

ORDINANCE NUMBER O- 19450 (NEW SERIES)

ADOPTED ON DEC 05 2005

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO SECTION 99 OF THE CHARTER OF THE CITY OF SAN DIEGO APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL SUBORDINATED INDENTURE AND A FIRST AMENDMENT TO 2004 SUPPLEMENT TO THE MASTER INSTALLMENT PURCHASE AGREEMENT AND APPROVING CERTAIN OTHER AGREEMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of San Diego [City] and the Redevelopment Agency of the City of San Diego [Agency] entered into a Joint Exercise of Powers Agreement, dated as of January 11, 1999, as amended and restated on October 24, 2002, establishing the Public Facilities Financing Authority of the City of San Diego [Authority], a California joint exercise of powers authority duly organized to provide financing assistance to the City; and

WHEREAS, pursuant to Ordinance Number O-19194 adopted on June 30, 2003 [Bond Ordinance], this Council approved a First Amendatory Supplement [First Amendatory Supplement] to the Master Installment Purchase Agreement, dated as of September 1, 1993 [Agreement], which, among other things, approved the form of a Subordinated Indenture and approved the issuance of Subordinated Bonds in a principal amount not to exceed \$1,200,000,000; and

WHEREAS, the Authority has heretofore executed and delivered an Indenture (Subordinated Bonds), dated as of June 1, 2004 [Subordinated Indenture], pursuant to which the Authority has issued its \$152,000,000 aggregate principal amount of Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004 (Payable Solely from Series 2004

Subordinated Installment Payments Secured By Wastewater System Net Revenues) [Series 2004 Subordinated Bonds]; and

WHEREAS, the Series 2004 Subordinated Bonds are secured by the Series 2004 Subordinated Installment Payments to be made by the City pursuant to that certain 2004 Supplement to the Agreement, dated as of June 1, 2004 [2004 Supplement], between the City and the Authority; and

WHEREAS, the City desires to amend and restructure certain of the terms of the Series 2004 Subordinated Installment Payments as set forth in a First Amendment to 2004 Supplement to the Master Installment Purchase Agreement [First Amendment]; and

WHEREAS, the City, the Authority and the Owner of the Series 2004 Subordinated Bonds desire that the terms of the Series 2004 Subordinated Bonds be consistent with and mirror the terms of the Series 2004 Subordinated Installment Payments, the amended terms of the Series 2004 Subordinated Bonds being set forth in that First Supplemental Subordinated Indenture [First Supplemental Indenture]; and

WHEREAS, to facilitate the financing of the Project, the City and the Authority propose to enter into a First Amendment, amending the 2004 Supplement to The Master Installment Purchase Agreement, pursuant to which the Authority will sell and the City will purchase additional components of the Project; and

WHEREAS, under the 2004 Supplement and the First Amendment, the City will be obligated to make Series 2004 Subordinated Installment Payments (as defined in the First Amendment) to the Authority, which Series 2004 Subordinated Installment Payments shall constitute Subordinated Obligations under the Agreement, and

WHEREAS, the Council finds that the financing of the Project results in significant public health benefits, including but not limited to more efficient delivery of service, and that the Project constitutes facilities for the production, storage, transmission, or treatment of water, recycled water, or wastewater; and

WHEREAS, the City is authorized to undertake all of 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 Council hereby finds that the Project will provide significant public benefits in accordance with the criteria specified in section 6586 of the Government Code.

Section 3. The City has determined that it is in the best interests of the City that the Series 2004 Subordinated Installment Payments be paid in accordance with the First Amendment to 2004 Supplement to the Master Installment Purchase Agreement.

Section 4. The form and content of the First Amendment to 2004 Supplement to the Master Agreement to be dated August 1, 2005 (or such other date as the parties thereto may determine), among the Authority and the City, a copy of which is on file in the office of the City Clerk as Document No. OO-_____ and submitted to this meeting, are hereby approved. The City Manager, the Deputy City Manager, or the City Treasurer or any of their respective specified designees [each, an Authorized Signatory], 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 First Amendment to 2004 Supplement to the Master Agreement in substantially the form submitted to this meeting, with such additions and changes therein as any Authorized Signatory 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 as are required by the City Attorney and/or Nixon Peabody LLP as Bond Counsel [Bond Counsel], such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. The form and content of the First Supplemental Subordinated Indenture submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No. OO _____ are hereby approved. Any Authorized Signatory is hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver any requested certificate or instrument evidencing the City's approval of the First Supplemental Subordinated Indenture, in substantially the form presented to this meeting, and the City Clerk is authorized to attest thereto, with such additions and changes therein as any Authorized Signatory 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 the City Attorney and/or Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

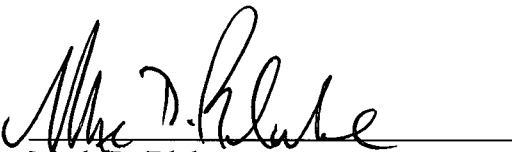
Section 6. All actions heretofore taken by any officers, employees or agents of the City with respect to the issuance, delivery or sale of the Series 2004 Subordinated Bonds, of Bond Counsel in connection with or related to any the documents referenced herein, or the financing of the Project, are hereby approved, confirmed and ratified; and any Authorized Signatory and any such other officers, employees or agents of the City as may be authorized by the City Manager or the Deputy City Manager are hereby authorized and directed, for and in the

name of 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 to consummate the transactions evidenced by the documents referenced herein in accordance with this Ordinance; provided that any funds derived from the proposed wastewater bond restructuring shall be restricted to operations, maintenance and capital expenses of the Wastewater Enterprise.

Section 7. 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 8. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Mark D. Blake
Deputy City Attorney

MDB:ai
10/20/05
01/30/06REV.
Or.Dept:Treasurer
O-2006-54