

51
8-1-06

ORDINANCE NUMBER O- 19527 (NEW SERIES)

DATE OF FINAL PASSAGE AUG 06 2006

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 SECOND SUPPLEMENTAL SUBORDINATED INDENTURE AND A SECOND AMENDMENT TO 2004 SUPPLEMENT TO THE MASTER INSTALLMENT PURCHASE AGREEMENT AN 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 May 14, 1991, as amended and restated as of January 11, 1999, and as again amended and restated on October 29, 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, date 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 to finance or refinance the Project [as defined in the Agreement]; and

WHEREAS, the Authority has heretofore executed and delivered an Indenture (Subordinated Bonds), dated as of June 1, 2004, as amended by a First Supplemental Subordinated Indenture dated as of January 1, 2006 [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 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 Master Installment Purchase Agreement, dated as of June 1, 2004, as amended by a First Amendment to 2004 Supplement [2004 Supplement], between the City and the Authority; and

WHEREAS, the Subordinated Indenture and the 2004 Supplement each restricts the issuance of any new Obligations, excepting only a specified State Revolving Fund Loan; and

WHEREAS, the City has the opportunity to borrow additional amounts under additional State Revolving Fund Loans and desires to amend the Subordinated Indenture and the 2004 Supplement to permit \$50,000,000 of such borrowings; and

WHEREAS, the Authority and the Owner of the Series 2004 Subordinated Bonds are amenable to making such amendments; and

WHEREAS, under the 2004 Supplement, the City will be obligated to make Series 2004 Subordinated Installment Payments [as defined in the 2004 Supplement] 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. That 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 to enter into additional Obligations constituting State Revolving Fund Loans in accordance with the Second Amendment to 2004 Supplement to the Master Installment Purchase Agreement.

Section 4. The form and content of the Second Amendment to 2004 Supplement to the Master Installment Purchase Agreement to be dated as of August 1, 2006 (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 number OO- 19527 -/ and submitted to this meeting, are hereby approved. The Mayor, the Chief Operating Officer or the Chief Financial Officer, 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 Second Amendment to the 2004 Supplement to the Master Installment Purchase 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 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 Second Supplemental Subordinated Indenture submitted to this meeting, a copy of which is on file in the office of the City Clerk as document number OO- **19527** -2 is 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 Second 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 interest of the City, and as approved as to form by the City Attorney, or 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, sale or amendment of the Series 2004 Subordinated Bonds, of Bond Counsel in connection with or related to any of 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 Mayor, the Chief Operating Officer or the Chief Financial Officer are hereby authorized and directed for and in the name of and on behalf of

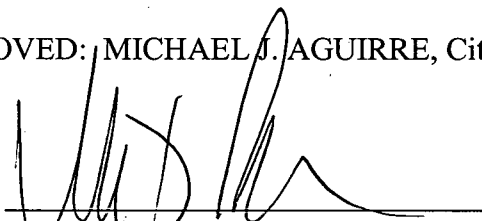
the City, to do any and all things and take any and all actions, including, payment of necessary and appropriate fees and expenses in an accumulative amount not to exceed \$50,000 and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary 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 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 final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

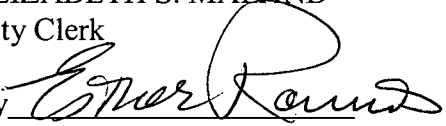


Mark D. Blake
Chief Deputy City Attorney

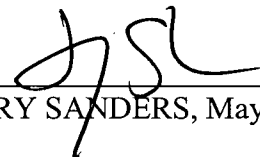
MDB:ai
06/30/06
9/20/06COR.COPY
AC2700002
Or.Dept:Treasurer
O-2007-1

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of AUG 01 2006.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 8-6-06
(Date)


JERRY SANDERS, Mayor

Vetoed: _____
(Date)

JERRY SANDERS, Mayor

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2700002
DEPT. _____
NO. 56

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$20,000.00 41509

Purpose: Authorizing the expenditure of funds for the document amendments related to the 2004 interim financing for the wastewater system.

Date: June 20, 2006


AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	41509	777	445	4151	005003				\$20,000.00
TOTAL AMOUNT										

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

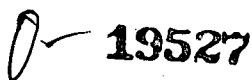
Not to Exceed: _____

Vendor: _____

Date: _____ By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL										\$20,000.00

FUND OVERRIDE



AUG 01 2006

AC 2700002