

ORDINANCE NUMBER O- 18536 (NEW SERIES)

ADOPTED ON JUN 29 1998

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO 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 1998 SUPPLEMENT TO THE MASTER INSTALLMENT PURCHASE AGREEMENT AND A TRUST 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") desires to acquire, construct, equip, install and improve, or cause the acquisition, construction, equipping, installation and improvement of any facility or facilities necessary or convenient for the development, obtaining, conservation, production, storage, treatment, transmission, furnishing and/or distribution of water and its other byproducts for the City's water system (the "Project"); and

WHEREAS, in order to effectuate such acquisition, construction, equipping, installation and improvement of the Project it is proposed that the City and the San Diego Facilities and Equipment Leasing Corporation (the "Corporation"), a nonprofit public benefit corporation duly organized and existing under and by virtue of the laws of the State of California, enter into a Master Installment Purchase Agreement, dated as of August 1, 1998, (the "Installment Purchase Agreement") and a 1998 Supplement to the Installment Purchase Agreement relating to the Certificates defined below (the "1998 Supplement") both by and between the City and the

Corporation, pursuant to which the Corporation will sell components of the Project to the City;
and

WHEREAS, under the Installment Purchase Agreement the City is obligated to make
Installment Payments (as defined in the Installment Purchase Agreement) to the Corporation for
the purchase of components of the Project; and

WHEREAS, the City and the Corporation have determined to provide funds for the
purchase of components of the Project by the City by causing the execution and delivery, by the
Trustee (as defined below), of Certificates of Undivided Interest (In Installment Payments Payable
from Net System Revenues of the Water Utility Fund of the City of San Diego, California), Series
1998 (the "Certificates"); and

WHEREAS, the Corporation has assigned without recourse all of its rights to receive
Installments Payments payable by the City to the Corporation under and pursuant to the
Installment Purchase Agreement and certain other rights to the Trustee pursuant to the provisions
of a Trust Agreement, dated as of August 1, 1998, (the "Trust Agreement") by and among State
Street Bank and Trust Company of California, N.A., by the City (the "Trustee"), the City and the
Corporation; and

WHEREAS, the City is authorized to undertake the actions described in this Ordinance
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 execution and delivery by the Trustee of the Certificates in the aggregate principal amount of not to exceed Four Hundred Million Dollars (\$400,000,000), substantially in accordance with the Trust Agreement, by and among the City, the Corporation, and the Trustees, is hereby approved and specifically, the form of the Trust Agreement submitted to this meeting, a copy of which is on file in the Office of the City Clerk as Document No. 0018536-1 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 the Trust 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 special counsel to the City in order to maintain the tax exempt status of the interest evidenced by the Certificates, such approval to be conclusively evidenced by such officer's execution and delivery of said Trust Agreement, with such additions and changes.

SECTION 3. The form, terms and provisions of the Installment Purchase Agreement, a copy of which is on file in the Office of the City Clerk as Document No. 0018536-2 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 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 as 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 4. The form, terms and provisions of the 1998 Supplement, a copy of which is on file in the Office of the City Clerk as Document No. 0018536-3, 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 1998 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 as 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; provided, however, that the aggregate amount of Installment Payments attributable to principal shall not exceed Four Hundred Million Dollars (\$400,000,000) and the 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 Installment Payments attributable to interest, the true interest cost shall not exceed one percent (1%) 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 Certificates.

SECTION 5. The obligation of the City to make Installment Payments shall be a special obligation of the City payable solely from Net System Revenues (as defined in the Installment Purchase Agreement) and other funds provided for under the Installment Purchase Agreement and

the Trust Agreement, and does not constitute a debt of the City or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction.

SECTION 6. In connection with the execution and delivery of the Certificates, the City Manager and his specified designees, and each of them, are hereby authorized to negotiate with a qualified counterparty, one or more Qualified Swap Agreements (as defined in the Installment Purchase Agreement). The City Manager 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 a Qualified Swap Agreement, upon such terms and provisions as shall be approved by the City Manager as being in the best interests of the City after consultation with the City Attorney or his specified designee, Co-Special Counsel and the financial advisors to the City in connection with the Certificates transaction, said execution to be conclusive evidence of such approval.

Each Qualified Swap Agreement shall be executed subject to the following limitations: (i) the payments made by the counterparty to each Qualified 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 Certificates equal to the notional amount of the Qualified Swap Agreement; (ii) no Qualified Swap Agreement shall have a term extending beyond the final payment date of the Certificates; (iii) net amounts, if any, payable by the City with respect to a Qualified Swap Agreement shall be payable solely and exclusively from Net System Revenues (as defined in the Installment Purchase Agreement); (iv) each Qualified Swap Agreement shall provide for payment by the City at each payment date under such Swap Agreement of an amount which is net of amounts accrued or payable with respect to the counterparty's payment obligation under the Qualified Swap Agreement; provided however, that such Qualified Swap Agreement shall only be executed so

long as the true interest costs to the City as a result of execution of such Qualified Swap Agreement are expected to be less than the comparable interest costs related to the issuance of long-term fixed-rate bonds or certificates; and, (v) the City Manager may agree to pay the counterparty to such Qualified Swap Agreement a fee (the "Swap Fee") as provided in each Qualified 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 Qualified 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 Certificates or any Qualified Swap Agreement.

Furthermore, the City Manager is hereby authorized to execute and deliver any Qualified Swap Agreement that serves to reverse any outstanding Qualified 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 shall be ignored for purposes of calculating the aggregate amount of such Qualified Swap Agreements authorized by this Ordinance pursuant to the preceding paragraph.

The City Council hereby determines that the execution of the Qualified Swap Agreements under the arrangements described above are expected to result in a lower cost of borrowing with respect to the Certificates.

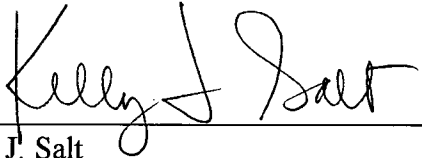
SECTION 7. The City Manager of the City and his specified designees, and each of them, are hereby authorized and directed to take all actions and execute any and all documents necessary or advisable to arrange for the insuring of all or a portion of the Certificates or to obtain a debt service reserve fund surety bond, or to obtain any other form of credit or liquidity

enhancement, if, upon the advice of the City's financial advisors, such insurance, surety bond or other credit enhancement will result in a lower true interest cost.

SECTION 8. All actions heretofore taken by any officials, employees or agents of the City with respect to the execution, delivery or sale of the Certificates, 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 Auditor and Comptroller or 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 execution and delivery of the Certificates and the disbursement of proceeds thereof in accordance with this Ordinance.

SECTION 9. This Ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 

Kelly J. Salt
Deputy City Attorney

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6/9/98
6/12/98 Cor. Copy
Or. Dept. Fin. & Tech. Svcs.
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