

ORDINANCE NUMBER O- 19841 (NEW SERIES)
MAR 24 2009
DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO PURSUANT TO SECTION 99 OF THE CHARTER OF THE CITY OF SAN DIEGO [I] APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF [A] INDENTURES, [B] SUPPLEMENTAL INDENTURES, [C] SUPPLEMENTS TO MASTER INSTALLMENT PURCHASE AGREEMENT, [D] BOND PURCHASE AGREEMENTS, [E] ESCROW AGREEMENTS, AND [F] CONTINUING DISCLOSURE CERTIFICATES; [II] APPROVING AND AUTHORIZING THE ISSUANCE AND SALE BY THE PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO OF ITS [A] SEWER REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$259,000,000 TO REFINANCE EXISTING SUBORDINATED NOTES, [B] SEWER REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$168,000,000 TO FINANCE NEW FACILITIES OF THE WASTEWATER SYSTEM, [C] SEWER REVENUE REFUNDING BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$900,000,000 TO REFUND ALL OR A PORTION OF EXISTING SENIOR DEBT TO ACHIEVE SAVINGS, [D] SEWER REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$65,100,000 TO FUND CERTAIN DEBT SERVICE RESERVE FUNDS; AND [III] 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 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, the Authority currently has outstanding \$167,955,000 of its Sewer Revenue Bonds, Series 1993, \$265,540,000 of its Sewer Revenue Bonds, Series 1995, \$196,800,000 of its Sewer Revenue Bonds, Series 1997 A and B and \$263,400,000 of its Sewer Revenue Bonds, Series 1999 A and B collectively [Outstanding Senior Bonds] issued pursuant to an Indenture dated as of September 1, 1993 as amended and supplemented the [1993 Indenture]; and

WHEREAS, from time to time there exist interest rate environments that create savings opportunities through refunding all or a portion of the Outstanding Senior Bonds; and

WHEREAS, the City has determined to refund now or in the future all or a portion of the Outstanding Senior Bonds through the issuance by the Authority of Sewer Revenue Refunding Bonds [Sewer Refunding Bonds] as opportunities are presented to lower financing costs; and

WHEREAS, in connection with refunding certain of the Outstanding Senior Bonds it may be necessary to place proceeds of Sewer Refunding Bonds into escrow until such time as the Outstanding Senior Bonds can be called for redemption; and

WHEREAS, the Authority currently has outstanding \$223,830,000 of its Subordinated Sewer Revenue Notes [Outstanding Subordinated Notes] issued pursuant to a Subordinate Indenture of Trust dated as of May 1, 2007; and

WHEREAS, the Outstanding Subordinated Notes must be repaid not later than May 15, 2009; and

WHEREAS, the City has determined to finance the payment of the Outstanding Subordinated Notes through the issuance by the Authority of its Sewer Revenue Bonds [Sewer Bonds]; and

WHEREAS, the City has determined to borrow additional amounts to finance additional components of the Wastewater System through the issuance by the Authority of its Sewer Bonds; and

WHEREAS, pursuant to the 1993 Indenture the City has deposited a surety bond [Surety Bond] into the debt service reserve fund securing the Outstanding Senior Bonds; and

WHEREAS, the credit ratings on the issuer of the Surety Bond have been lowered and may be lowered further; and

WHEREAS, the partial funding of the debt service reserve fund with the Surety Bond may adversely affect the credit ratings of the Sewer Bonds or Sewer Refunding Bonds and thereby increase the financing costs of the City; and

WHEREAS, rather than incur increased financing costs the City may prefer to replace the Surety Bond with cash proceeds of Sewer Bonds; and

WHEREAS, issuances of Sewer Refunding Bonds will require establishment of a new debt service reserve fund; and

WHEREAS, the City and the Authority are parties to a Master Installment Purchase Agreement dated as of September 1, 1993 [Master Installment Purchase Agreement] as supplemented for each of the series of Outstanding Senior Bonds and as amended by the First Amendatory Supplement dated as of August 15, 2003 pursuant to which the Authority sells to the City, and the City purchases from the Authority, components of the Wastewater System, which payments from the City secure the Authority's Outstanding Senior Bonds; and

WHEREAS, to provide for payment of the Sewer Bonds and Sewer Refunding Bonds the City and the Authority will provide for installment payments by entering into one or more new Supplements to the Master Installment Purchase Agreement; and

WHEREAS, the City Council [Council] finds that the financing of the Wastewater System results in significant public health benefits, including but not limited to more efficient delivery of service, and that the Wastewater System constitutes facilities for the transmission and treatment of sewage, recycled or reclaimed water, and wastewater; and

WHEREAS, the Council finds that the refinancing of the Outstanding Subordinated Notes is necessary at this time; and

WHEREAS, the Council finds that financing additional components of the Wastewater System is appropriate at this time; and

WHEREAS, the Council finds it prudent to be ready to act quickly to refund the Outstanding Senior Bonds at such times as the interest rate market will provide savings by approving at this time the necessary documents and the issuance of Sewer Refunding Bonds; and

WHEREAS, there has been presented to this meeting the following documents relating to the issuance of the Sewer Bonds and the Sewer Refunding Bonds:

a. a proposed form of Supplement to the Master Installment Purchase Agreement [Supplement] between the Authority and the City, a copy of which is on file in the office of the City Clerk as document number 00- 19841⁻¹, under which the City will make installment payments to the Authority to support the Sewer Bonds and the Sewer Refunding Bonds; and

b. a proposed form of Indenture [Indenture] between the Authority and the bond trustee named therein, a copy of which is on file in the office of the City Clerk as document number 00- 19841⁻², under which the Authority will issue its Sewer Bonds and its Sewer Refunding Bonds; and

c. a proposed form of Supplemental Indenture [Supplemental Indenture] between the Authority and the bond trustee named therein, a copy of which is on file in the office of the City Clerk as document number 00- 19841⁻³, under which the Authority will issue its Sewer Bonds and its Sewer Refunding Bonds; and

d. proposed forms of Bond Purchase Agreements [Bond Purchase Agreements] among the City, the Authority and the underwriters named therein [Underwriters], copies of which are on file in the office of the City Clerk as document number 00-19841⁻⁴ and 00-19841⁻⁵, under which the Authority and the City will sell the Sewer Bonds and Sewer Refunding Bonds to the underwriters for resale to the public; and

e. a proposed form of Escrow Agreement [Escrow Agreement] among the City, the Authority and the escrow agent named therein, a copy of which is on file in the office of the City Clerk as document number 00-19841⁻⁶, under which the proceeds of Sewer Refunding Bonds may be held pending the redemption dates of Outstanding Senior Bonds; and

f. a proposed form of Continuing Disclosure Certificate of the City, a copy of which is on file in the office of the City Clerk as document number 00- 19841⁻⁷; 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 financing and refinancing of components of the Wastewater System as set forth in the recitals to this Ordinance 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 refinance the Outstanding Subordinated Notes on or before their due date of May 15, 2009 through the issuance by the Authority of one or more series of Sewer Bonds pursuant to one or more Indentures or Supplemental Indentures, which Sewer Bonds will be payable from installment payments made by the City in accordance with one or more Supplements to the Master Installment Purchase Agreement.

Section 4. The City has determined that it is in the best interests of the City to finance additional components of the Wastewater System between now and June 30, 2010 through the issuance by the Authority of Sewer Bonds not later than June 30, 2010 in one or more series through one or more issuances pursuant to one or more Indentures or Supplemental

Indentures, which Sewer Bonds will be payable from installment payments made by the City in accordance with Supplements to the Master Installment Purchase Agreement.

Section 5. The City has determined it is in the best interests of the City to be prepared to refund, between now and June 30, 2010, such Outstanding Senior Bonds as will, in the aggregate, create a net present value savings equal to or greater than 3% of the principal amount of Outstanding Senior Bonds to be refunded through the issuance by the Authority of Sewer Refunding Bonds not later than June 30, 2010 in one or more series through one or more issuances pursuant to one or more Indentures or Supplemental Indentures, which Sewer Refunding Bonds will be payable from installment payments made by the City in accordance with Supplements to the Master Installment Purchase Agreement.

Section 6. The City has determined it is in the best interests of the City to be prepared to replace the debt service reserve fund Surety Bond with cash financed through the issuance by the Authority of Sewer Bonds not later than June 30, 2010 in one or more series through one or more issuances pursuant to one or more Indentures or Supplemental Indentures, issued on a taxable basis to the extent tax-exempt financing is unavailable therefor, which Sewer Bonds will be payable from installment payments made by the City in accordance with Supplements to the Master Installment Purchase Agreement.

Section 7. The form and content of the form of Supplement to the Master Installment Purchase Agreement between the Authority and the City, a copy of which is on file in the office of the City Clerk as Document No. 00- 19841-1 and submitted to this meeting is hereby approved. Any of the Chief Operating Officer or the Chief Financial Officer and each of them or any of their respective designees [each, an Authorized Signatory] are hereby severally authorized

and directed, for and in the name of and on behalf of the City, to execute and deliver one more Supplements, in conjunction with one or more issuances of Sewer Bonds or Sewer Refunding Bonds in one or more series, in substantially the form submitted to this meeting, with such additions and changes therein, including a determination of whether the obligations of the City created thereunder shall be on a senior or subordinate basis, 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 [Bond Counsel], such approval to be conclusively evidenced by the execution and delivery thereof.

Section 8. The form and content of the form of Indenture submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No OO- 19841⁻² 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 Indenture and the Authority is hereby requested to execute and deliver the Indenture, in conjunction with one or more issuances of Sewer Bonds or Sewer Refunding Bonds in one or more series, in substantially the form presented to this meeting, with such additions and changes therein, including a determination of whether the Sewer Bonds or Sewer Refunding Bonds issued thereunder shall be on a senior or subordinate basis, 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 9. The form and content of the form of Supplemental Indenture submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No OO-
19841⁻³ 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 one or more Supplemental Indentures and the Authority is hereby requested to execute and deliver one or more Supplemental Indentures, in conjunction with one or more issuances of Sewer Bonds or Sewer Refunding Bonds in one or more series, in substantially the form presented to this meeting, with such additions and changes therein, including a determination of whether each such Supplemental Indenture shall supplement a senior Indenture or a subordinate Indenture, 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 10. The City hereby authorizes and approves and requests the Authority authorize and approve the refinancing of the Outstanding Subordinated Notes through the issuance and sale by the Authority of Sewer Bonds in one or more series through one or more issuances in an aggregate principal amount not to exceed \$259,000,000 by public offering provided that: (i) the interest rate on the Sewer Bonds shall not exceed 10%; (ii) the final maturity of the Sewer Bonds shall not exceed 30 years from the date thereof; and (iv) there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement. Such Sewer Bonds may be issued on a senior or

subordinate basis as an Authorized Signatory shall determine, in consultation with the City's financial advisor, is in the best interests of the City.

Section 11. The City hereby authorizes and approves and requests the Authority authorize and approve the financing of additional components of the Wastewater System through the issuance and sale by the Authority of Sewer Bonds in one or more series through one or more issuances in an aggregate principal amount not to exceed \$168,000,000 by public offering provided that: (i) the interest rate on the Sewer Bonds shall not exceed 10%; (ii) the final maturity of the Sewer Bonds shall not exceed 30 years from the date thereof; (iii) there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement; and (iv) such Sewer Bonds shall be issued on or before June 30, 2010. Such Sewer Bonds may be issued on a senior or subordinate basis as an Authorized Signatory shall determine, in consultation with the City's financial advisor, is in the best interests of the City.

Section 12. The City hereby authorizes and approves and requests the Authority authorize and approve the refunding of all or a portion of the Outstanding Senior Bonds through the issuance and sale by the Authority of Sewer Refunding Bonds in one or more series through one or more issuances in an aggregate principal amount not to exceed \$900,000,000 by public offering now or in the future provided that: (i) the final maturity of the Sewer Refunding Bonds shall not be later than the final maturity of the refunded bonds plus one year; (ii) any refunding of Outstanding Senior Bonds must create in the aggregate net present value savings equal to or greater than 3% of the principal amount of Outstanding Senior Bonds to be refunded; (iii) there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement; and (iv) such Sewer Refunding Bonds shall be issued on

or before June 30, 2010. Such Sewer Refunding Bonds may be issued on a senior or subordinate basis as an Authorized Signatory shall determine, in consultation with the City's financial advisor, is in the best interests of the City.

Section 13. The City hereby authorizes and approves and requests the Authority authorize and approve the financing of deposits to the debt service reserve fund under the 1993 Indenture (in the case of replacement of the Surety Bond) or the Indenture (in the case of issuing Sewer Refunding Bonds) through the issuance and sale by the Authority of Sewer Bonds or Sewer Refunding Bonds, as the case may be, in one or more series through one or more issuances in an aggregate principal amount not to exceed \$65,100,000 by public offering provided that: (i) the Sewer Bonds (A) interest rate shall not exceed 10% and (B) maturity shall not exceed 30 years from the date thereof; (ii) the Sewer Refunding Bonds (A) shall have a maturity not be later than 2030 and (B) shall be issued in a refunding of Outstanding Senior Bonds that creates in the aggregate net present value savings equal to or greater than 3% of the principal amount of Outstanding Senior Bonds to be refunded; (iii) there shall first be presented to the Disclosure Practices Working Group and this Council for approval a form of preliminary official statement; and (iv) such Sewer Bonds or Sewer Refunding Bonds shall be issued on or before June 30, 2010. Such Sewer Bonds may be issued on a taxable basis to the extent tax exempt financing is unavailable therefor. Such Sewer Bonds or Sewer Refunding Bonds may be issued on a senior or subordinate basis as an Authorized Signatory shall determine, in consultation with the City's financial advisor, is in the best interests of the City.

Section 14. The form and content of the proposed Bond Purchase Agreements submitted to this meeting, copies of which are on file in the office of the City Clerk as Document No. 00-19841-4 and 00-19841-5 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 one or more Bond Purchase Agreements in substantially the forms presented to this meeting, with such additions and changes therein, including the addition or deletion of underwriters, 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 15. The form and content of the proposed Escrow Agreement submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No. ⁰⁰⁻19841⁻⁶ 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 one or more Escrow Agreements as may be necessary in a refunding of certain of the Outstanding Senior Bonds in substantially the form presented 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 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 16. The form and content of the Continuing Disclosure Certificate containing undertakings by the City meeting the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No OO- 19841⁻⁷ 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 one or more Continuing Disclosure Certificates 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 17. All actions heretofore taken by any officers, employees or agents of the City with respect to (i) the issuance, delivery, or sale of the Sewer Bonds and the Sewer Refunding Bonds, (ii) the acquisition, construction and financing of additional components to the Wastewater System, (iii) the refunding and redemption of the Outstanding Subordinated Notes or the Outstanding Senior Bonds, or (iv) the financing or refinancing of the Wastewater System, 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 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, without limitation, payment of necessary and appropriate fees and expenses, 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 financings shall be restricted to benefit the Wastewater System.

Section 18. Any Authorized Signatory, 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 Sewer Bonds and the Sewer Refunding Bonds or obtain a debt service reserve fund surety bond, or obtain any other form of credit or liquidity

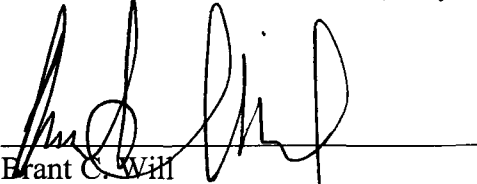
enhancement, if, upon consultation with and advice of the City's financial advisors with respect to the Sewer Bonds or the Sewer Refunding Bonds, such insurance, surety bond or other credit or liquidity enhancement is beneficial to the City.

Section 19. This Ordinance is subject to the provisions of the San Diego Municipal Code and San Diego City Charter. Subject to those provisions, this Ordinance shall take effect and be in force thirty (30) days from and after the date of its adoption and, prior to the expiration of fifteen (15) days from the passage hereof, the City Clerk shall cause this Ordinance to be published at least once in the San Diego Daily Transcript, a newspaper of general circulation, published and circulated in the City.

Section 20. 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 Council and the public a day prior to its final passage.

Section. 21. That this Ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Grant C. Will
Deputy City Attorney

BCW:jdf
02/19/09
03/10/09.REV
Or.Dept: Debt Management
O-2009-103

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 24 2009

ELIZABETH S. MALAND
City Clerk

By *Jerry Sanders*
Deputy City Clerk

Approved: 3.24.09
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor