

ORDINANCE NUMBER O- 18618 (NEW SERIES)

ADOPTED ON FEB 01 1999

AN ORDINANCE PURSUANT TO SECTION 99 OF THE CHARTER OF THE CITY OF SAN DIEGO APPROVING THE FORM OF A FIFTH SUPPLEMENTAL INDENTURE AND APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE CONTRACT, A 1999-1 SUPPLEMENT TO THE MASTER INSTALLMENT PURCHASE 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 California joint exercise of powers entity duly organized to provide financial assistance to the City; and

WHEREAS, the City desires to acquire, construct, install and improve, or cause the acquisition, construction, installation and improvement of its wastewater system (the "Project"); and

WHEREAS, in order to effectuate such acquisition, construction, installation and improvement of the Project, the Authority agreed to sell components of the Project to the City pursuant to a Master Installment Purchase Agreement, dated as of September 1, 1993, between the Authority and the City, as subsequently amended and supplemented from time to time (the "Installment Purchase Agreement"); and

WHEREAS, in order to provide for the acquisition, construction, installation and improvement of additional components of the Project, it is proposed that the City and the Authority enter into a 1999-1 Supplement to the Installment Purchase Agreement, dated as of March 1, 1999 (the "1999-1 Supplement"), amending and supplementing the Installment Purchase Agreement, pursuant to which the Authority will sell and the City will purchase additional components of the Project; and

WHEREAS, under the Installment Purchase Agreement and the 1999-1 Supplement, the City will be obligated to make installment payments to the Authority for the purchase of certain additional components of the Project; and

WHEREAS, to provide funds for the purchase of certain additional components of the Project, and in order that such components may be sold to the City pursuant to the Installment Purchase Agreement and the 1999-1 Supplement, the Authority desires to issue its Sewer Revenue Bonds, Series 1999A and Series 1999B (Payable Solely from Installment Payments Secured by Wastewater System Net Revenues) (collectively, the "1999 Bonds"); and

WHEREAS, in order to provide for the authentication and delivery of the 1999 Bonds, to establish and declare the terms and conditions upon which the 1999 Bonds are to be issued and secured and to secure the repayment thereof, it is proposed that the Authority and State Street Bank and Trust Company of California, N.A. (the "Trustee") enter into a Fifth Supplemental Indenture (the "Fifth Supplemental Indenture"), amending and supplementing an Indenture, dated as of September 1, 1993, between the Authority and the Trustee (the "Prior Indenture," as amended and supplemented, including as amended and supplemented by the Fifth Supplemental Indenture, being referred to herein as the "Indenture"); and

WHEREAS, it is proposed that the City, the Authority and Bear, Stearns & Co. Inc. (the Representative”), as Representative of a group of underwriters (the “Underwriters”), enter into a Purchase Contract (defined below) for the purchase of the 1999 Bonds for resale to the public; 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 City 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 additional components of the Project through the issuance by the Authority of the 1999 Bonds in the aggregate combined principal amount of not to exceed Three Hundred Seventy-five Million Dollars (\$375,000,000), substantially in accordance with the Indenture, is hereby approved, and specifically, the form of the Fifth Supplemental Indenture submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No. 00-18618- 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 certain provisions of the Fifth Supplemental Indenture with respect to 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 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 Orrick, Herrington & Sutcliffe LLP and Webster & Anderson, as co-bond counsel ("Co-Bond Counsel"), such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. The form of Purchase Contract (the "Purchase Contract") to be dated the date of sale of the 1999 Bonds, among the Authority, the City and the Representative, a copy of which is on file in the office of the City Clerk as Document No. 00-18618-2, 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 Purchase Contract in substantially the form submitted to this meeting, with such additions and changes therein as approved as to form by the City Attorney or his specified designee, and with such other changes as are required by Orrick, Herrington & Sutcliffe LLP and Webster & Anderson, as co-bond counsel ("Co-Bond Counsel"), such approval to be conclusively evidenced by the execution and delivery thereof. In connection with the execution and delivery of the Purchase Contract, the City Manager of the City and his specified designees, and each of them, are further authorized to negotiate the principal amount of the 1999 Bonds to be sold pursuant to such Purchase Contract up to a maximum aggregate combined amount of not to exceed Three Hundred Seventy-Five Million Dollars (\$375,000,000), and the true interest cost of the issue (with deduction of underwriters' discount or costs of issuance) shall not exceed seven percent (7.00%) per annum, and the maximum aggregate underwriters' discount from the principal amount of the 1999 Bonds shall not exceed eight-tenths of one percent (0.8%) of the aggregate principal amount thereof.

SECTION 4. The form, terms and provisions of the 1999-1 Supplement between the City and the Authority, a copy of which is on file in the office of the City Clerk as Document No.

CO-18618-3 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 1999-1 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 as to form by the City Attorney or his specified designee and with such other changes that may be required by Co-Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that the aggregate combined amount of Component Installment Payments (as defined in the 1999-1 Supplement), attributable to principal shall not exceed Three Hundred Seventy-Five Million Dollars (\$375,000,000), and the Component Installment Payments shall be payable semi-annually or otherwise as the City Manager in his discretion or his specified designees, or any of them, 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 percent (7.00%) 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 1999 Bonds. The City Manager is further authorized, in accordance with the terms and provisions of Section 3.02 of the Installment Purchase Agreement, to modify or amend from time to time the description of the components of the Project set forth in Exhibits A and B to the 1999-1 Supplement to reduce or eliminate any parts thereof or to substitute Project components to be financed with proceeds of the 1999 Bonds.

SECTION 5. The obligation of the City to make Installment Payments (as defined in the Installment Purchase Agreement) to the Authority shall be a limited 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 Indenture, 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

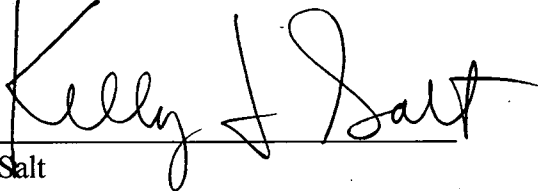
SECTION 6. The City Manager of the City and his specified designees, and each of them, are hereby authorized and directed to take all actions and execute any and all documents necessary or advisable to arrange for the insuring of all or a portion of the 1999 Bonds or to obtain a debt service reserve 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 7. All actions heretofore taken by any officials, employees or agents of the City with respect to the issuance, delivery or sale of the 1999 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, employees and agents 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 1999 Bonds and the disbursement of proceeds thereof in accordance with this Ordinance.

SECTION 8. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

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

KJS:pev  
12/16/98  
1/7/99 Cor.Copy  
1/8/99 Cor.Copy2  
Or.Dept:Fin&Tech.Svcs  
O-99-83  
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