

**RESOLUTION NO. 2018-48**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, FOR THE SUBMISSION OF A PROPOSED CHARTER AMENDMENT**

**WHEREAS**, under the provisions of Section 1000 of the City Charter of the City of Newport Beach, a General Municipal Election shall be held on the first Tuesday after the first Monday of November in each even numbered year for the election of Municipal Officers and for such other purposes as the City Council may prescribe; and

**WHEREAS**, the City Council is authorized and directed by statute to submit the proposed Charter Amendment to the voters.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1:** Pursuant to the California Constitution, Article XI and the Government Code, Title 4, Division 2, Chapter 2 (commencing at § 34450) and the Election Code Division 9, Chapter 3, Article 3 (commencing at § 9255) of the State of California, there is called and ordered to be held in the City of Newport Beach, California, on Tuesday, November 6, 2018, a General Municipal Election for the purpose of submitting the following proposed Charter Amendment:

<b>MEASURE ____</b>	Yes
<b>REQUIRE VOTER APPROVAL PRIOR TO ISSUING OR INCURRING CERTAIN DEBT OBLIGATIONS</b>  Shall Newport Beach City Charter Section 1109 be amended to require at least fifty-five percent (55%) voter approval prior to issuing Certificates of Participation or Lease Revenue Bonds greater than fifty million dollars (\$50,000,000.00) to finance capital projects?	No

**Section 2:** That the text of the Charter Amendment submitted to the voters is attached as Exhibit 1.

**Section 3:** That the vote requirement for the measure to pass is a majority of the votes cast.

**Section 4:** That the ballots to be used at the election shall be in form and content as required by law.

**Section 5:** The City Clerk is authorized, instructed, and directed to coordinate with the County of Orange Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary to properly and lawfully conduct the election.

**Section 6:** The polls for the election shall be open at seven o'clock a.m. (7:00 a.m.) on the day of the election and shall remain open continuously from that time until eight o'clock p.m. (8:00 p.m.) of the same day when the polls shall be closed, pursuant to California Elections Code Section 10242, except as provided in California Elections Code Section 14401.

**Section 7:** In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**Section 8:** Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

**Section 9:** The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**Section 10:** The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

**Section 11:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 12:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 13:** The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**Section 14:** This resolution shall take effect immediately upon adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

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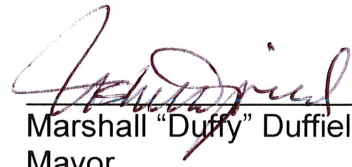
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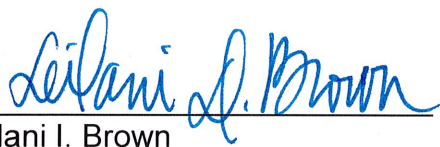
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ADOPTED this 26<sup>th</sup> day of June, 2018.

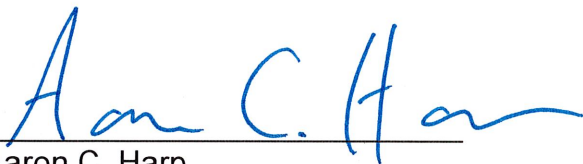
  
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Marshall "Duffy" Duffield  
Mayor

ATTEST:

  
\_\_\_\_\_  
Leilani I. Brown  
City Clerk



APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

**Exhibit 1 to City Council Resolution Regarding  
Charter Amendment to  
Require Voter Approval Prior to Issuing or Incurring Certain Debt Obligations**

**SECTION 1: TEXT OF AMENDMENT TO NEWPORT BEACH CITY CHARTER**

The City Charter of the City of Newport Beach is hereby amended as follows (underlining showing additions and strike-through showing deletions):

**Section 1109 ~~Bonded Debt Limit~~ Limitations on Debt, Voter Approval**

(a) **General Obligation Bonds**. The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent (15%) of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds (2/3<sup>rds</sup>) of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

(b) **Debt Issuance Limit on Certificates of Participation or Lease-Revenue Bonds**. On or after January 1, 2019, the City may not issue Certificates of Participation or Lease-Revenue Bonds funded via a leaseback arrangement at an amount over fifty million dollars (\$50,000,000.00), adjusted annually beginning January 1, 2019 by the US Bureau of Labor Statistics' Final Demand—Construction Index (WPUFD43 or its successor), to fund a Single Capital Project unless the debt issuance is first authorized by the affirmative votes of at least fifty-five percent (55%) of the electors voting on such a proposition at any election at which the question is submitted to the electors. A Single Capital Project shall not be piecemealed to circumvent this voter-approved debt requirement.

(1) If Certificates of Participation or Lease-Revenue Bonds are issued for a Single Capital Project in an amount less than fifty million dollars (\$50,000,000.00, as adjusted annually per this Subsection), and further Certificates of Participation or Lease-Revenue Bonds are proposed for a separate Single Capital Project, the subsequent issuance is not subject to the voter approval requirement unless the subsequent issuance alone exceeds fifty million dollars (\$50,000,000.00, as adjusted annually per this Subsection).

(2) For purposes of this section, the following terms shall be defined as follows: (i) "City" shall mean the City Council or any entity created, controlled, or managed by the City of Newport Beach or City Council; (ii) "Certificate of Participation" shall mean a financial instrument that provides an investor a share of, or interest in, lease revenue; (iii) "Lease-Revenue Bond" shall mean a bond, note or other financial instrument secured by lease payments; and (iv) "Single Capital Project" shall mean a project where all project elements are analyzed under a single California Environmental Quality Act review.

(c) **Disaster Exemption.** The voter approval requirement in Subsection “b” above shall not apply to Certificates of Participation or Lease-Revenue Bonds that are in any way related to the funding of the design, environmental review, permitting, replacement, construction, and/or repairs to public infrastructure, the failure of which would cause material damage to the property of others, or which is damaged by a disaster that also includes: (1) a declaration by the President of the United States of a national emergency; (2) a declaration by the Governor of a state of emergency; or (3) a declaration by the City Council of a local emergency.

(d) **Refinancing Exemption.** The voter approval requirement in Subsection “b” above shall not apply to the refinancing of existing General Obligation Bonds, Certificates of Participation, Lease-Revenue Bonds, or any other debt.

## **SECTION 2: BALLOT DESCRIPTION**

As provided in Government Code section 34458.5, the following ballot description is included in this proposed Charter Amendment measure:

**CHARTER AMENDMENT** (Section 1109): This Charter Amendment measure would amend City Charter Section 1109. Amended Section 1109 would require the affirmative votes of at least fifty-five percent (55%) of the electors voting on such a proposition at any election at which the question is submitted to the electors prior to issuing Certificates of Participation or Lease Revenue bonds greater than fifty million dollars (\$50,000,000.00) to finance capital projects. “Certificate of Participation” means a financial instrument that provides an investor a share of, or interest in, lease revenue. “Lease-Revenue Bond” means a bond, note or other financial instrument secured by lease payments. “Single Capital Project” means a project where all project elements are analyzed under a single California Environmental Quality Act review. This amendment does not give the City Council power to raise its compensation or that of other City officials without voter approval.

## **SECTION 3: SEVERABILITY**

It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.

## **SECTION 4: CONFLICTING MEASURES**

In the event this Charter Amendment measure and another measure or measures relating to City Council vote approval requirements for the matters described herein shall appear on the same general municipal election ballot, the other measure or measures shall be deemed to be in conflict with this Charter Amendment measure. In the event that this Charter Amendment measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void. If this Charter Amendment measure is approved by the voters but superseded in whole or in part by any other conflicting measure approved by the voters at the same election, and such other conflicting measure is later found held invalid, this measure shall be self-executing and given full force and effect.

**SECTION 5: EFFECTIVE DATE**

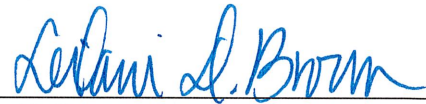
This Charter Amendment measure shall become effective in the manner allowed by law.

STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }            ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2018-48 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 26<sup>th</sup> day of June, 2018; and the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Kevin Muldoon, Council Member Diane Dixon, Council Member Scott Peotter, Council Member Brad Avery, Mayor Pro Tem Will O'Neill, Mayor Duffy Duffield  
NAYS: Council Member Herdman

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27<sup>th</sup> day of June, 2018.



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Leilani I. Brown  
City Clerk  
Newport Beach, California

