

ORDINANCE NUMBER O- 21146 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 07 2019

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING FINANCING TO THE SEWER
UTILITY THROUGH THE CLEAN WATER STATE
REVOLVING FUND AND THE DRINKING WATER STATE
REVOLVING FUND AND TAKING RELATED ACTIONS IN
CONNECTION WITH SEVERAL PURE WATER PROGRAM
PHASE 1 – NORTH CITY PROJECTS.

WHEREAS, the City of San Diego (City) desires to utilize both the Clean Water State Revolving Fund (CWSRF) financing program and the Drinking Water State Revolving Fund (DWSRF) financing program to finance several Pure Water Program Phase 1 Projects (Projects) because loans under these programs provide low cost financial assistance from the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the Projects are composed of the following facilities and certain related improvements and equipment:

1. Pure Water North City Morena Blvd Pump Station & Pipeline
2. Pure Water North City Water Reclamation Plant Expansion
3. Pure Water North City Metropolitan Biosolids Center Improvements; and

WHEREAS, on March 14, 2017, by San Diego Resolution No. R-310990, 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 Board for wastewater projects; and

WHEREAS, on November 9, 2017, by San Diego Ordinance Nos. O-20865, O-20866 and O-20874, the City Council authorized financing of the Projects through the CWSRF financing program; and

WHEREAS, the City intends to finance the design, planning, construction of the Projects or portions of the Projects, together with related costs with moneys (Project Funds) provided by the State Water Board; and

WHEREAS, the State Water 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 execution of Construction Installment Sale Agreements by the State Water Board, the City desires to incur certain expenditures (Expenditures) with respect to the Projects 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; and

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 and directed to sign and file, for and on behalf of the City, Financial Assistance Applications from the State Water Board under both the CWSRF financing program and the DWSRF financing program (collectively, Financing Agreements) for the planning, design, and construction of the Projects. The Authorized Representatives are designated to provide the assurances, certifications, and commitments required for the financial assistance applications,

including executing financial assistance agreements from the State Water Board in a total amount sufficient to complete the Projects, and any necessary amendments or changes thereto. The Authorized Representatives are designated to represent the City in carrying out the City's responsibilities under the Financing Agreements, including approving, submitting, and certifying disbursement requests (including Claims for Reimbursement) or other required documentation, on behalf of the City and compliance with applicable state and federal laws, and making other necessary certifications.

Section 2. That the City hereby dedicates and pledges the net system revenues of the Sewer Revenue Fund (Net System Revenues) for repayment of both the CWSRF financing and DWSRF financing of the Projects, 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 Board. So long as the Financing Agreements are outstanding, the City's pledge hereunder shall constitute a lien in favor of the State Water Board on the Net System Revenues without any further action necessary, and so long as the Financing Agreements are outstanding, the City commits to maintaining the Net System Revenues at levels sufficient to meet its obligations under the Financing Agreements.

Section 3. The authority granted hereunder shall be deemed retroactive. All acts authorized hereunder and performed prior to the date of this Ordinance are hereby ratified and affirmed. The State Water Board is authorized to rely upon this Ordinance until written notice to the contrary, executed by each of the undersigned, is received by the State Water Board. The State Water board shall be entitled to act in reliance upon the matters contained herein, notwithstanding anything to the contrary contained in the formation documents of the City or in any other document.

Section 4. 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 Board of the Project Funds.

Section 5. That the City reasonably expects to reimburse itself for eligible Sewer Utility Expenditures with Project Funds, the principal of which is not expected to exceed \$245 million for Pure Water North City Water Reclamation Plant Expansion and Influent Conveyance; \$8 million for Pure Water North City MBC Improvements; and \$359 million for Pure Water North City Morena Blvd Pump Station & Pipeline. The combined total of the Financing Agreements will not exceed the Sewer Utility's prorata portion of the amount that is sufficient to complete the Projects without approval by the City Council and the State Water Board.

Section 6. That the City intends to utilize all or a portion of Project Funds, provided by the State Water Board, including from any Obligation proceeds, within ninety (90) days of receipt by City, to repay all or a portion of any legally permissible bridge financing, such as bond anticipation notes, the interest of which is excluded from gross income for federal income tax purposes (collectively, City Bridge Financing), and will not use any such Obligation proceeds to pay debt service on the City Bridge Financing more than ninety (90) days after receipt by City.

Section 7. 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 Projects' costs to be reimbursed with Project Funds.

Section 8. That each City Expenditure will be of a type that is legally permissible and properly chargeable to a capital account under general federal income tax principles.

Section 9. Apart from Resolution No. R-311747 adopted by the City Council on May 22, 2018, to the best of the City's knowledge, the City is not aware of the previous adoption of official intents by the City for the purpose of reimbursing Expenditures.


Section 10. 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 Projects' costs.

Section 11. That all the recitals in this ordinance are true and correct and the City so finds, determines and represents.

Section 12. 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 13. 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 
Bret A. Bartolotta
Deputy City Attorney

BAB:jdf:cm
8/30/2019
10/10/2019 COR. COPY
Or.Dept:Debt Mgmt.
Doc. No. 2031459_2

I certify that this Ordinance was passed by the Council of the City of San Diego, at this meeting
of NOV 05 2019.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11/7/19
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on NOV 05 2019, 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"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 07 2019

AUTHENTICATED BY:

(Seal)

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

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

By *Hy Beady*, 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 OCT 22 2019, and on NOV 07 2019.

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 Beady*, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21146