

ORDINANCE NUMBER O- 19626 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 05 2007

AN ORDINANCE OF THE CITY COUNCIL AUTHORIZING THE EXECUTION OF THE PROPOSED FINAL CONSENT DECREE IN THE CASES OF *UNITED STATES v. CITY AND SAN DIEGO BAYKEEPER/SURFIDER FOUNDATION v. CITY*, AND PAYMENT OF PLAINTIFF'S ATTORNEY'S FEES AND COSTS.

WHEREAS, on March 29, 2001, San Diego Baykeeper and Surfrider Foundation filed Case No. 01-CV-0550-B against the City of San Diego in Federal Court alleging repeated violations of the Clean Water Act due to sewer system overflows; and

WHEREAS, on July 9, 2003, the United States of America, through the Environmental Protection Agency, filed Case No. 03-CV-1349-K against the City of San Diego alleging similar violations; and

WHEREAS, on April 5, 2005, the City Council approved the First Partial Consent Decree in the above litigation, requiring the City to implement certain procedures and complete specified projects designed to reduce the number of sewer system overflows; and

WHEREAS, on June 16, 2006, the City Council approved the Second Partial Consent Decree in the above litigation in Resolution No. R-301520, requiring the City to continue the measures set forth in the First Partial Consent Decree and take additional steps to reduce the number of sewer system overflows; and

WHEREAS, the Second Partial Consent Decree expires on June 30, 2007; and

WHEREAS, on February 26, 2007, the City Council approved sewer rate increases to provide additional funds needed to satisfy the obligations of the proposed Final Consent Decree in Resolution No. R-302378; and

WHEREAS, on April 9, 2007, the City Council approved short-term financing for the Metropolitan Wastewater Department to help fund the obligations of the proposed Final Consent Decree in Resolution No. R-302501; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the Mayor or his representative is authorized to execute, for and on behalf of the City, the proposed Final Consent Decree, on file in the office of the City Clerk as Document Number OO- 19626, in final settlement of litigation entitled *United States v. City of San Diego* (Case No. 03-CV-1349K) and *San Diego Baykeeper, et al. v. City of San Diego* (Case No. 01-CV-0550B).

Section 2. That the expenditure of an amount not to exceed \$20,000.00 from Sewer Fund 41506 is hereby authorized, solely and exclusively, for plaintiff's attorney's fees and costs, based on invoices to be submitted to, and approved by, the City Attorney's Office.

Section 3. That this activity and those required by the proposed Final Consent Decree are either not "projects" pursuant to section 15060(c)(3) of the State CEQA guidelines; categorically exempt from CEQA pursuant to sections 15301(b) and 15302(c) of the State CEQA guidelines as maintenance, repair, or replacement of existing sewer facilities; addressed in Environmental Impact Report Project No. 6020, Canyon Sewer Cleaning Program and Long-Term Sewer Maintenance Program, Mitigated Negative Declaration Project No. 63654, Citywide Pipeline Projects, or other environmental document; or will be subject to environmental review once the activity is identified with sufficient specificity to allow for such review, pursuant to section 15004 of the State CEQA guidelines which provides direction to lead agencies on the appropriate timing for environmental review.

Section 4. 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 5. 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 Thomas C. Zeleny
Thomas C. Zeleny
Deputy City Attorney

TCZ:
05/08/07
Aud.Cert: 2700725
Or.Dept: CityAtty
O-2007-134

Thereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND, City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2700725

ORIGINATING

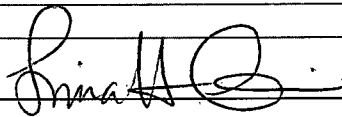
DEPT. NO.: 776

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 Fund: 41506

Purpose: Authorizing the expenditure of funds for the payment of plaintiff's attorney's fees and costs in the San Diego Baykeeper/Surfrider v. Cty.

Date: May 4, 2007

By: 

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	41506	776	455	4141	767250				\$20,000.00
TOTAL AMOUNT										\$20,000.00

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: _____

Purpose: _____

Date: _____

By: Faye Ponder-Price

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL										

FUND OVERRIDE