

To the Honorable City Clerk of the City of Laguna Beach: We, the undersigned, registered and qualified voters of the City of Laguna Beach, hereby propose an initiative measure to create a \$120 annual parcel tax for a period of twenty years to support acquisition and preservation of the remaining open space within the City. We petition you to submit this measure to the City Council of the City of Laguna Beach for submission of the measure to the voters of the City of Laguna Beach at the earliest special or general election for which it qualifies.

The measure provides as follows:

**THE LAGUNA BEACH OPEN SPACE ACQUISITION AND PRESERVATION
PARCEL TAX MEASURE**

The people of the City of Laguna Beach do hereby ordain as follows:

SECTION 1: PURPOSE AND FINDINGS

A. Acquisition and Permanent Preservation of City’s Remaining Open Space

The purpose of this ballot measure (the “Measure”) is to provide a funding mechanism, over the next twenty years, that will allow the City of Laguna Beach (the “City”) to further its longstanding efforts to acquire and permanently preserve the City’s remaining open space. The Measure does so by creating a \$120 annual parcel tax on each parcel of land within the City. Parcels that are exempt from property taxes would also be exempt from the tax created by this Measure. Funds raised under this Measure will be used to acquire open space land from willing sellers only. The purchased lands will be permanently preserved as open space. Four percent of funds generated by this tax each year shall be specifically dedicated for trail maintenance and fire safety. The tax will expire after twenty years.

B. The Role of Laguna Beach Residents in Protecting Open Space

Laguna Beach residents have long recognized that the unique character of our City and our quality of life depends on protecting the significant environmental, aesthetic, economic, and recreational benefits that open space lands provide to the community. For instance, in 1990, nearly 80% of City voters approved a \$20 million bond measure to purchase Laguna Canyon lands. Similarly, in 1998, City residents overwhelmingly supported the Laguna Beach Open Space Initiative to permanently protect the open space lands already owned by the City. As recognized by the City’s General Plan, which is the City’s “constitution” for guiding future land use decisions, “[t]he City’s open space resources possess important aesthetic and recreational value, and provide vital wildlife and vegetative habitats. In addition, the undeveloped hillsides contribute greatly to the community identity that distinguishes Laguna Beach from surrounding communities.” For many years, whenever there has been a reasonable opportunity to acquire undeveloped open space lands from willing sellers, the City Council has voted to do so. The Measure will provide a dedicated

annual revenue source for such purposes so as to ensure this continued pattern for at least the next twenty years.

C. Threats to Laguna Beach’s Remaining Unprotected Lands

Although the City has preserved many open space lands, which now form the Laguna greenbelt, there are remaining hillside open spaces adjacent to residential neighborhoods that could be proposed for development. Conversion of these lands into various types of urban development would result in the loss of valuable habitat, increased runoff and erosion, and intrusion into public viewsheds. Avoiding development on these lands would minimize these risks. Preserving these lands would protect property values and public health and safety while minimizing increased traffic and protecting existing scenic views, air and water quality, and existing water and biological resources.

D. Establishing Effective Community Oversight

The Measure establishes an independent Citizens’ Oversight Committee as a watchdog to ensure that all funds generated under the Measure are used cost-effectively and only for their intended open space acquisition and preservation purposes. This Committee, and the City’s chief fiscal officer, would each provide publicly available annual reports on the use of all funds generated by the Measure. The Citizens’ Oversight Committee would also review in advance proposed expenditures of the funds generated by the Measure.

SECTION 2: ADOPTION OF OPEN SPACE PARCEL TAX

Special Tax for Open Space Acquisition and Preservation

An annual parcel tax of \$120 is hereby imposed on each parcel of land within the City of Laguna Beach (the “City”), to be used for the specific open space acquisition and preservation purposes, and subject to the community oversight and accountability measures, set forth below. This “Open Space Special Parcel Tax” shall cease to be imposed or collected after it has been collected for twenty years.

Definition of Parcel

For purposes of this Open Space Special Parcel Tax, a “parcel” is defined as any unit of land within the City that receives a separate tax bill for *ad valorem* property taxes from the Orange County Assessor’s Office. All property that is otherwise exempt from or upon which no *ad valorem* property taxes are levied in any year shall also be exempt from the Open Space Special Parcel Tax in such year.

Statement of Purposes

Proceeds from the Open Space Special Parcel Tax (“Tax Funds”) may only be used for the following purposes:

- Purchase of open space lands within the City from willing sellers for use as open space;
- Provide for fire safety and trail maintenance on City-owned open space lands that are purchased with Tax Funds. Four percent of the Tax Funds generated each year shall be specifically dedicated for fire safety and trail maintenance purposes on such lands. Fire safety activities funded by this tax shall reduce fire hazards to adjacent urban lands while maintaining and enhancing ecological values and native vegetation to the extent feasible;
- Create and, as necessary, provide limited funding for a five-member Citizens' Oversight Committee to monitor use and spending of Tax Funds; and
- Pay administrative costs necessary to collect and administer the Open Space Special Parcel Tax.

Accountability and Oversight

All Tax Funds shall be deposited in a separate account established for the purpose of receiving these funds. The City's chief fiscal officer shall file an annual report with the City Council no later than January 1, 2013, and at least once a year thereafter until one year after all tax authorized under the Measure has been collected and expended, that states the amount of funds collected and expended and the status of any purchase or activity authorized to be funded under the Measure.

Citizens' Oversight Committee: Prior to expenditure of any Tax Funds, the City Council shall appoint a Citizens' Oversight Committee ("Committee") with responsibility to ensure that the Tax Funds are expended in accordance with this Measure.

a. *Responsibilities:* The Committee shall review proposed expenditures of the Tax Funds prior to their approval by the City Council (or by any subordinate City body that will make recommendations regarding such expenditures to the City Council) and shall submit comments to the City Council and any such bodies on whether the proposals are cost-effective and consistent with the purposes of this Measure. If the Committee objects in writing to a proposed expenditure of Tax Funds submitted to the City Council, then the City Council shall not approve such expenditure unless it adopts written findings explaining the basis for its decision not to follow the Committee's recommendation. The Committee shall annually prepare a report to the City Council and the public making recommendations and evaluating progress concerning expenditure of the Tax Funds. The City Council shall receive and review this report annually at a noticed public meeting. No more than one-half of one percent (0.5%) of the Tax Funds collected in a year may be allocated or used to fund the Committee's activities. The Committee members shall not receive any financial remuneration (including, but not limited to, compensation, per diem, health care, or other employee benefits) for their service on the Committee.

b. Membership and Organization: The Committee shall consist of five members who are residents of the City. No currently elected or appointed city, district, county, state, or federal official may serve as a Committee member.

The City Council shall solicit, collect, and review applications for membership on the Committee. Appointments shall be made by a majority vote of the City Council considering the following criteria: (i) interest and history of participation in community activities; and (ii) knowledge of open space, fire safety, land acquisition, or government accountability issues.

Committee membership shall include the following: (i) a representative of a local taxpayer group; (ii) a representative of a local business group or the financial community; (iii) a representative of a local open space advocacy group; and (iv) two representatives of the City at-large.

All members shall have terms of four years; provided, however, that the five members first appointed shall draw lots to select two members who shall serve initial terms of two years. No member shall consecutively serve more than two four-year terms. No member shall be removed during the course of his or her term except for good cause, or if the member has more than three unexcused absences from meetings of the Committee. An absence is excused if a member submits a written or electronic mail request to excuse the absence and a majority of the other members accept the request at the meeting where it is considered. A member vacancy shall be filled through the appointment process and in compliance with the membership representation described above. The Committee may select its own officers and adopt procedural rules and regulations to govern the conduct of Committee meetings.

c. Open Meetings and Conflicts of Interest: The Committee shall comply with all applicable provisions of the Ralph M. Brown Act, Government Code section 54950 et seq., including posting of all agendas, conducting open meetings, and approving its meeting minutes. The Committee shall also comply with the conflict of interest provisions set forth in Chapter 7 of the Political Reform Act, Government Code section 87100 et seq. and its implementing regulations, even if the Committee would not otherwise be subject to these requirements.

Prohibition on Using Acquired Open Space Lands for Non-Open Space Uses

Lands acquired with Tax Funds generated by the Open Space Special Parcel Tax shall be preserved as open space in perpetuity and shall not be used for any purposes inconsistent with open space uses. For purposes of this Measure, “open space uses” means: greenbelts, watershed areas, wildlife preserves, marine preserves, hiking trails, historical preserves, scientific studies, and vista points. Additional low-impact passive uses may be permitted, subject to a conditional use permit, where the City Council finds that those uses will not conflict with the open space uses described above and will not have a significant effect on the environment.

As a condition of any purchase of lands with the Tax Funds, the City shall require the seller to impose in the grant deed a deed restriction on the purchased lands in substantially the following form:

“This conveyance is made subject to the requirement, which requirement shall extend and be protected in perpetuity, that the Property shall be used exclusively for the following open space purposes: (a) greenbelts, watershed areas, wildlife preserves, marine preserves, hiking trails, historical preserves, scientific studies, vista points, and (b) additional low-impact passive uses, permitted by a conditional use permit, where the City Council finds that those uses will not conflict with the open space uses described above and will not have a significant adverse effect on the environment. No development, as defined in California Public Resources Code Section 30106, including but not limited to removal of trees and other major or native vegetation, grading, paving, installation of structures, such as signs, buildings, etc. shall occur or be allowed on the Property with the exception of the following: (a) removal of hazardous substances or conditions, diseased plants or trees, or non-native invasive species; (b) modifications required by the Orange County Fire Department or the Laguna Beach Fire Department; (c) modifications to facilitate habitat restoration, and (d) installation of signs and interpretive materials approved by the City.

Grantee is prohibited from transferring the Property, whether or not for consideration, unless the following conditions are met: (i) Grantee requires as a condition of any transfer that transferee continue to use the Property exclusively for one or both of the open space purposes set forth above, and (ii) at the time of Grantee’s transfer to transferee, transferee is a ‘qualified organization’ as those terms are defined in Internal Revenue Code Section 170(h)(3). If a future unexpected change occurs in the condition of or surrounding the Property, and such change makes impossible or impractical the continued use of the Property for the open space purposes set forth above, then Grantee may sell or exchange the Property; provided Grantee exclusively uses any proceeds of sale, or property received in exchange, in a manner consistent with the open space purposes set forth above.”

If it determines that doing so is necessary to ensure the validity of the deed restriction, the City Council may modify the form of the deed restriction language required to be imposed on lands purchased with the Tax Funds, provided, however, that any such modification(s) shall be consistent with the purposes of this Measure.

Pursuant to its usual and customary procedures, and consistent with State law, the City Council shall amend the City of Laguna Beach Land Use Plan Map to designate any lands acquired with Tax Funds as “Permanent Open Space.” The City Council is hereby authorized and directed to amend the General Plan, the Local Coastal Plan, all specific

plans, the Zoning Ordinance, the Zoning Map, and other affected ordinances and policies as soon as possible and in the manner and time required by any applicable State law, to ensure consistency between these Land Use Plan Map designations and other elements of the General Plan, the Local Coastal Plan, all specific plans, the Zoning Ordinance, the Zoning Map, and other City ordinances and policies.

Prohibition on Using Funds to Acquire Land via Eminent Domain

No Tax Funds shall be used to acquire lands via eminent domain.

SECTION 3: IMPLEMENTATION

Although it is not an *ad valorem tax*, the Open Space Special Parcel Tax shall be billed by the County of Orange (the “County”) on the secured roll tax bills for *ad valorem* property taxes and shall be due to the City. The Open Space Special Parcel Tax shall be collected in the same manner in which the County collects secured roll *ad valorem* property taxes. The reasonable costs incurred by the County in collecting and administering this special tax may be deducted from the collected tax.

SECTION 4: SEVERABILITY AND INTERPRETATION

This Measure shall be interpreted so as to be consistent with all applicable Federal, State, and City laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that this Measure, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Measure that can be given effect without the invalid application. This Measure shall be broadly construed in order to achieve the purposes stated in this Measure.

SECTION 5: AMENDMENT OR REPEAL

Except as otherwise provided herein, this Measure may be amended or repealed only by the voters of the City.