

MEET

51
6/16

ORDINANCE NUMBER O- **19871** (NEW SERIES)

DATE OF FINAL PASSAGE **JUN 17 2009**

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 AMENDMENT TO TRUST AGREEMENT IN CONNECTION WITH CERTAIN OUTSTANDING CERTIFICATES OF UNDIVIDED INTEREST (IN INSTALLMENT PAYMENT PAYABLE FROM NET SYSTEM REVENUES OF THE WATER UTILITY FUND OF THE CITY OF SAN DIEGO, CALIFORNIA) SERIES 1998 AND APPROVING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of San Diego [City] is a municipal corporation and a charter city duly organized and existing under its charter and the constitution of the State of California [State]; and

WHEREAS, the San Diego Facilities and Equipment Leasing Corporation [Corporation] is a nonprofit public benefit corporation duly organized and existing under and by virtue of the laws of the State of California [State] that was incorporated to provide financial assistance to the City; and

WHEREAS, the City has caused \$385,000,000 aggregate principal amount of San Diego Facilities and Equipment Leasing Corporation Certificates of Undivided Interest (In Installment Payments Payable from the Net System Revenues of the Water Utility Fund of the City of San Diego) Series 1998 [1998 Certificates] to be executed and delivered pursuant to a Trust Agreement dated as of August 1, 1998 [Original Trust Agreement], by and among the City, the Corporation and Wells Fargo Bank, National Association, as successor trustee thereunder [Trustee]; in order to finance the acquisition, construction, installation, and improvement of the City's water system; and

WHEREAS, a Reserve Fund for the Certificates [Reserve Fund] has been established and maintained pursuant to the terms of the Original Trust Agreement; and

WHEREAS, the Original Trust Agreement provides for the transfer to the Principal Fund of amounts in the Reserve Fund in excess of the Reserve Requirement, as defined in the Original Trust Agreement [Reserve Requirement]; and

WHEREAS, the Reserve Requirement is expected to increase over the remaining term of the outstanding Certificates; and

WHEREAS, in lieu of transferring excess amounts to the Principal Fund, the City desires to provide for the establishment of a Replenishment Fund [Replenishment Fund] and deposit amounts in the Reserve Fund in excess of the Reserve Requirement in the Replenishment Fund; and

WHEREAS, amounts in the Replenishment Fund will be used to supplement amounts in the Reserve Fund to satisfy the Reserve Requirement over the term of the outstanding Certificates; and

WHEREAS, pursuant to the Section 9.01 of the Original Trust Agreement, the Original Trust Agreement may be amended without the consent of any Owners, subject to the conditions precedent set forth therein; and

WHEREAS, to facilitate the foregoing amendment and certain other clarifications to the Original Trust Agreement, the City and the Corporation propose to enter into a First Amendment to Trust Agreement [First Amendment]; and

WHEREAS, the City is authorized to undertake the actions described in this Ordinance pursuant to its Charter and the Constitution and applicable laws of the State; NOW, THEREFORE,

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

The City Council hereby finds and determines that the statements set forth above in the recitals to this Ordinance are true and correct.

The form of the First Amendment submitted to this meeting, a copy of which is on file in the office of the City Clerk as Document No. O- **19871** is hereby approved. The Chief Operating Officer and the Chief Financial Officer of the City, and their 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 the First Amendment 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 Chief Operating Officer or the Chief Financial Officer shall determine are necessary or appropriate and 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 or requested by bond counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

All actions heretofore taken by any officials, employees or agents of the City with respect to the execution and delivery of the First Amendment, or in connection with or related to any provisions of the Original Trust Agreement with respect to an amendment thereof, are hereby approved, confirmed and ratified; and such other officials, employees and agents of the City as may be authorized by the Chief Operating Officer or the Chief Financial Officer of the City 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 amendment of the Original Trust Agreement in accordance with this Ordinance.

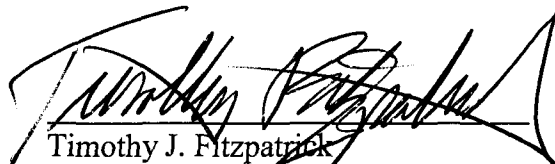
The City Clerk or his specified designee is hereby authorized and directed to cause a notice of the public hearing concerning the matters set forth in this Ordinance to be published in the San Diego Daily Transcript not less than 10 days nor more than 30 days in advance of the hearing.

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.

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


Timothy J. Fitzpatrick
Deputy City Attorney


TJF:jdf
05/15/2009
Or.Dept:Debt Management
O-2009-149

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 16 2009.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6-17-09
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor