

ORDINANCE NUMBER O- 20808 (NEW SERIES)

DATE OF FINAL PASSAGE APR 13 2017

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING FINANCING THROUGH THE
CLEAN WATER STATE REVOLVING FUND AND TAKING
RELATED ACTIONS IN CONNECTION WITH SEWER PUMP
STATION NO. 2 POWER RELIABILITY AND SURGE
PROTECTION PROJECT.

WHEREAS, the City of San Diego (City) desires to utilize the Clean Water State Revolving Fund (CWSRF) financing program to finance the costs of the Sewer Pump Station 2 Power Reliability and Surge Protection Project (Project) because it will result in significant debt service savings when compared to financing with 30-year fixed rate bonds; and

WHEREAS, on November 13, 2008, by San Diego Resolution R-304316, the San Diego City Council (City Council) authorized the Mayor or his representative to sign and submit applications for loans and other financial assistance from the State Water Resources Control Board for wastewater projects; and

WHEREAS, on July 28, 2015, the City Council authorized CWSRF financing for this Project in an amount not to exceed \$43 million pursuant to San Diego Ordinance O-20549; and

WHEREAS, since the date the City Council authorized CWSRF financing for the Project, the estimated Project cost has increased due to changes to the Project described in Report to City Council No. 17-016; and

WHEREAS, the City will be applying to increase the loan for the Project under the CWSRF program by \$27 million, for a total amount not to exceed \$70 million, and it is anticipated that this financing request will be approved for funding; and

WHEREAS, the City intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys (Project Funds) provided by the State of California, acting by and through the State Water Resources Control Board; and

WHEREAS, the State Water Resources Control Board may fund the Project Funds with proceeds from the sale of obligations, the interest upon which is excluded from gross income for federal income tax purposes (Obligations), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Resources Control Board of the Project Funds, the City desires to incur certain capital expenditures (Expenditures) with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period, and it is necessary to reimburse the City for the Expenditures from the proceeds of the Obligations;

WHEREAS, under San Diego Charter section 99, no contract, agreement or obligation where the City incurs debt extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor or his designee (Authorized Representatives) are hereby authorized to sign and file, for and on behalf of the City, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the Project. The Authorized Representatives are designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board in an amount not to exceed \$70 million, and any amendments or changes thereto

necessary to fulfill the purpose of the Project and its financing. The Authorized Representatives are designated to represent the City in carrying out the City's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws.

Section 2. That the City hereby dedicates and pledges the net revenues of its wastewater enterprise and the Wastewater Enterprise Fund (otherwise known as the Sewer Revenue Fund) for repayment of any and all CWSRF financing for the Project, and this pledged source of revenue shall remain in effect throughout the term of such financing unless modification or change of such pledge is approved in writing by the State Water Resources Control Board. So long as the financing agreements are outstanding, the City's pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing funds and revenues without any further action necessary, and so long as the financing agreements are outstanding, the City commits to maintaining the funds and revenues at levels sufficient to meet its obligations under the financing agreements.

Section 3. That the City hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Resources Control Board of the Project Funds.

Section 4. That the reasonably expected maximum principal amount of the Project Funds is \$70 million. The City's CWSRF financing agreement will not exceed this amount without approval by the City Council and the State Water Resources Control Board.

Section 5. That this ordinance is being adopted no later than sixty days after the date on which the City will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

Section 6. That each City expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

Section 7. That the City hereby removes this Project from the scope of wastewater projects included in the declaration of official intent in San Diego Resolution R-301522 adopted on June 16, 2006. To the best of our knowledge, the City is not aware of any other previous adoption of official intents by the City that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligation have not been issued.

Section 8. That this ordinance is adopted as the official intent of the City in order to comply with Treasury Regulation section 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

Section 9. That all the recitals in this ordinance are true and correct and the City so finds, determines and represents.

Section 10. That this ordinance supersedes San Diego Ordinance O-20549 previously adopted for CWSRF financing for this Project.

Section 11. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 12. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Thomas C. Zeleny
Chief Deputy City Attorney

TCZ:ac
February 6, 2017
C.Cert:N/A
Or.Dept:Debt Mgmt.
Doc. No. 1438850

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 04 2017

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 4/12/17
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

"The date of final passage is April 13, 2017, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval."

Passed by the Council of The City of San Diego on APR 04 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 13 2017

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Hy Brady*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAR 14 2017, and on APR 13 2017.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Hy Brady*, Deputy

Office of the City Clerk, San Diego, California	
Ordinance Number O-	<u>20808</u>