

#52
6/8/2021

(O-2021-117)

ORDINANCE NUMBER O- 21322 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 11 2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO SAN DIEGO CHARTER SECTION 99 (I) AUTHORIZING A LOAN TO FINANCE A PORTION OF THE WATER SYSTEM'S COSTS OF THE PURE WATER PHASE I PROJECTS THROUGH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER AUTHORITY OF THE WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT; (II) AUTHORIZING THE PREPARATION, EXECUTION AND DELIVERY OF A WIFIA LOAN AGREEMENT; AND (III) APPROVING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of San Diego (City) has applied to the United States Environmental Protection Agency (EPA) for a loan (WIFIA Loan) under the Water Infrastructure Finance and Innovation Act (WIFIA), the proceeds of which will be utilized to assist in financing a portion of the costs of certain capital improvements to the City's water system (Water System) comprising several Pure Water Phase I Projects (Projects); and

WHEREAS, the City has determined that the WIFIA Loan will provide a low interest cost financing opportunity and therefore the City has applied for a WIFIA Loan up to \$119.5 million for the Water System; and

WHEREAS, the WIFIA Loan will be payable from and secured by a pledge of net system revenues of the Water Utility Fund (Net System Revenues) on terms beneficial to the City and its residents; and

WHEREAS, the San Diego Facilities and Equipment Leasing Corporation (Corporation) is a nonprofit public benefit corporation duly organized and existing under and by virtue of the laws of the State of California that was incorporated to provide financial assistance to the City; and

WHEREAS, in order to effectuate the acquisition, construction, installation, and improvement of the Water System, the City and the Corporation entered into that certain Master Installment Purchase Agreement, dated as of August 1, 1998 (Original MIPA); and

WHEREAS, to consolidate, clarify, and update the Original MIPA, the City and the Corporation entered into an Amended and Restated Master Installment Purchase Agreement, dated as of January 1, 2009, by and between the Corporation and the City (A&R MIPA); and

WHEREAS, the City and Corporation amended the A&R MIPA by entering into that certain First Amendment to Amended and Restated Master Installment Purchase Agreement, dated as of November 14, 2018 (MIPA Amendment, together with the A&R MIPA, as amended and supplemented, the MIPA); and

WHEREAS, the City and Corporation entered into that certain Collateral Agency, Account and Assignment Agreement dated as of November 14, 2018 (Collateral Agency Agreement), by and among U.S. Bank National Association, as collateral agent (Collateral Agent), the City, the Corporation, the Public Facilities Financing Authority of the City of San Diego (Authority), U.S. Bank National Association, as trustee (Trustee), and the EPA, under which the Collateral Agent, among other things, administers the application of Net System Revenues for the benefit of holders of various obligations of the City payable therefrom and enforce remedies against the Net System Revenues on behalf of such holders; and

WHEREAS, the terms and conditions of the WIFIA Loan will be memorialized in a WIFIA Loan Agreement (together with the schedules and exhibits attached thereto, including the form of WIFIA Note attached thereto, the Loan Agreement), by and between the City and the EPA; and

WHEREAS, the City Council acknowledges receipt of the good faith estimates of certain

information required by California Government Code section 5852.1 as set forth in the related staff report; 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; and

WHEREAS, the City is authorized to undertake the actions described in this Ordinance pursuant to its Charter and the Constitution and applicable laws of the State of California; NOW, THEREFORE,

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

Section 1. The City Council hereby finds and determines that the statements set forth above in the recitals to this Ordinance are true and correct.

Section 2. The City Council hereby finds that the financing of a portion of the Projects with the WIFIA Loan as set forth in the recitals to this Ordinance will provide significant public benefits.

Section 3. The City hereby authorizes and approves the WIFIA Loan in a principal amount up to \$119.5 million with a maximum maturity date no later than 34 years after the date of completion of the Projects (Basic Terms).

Section 4. The preparation, execution, delivery and performance of the Loan Agreement by the City are hereby approved. Each of the Mayor, the Chief Operating Officer and the Chief Financial Officer of the City and their respective designees (each, an Authorized

Signatory), is hereby authorized and directed, for and in the name and on behalf of the City, to prepare, execute and deliver the Loan Agreement, with such additions and changes therein as any Authorized Signatory shall determine are necessary or desirable and approve as being in the best interests of the City, and as approved as to form by the City Attorney or her specified designee, and with such other changes that may be advised by outside counsel to the City (Loan Counsel), such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. The obligation of the City to make payments in accordance with the terms of the Loan Agreement shall be a limited obligation of the City payable solely from Net System Revenues.

Section 6. The pledge of and payment from Net System Revenues that secures the WIFIA Loan shall be subordinate to, and such payment may only be made after the satisfaction of, the Parity Obligations (as defined in the MIPA) and on a parity with the payment of the other Subordinated Obligations (as defined in the MIPA), in each case in accordance with the MIPA and the Collateral Agency Agreement.

Section 7. Each of the Director of the Debt Management Department, the Department of Finance Director and City Comptroller and the Director of the Public Utilities Department and their respective designees (each, an Administrative Signatory) is hereby authorized to prepare, execute and deliver, for and on behalf of the City, any and all application materials, forms, legal documents, disbursement requests and reporting (Administrative Tasks) related to and over the term of the WIFIA Loan.

Section 8. All actions heretofore taken by any officers, employees, or agents of the City with respect to the execution, delivery and performance of the WIFIA Loan are hereby

approved, confirmed and ratified; and the Chief Operating Officer, the Chief Financial Officer, the City Attorney and any such other officers, employees, or agents of the City as may be authorized by the Mayor of the City, the Chief Operating Officer, the Chief Financial Officer or the City Attorney are hereby authorized and directed, for and in the name of and on behalf of the City, to do any and all things and take any and all actions, including, without limitation, to pay necessary and appropriate fees and expenses of Loan Counsel and other professionals retained by the City, and to execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or desirable to consummate the transactions evidenced by the Loan Agreement approved herein and other documents authorized by this Ordinance. In addition, any Authorized Signatory, in consultation with the Chief Financial Officer and the City Attorney and with the advice of Loan Counsel for the WIFIA Loan, is hereby specifically authorized to approve additions, changes and amendments to the Loan Agreement authorized by this Ordinance as any Authorized Signatory shall determine are necessary or desirable and in the best interests of the City, such determination to be conclusively evidenced by the execution and delivery thereof; provided that no such additions, changes or amendments may be inconsistent with the limitations set forth in Section 3 hereof. Such other officials, employees, and agents of the City as may be authorized by any Authorized Signatory are hereby are each authorized, and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements, and other documents which they, or any of them, may deem necessary or advisable in order to secure the WIFIA Loan and the lawful execution and delivery of the Loan Agreement and other documents authorized by this Ordinance, the transactions authorized hereby and

evidenced by the Loan Agreement and the disbursement of proceeds thereof in accordance with this Ordinance.

Section 9. This Ordinance is subject to the provisions of the San Diego Municipal Code and the San Diego City Charter. Subject to those provisions, this Ordinance shall take effect and be in force on the thirtieth (30th) day from and after the date of its final passage and, prior to the expiration of fifteen (15) days from the final passage hereof, the City Clerk or her specified designee shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City.

Section 10. The Chief Financial Officer is authorized to establish one or more special interest-bearing account(s) and fund(s) to deposit proceeds from the WIFIA Loan.

Section 11. A full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

APPROVED: MARA W. ELLIOTT, City Attorney

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

BAB:jdf
04/13/21
Or.Dept: Debt Management Doc.
No.: 2612835

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 06/08/2021

ELIZABETH S. MALAND
City Clerk

By /s/ Connie Patterson
Deputy City Clerk

Approved: 6/11/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 08 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 JUN 11 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 Connie Patterson, 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

MAY 18 2021, and on JUN 11 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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21322