebtedness to provide funds for the acquisition of park facilities.
- (c) That the boundaries of the proposed district are delineated on a map thereof on file in the office of the City Clerk and open to public inspection stating its title.
- (d) That the district contains all the properties that will be benefited by the proposed improvements.
- (e) The time and place of a public hearing by the Council at which it will consider and finally act on such formation.
- (f) That owners of real property within the proposed district may, up to the hour fixed for hearing, file with the City Clerk written statements signed by them stating whether the grounds on which they are for or against the formation of the district or why their properties will or will not be benefited by being included therein.
- (g) That such persons may appear at the hearing and present evidence in support of their written statements.

(“Resolution of Intention” added 2-23-1977 by O-12027 N.S.)

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§61.2032 Mailed Notices

In lieu of mailing copies of the resolution of intention to owners, a notice of hearing on formation of a district shall be mailed which shall be sufficient if it states:

- (a) The number, title and date of adoption of a resolution of intention and the name and number of the proposed district.
- (b) That the Council proposes to form a park facilities district for the purpose of submitting to voters therein the authorizing of district bonds to acquire park facilities.
- (c) That the properties of the addresses are located therein.
- (d) That the proposed boundaries of the district are delineated on a map, stating its title.
- (e) The time and place of the hearing on formation.
- (f) That up to the hour fixed for hearing, owners may file with the City Clerk written statements signed by them stating the grounds on which they are for or against the proposed district or why their properties will or will not be benefited by being included therein.
- (g) That they may appear at the hearing and present evidence in support of their written statements.
- (h) That the resolution of intention and boundary map are on file with the City Clerk and open to inspection.

(“Mailed Notices” added 2-23-1977 by O-12027 N.S.)

§61.2033 Formation

The district shall become formed on the date of adoption of the resolution ordering its formation, and a copy of the resolution need not be recorded with the County Recorder.

(“Formation” added 2-23-1977 by O-12027 N.S.)

Part 4: Bonds

(Editors note: Chapter 6, Article 1, Division 20 added 8-24-1988.)

§61.2040 Resolutions

The Council may adopt such resolutions and take such actions and proceedings as are necessary or useful to call, canvass and declare the results of elections at which propositions of incurring bonded indebtedness to provide funds for the acquisition of park facilities will have been submitted for the approval of the voters of a district, the issuance and sale of the bonds and all other matters relating thereto.

The Council may adopt successive subsequent resolutions and take successive subsequent actions and proceedings for additional elections for such purpose without regard to the result of any initial or subsequent election.

(Amended 9-17-1990 by O-17527 N.S.)

§61.2041 Election Call

The resolution calling the election shall be sufficient if it:

- (a) States that an election is called for the purpose of submitting to the voters within the district a proposition of incurring an indebtedness to be represented by general obligation bonds of the district to provide funds for financing the costs and expenses of acquiring park facilities.
- (b) States the maximum amount of the proposed indebtedness.
- (c) Refers by title to the map of district boundaries on file with the City Clerk.
- (d) Fix the date on which the election will be held.
- (e) Determine the manner of holding the election.
(“Election Call” added 2-23-1977 by O-12027 N.S.)

§61.2042 Bond Authorization

If a majority of the voters who shall have voted on a proposition of incurring a bonded indebtedness shall have voted in favor thereof, the proposition shall have carried and the Council may cause the bonds to be issued and the indebtedness represented thereby shall have been incurred.

(“Bond Authorization” added 2-23-1977 by O-12027 N.S.)

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§61.2043 Conclusive Evidence

The bonds, by their issuance, shall be conclusive evidence as to the regularity of all proceedings had and taken by a district leading to their issuance.

(“Conclusive Evidence” added 2–23–1977 by O–12027 N.S.)

§61.2044 Rates of Interest

Any provision of law to the contrary notwithstanding, bonds heretofore or hereafter authorized may be sold at private or public sale, at, above or below par, to bear interest at the rate or rates per annum, without limit as to rate or amount as provided in the accepted bid or agreement for their purchase, as determined by the Council.

(Amended 7–6–1982 by O–15770 N.S.)

§61.2045 Annual Special Assessment Tax

Until the bonds are paid, or until there is a sum in the City treasury set aside for the purpose, sufficient to meet all sums coming due for the principal and interest on the bonds, the Council shall, at the time of fixing, and in the manner now or hereafter provided for the general City property tax levy, levy and collect, or cause to be levied and collected, each year upon the taxable real property situated in the district, and upon that property only, a special assessment tax sufficient to pay the interest on the bonds as it falls due, and also such part of the principal as will become due before the proceeds of a special assessment tax levied at the next general property tax levy will be available. Said special assessment tax levy shall be levied and collected, upon the tax roll upon which general City property taxes are collected, it shall be in addition to all other taxes levied for general City purposes, and shall be levied, computed, entered, collected and enforced in the same manner and by the same persons and at the same time, and with the same penalties and interest, as are other taxes for City purposes, and all laws applicable to the levy, collection and enforcement of taxes for City purposes are made applicable to said special assessment tax levy, and be subject to redemption at the same time and in the same manner as such real property is redeemed from the sale for general City taxes, and if not redeemed in like manner pass to the purchaser.

The supplemental remedy provisions of Part 13 (commencing with Section 8800) of Division 10 of the Streets and Highways Code, excepting Sections 8804 and 8809, thereof, shall apply.

(“Annual Special Assessment Tax” added 9–17–1990 by O–17527 N.S.)

§61.2046 Reassessment Proceedings

If any court of competent jurisdiction determines that any proceedings, steps or actions taken or purporting to have been taken, or any bond or bonds issued, or any levy of a special assessment tax made under this division is or are void, invalid or unenforceable for any reason, said court shall also order that reassessment proceedings consistent with such determination be conducted in the manner herein provided and, if the validity of any outstanding bonds is tainted by such determination, that new bonds be issued in the place thereof. The Council may also order reassessment proceedings, and, if necessary, the issuance of new bonds, if it determines the existence of such voidness, invalidity or unenforceability. The reassessment proceedings and, if necessary, the issuance of new bonds, shall be conducted and accomplished by the Council in the manner hereinafter provided.

If the reassessment provides for the use of an assessment roll equalized pursuant to notice and hearing procedures conducted by the Board of Supervisors of San Diego County and the State Board of Equalization or other duly constituted legal forum, the reassessment may be ordered by the Council by resolution without notice and hearing. If the reassessment provides for the application of a benefit formula, it may be ordered only after the conduct of a public hearing by the Council. Notice of such hearing shall set forth (a) the name and number of the district, (b) that the Council proposes to order a reassessment, (c) the proposed benefit formula, (d) a time and place of hearing and (e) a statement that any owner of taxable real property in the district, may file a written protest against the proposed assessment at or before the time fixed for hearing and that any person interested may appear at the hearing, present evidence orally or in writing, and be heard by the Council. Said notice shall be published and posted in the time and manner required by Section 61.2053 with respect to the resolution of intention therein referred to, and mailed to the persons identified and in the manner set forth in Section 5321 of the Government Code, of the State of California, such mailing to be completed at ten (10) days prior to the date set for hearing.

Any such reassessment together with any other source of funds identified in the reassessment proceedings, shall constitute the security for the outstanding bonds or any new bonds issued pursuant to this section.

Reassessment proceedings may be conducted pursuant to this section regardless of whether the acquisition and construction of the park facilities being financed has commenced, is under construction or is complete.

(“Reassessment Proceedings” added 9–17–1990 by O–17527 N.S.)

Part 5: Acquisitions and Construction

(Editors note: Chapter 6, Article 1, Division 20 added 8–24–1988.)

§61.2050 Specific Park Facilities

A park facilities district may adopt such resolutions and take such actions and proceedings as may be necessary or useful for the acquisition, construction or inclusion of a park facility or facilities, in the manner provided in this Part.
(“Specific Park Facilities” added 2–23–1977 by O–12027 N.S.)

§61.2051 Acquisition or Inclusion of Facilities

A park facilities district may acquire, construct or include park facilities:

- (a) Which have been or are in the process of being acquired in a special assessment and assessment bond proceeding which has been or is being conducted by the City.
- (b) Which are owned by or in the process of being acquired by the City by any other lawful means.
- (c) Which are otherwise owned.

(“Acquisition or Inclusion of Facilities” added 2–23–1977 by O–12027 N.S.)

§61.2052 Resolution of Intention

The Council may adopt a resolution of intention which shall be sufficient if it states:

- (a) The name and number of the district.
- (b) That the district proposes to acquire or include one or more park facilities, generally describing it or them, and specifying its or their ownership as provided in Section 61.2051 of this Part.
- (c) That the district proposes to construct one or more park facilities, generally describing it or them.
- (d) That a map and description more particularly delineating and describing such acquisitions, or that plans more particularly describing the improvements, are

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on file with the City Clerk or at such other office designated by it as will more conveniently provide for their examination and explanation.

- (e) A time and place when and where the Council will consider and finally act in said matter.
- (f) That owners may appear at the hearing and be heard, orally or by writing signed by them, and present evidence in support thereof.
(*“Resolution of Intention” added 2–23–1977 by O–12027 N.S.*)

§61.2053 Posting and Publication

A copy of the resolution shall be posted on the bulletin board of the City Administration Building and be published in a newspaper of general circulation printed and published in the City, once a week for two weeks, the posting and first publication to be on or before the tenth day prior to the day of hearing.
(*“Posting and Publication” added 2–23–1977 by O–12027 N.S.*)

§61.2054 Resolution Ordering Inclusion

At the time fixed for hearing, the Council shall hear all persons interested, consider all matters presented, and may alter, modify and, by resolution, finally act in the matter.
(*“Resolution Ordering Inclusion” added 2–23–1977 by O–12027 N.S.*)

§61.2055 Special Assessments and Improvement Bonds

Property ordered acquired pursuant to subdivision (a) of Section 61.2051 of this Part shall be paid for as follows:

- (a) When an individual assessment of an assessment, supplemental assessment or reassessment, or any installment thereof, has been paid in cash, the principal amount thereof, without interest, shall be paid to the person or persons who are shown in the official records of the County of San Diego as the owner or owners of the property to which said assessment pertained as of the date that the park facilities acquired with the proceeds of said assessment, supplemental assessment or reassessment were ordered acquired pursuant to subdivision (a) of Section 61.2051 of this Part.
- (b) In the event that after the lapse of four years the person or persons referred to in subdivision (a) of this section have not been identified or, if identified, have

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not been located or have not otherwise come forward and claimed such refund, the principal amount thereof shall be and remain a part of the fund created for such acquisition, or if previously set aside, shall, with any interest earned thereon, be returned thereto, free and clear of such claim or claims.

- (c) When all or any part of an individual assessment of such assessment remains unpaid, whether or not payable in installments, such individual assessment shall, by resolution, be ordered canceled and, upon filing a certified copy thereof with the Superintendent of Streets, and the City Auditor if payable in installments, shall be marked "Canceled".
- (d) If individual bonds have been issued pursuant to the Improvement Act of 1911 to represent such individual unpaid assessments, amounts sufficient to call and prepay said bonds shall be deposited with the City Treasurer, and he shall cause said bonds to be called and paid.
- (e) If serial bonds have been issued pursuant to the Improvement Bond Act of 1915 to represent such individual unpaid assessments, amounts sufficient to call and prepay all of said bonds shall be deposited with the City Treasurer, and he shall cause said bonds to be called and paid.
- (f) In lieu of calling and retiring any bonds as provided in subdivision (d) or (e) of this section, the Treasurer may purchase such bonds in the open market at prices not to exceed the call price thereof.
- (g) All bonds which have been called and retired as provided in this section shall be canceled and retired.
- (h) Following full compliance with the provisions of this section, the Council shall, by resolution, declare that the park facility involved has been acquired by and is included within the district.

("Special Assessments and Improvement Bonds" added 2-23-1977 by O-12027 N.S.)

Part 6: Maintenance and Operation

(Editors note: Chapter 6, Article 1, Division 20 added 8-24-1988.)

§61.2060 Taxation

In the event the Council desires to levy a rate of district property tax pursuant to Section 4640 of the Health and Safety Code for which the right to levy does not exist

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or which is in excess of the rate that has been established therefor pursuant to Article 4 (commencing with Section 2260 of Chapter 3 of Part 4 of Division 1) of the Revenue and Taxation Code, or a change therein, the Council shall obtain the approval thereof by the voters of such district.

(“Taxation” added 2-23-1977 by O-12027 N.S.)

§61.2061 Bond Election

The Council may submit a maximum or excess maximum rate of property tax rate or a change therein, as a separate proposition, at the election at which bonds are to be voted on, to the voters of such district.

(“Bond Election” added 2-23-1977 by O-12027 N.S.)

§61.2062 Separate Election

The Council may cause a maximum or excess maximum rate of property tax rate or a change therein, to be submitted at a separate election in a district, in which event the proceedings therefor shall be substantially the same as for a bond election and with the same effect, provided that they shall be modified to show that they are for a maximum or an excess maximum rate of property tax rate or a change therein.

(“Separate Election” added 2-23-1977 by O-12027 N.S.)

§61.2063 Maintenance Assessment

The Council may, subject to the procedural requirements of this section, at the time of fixing and in the manner now or hereafter provided for the general City property tax levy, levy and collect, or cause to be levied and collected, in any year upon the taxable real property in the district, and upon that property only, a special assessment tax not to exceed twenty cents (\$0.20) on each one hundred dollars (\$100) of assessed valuation, for the purpose of paying the costs of maintenance and operation of any improvement made for the benefit of the district, and which has been described in the proceedings for including specific park facilities in the district pursuant to Part 5 or in proceedings taken pursuant to Section 4603 of the Health and Safety Code. If the Council intends to levy any such special assessment tax with respect to any such improvement, the notices required by said Part 5 or Section 4603, as the case may be, shall contain a statement to that effect.

The special assessment taxes levied pursuant to this section shall be in addition to all other taxes levied for City purposes and in addition to the taxes levied pursuant to

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Section 61.2044 and the proceeds thereof shall be used for no purpose other than the purposes permitted by this section.

(“Maintenance Assessment” added 9-17-1990 by O-17527 N.S.)

Part 7: Annexations

(Editors note: Chapter 6, Article 1, Division 20 added 8-24-1988.)

§61.2070 Nature of Territory

Territory within or being annexed to the City may be annexed to a park facilities district in the manner provided in Part 5 of this Division.

(“Nature of Territory” added 2-23-1977 by O-12027 N.S.)

§61.2071 City Annexation

Unincorporated territory which is being annexed to the City may be annexed to a park facilities district as a part of the proceedings annexing said territory to the City, in which event the City annexation proceedings shall be supplemented to provide for the annexation of the same territory to a park facilities district.

(“City Annexation” added 2-23-1977 by O-12027 N.S.)