

INITIATIVE ORDINANCE NO. 08-17
(Approved by the Voters on November 4, 2008)

AN ORDINANCE OF THE CITY OF IRVINE RATIFYING AND IMPLEMENTING
POLICIES RELATING TO THE ORANGE COUNTY GREAT PARK PROJECT

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Orange County Great Park Ratification and Implementation Act.

Section 2. Purpose. This Ordinance is adopted to ratify and implement certain policies relating to the Orange County Great Park project with regard to the governing structures and responsibilities of the City of Irvine and the Orange County Great Park Corporation, funding and construction, operation and maintenance considerations, and major policies and programs.

Section 3. Recitals. It is found and declared that:

A. The City of Irvine owns and is responsible for the development of over 1,000 acres of land at the former Marine Corps Air Station (MCAS) El Toro.

B. Prior to the transfer of MCAS El Toro by the United States Department of the Navy, the City of Irvine developed the "Great Park Plan" and authorized the formation of the Orange County Great Park Corporation as a "supporting organization" (pursuant to section 509(a)(3) of the United States Internal Revenue Code) to assist the City in the exercise of its powers to develop, operate and maintain the Orange County Great Park.

C. Upon the transfer of a portion of MCAS El Toro to the City of Irvine, the City received payments of developer fees generated through a Development Agreement between the City and Lennar Corporation (later Heritage Fields), and the City expects to receive financing district funds that will accrue to be invested in the development of the backbone infrastructure and development of the Orange County Great Park.

D. The Orange County Great Park Corporation Board of Directors consists of the five members of the Irvine City Council and four appointed directors.

E. Employees serving the Orange County Great Park Corporation are employees of the City of Irvine, working within the City's organizational structure (that is, as a distinct operating department of the City) and functioning under the general direction and supervision of the City Manager.

F. It is important to ensure accountability, resource management and efficiency in the planning, design, construction, operation and maintenance of the Orange County Great Park and to further ensure that the governing bodies and staff of the City of Irvine and the Orange County Great Park Corporation work in an integrated, coordinated and seamless manner.

Section 4. Respective roles and responsibilities of the City of Irvine and the Orange County Great Park Corporation.

A. With regard to the Orange County Great Park Corporation Board of Directors:

1. The existing structure of the Corporation Board is designed to ensure inclusion of independent participation recommending essential policy adoption concerning planning, designing, constructing, operating, and maintaining the public portions of the Orange County Great Park. The Corporation Board may develop Orange County Great Park use policies for presentation to the City Council for adoption.

2. The Corporation Board shall be responsible for ensuring that applicable policy guidelines and design principles are implemented.

3. The Corporation Board shall be responsible for providing direction and oversight with respect to planning, designing and constructing the Orange County Great Park.

4. The Corporation Board shall oversee construction of the Orange County Great Park. With the exception of change orders expressly authorized for approval by the Chief Executive Officer of the Corporation, the Corporation Board shall recommend all change orders, contract dispute resolutions and final acceptance of construction for approval by the City Council.

B. With regard to the Orange County Great Park Corporation staff:

1. The Corporation Staff shall be responsible for initiating fund development and fostering relationships with public and private partners to construct and operate the Orange County Great Park. The Corporation Staff shall also be responsible for presenting to the Corporation Board, for subsequent approval by the City Council, the approval of fees, concessions, revenue-generating facilities, programming, services and such other similar matters.

2. The Corporation Staff shall serve as a direct interface with the design team, program manager and construction general contractor(s).

3. The Corporation Staff shall serve as a direct interface with utilities and regulatory agencies and shall make recommendations to the Corporation Board concerning utility agreements and instruments, and regulatory permit applications

and conditions, for consideration by the City Council.

C. With regard to the City of Irvine:

1. Land use modifications must be initiated and approved by the City of Irvine. The City shall exercise its authority in all matters related to land use, zoning, the issuance of financing district bonds and the expenditure of bond proceeds, and disposition of funds.

2. Consistent with existing City of Irvine policies, the City shall consider all contracts and property instruments relating to the Orange County Great Park and shall appropriate the allocation of funds. The City shall review and have final authority over all financial matters, including contracts for professional services, design, construction, operation and maintenance of the Orange County Great Park.

3. Policy decisions related to disposition of publicly held land and expenditure of public funds are legally and shall properly be the responsibility of the City Council. The City of Irvine shall manage all funds for the development of the Orange County Great Park, account for Great Park and Orange County Great Park Corporation-related expenditures, and invest portions of the funds not needed for immediate use in accordance with the City's adopted investment policy.

Section 5. Funding and construction, operation and maintenance considerations.

A. With regard to operation and maintenance matters, prior to completion of the design for the Orange County Great Park, the City of Irvine shall determine whether the City, the Orange County Great Park Corporation, or some combination thereof will operate, program and maintain the Great Park.

B. Funds for the development of the Orange County Great Park, including lease and license revenues, use and event fees, and a portion of the Development Agreement fees and financing district bond proceeds, shall be managed by the City of Irvine in a separate fund to which related expenses will be charged and into which related revenues will be deposited.

C. Operation and maintenance of the Orange County Great Park shall be based on self-sustaining budgets.

D. The City's existing residents and businesses shall continue to be protected from paying for the operation and maintenance of the Orange County Great Park.

E. With the exception of normal, routine and incidental management and administrative support, and except as otherwise specifically provided, the City shall not use City General Funds – including the issuance of public financing or other

instruments of indebtedness that are secured by City General Funds or for which the City General Funds would be obligated or at risk, and inter-fund loans – for the planning, construction, operation or maintenance of the Orange County Great Park. City General Funds shall be available, although not required, for the provision of normal public safety services (excluding special events) within, and the construction and maintenance of publicly accepted roads and rights-of-way through, within or around, the Orange County Great Park.

F. In addition, newly created revenues generated within the Orange County Great Park and the adjoining Lennar/Heritage Fields development (for example, sales taxes, transient occupancy taxes, gas taxes, vehicle license fees, franchise taxes, utility users taxes, property taxes and documentary transfer taxes) shall be available, although not required, for the operation and maintenance of the Orange County Great Park.

Section 6. Ratification of project implementation steps. The approval by the City of Irvine of the following policies and programs is affirmed:

A. The commitment to the identification, establishment and effectuation of highest standards and best practices for the design, construction, operation and maintenance of the Orange County Great Park.

B. The Purchase and Sale and Financing Agreement between the City of Irvine and the Irvine Redevelopment Agency, whereby the City loaned monies from the Great Park Corporation Fund to the Redevelopment Agency for the acquisition of certain real property situated within the Great Park Redevelopment Project Area.

C. The construction and operation of the balloon project and the associated Preview Park, without charge for the general public's use and enjoyment of their essential features, excluding parking, concession activities and special uses.

D. The advancement of priority projects through the undertaking of feasibility analyses for the Agriculture and Food Program; the Arts and Culture Exhibition Space; the Aviation Museum; the Fire Museum; the Visitor Center; the Cultural Terrace District; the Amphitheatre, Botanical Garden, Library, Multi-Cultural Center and National Archives within or adjacent to the Cultural Terrace District; the Center for Community Organizations; the Demonstration Garden; the Sports Park, including early delivery of public sports fields; and the Water Science Park.

Section 7. Effective date and expiration date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council. The provisions of this Ordinance shall expire on the fourth (4th) anniversary of the effective date unless such provisions, or any of them, are extended by a majority vote of the City Council.

Section 8. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended and shall not be construed to supersede, diminish or otherwise conflict with applicable requirements of state and federal law.

Section 9. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 10. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

ADOPTED by the vote of the people of the City of Irvine on November 4, 2008 at a General Municipal Election as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and becomes effective 10 days thereafter on December 19, 2008.

ATTEST:


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on November 4, 2008, as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and that the ordinance becomes effective 10 days thereafter on December 19, 2008.


CITY CLERK OF THE CITY OF IRVINE