

ORDINANCE NUMBER O- 21969 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 05 2025

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING FINANCING THROUGH THE  
DRINKING WATER STATE REVOLVING FUND  
AND TAKING RELATED ACTIONS IN CONNECTION  
WITH THE OTAY 2<sup>nd</sup> PIPELINE STEEL REPLACEMENT  
PHASE 3 PROJECT.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. The City of San Diego (City) desires to utilize the repayable Drinking Water State Revolving Fund (DWSRF) financing program to finance the cost of the Otay 2<sup>nd</sup> Pipeline Steel Replacement Phase 3 Project (Project) because it will result in lower borrowing costs compared to other available financing options.

B. On March 20, 2017, by San Diego Resolution No. R-310990, the San Diego City Council (City Council) authorized the Mayor or representative to sign and submit applications for loans and other financial assistance from the State Water Resources Control Board (Water Board) for water projects.

C. The City intends to finance the construction of the Project with moneys provided by the State of California, acting by and through the Water Board from its DWSRF funding program, in a principal amount that is reasonably expected not to exceed \$50 million (Project Funds).

D. The 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).

E. Prior to either the issuance of the Obligations or the approval by the Water Board of the Project Funds, the City desires to incur certain capital expenditures (Expenditures) with respect to the Project from available moneys of the City.

F. 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.

G. 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.

H. 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.

#### ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. That the Mayor or designee (Authorized Representatives) are hereby authorized to sign and file, for and on behalf of the City, a financial assistance application for a financing agreement from the Water Board for the planning, design, and construction of the Project. The Authorized Representatives are designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financing agreement from the Water Board in a principal amount that is reasonably expected not to exceed \$50 million, and any amendments or changes thereto necessary to fulfill the purpose of the Project and the financing thereof. The Authorized Representatives are designated to represent the City in carrying out the City's responsibilities under the financing agreement, including

certifying disbursement requests on behalf of the City and compliance with applicable State and federal laws.

Section 2. That the City hereby dedicates and pledges the net system revenues (Net System Revenues) of the Water Utility Fund (700011) for the repayment of the DWSRF financing for the Project, 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 Water Board. So long as the financing agreements are outstanding, the City's pledge hereunder shall constitute a lien in favor of the Water Board on the foregoing Net System Revenues without any further action necessary, and so long as the financing agreements are outstanding, the City commits to maintaining the Net System Revenues at levels sufficient to meet its obligations under the financing agreements.

Section 3. That the Chief Financial Officer is authorized to create a new fund(s), including the Otay 2<sup>nd</sup> Pipeline Steel Replacement Phase 3 Project SRF Fund, to receive and hold the Project Funds, contingent upon the execution of a financing agreement.

Section 4. That the Chief Financial Officer is authorized to appropriate and expend from the Water Utility Fund (700010) up to the total amount of Project Funds received pursuant to the financing agreement for the purpose of funding the Project.

Section 5. 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 Water Board of the Project Funds.

Section 6. That the City expects to reimburse itself for eligible Expenditures from Project Funds, the repayable principal amount of which is reasonably expected not to exceed

\$50 million. The City's DWSRF financing agreement will not exceed this amount in repayable principal.

Section 7. That the City intends to utilize all or a portion of Project Funds provided by the Water Board, including from any Obligation proceeds, within thirty (30) days of receipt by the City, to repay all or a portion of any legally permissible bridge financing, such as proceeds from the Water Utility's Commercial Paper Program, the interest of which is excluded from gross income for federal income tax purposes (collectively, City Bridge Financing), and will not use any such Obligation proceeds to pay debt service on the City Bridge Financing more than thirty (30) days after receipt by City..

Section 8. 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 Project costs to be reimbursed with Project Funds.

Section 9. That each City expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

Section 10. That apart from Resolution No. R-311748 adopted by the City Council on May 22, 2018, to the best of our knowledge, the City is not aware of the previous adoption of official intents by the City that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

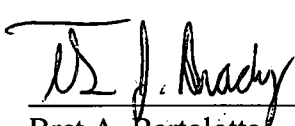
Section 11. That this Ordinance is adopted as the official intent of the City in order to comply with Treasury Regulation section 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

Section 12. That all the recitals in this Ordinance are true and correct and the City so finds, determines, and represents.

Section 13. 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 14. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: HEATHER FERBERT, City Attorney

By  *Thomas J. Brady, PCA*  
for  
Bret A. Bartolotta  
Chief Deputy City Attorney


BAB:jdf:jn2  
February 6, 2025  
Or. Dept: DoF  
Doc. No. 3951957

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on  
JUN 03 2025

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 6/5/25  
(date)

  
TODD GLORIA, Mayor

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

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

JUN 03 2025

Passed by the Council of The City of San Diego on \_\_\_\_\_, 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 type="checkbox"/>            | <input type="checkbox"/> | <input checked="" 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 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"/> |
| Kent Lee            | <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 05 2025

AUTHENTICATED BY:

(Seal)

TODD GLORIA

Mayor of The City of San Diego, California.

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 13 2025

, and on JUN 05 2025

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

Ordinance Number O- 21969