

#54
11/6/2021

(O-2021-100)

ORDINANCE NUMBER O- 21302 (NEW SERIES)

DATE OF FINAL PASSAGE APR 14 2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING FINANCING TO THE CITY OF
SAN DIEGO THROUGH THE CLEAN WATER STATE
REVOLVING FUND AND TAKING RELATED ACTIONS IN
CONNECTION WITH SOUTH MISSION BEACH STORM
DRAIN AND GREEN INFRASTRUCTURE PROJECTS.

WHEREAS, the City of San Diego (City) desires to utilize the Clean Water State Revolving Fund (CWSRF) financing program to finance South Mission Beach Storm Drain and Green Infrastructure Projects (Projects) because loans under the program 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 City intends to finance the design, planning, and construction of the Projects or portions of the Projects, together with related costs with moneys (Project Funds) provided by the State Water Board, the principal of which is not expected to exceed \$27 million; 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 any Construction Installment Sale Agreements (ISA) 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, the revenues of the Storm Drain Revenue Fund, 200301 (Revenues) have not been previously dedicated or pledged in support of any loan, bond or other outstanding obligation; 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, the Chief Operating Officer or the Chief Financial Officer of the City and each of them or any of their respective designees (Authorized Representatives), are hereby authorized and directed to sign and file, for and on behalf of the City, one or more Financial Assistance Applications and ISAs with the State Water Board under the CWSRF 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 Financing Agreements with 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 in compliance with applicable state and federal laws, and making other necessary certifications.

Section 2. That the City hereby dedicates and pledges the Revenues for repayment of the CWSRF 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 Revenues without any further action necessary, and so long as the Financing Agreements are outstanding, the City commits to maintaining the Storm Drain Fees supporting the Revenues of the Storm Drain Revenue Fund 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 Transportation and Stormwater Department, Stormwater Division Expenditures with Project Funds, the reasonably expected maximum principal of which is not expected to exceed \$27 million for South Mission Beach Storm Drain and Green Infrastructure Projects.

Section 6. That the Chief Financial Officer is authorized to create a new fund or funds, including the S. MB Storm Drain SRF Fund, contingent upon the execution of the ISA for the South Mission Beach Storm Drain and Green Infrastructure projects.

Section 7. That the Chief Financial Officer is authorized to appropriate and expend up to \$18.5 million ACA00001 – Drainage Projects, and \$8.5 million ACC00001 – Watershed CIP in the S. MB Storm Drain SRF Fund or other fund, for the purpose of funding the South Mission Beach Storm Drain and Green Infrastructure projects.

Section 8. 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.

Section 9. That this Ordinance is being adopted no later than sixty (60) 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 10. That each Expenditure will be of a type that is legally permissible and properly chargeable to a capital account under general federal income tax principles.

Section 11. That 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 12. 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 the Projects' costs.

Section 13. That all the recitals in this Ordinance are true and correct and the City so finds, determines and represents.

Section 14. 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 15. That this Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Bret A. Bartolotta
Bret A. Bartolotta
Deputy City Attorney

BAB:jdf
02/25/2021
Or.Dept:Debt Mgmt.
Doc. No. 2567786

I certify that this Ordinance was passed by the Council of the City of San Diego, at this meeting of 04/06/2021.

ELIZABETH S. MALAND
City Clerk

By /s/ Matthew R. Hilario
Deputy City Clerk

Approved: 4/13/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is April 14, 2021, 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 06 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 14 2021.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

By [Signature], 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 16 2021, and on APR 14 2021.

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 [Signature], Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>21302</u></p>
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