

# 52

(O-93-208)

ORDINANCE NUMBER O- 17941 (NEW SERIES)

ADOPTED ON JUL 26 1993

AN ORDINANCE PURSUANT TO SECTION 99 OF THE SAN DIEGO CHARTER OF THE CITY OF SAN DIEGO APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER INSTALLMENT PURCHASE AGREEMENT, A 1993 SUPPLEMENT TO THE MASTER INSTALLMENT PURCHASE AGREEMENT AND AN ACQUISITION AGREEMENT RELATING TO AN INSTALLMENT PURCHASE FINANCING AND APPROVING CERTAIN OTHER AGREEMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of San Diego (the "City") and the Redevelopment Agency of the City of San Diego entered into a Joint Exercise of Powers Agreement establishing the Public Facilities Financing Authority of the City of San Diego (the "Authority"), a joint exercise of powers entity organized and existing under the laws of the State of California, for the purpose, among others, of having the Authority issue its bonds to be used to finance the acquisition, construction, installation and improvement of the City's wastewater system (the "Project"); and

WHEREAS, the City desires to acquire, construct, install and improve, or cause the acquisition, construction, installation and improvement of the Project; and

WHEREAS, in order to effect such acquisition, construction, installation and improvement of the Project it is proposed that the City and the Authority enter into a Master Installment Purchase Agreement (the "Installment Purchase Agreement") and a 1993 Supplement to the Master Installment Purchase Agreement

relating to Series 1993-A Bonds, Series 1993-B1 Bonds, Series 1993-B2 Bonds and Series 1993-C Bonds (the "1993-1 Supplement"), pursuant to which the Authority will sell components of the Project to the City; and

**WHEREAS**, under the Installment Purchase Agreement and the 1993-1 Supplement, the City is obligated to make installment payments to the Authority for the purchase of components of the Project; and

**WHEREAS**, to provide funds for the purchase of components of the Project, in order that such components may be sold to the City pursuant to the Installment Purchase Agreement and the 1993-1 Supplement, the Authority desires to issue its Sewer Revenue Bonds (Payable Solely from Installment Payments Secured by Wastewater System Net Revenues), consisting of Series 1993-A, Series 1993-B1, Series 1993-B2 and Series 1993-C (collectively, the "1993 Bonds"); and

**WHEREAS**, in order to provide for the authentication and delivery of the 1993 Bonds and any additional bonds (the 1993 Bonds and any additional bonds being collectively referred to herein as the "Bonds"), to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Authority has authorized the execution and delivery of an Indenture, dated as of September 1, 1993, (the "Indenture") between the Authority and a trustee to be selected by the Authority; and

**WHEREAS**, the City is authorized to undertake all of the above pursuant to its Charter and the Constitution and other

applicable laws of the State of California, NOW, THEREFORE,

BE IT ORDAINED, by the 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 method of financing the acquisition, construction, installation and improvement of the initial components of the Project through the issuance by the Authority of the 1993 Bonds in the amount of not to exceed Two Hundred Fifty Million Dollars (\$250,000,000), and, in addition, through the issuance by the Authority of commercial paper in the amount of not to exceed One Hundred Million Dollars (\$100,000,000), substantially in accordance with the Indenture, is hereby approved and specifically, the form of the Indenture submitted to this meeting, a copy of which is on file in the Office of the City Clerk as Document No. 00-17941-1, is hereby approved. The City Manager of the City and his specified designees and each of them, are hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver an agreement, in substantially the form presented to this meeting, to be bound by the provisions of the Indenture relating to the disbursement of moneys in the Acquisition Fund (as defined in the Indenture), and the City Clerk is authorized to attest thereto, with such additions and changes to such provisions of the Indenture as the City Manager shall approve as being in the best interests of the City.

**SECTION 3.** The form and content of an Acquisition Agreement dated as of September 1, 1993 (the "Acquisition Agreement"), relating to the acquisition, construction, installation and improvement of the Project and the financing thereof, a copy of which is on file in the Office of the City Clerk as Document No. 00-17941-2, and submitted to this meeting, is hereby approved. The City Manager of the City and his specified designees, and each of them, are hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver the Acquisition Agreement in substantially the form presented to this meeting, and the City Clerk is authorized to attest thereto, with such additions and changes therein as the City Manager shall approve as being in the best interests of the City, and as approved as to form by the City Attorney or his specified designee, and with such other changes that may be required by nationally recognized bond counsel in order to maintain the tax exempt status of the interest on the 1993 Bonds, such approval to be conclusively evidenced by such officer's execution and delivery of said Acquisition Agreement, with such additions and changes.

**SECTION 4.** The form, terms and provisions of the Installment Purchase Agreement dated as of September 1, 1993, by and between the City and the Authority, a copy of which is on file in the Office of the City Clerk as Document No. 00-17941-3, and submitted to this meeting, is hereby approved. The City Manager of the City and his specified designees, and each of them, are hereby authorized and directed, for and in the name and

on behalf of the City, to execute and deliver the Installment Purchase Agreement in substantially the form submitted to this meeting, and the City Clerk is authorized to attest thereto, with such additions and changes therein as the City Manager shall approve as being in the best interests of the City, and as approved to form by the City Attorney or his specified designee, such approval to be conclusively evidenced by such officer's execution and delivery thereof with such additions or changes.

SECTION 5. The form, terms and provisions of the 1993-1 Supplement dated as of September 1, 1993, by and between the City and the Authority, a copy of which is on file in the Office of the City Clerk as Document No. 00-17941<sup>4</sup>, and submitted to this meeting, is hereby approved. The City Manager of the City and his specified designees, and each of them, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the 1993-1 Supplement in substantially the form submitted to this meeting, and the City Clerk is authorized to attest thereto, with such additions and changes therein as the City Manager shall approve as being in the best interests of the City, and as approved to form by the City Attorney or his specified designee, such approval to be conclusively evidenced by the execution and delivery thereof with such additions or changes; provided however, that the aggregate amount of Component Installment Payments (as defined in the 1993-1 Supplement) attributable to principal shall not exceed Two Hundred Fifty Million Dollars (\$250,000,000) of long-term financing and One Hundred Million Dollars (\$100,000,000) of commercial paper financing and the Component Installment Payments shall be payable

semi-annually or such other period as the City Manager in his discretion may direct for a period of not more than the maximum period permitted by law, and with respect to payments by the City of the amount of Component Installment Payments attributable to interest, the true interest cost shall not exceed seven and one-half percent (7.50%) per annum, and the City Manager and his specified designees, and each of them, are hereby authorized and directed to accept or reject provisions for the redemption of the 1993 Bonds.

**SECTION 6.** In connection with the issuance of the 1993 Bonds, the City Manager and his specified designees, and each of them, are hereby authorized to negotiate with Morgan Stanley & Co. Incorporated or an affiliate, a master interest rate swap agreement or agreements, including certificates, guarantees and other documents attached thereto (the "Master Agreement"). The City Manager and his specified designees, and each of them, are hereby authorized to execute and deliver the Master Agreement, a copy of which is on file in the Office of the City Clerk as Document No. 00-17941-5, and in substantially the form submitted to this meeting, with such additions and changes therein as the City Manager in consultation with the City Attorney or his specified designee, and Co-Bond Counsel, said execution to be conclusive evidence of such approval.

The City Manager is hereby authorized to execute and deliver one or more interest rate swap agreements in substantially the form(s) attached to the Master Agreement (each a "Swap Agreement"), a copy of which is on file in the Office of the City Clerk as Document No. 00-17941-6, and with such additions and

changes therein as the City Manager in consultation with the City Attorney or his specified designee, and Co-Bond Counsel shall approve; said execution to be conclusive evidence of such approval, such Swap Agreements to be in an aggregate amount not exceeding the aggregate amount of the 1993 Bonds. Each Swap Agreement shall be executed by the City Manager in consultation with the City Attorney or his specified designee and Co-Bond Counsel, said execution to be conclusive evidence of such approval; provided that (i) the payments made by the counterparty to each Swap Agreement must be made at the same frequency and in the same amounts as the interest payments due on that principal amount of the 1993 Bonds equal to the notional amount of the Swap Agreement; (ii) no Swap Agreement shall have a term extending beyond the term of the 1993 Bonds; (iii) net amounts, if any, payable by the City with respect to a Swap Agreement shall be payable solely and exclusively from Net System Revenues (as defined in the Installment Purchase Agreement); (iv) each Swap Agreement shall provide for payment by the City at each payment date under each Swap Agreement of an amount which is net of amounts accrued or payable with respect to the counterparty's payment obligation under the Swap Agreement; provided however, such Swap Agreement shall only be executed so long as the true interest costs to the City as a result of execution of such Swap Agreement shall be lower than the issuance of long term fixed interest rate bonds; and, (v) pursuant to each Swap Agreement, the City Manager may agree to pay the counterparty to such Swap Agreement a fee (the "Swap Fee") as provided in the Swap Agreement in order to receive from such counterparty the amount,

if any, by which a variable interest rate exceeds a fixed interest rate, each as specified in such Swap Agreement, for each period specified in such Swap Agreement; provided however, that the City Manager shall have determined that payment of the Swap Fee is appropriate for the reduction in the City's exposure to variations in interest rates during the term of the 1993 Bonds or any Swap Agreement.

Furthermore, the City Manager is hereby authorized to execute and deliver any Swap Agreement that serves to reverse any outstanding Swap Agreement, if in the judgment of the City Manager such reversal, together with any other action taken by the City, would result in a reduced overall interest cost to the City. Such reversal will not be considered for purposes of calculating the aggregate amount of such Swap Agreements authorized by this Ordinance pursuant to the preceding paragraph.

The City Council hereby determines that the execution of the Master Agreement and Swap Agreements under the arrangements described above are expected to result in a lower cost of borrowing with respect to the 1993 Bonds.

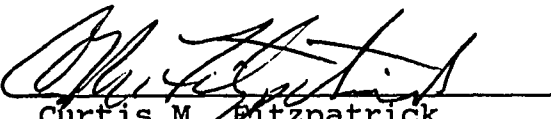
**SECTION 7.** All actions heretofore taken by any official or officials of the City, with respect to the issuance or sale of the 1993 Bonds, or in connection with or related to any of the agreements referenced herein or the financing of the Project are hereby approved, confirmed and ratified; and such other officials of the City as may be authorized by the City Manager are hereby 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 consummate the lawful issuance and delivery of the 1993 Bonds and the disbursement of proceeds thereof in accordance with this Ordinance.

**SECTION 8.** This Ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By   
Curtis M. Fitzpatrick  
Assistant City Attorney

CMF:jrl  
06/30/93  
07/12/93 COR. COPY  
Or.Dept:Fin.Mgt.  
O-93-208  
Form=o+t

Passed and adopted by the Council of The City of San Diego on .....  
by the following vote:

**JUL 26 1993**

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

**SUSAN GOLDING**  
Mayor of The City of San Diego, California.

**CHARLES G. ABDELNOUR**  
City Clerk of The City of San Diego, California.

By *Maydell G. Portwood*, 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

**JUL 12 1993**

**JUL 26 1993**

....., and on .....

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

**CHARLES G. ABDELNOUR**  
City Clerk of The City of San Diego, California.

By *Maydell G. Portwood*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Ordinance Number **0-17941** Adopted **JUL 26 1993**

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RECEIVED  
93 JUL 12 PM 12:28  
CITY CLERKS OFFICE  
SAN DIEGO, CA

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#52

CERTIFICATE OF PUBLICATION

RECEIVED  
93 AUG 11 PM 3:28  
SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK  
2ND FLOOR  
CITY ADMINISTRATION BUILDING  
202 C STREET  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE PURSUANT TO SECTION 99 OF THE CITY:..

**ORDINANCE NUMBER O-17942**

AN ORDINANCE PURSUANT TO SECTION 99 OF THE CITY CHARTER RELATING TO THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE OLD TOWN LIGHT RAIL TRANSIT EXTENSION, AUTHORIZING A LEASE AGREEMENT WITH THE CITY OF SAN DIEGO/MTDB AUTHORITY, A SUBLEASE AGREEMENT WITH THE SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD, AND THE AUTHORIZATION FOR THE CITY OF SAN DIEGO/ MTDB AUTHORITY TO ISSUE ITS REVENUE BONDS IN AN AMOUNT NOT TO EXCEED \$25,000,000.

This ordinance permits The City of San Diego/ the San Diego Metropolitan Transit Development Board ("MTDB") Joint Powers Authority (the "Authority") to acquire, construct, and install the Old Town Light Rail Transit Extension (the "Project").

This ordinance authorizes a Lease Agreement with the Authority and MTDB for the issuance of Old Town Trolley Lease Revenue Bonds in an amount not to exceed \$25,000,000.00 to provide financing of the City's \$18,300,000.00 commitment to the Project for a term not exceeding thirty (30) years.

The maximum annual Lease Payments authorized pursuant to this ordinance, exclusive of Supplemental and Additional Lease Payments, shall not exceed \$1,800,000.00; provided, however, the annual Lease Payments may be less than said amount based on the interest rate to be paid on the revenue bonds of the Authority.

A complete copy of the Ordinance is available for inspection in the Office to the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

INTRODUCED ON JULY 12, 1993

Passed and Adopted by the council of The City of San Diego on JULY 28, 1993

AUTHENTICATED BY:

SUSAN GOLDING  
Mayor of The City of San Diego, CA  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, CA  
By MAYDELL L. PONTECORVO, Deputy.

Pub. Aug. 9

27292

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-17942

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

AUGUST 9

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 9th day of AUGUST, 1993.

*Corey Donahue*  
\_\_\_\_\_  
(Signature)

4" x 2 = \$ 102.40