

RESOLUTION NUMBER R- **314487**DATE OF FINAL PASSAGE **DEC 14 2022**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT APPROPRIATING FUNDS FOR STORMWATER CAPITAL IMPROVEMENT PROJECTS IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTIONS 15262 AND 15061(B)(3).

WHEREAS, the Council of the City of San Diego (City Council) is considering appropriating \$128 million under the Water Infrastructure Finance and Innovation Act (WIFIA) Master Loan Agreement and the first Credit Loan Agreement of August 9, 2022 and \$32,543,000 in debt-funded General Fund Capital Improvement Program funds for the City's stormwater Capital Improvement Program; and

WHEREAS, the appropriation resolution under consideration forbids expenditure of the appropriated funds on construction or other activities which constitute a commitment to a definite course of action for a given potential project unless environmental review is complete and the relevant project has been approved in accordance with the California Environmental Quality Act (CEQA) (California Public Resources Code section 21000, *et seq.*); and

WHEREAS, the appropriation resolution is a fiscal activity, not amounting to a project under CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, section 15000, *et seq.*) section 15378(b)(4) and therefore not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3); and

WHEREAS, even if the appropriation resolution were determined to be a project or a component of a project under CEQA, it would meet the criteria for exemption under the CEQA Guidelines; and

WHEREAS, the Planning Department has determined funding activities related to potential projects not yet approved under CEQA are exempt from CEQA pursuant to CEQA Guidelines section 15262, which provides that planning and feasibility studies are exempt from CEQA; and

WHEREAS, funding activities for projects already approved under CEQA is not a separate project under CEQA Guidelines section 15378(c) and does not require separate or additional analysis under CEQA; and

WHEREAS, the Planning Department has determined the appropriation under consideration is exempt from CEQA pursuant to the common sense exemption, CEQA Guidelines section 15061(b)(3), which provides that CEQA applies only to actions having the potential to cause a significant impact on the environment, and

WHEREAS, the City Council has considered the potential environmental effects of the appropriation; and

WHEREAS, the appropriation under consideration does not constitute the approval of any project pursuant to CEQA Guidelines section 15352(a) and will not foreclose review of alternatives or mitigation measures by the public as part of the CEQA process, and

WHEREAS, on DEC 06 2022, 2022, the City Council held a duly noticed public meeting and considered the written record for the appropriation as well as public comment; and

WHEREAS, the City Council, using its independent judgment, has determined that the appropriation will not have a significant effect on the environment and: (1) is not subject to CEQA because it is a fiscal activity and not a project under CEQA Guidelines section 15378(b)(4) and therefore not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3); (2) activities funded for potential projects not yet approved under CEQA are

exempt from CEQA pursuant to CEQA Guidelines section 15262, which provides planning and feasibility studies are exempt from CEQA; (3) funding activities for projects which have been approved under CEQA is not a separate project subject to CEQA pursuant to CEQA Guidelines section 15378(c); and (4) the appropriation resolution under consideration expressly forbids expenditure on construction or other activities which constitute a commitment to a definite course of action for a potential given project unless environmental review is complete and the project is approved under CEQA, therefore approval of the appropriation resolution is exempt from CEQA under the common sense exemption, CEQA Guidelines section 15061(b)(3), which provides CEQA only applies to actions which have the potential for causing a significant effect on the environment; and

WHEREAS, the Council, exercising its independent judgment, determined no exception to the exemptions cited above applies to the approval of the appropriation resolution under consideration because it is not the adoption of a plan that will have legally binding effect on later activities; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

1. The appropriation of funds for planning and feasibility studies related to potential projects in the stormwater Capital Improvement Program is exempt from CEQA pursuant to CEQA Guidelines sections 15262, which provides that planning and feasibility studies are exempt from CEQA.

2. The appropriation of funds for projects and potential projects in the stormwater Capital Improvement Program is exempt from CEQA under CEQA Guidelines section 15061(b)(3), which provides that CEQA only applies to actions having the potential to cause a significant effect on the environment.

2. The City Council has determined no exception to the exemptions applies.

3. The City Clerk is directed to file a Notice of Exemption regarding the appropriation with the Clerk of the Board of Supervisors for the County of San Diego.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jerod Markley
Jerod Markley
Deputy City Attorney

JLM1:cm
October 26, 2022
Or.Dept: Stormwater
Doc. No. 3125776

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

ELIZABETH S. MALAND
City Clerk

By Kupshay 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.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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

Office of the City Clerk, San Diego, California

314487

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