

ORDINANCE NUMBER O- **21815** (NEW SERIES)

DATE OF FINAL PASSAGE JUN 1 1 2024

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE CHANGE ORDER NO. 9 TO THE CONSTRUCTION CONTRACT WITH OHLA USA, INC. (K-21-1848-DBB-3) FOR THE MORENA CONVEYANCE NORTH IN AN AMOUNT NOT TO EXCEED \$8,445,450 AND ADDING WORKING DAYS THAT WILL EXTEND THE CONTRACT FOR AN ADDITIONAL TWENTY MONTHS TO ALLOW FOR COMPLETION OF CONSTRUCTION OF THE MORENA CONVEYANCE NORTH.

WHEREAS, on April 30, 2021, the City of San Diego (City) entered into construction contract K-21-1848-DBB-3 with OHLA USA, Inc. (Contractor) for the Morena Conveyance North for an amount not to exceed \$95,243,645.12 (Contract) as authorized by San Diego Resolution R-312062; and

WHEREAS, the Contract was for 800 working days with a Notice to Proceed (NTP) date of June 14, 2021; and

WHEREAS, the Contract requires boring tunnels under I-805, San Clemente Canyon and Rose Canyon; and

WHEREAS, the tunneling subcontractor was only able to perform nineteen percent of the I-805 tunneling when work was halted on August 17, 2023 due to unforeseen soil conditions; and

WHEREAS, City seeks to compensate Contractor for the additional costs to complete in the I-805 tunneling, including but not limited to a retrofit of the tunnel boring machine; and

WHEREAS, in order to mitigate any potential schedule delays and other risks related to the unforeseen soil conditions, a change to a microtunnel boring machine is required for the San Clemente Canyon and Rose Canyon tunnels; and

WHEREAS, a construction change order is now needed to address additional costs not to exceed \$8,445,450 stemming from the unforeseen soil conditions at the I-805 tunnel and to change to microtunneling at San Clemente Canyon and Rose Canyon; and

WHEREAS, staff anticipates that all work will be completed by December, 2027, and is requesting an extension of the Contract obligations for an additional twenty months to allow completion of all construction activities; and

WHEREAS, under Charter section 99, no contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance approved by a two-thirds majority vote of the Council; 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 obligations of the Contract are authorized to extend an additional twenty months beyond April 2026 to December 2027.

Section 2. The Mayor or his designee is authorized to execute one or more change orders to the Contract as necessary to add additional working days and increase the amount of the Contract to cover the additional costs associated with the unforeseen soil conditions at the I-805 tunnel and change to microtunneling at San Clemente Canyon and Rose Canyon for an amount not to exceed \$8,445,450.


Section 3. The Chief Financial Officer is authorized to expend an additional amount not to exceed \$8,445,450 from CIP ALA00001 Pure Water Program Phase 1 (B-15141, PWP Morena Conveyance North), \$7,009,723.50 from Fund 700009, Metro Sewer CIP, and

\$1,435,726.50 from Fund 700010, Water Utility CIP, for the purpose of executing this construction change order, 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 4. 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 5. 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   
Elizabeth Cason  
Lead Deputy City Attorney

EAC:hm  
April 29, 2024  
Or.Dept: Public Utilities Department  
CC No.: N/A  
Doc. No.: 3635227

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_ **JUN 04 2024** \_\_\_\_\_

DIANA J.S. FUENTES  
City Clerk

By *Krystell Medina*  
Deputy City Clerk

Approved: *6/11/24*  
(date)

*Todd Gloria*  
TODD GLORIA, Mayor

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

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

Passed by the Council of The City of San Diego on JUN 04 2024, 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"/>
Henry L. Foster III	<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"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 2024

AUTHENTICATED BY: TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal) DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell 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

MAY 14 2024, and on JUN 11 2024.

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) DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

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