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THE CITY OF SAN DIEGO

DATE: June 26, 2012

TO: Honorable Mayor and Members of the City Council

FROM: Eduardo Luna, City Auditor

SUBJECT: **Performance Audit of the Mission Bay Improvement Fund, Fiscal Year 2011**

Article V, Section 55.2, of the City Charter requires that the San Diego City Auditor shall report annually the extent and nature of the Mission Bay and the Regional Park Improvement Funds' revenues, expenses, and improvements generated. To comply with this requirement, and in accordance with the City Auditor's Fiscal Year 2012 Annual Audit Work Plan, we have performed an audit of the Mission Bay and the Regional Park Improvement Funds' financial activity in fiscal year 2011.

Article V, Section 55.2 was effective July 1, 2009 and requires Mission Bay Park lease revenues in excess of a threshold, currently \$23 million, be annually distributed from the General Fund to the Regional Park and the Mission Bay Improvement Funds for allowable capital improvement projects. Prior to the Charter Section 55.2 implementation, these two funds had cash balances that were committed to projects. These monies deposited into Mission Bay and Regional Park Improvement Funds prior to the implementation of City Charter Section 55.2 are excluded from our audit scope. All references in this memorandum to the Mission Bay and Regional Park Improvement Funds exclude the funds accumulated prior to the implementation of City Charter Section 55.2. Additional background information on Mission Bay lease revenue distributions can be found in the March 2012 Performance Audit of the Mission Bay Improvement Fund, posted to the Office of the City Auditor's web site at:
<http://www.sandiego.gov/auditor/pdf/report/audit/2012/120316missionbayaudit.pdf>.

The audit objectives, scope, and methodology used to perform this audit can be found in Attachment A to this memorandum.

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Fiscal Year 2011 Financial Activity Excluding Funds Received Prior to July 1, 2009

The Mission Bay and Regional Park Improvement Funds' financial activity for fiscal year 2011 is shown in Exhibit 1. The Mission Bay Improvement Fund had interest revenues of \$37,797; no transfers were made into the fund from Mission Bay Park revenues, and no expenditures were made during fiscal year 2011. The ending cash balance was \$157,412.

The Regional Park Improvement Fund had interest revenues of \$53,335, transfers in from Mission Bay Rent revenues of \$1,695,824, and no expenditures during fiscal year 2011. The ending cash balance was \$3,459,932.

Exhibit 1**Mission Bay and Regional Park Improvement Funds' Financial Activity, Fiscal Year 2011**

	Mission Bay Improvement Fund	Regional Park Improvement Fund
Beginning cash balance, 6/30/10	\$ 118,242	\$ 1,710,851
Revenues	\$ 37,797	\$ 53,335
Transfers in	\$ -	\$ 1,695,825
Expenses, net of depreciation	\$ -	\$ -
Transfers Out	\$ -	\$ -
Non-cash adjustments *	\$ 1,373	\$ (79)
Ending cash balance, 6/30/11	\$ 157,412	\$ 3,459,932

*Non-cash adjustments are for receivables and payables at fiscal year-end.

Source: Auditor analysis of general ledger and Comptroller schedules, amounts rounded to the nearest dollar

The Mission Bay and Regional Park Improvement Funds have two sources of revenue: transfers from lease revenue collected from tenants in Mission Bay Park and investment income. Mission Bay Park lease revenues are deposited to a separate general fund account during the year and transferred to the Mission Bay and Regional Park Improvement Funds after the fiscal year-end. No transfers have been made into the Mission Bay Park Improvement Fund since July 1, 2009. The Mission Bay revenues shown are from the fund's investment income received after July 1, 2009.

At the implementation of Charter Section 55.2, there were cash balances of \$5,664,901 in Mission Bay and \$4,992,418 in Regional Park Improvement Funds. This cash had been committed to projects, and, according to City Attorney staff, is not subject to Charter 55.2 provisions. However, the Comptroller's staff advised us that all funds, including interest, received after the Charter Section 55.2 implementation date of July 1, 2009 are subject to the charter provisions and these cash balances are manually calculated by the Comptroller.¹

¹ We have requested a written legal interpretation from the City Attorney's Office to specifically document the determination that Charter Section 55.2 does not apply to funds received prior to July 1, 2009 implementation date.

Mission Bay Park Lease Revenue

The fiscal year 2011 distribution from the Mission Bay lease revenue to the Regional Park Improvement Fund was \$1,695,824, and no monies were distributed to the Mission Bay Improvement Fund. This is because the Charter does not provide for distributions to the fund unless total Mission Bay lease revenues in the fiscal year exceed \$25.5 million (\$23 million general fund threshold and \$2.5 million Regional Park maximum distribution). Total Mission Bay Rents were \$24,695,824, as shown in Attachment B of this memorandum.

The revenues in excess of the \$23 million threshold were distributed to the Regional Park Improvement Fund based on the Charter formula for distribution, as shown in Exhibit 2. No funds were distributed to the Mission Bay Improvement Fund.

Exhibit 2

Mission Bay Lease Revenue Allocation to Funds

Fund Name	Allocation Breakdown in excess of the threshold	FY 2011 Allocation Amounts
San Diego Regional Parks Improvement Fund	25% or \$2.5 million, whichever is greater, in excess of the \$23 million threshold	\$1,695,824
Mission Bay Park Improvement Fund	75% of the excess over the \$23 million threshold; if less than the 75%, then the remainder after the San Diego Regional Parks allocation	\$0

Source: San Diego City Charter, Article V, Section 55.2(b)

Expenditures

During fiscal year 2011, there were no expenditures of funds subject to the provisions of Charter Section 55.2. The San Diego Regional Park Improvement Fund Oversight Committee authorized expenditures for four projects presented to the Committee by City staff; however, no expenditures were made in fiscal year 2011.

Recommendations

In the audit of fiscal year 2010 financial activity issued in March 2012, we made three recommendations to improve oversight and management of the Mission Bay and Regional Park Improvement funds. City Officials are in the process of implementing these recommendations. No additional recommendations have been made.

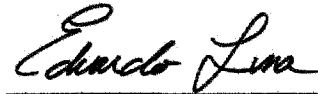
June 26, 2012

Conclusion

We found that \$1,695,824 was transferred from Mission Bay Rents to the Regional Park Improvement Fund for capital improvements, and no distributions were made to the Mission Bay Improvement Fund. There were no expenditures of funds in fiscal year 2011. City officials have advised us that they agreed with the information reported above.

We would like to thank management and staff from the Office of the City Comptroller, Office of the City Treasurer, and Real Estate Assets Department, as well as representatives from other departments for their assistance and cooperation during this audit.

Respectfully submitted,



Eduardo Luna
City Auditor

cc: Jan Goldsmith, City Attorney
Jay M. Goldstone, Chief Operating Officer
Wally Hill, Assistant Chief Operating Officer
Andrea Tevlin, Independent Budget Analyst
James Barwick, Director, Real Estate Assets Department
Gail Granewich, City Treasurer
Ken Whitfield, City Comptroller
Mark Leonard, Director, Financial Management Department
Stacey LoMedico, Director, Park and Recreation Department
John Tracanna, Supervising Management Analyst, Facilities Financing

Attachment A: Audit Objectives, Scope, and Methodology

The City Charter requires that the City Auditor perform an annual audit of the distribution of Mission Bay lease revenues. Specifically, we are required to establish and oversee a mechanism to ensure public accountability by effectively reporting and communicating the extent and nature of revenues, expenses, and improvements generated and in compliance with City Charter requirements. This shall include, at a minimum, an annual audit report to the Mayor, City Council, and public. Each annual report shall, at a minimum, contain the following: 1) a complete accounting of all revenues received; 2) the amount and nature of all expenditures; and, 3) a report as to whether in each committee's view the expenditures have been consistent and compliant with City Charter requirements. This performance audit report is intended to satisfy the first item listed immediately above for fiscal year 2011. However, since no fiscal year 2011 funds have been expended to date, the second and third items above are not currently considered applicable.

The audit's objectives were to verify that fiscal year 2011 collection, allocation, and use of Mission Bay Park lease revenues are in compliance with City Charter requirements. After analyzing financial and oversight information gathered during the audit, we expanded our audit scope to address two risk areas that the City faces:

The accuracy and appropriateness of the amount and nature and proper accounting of all Mission Bay Park lease-related revenues and expenditures.

The Mission Bay Park and San Diego Regional Parks Oversight Committees provide appropriate and timely oversight of Mission Bay Park lease revenues and expenditures, including consistency with the priorities and provisions of the City Charter.

However, since there were no expenditures approved by the Oversight Committee for the revenue collected during fiscal year 2011, and because all expenditures were for projects approved prior to fiscal year 2011, the second and third items above are not applicable.

To accomplish our objectives we performed the following audit procedures:

- Reviewed pertinent laws, policies, and regulations related to Mission Bay Park lease revenues;
- Gathered and analyzed agreements and information related to Mission Bay Park lease revenues;
- Identified, collected, and analyzed financial information including transaction adjustments and management reports related to Mission Bay Park lease revenues;
- Interviewed management and key staff in charge of managing and monitoring information related to Mission Bay Park lease revenues;
- Reviewed Mission Bay Park and San Diego Regional Park Improvement Fund Oversight Committee minutes, agendas, and related bylaws; and,

- Analyzed the quality and effectiveness of the reporting related to Mission Bay Park lease revenues.

We reviewed data for fiscal year 2011. We performed data reliability testing of the financial data provided to us and which we relied on in this report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Attachment B: Mission Bay Park Rents for Fiscal Years 2011 and 2010

Lessee	Revenue Amount FY 2011	Revenue Amount FY 2010	Change
Sea World Inc	\$ 10,987,278	\$ 11,362,733	\$ (375,455)
Kencal Ownership, Inc	\$ 2,600,648	\$ 2,598,081	\$ 2,567
LHO Mission Bay Hotel, L.P.	\$ 2,617,414	\$ 2,453,678	\$ 163,736
LHO Mission Bay Rosie Hotel	\$ 1,825,970	\$ 1,870,769	\$ (44,799)
Campland, LLC	\$ 1,500,117	\$ 1,542,990	\$ (42,873)
BH Partnership	\$ 1,240,923	\$ 1,005,861	\$ 235,062
Bartell Hotels	\$ 912,953	\$ 1,310,244	\$ (397,291)
Seaforth Sportfishing Corp.	\$ 656,297	\$ 779,003	\$ (122,706)
Retirement Fund Trust Of Plumbing	\$ 677,780	\$ 659,378	\$ 18,402
Driscoll Mission Bay LLC	\$ 358,311	\$ 352,151	\$ 6,160
Wesco Sales Corp	\$ 278,018	\$ 319,038	\$ (41,020)
Mission Bay Yacht Club	\$ 248,422	\$ 262,544	\$ (14,122)
SD Mission Bay Boat & Ski Club	\$ 97,594	\$ 94,505	\$ 3,089
Bahia Sternwheelers Inc/02	\$ 95,388	\$ 77,458	\$ 17,930
SD Visitor Information Center **	\$ 3,858	\$ 76,792	\$ (72,934)
Everingham Bros Bait Co	\$ 48,000	\$ 46,611	\$ 1,389
Gleason, Richard And Debra	\$ 60,567	\$ 44,009	\$ 16,558
Sportsmen's Seafood Co Inc	\$ 53,875	\$ 44,000	\$ 9,875
Bahia Sternwheelers Inc/01	\$ 33,302	\$ 33,452	\$ (150)
Braemar Partnership 9th & A LP	\$ 24,945	\$ 25,029	\$ (84)
Associated Students SDSU	\$ 29,321	\$ 14,622	\$ 14,699
San Diego Rowing Club	\$ 11,872	\$ 11,833	\$ 39
Hanohano Outrigger Canoe	\$ 3,288	\$ 3,288	\$ -
Canoe & Kayak Team	\$ 1,124	\$ 500	\$ 624
Grand Total	\$ 24,367,265	\$ 24,988,569	\$ (621,304)
Adjustments to accrue June rents*	\$ 328,559		
Adjusted total lease revenue	\$ 24,695,824		
Threshold	\$ (23,000,000)		
Revenues exceeding the threshold	\$ 1,695,824		

Source: OCA generated based on information from the Office of the City Comptroller

* Lease revenues collected and deposited in the Mission Bay Rent account were \$24,367,265 during fiscal year 2011. However, this amount does not include rents collected in July for June rent and other accounting adjustments. Therefore, an additional \$328,559 was added to the rents collected in fiscal year 2011.

** The San Diego Visitor's Information Center closed on September 30, 2010, which resulted in a significant reduction in fiscal year 2011 revenue.