

ORDINANCE NUMBER O- 21583 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 14 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AND AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS RELATED TO THE DESIGN, CONSTRUCTION, AND REIMBURSEMENT FOR THE EAST COUNTY RESIDUALS LINE AND THE REHABILITATION OF THE EAST MISSION GORGE FORCE MAIN AND THE OPERATION AND MAINTENANCE OF THE EAST COUNTY RESIDUALS LINE, AND RELATED ACTIONS.

WHEREAS, the City of San Diego (City) owns and operates the Municipal Sewerage System (Municipal System) which consists of pipelines, including the East Mission Gorge Force Main, and pump stations that collect wastewater within the City and convey it to the Metropolitan Sewerage System for treatment and disposal; and

WHEREAS, the City also operates the Metropolitan Sewerage System (Metro System) that consists of those facilities and contract rights to facilities that convey, treat, and dispose of regional wastewater that are more specifically identified in the Amended and Restated Regional Wastewater Disposal Agreement (ARA) entered into between the City and the 12 Metro Participating Agencies (which are the local agencies that use the Metro System and are a part of the Metropolitan Wastewater Joint Powers Authority (Metro JPA)) in 2021; and

WHEREAS, in 2014, the City Council of the City of San Diego (Council) adopted San Diego Resolution No. R-308906 (May 15, 2014), approving and supporting the City's efforts to develop a potable reuse program to offload wastewater flow from the Point Loma Wastewater Treatment Plant (Pure Water Program); and

WHEREAS, in 2019, three of the Metro Participating Agencies, specifically, the City of El Cajon, the Padre Dam Municipal Water District, and the San Diego County Sanitation District formed the East County Advanced Water Purification Joint Powers Authority (ECAWP JPA) in

order to study and establish a program to recycle wastewater and to create a new local, sustainable, and drought proof potable water supply for East San Diego County known as the East County Advanced Water Purification Project (ECAWP Project); and

WHEREAS, the City is currently constructing Phase One of its Pure Water Program, and the ECAWP JPA is also constructing the ECAWP Project, which is located upstream of the City's Phase One Pure Water Program facilities; and

WHEREAS, the ARA provides that absent amendment to the ARA or a separate agreement between the City and any necessary Metro Participating Agencies, no Metro Participating Agency will dispose of residuals, which are by-products of wastewater treatment and water purification processes, from a new non-Metro System advanced wastewater treatment facility located upstream of the Pure Water Program facilities; and

WHEREAS, the ECAWP Project is located upstream of the Pure Water Program facilities, and will produce residuals, specifically brine and centrate (Residuals), which under the ARA requires a separate agreement between the City and the ECAWP JPA; and

WHEREAS, the City determined that the Residuals from the ECAWP Project would cause increased operational costs for the Pure Water Program and have the potential to cause wastewater treatment process disruptions, however, both of these risks can be avoided by constructing and operating a pipeline that will convey the ECAWP Project Residuals to Point Loma Wastewater Treatment Plant without passing through the Pure Water Program facilities (East County Residuals Line); and

WHEREAS, the East County Residuals Line is anticipated to be designed in such a manner so that it is located inside of the City's East Mission Gorge Force Main, which has been determined to require rehabilitation to support design and construction of the East County Residuals Line; and

WHEREAS, in 2021, the City and the ECAWP JPA entered into the Residuals Management and Disposal Agreement Relating to the East County Advanced Water Purification Project and the Metro System (Residuals Agreement), which was intended to satisfy the ARA requirement related to disposing of Residuals upstream of Pure Water Program facilities. However, in early 2022, the City identified legal issues that prevented it from performing under the existing Residuals Agreement and the City and ECAWP JPA commenced negotiations related to the design, construction, reimbursement, operations and maintenance of the East County Residuals Line, rehabilitation of the East Mission Gorge Force Main, and City's sale to of the East Mission Gorge Pump Station to the ECAWP JPA; and

WHEREAS, the City and ECAWP JPA were able to reach agreement, and as a result, upon full execution of the Design, Construction and Reimbursement Agreement between the City of San Diego and the ECAWP JPA for the Design and Construction of the East County Residuals Line and the East Mission Gorge Force Main Rehabilitation (DC&R) and the Agreement Regarding Operation and Maintenance of the East County Residuals Line (O&M Agreement), both of which are in the staff materials accompanying this ordinance, the Residuals Agreement will be superseded and will be of no further force or effect; and

WHEREAS, under the terms of the DC&R, the ECAWP JPA will design and construct the East County Residuals Line, and rehabilitate the East Mission Gorge Force Main, and the City will reimburse the ECAWP JPA for a portion of the costs associated with such work and will assume ownership of the East County Residuals Line, and will continue to own the East Mission Gorge Force Main, all as more specifically set forth in the DC&R; and

WHEREAS, City staff developed a cost allocation methodology that assumes that even though a particular discharger may not utilize all of the residuals infrastructure, all dischargers into the Metro System benefit from the shared residuals infrastructure, which includes the

East County Residuals Line, and two Pure Water Program residual lines (collectively Residuals Infrastructure). The Residuals Infrastructure must be developed as a system in order to function and is necessary for the protection of the Pure Water Program facilities and for regulatory compliance; and

WHEREAS, the capital costs of the Residuals Infrastructure were allocated based on the percentage of the contributing flow, as more specifically set forth in the staff report and the DC&R. The cost allocation methodology will require approval by all 12 Metro Participating Agencies, and as a result, City staff has also developed an alternative cost allocation which is included in the DC&R that will be applied if the ARA is not amended to include the cost allocation methodology for the Residuals Infrastructure; and

WHEREAS, the capital costs related to the East Mission Gorge Force Main rehabilitation will be allocated in accordance with a previously agreed upon allocation method for the overall East Mission Gorge Disposal System that is described in the Sewage Transportation Agreement between the City and the City of El Cajon on file with the City Clerk as Document No. OO-2180; and

WHEREAS, the O&M Agreement sets forth the City's and ECAWP JPA's obligations related to the ongoing operation, and maintenance of the East County Residuals Line, including how the costs of operations and maintenance will be allocated; and

WHEREAS, under San Diego Charter section 99 a supermajority vote of the Council is required for passage of this ordinance; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That the Design, Construction and Reimbursement Agreement Between the City of San Diego and the East County Advanced Water Purification Joint Powers Authority for the Design and Construction of the East County Residuals Line and East Mission Gorge Force Main (DC&R), which once fully executed will be on file with the City Clerk as Document No. 00-21583-1 and the Agreement Regarding Operations and Maintenance of the East County Residuals Line (O&M Agreement), which once fully executed will be on file with the City Clerk as Document No. 00-21583-2 are approved.

Section 2. That the Mayor is authorized to sign the DC&R and the O&M Agreement, and to take all actions necessary, and to sign all other documents necessary to carry out the DC&R and O&M Agreements.

Section 3. That the Chief Financial Officer is authorized to add RD-23001, East County Residuals Line and East Mission Gorge Force Main to the Capital Improvements Program.

Section 4. That the Chief Financial Officer is authorized to increase the Capital Improvements Budget in CIP RD-23001, East County Residuals Line and East Mission Gorge Force Main and to appropriate and expend \$23,674,134 from Fund 700008, Muni Sewer Utility – CIP, to support the rehabilitation of the East Mission Gorge Force Main, and \$1,158,502 from Fund 700009, Metro Sewer Utility – CIP and \$32,351,168 from Fund 700010, Water Utility – CIP to support the construction of the East County Residuals Line.

Section 5. That the Mayor or his designee is authorized to expend \$57,183,804 on the DC&R for the construction of the East County Residuals Line and the rehabilitation of the East Mission Gorge Force Main in accordance with the DC&R, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable fiscal year, and contingent upon the Chief Financial Officer furnishing one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

Section 6. That 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.

Section 7. 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 /s/ Melissa D. Ables  
Melissa D. Ables  
Chief Deputy City Attorney

MDA:cw  
October 30, 2022  
Or.Dept: PUD  
CC No.: N/A  
Doc. No.: 3129295

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of DEC 06 2022.

ELIZABETH S. MALAND  
City Clerk

By Kyrstee Medina  
Deputy City Clerk

Approved: 12/14/22  
(date)

Todd Gloria  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 06 2022, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 DEC 14 2022.

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 Kristelle Medina, 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

NOV 15 2022

, and on DEC 14 2022.

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 Kristelle Medina, Deputy

Office of the City Clerk, San Diego, California

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