

**FIRST SUPPLEMENTAL SUBORDINATED INDENTURE
(Subordinated Bonds)**

by and between

**PUBLIC FACILITIES FINANCING AUTHORITY
OF THE CITY OF SAN DIEGO**

And

**WELLS FARGO BANK, NATIONAL ASSOCIATION
as Trustee**

Dated as of _____ 1, 2005

\$152,000,000

Public Facilities Financing Authority of the City of San Diego
Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004
(Payable Solely From Series 2004 Subordinated Installment Payments
Secured By Wastewater System Net Revenues)
and any Additional Subordinated Bonds Issued Hereunder

**FIRST SUPPLEMENTAL SUBORDINATED INDENTURE
(SUBORDINATED BONDS)**

This FIRST SUPPLEMENTAL SUBORDINATED INDENTURE (SUBORDINATED BONDS) dated as of _____ 1, 2005 (this “First Supplemental Subordinated Indenture”), is by and between the PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO, a California joint exercise of powers entity (the “Authority”), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association existing under and by virtue of the laws of the United States of America, as trustee (the “Trustee”).

WITNESSETH:

WHEREAS, the Authority was established to provide financing assistance to the City of San Diego (the “City”); and

WHEREAS, the Authority and the Trustee have heretofore executed and delivered an Indenture (Subordinated Bonds), dated as of June 1, 2004 (the “Subordinated Indenture”), pursuant to which the Authority has issued its \$152,000,000 Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004 (Payable Solely from Series 2004 Subordinated Installment Payments Secured By Wastewater System Net Revenues) (the “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 (the “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; and

WHEREAS, the City, the Authority and the Owner of the Series 2004 Subordinated Bonds desire that the terms of the Subordinated Indenture and the Series 2004 Subordinated Bonds are consistent with and mirror the terms of the Series 2004 Subordinated Installment Payments; and

WHEREAS, to provide for the amendment of the Subordinated Indenture and the Series 2004 Subordinated Bonds, the Authority has authorized the execution and delivery of this First Supplemental Subordinated Indenture; and

WHEREAS, all acts and proceedings required by law necessary to constitute this First Supplemental Subordinated Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this First Supplemental Subordinated Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL SUBORDINATED INDENTURE WITNESSETH, that in consideration of the premises and of the mutual covenants herein contained and for other valuable consideration, the receipt whereof is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective owners from time to time of the Subordinated Bonds, as follows:

Section 1.01 Definitions

(a) Capitalized terms used herein that are not defined herein shall, unless the context otherwise requires, have the meanings ascribed to them in the Subordinated Indenture or the Agreement.

(b) The meanings of the following defined terms in the Subordinated Indenture are hereby amended to read as follows:

Agreement

The term “Agreement” means the Master Installment Purchase Agreement, dated as of September 1, 1993, between the Authority, as seller, and the City, as purchaser, as amended by that certain First Amendatory Supplement, dated as of August 15, 2003, and as supplemented by a 1993-1 Supplement dated as of September 1, 1993, a 1995-1 Supplement dated as of December 1, 1995, a 1997-1 Supplement dated as of February 1, 1997, a 1998-1 Supplement dated as of September 1, 1998, a 1999-1 Supplement dated as of March 1, 1999, a 2004 Supplement, dated as of June 1, 2004 and a First Amendment to 2004 Supplement dated as of August 1, 2005, between the Authority and the City.

Base Rate Spread

The term “Base Rate Spread” means, (i) for any day during which the Series 2004 Subordinated Bonds bear interest determined by reference to the Base Rate as a result of the illegality or unavailability of LIBOR, 62.34% of the Base Rate for such day, (ii) for any day during which the Series 2004 Subordinated Bonds bear interest determined by reference to the Base Rate as a result of the occurrence and continuation of an Event of Default other than an event described in Section 10.01(a)(v), 62.34% of the Base Rate for such day plus 200 basis points, or (iii) for any day, commencing the preceding day, during which the Series 2004 Subordinated Bonds bear interest determined by reference to the Base Rate as a result of the occurrence and continuation of an Event of Default described in Section 10.01(a)(v) or a City Insolvency Event, 62.34% of the Base Rate for such day plus 250 basis points.

City Insolvency Event

The term “City Insolvency Event” means the occurrence and continuance of one or more of the following events: the City shall (a) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code (the “Bankruptcy Code”) or any other federal, state or foreign bankruptcy, insolvency or similar law, (b) consent to the institution of, or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (c) apply for or consent to the appointment of a receiver, trustee, custodian, liquidator, assignee, sequestrator or similar official for itself or for a substantial part of its

property, (d) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (e) make a general assignment for the benefit of creditors, (f) become unable to pay its debts as they become due, admit in writing its inability to pay its debts as they become due or fail to pay its debts as they become due, (g) declare a moratorium on the payment of its debts or (h) take action for the purpose of effecting any of the foregoing, including, without limitation, the adoption by the City Council of a resolution to take, or to cause any elected official or officer of the City to take, any such action.

Interest Payment Date

The term “Interest Payment Date” means, with respect to the Series 2004 Subordinated Bonds, initially, September 16, 2004 and December 16, 2004; and thereafter (i) so long as the Series 2004 Subordinated Bonds are bearing interest determined by reference to LIBOR, the last day of each LIBOR Spread Period and, in the case of a LIBOR Spread Period of six months, the three month anniversary of the first day of such LIBOR Spread Period; (ii) so long as the Series 2004 Subordinated Bonds are bearing interest determined by reference to the Base Rate, each March 15, June 15, September 15 and December 15, and the date, if any, on which the Series 2004 Subordinated Bonds cease bearing interest determined by reference to the Base Rate and commence bearing interest determined by reference to LIBOR; (iii) the redemption date for any Series 2004 Subordinate Bonds; and (iv) December 15, 2011; and, with respect to any Additional Subordinated Bonds, the Interest Payment Dates specified in a Supplemental Indenture related to such Additional Subordinated Bonds.

LIBOR Spread

The term “LIBOR Spread” means, for Index Rate Determination Dates occurring (i) on or before December 12, 2005, 62.34% of the applicable LIBOR plus 75 basis points, (ii) on or before December 16, 2006, 62.34% of the applicable LIBOR plus 85 basis points, (iii) on or after December 17, 2006, 62.34% of the applicable LIBOR plus 100 basis points, or (iv) on or after March 17, 2007, if (and only if) the City has failed to provide to the Owner audited financial statements of the City for fiscal years 2003 and 2004, and until the date when such audited financial statements are provided to the Owner, 62.34% of the applicable LIBOR plus 150 basis points.

LIBOR Spread Period

The term “LIBOR Spread Period” means a period of approximately (i) one week or (ii) 1, 2, 3 or 6 month(s), as specified in a Written Request of the City (on behalf of the Authority) to the Trustee’s Agent, initially commencing on June 16, 2004 and thereafter commencing on the day on which the next preceding LIBOR Spread Period applicable thereto expires and ending on the last day of such LIBOR Spread Period, provided that (a) if any LIBOR Spread Period begins on a day for which there is no numerically corresponding day in the calendar month at the end of such LIBOR Spread Period, such LIBOR Spread Period shall end on the last London Business Day of such calendar month; (b) if any LIBOR Spread Period would otherwise expire on a day which is not a London Business Day, such LIBOR Spread Period shall expire on the next succeeding London Business Day, provided that if any LIBOR Spread Period would otherwise expire on a day which is not a London Business Day but is a day of the month after which no

further London Business Day occurs in such month, such LIBOR Spread Period shall expire on the next preceding London Business Day; and (c) no LIBOR Spread Period shall extend beyond December 15, 2011.

Mandatory Sinking Account Payment Date

The term “Mandatory Sinking Account Payment Date” means, with respect to the Series 2004 Subordinated Bonds, each March 15, June 15, September 15 and December 15 beginning March 15, 2007; and with respect to Additional Subordinated Bonds, any date on which such Additional Subordinated Bonds are subject to mandatory redemption from sinking account payments as specified in a Supplemental Indenture related to such Additional Subordinated Bonds.

Principal Payment Date

The term “Principal Payment Date” means, with respect to the Series 2004 Subordinated Bonds, December 15, 2011 and with respect to any Additional Subordinated Bonds, each Principal Payment Date specified in the Supplemental Indenture with respect to such Additional Subordinated Bonds.

State Revolving Fund Loan

The term “State Revolving Fund Loan” means Agreement No. 01-809-550-0 by and between the State Water Resources Control Board (“SWRCB”) and the City, as such agreement may be modified or amended from time to time, provided that: at no time shall amounts outstanding thereunder exceed \$13,000,000, nor may any right to payment or lien, pledge or security interest in Net System Revenues made or granted thereunder be senior to the rights to payment or interests in Net System Revenues of the holders of the Series 2004 Subordinated Bonds.

Section 2.01 Amendment to Section 2.02(c)

Section 2.02(c) of the Subordinated Indenture is hereby amended to read as follows:

(c) The Series 2004 Subordinated Bonds shall be delivered as a physical bond certificate registered to Bank of America, N.A. and shall not be Book-Entry Bonds. Prior to December 16, 2011, the Trustee shall not register the transfer of the Series 2004 Subordinated Bonds to any other Person. Prior to December 16, 2011, neither the Authority nor the Trustee shall execute or authenticate any Series 2004 Subordinated Bonds to any Person other than Bank of America, N.A.

Section 2.02 Amendment to Section 2.03(a)

Section 2.03(a) of the Subordinated Indenture is hereby amended to read as follows:

(a) Prior to December 16, 2011, the Series 2004 Subordinated Bonds may not be sold, assigned, transferred or otherwise disposed in whole or in part.

Section 3.01 Amendment to Section 3.01(a)

Section 3.01(a) of the Subordinated Indenture is hereby amended to read as follows:

(a) The Series 2004 Subordinated Bonds shall be designated “Public Facilities Financing Authority of the City of San Diego Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004 (Payable Solely From Series 2004 Subordinated Installment Payments Secured By Wastewater System Net Revenues)” and shall be in the aggregate principal amount of One Hundred Fifty-Two Million Dollars (\$152,000,000). The Series 2004 Subordinated Bonds shall be dated their date of delivery and mature on December 15, 2011.

The principal of and premium, if any, and interest on the Series 2004 Subordinated Bonds shall be payable in lawful money of the United States of America by wire transfer of immediately available funds to the bank account or number within the United States specified by the Owner in writing to the Trustee for that purpose.

The Authority hereby fixes and confirms the sinking account payments for the 2004 Subordinated Bonds as follows:

<u>Date</u>	<u>Sinking Account Payment</u>
March 15, 2007	\$ 7,600,000
June 15, 2007	7,600,000
September 15, 2007	7,600,000
December 15, 2007	7,600,000
March 15, 2008	7,600,000
June 15, 2008	7,600,000
September 15, 2008	7,600,000
December 15, 2008	7,600,000
March 15, 2009	7,600,000
June 15, 2009	7,600,000
September 15, 2009	7,600,000
December 15, 2009	7,600,000
March 15, 2010	7,600,000
June 15, 2010	7,600,000
September 15, 2010	7,600,000
December 15, 2010	7,600,000
March 15, 2011	7,600,000
June 15, 2011	7,600,000
September 15, 2011	7,600,000
December 15, 2011*	7,600,000

* Maturity

Section 3.02 Amendments to Section 3.01(c)

(1) The first paragraph of Section 3.01(c) of the Subordinated Indenture is hereby amended to read as follows:

(c) The series 2004 Subordinated Bonds shall bear interest at an Index Rate. Interest shall accrue on the Series 2004 Subordinated Bonds from one Interest Payment Date to, but not including, the next Interest Payment Date; provided, however, that initially such interest shall accrue from the Closing Date to, but not including, the first Interest Payment Date. At least one Business Day immediately preceding each Index Rate Determination Date, so long as no Event of Default or City Insolvency Event is then continuing, the City (on behalf of the Authority) shall specify (if not already specified) the length of the next succeeding LIBOR Spread Period in a Written Request of the City to the Trustee and the Trustee's Agent. The City may specify the length of consecutive LIBOR Spread Periods in a single Written Request of the City, and each LIBOR Spread Period so specified may be of a different length. If the City shall fail to specify the length of a succeeding LIBOR Spread Period at least one Business Day preceding each Index Rate Determination Date, so long as no Event of Default or City Insolvency Event is then continuing, such succeeding LIBOR Spread Period shall be 1 month. If an Event of Default or a City Insolvency Event is continuing on the London Business Day preceding an Index Rate Determination Date, the Index Rate for the Series 2004 Subordinated Bonds shall, after the last day of the LIBOR Spread Period ended immediately following such Index Rate Determination Date, be calculated by reference to the Base Rate as provided below.

(2) The third paragraph of Section 3.01(c) of the Subordinated Indenture is hereby amended to read as follows:

On each Index Rate Determination Date and on the first London Business Day occurring on or after December 17, 2006, the Trustee's Agent will calculate the Index Rate for the Series 2004 Subordinated Bonds, based on the applicable LIBOR Spread for the length of such LIBOR Spread Period, provided that the Index Rate shall not exceed the Maximum Rate.

(3) The last paragraph of Section 3.01(c) of the Subordinated Indenture is hereby amended to read as follows:

If the rate of interest payable on the Series 2004 Subordinated Bonds, including all other amounts payable under this Section 3.01(c), shall exceed the maximum Rate for any period for which interest is payable, then (i) interest at such Maximum Rate shall be due and payable with respect to such interest period and (ii) interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof and (B) the Maximum Rate (the "Excess Interest"), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the Maximum Rate at which time the Authority shall pay or cause to be paid to the Owner of the Series 2004 Subordinated Bonds, with respect to amounts then payable to the Owner of the Series 2004 Subordinated Bonds that are required to accrue interest

hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Owner of the Series 2004 Subordinated Bonds to equal the Maximum Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts under the Series 2004 Subordinated Bonds until the earlier of (x) the date all deferred Excess Interest is fully paid to the Owner of the Series 2004 Subordinated Bonds or (y) December 15, 2011.

Section 4.01 Amendment to Section 7.12

Section 7.12 of the Subordinated Indenture is hereby amended to read as follows:

Section 7.12. No Issuance of New Obligations while the Series 2004 Subordinated Bonds are Outstanding. The Authority hereby covenants with the Owner of the Series 2004 Subordinated Bonds that so long as any of its Series 2004 Subordinated Bonds are Outstanding, it will not issue any new Obligations under the Agreement, excepting only Obligations constituting the State Revolving Fund Loan, provided however, that the Authority shall be permitted to issue new Obligations if the proceeds of such Obligations redeem in full the Series 2004 Subordinated Bonds.

Section 4.01(A) Amendment to Section 10.01(a)

Section 10.01(a) of the Subordinated Indenture is hereby amended by adding the following final paragraph:

(vi) the State Revolving Fund Loan shall have been terminated prior to its maturity and the obligation to pay all amounts outstanding thereunder has been accelerated.

Section 4.02 Amendment to Bond Form

The first page of the form of the Series 2004 Subordinated Bonds is hereby amended to read as Exhibit A hereto, which such Exhibit A is incorporated herein by this reference to the same extent as if here set forth in full. The Owner shall tender the 2004 Subordinated Bonds to the Trustee, who shall exchange such tendered 2004 Subordinated Bonds for new 2004 Subordinated Bonds bearing a face page in the form of Exhibit A hereto.

Section 5.01 Section Headings and References

The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to “Articles,” “Sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof, and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith,” “hereunder” and other words of similar import refer to Subordinated Indenture as a whole and not to any particular article, section, subdivision or clause hereof.

Section 5.02 Partial Invalidity

If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Authority or the Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants, or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Subordinated Bonds, and the Owners shall retain all the benefit, protection and security afforded to them hereunder or any applicable provisions of law. The Authority and the Trustee hereby declare that they would have executed and delivered this First Supplemental Subordinated Indenture and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Subordinated Bonds pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 5.03 Execution in Several Counterparts

This First Supplemental Subordinated Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 5.04 Law Governing

This First Supplemental Subordinated Indenture shall be governed exclusively by the provisions hereof and by the laws of the State as the same from time to time exist.

IN WITNESS WHEREOF, the PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO has caused this First Supplemental Subordinated Indenture to be signed in its name by its Chair and attested by its Secretary and WELLS FARGO BANK, NATIONAL ASSOCIATION, in token of its acceptance of the trusts created hereunder, has caused this First Supplemental Subordinated Indenture to be signed by one of the officers thereunder duly authorized, all as of the day and year first above written.

PUBLIC FACILITIES FINANCING AUTHORITY
OF THE CITY OF SAN DIEGO

By: _____
Chair

ATTEST:

Secretary

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Authorized Officer

AGREEMENT, ACCEPTANCE AND CONSENT BY OWNER

Bank of America, N.A. as Owner of all of the Series 2004 Subordinated Bonds hereby agrees, accepts and consents to the amendments to the Series 2004 Subordinated Bonds and the Subordinated Indenture affected by this First Supplemental Subordinated Indenture.

BANK OF AMERICA, N.A., as Owner

By: _____
Authorized Officer

EXHIBIT A

[FORM OF SERIES 2004 SUBORDINATED BOND]

THIS BOND IS REGISTERED IN THE NAME OF BANK OF AMERICA, N.A. AND IS NOT TRANSFERABLE TO ANY OTHER PERSON, BANK, CORPORATION, TRUST OF OTHER LEGAL ENTITY PRIOR TO DECEMBER 16, 2011. THE OWNER HEREOF, BY THE ACCEPTANCE OF THIS BOND, REPRESENTS THAT IT IS BANK OF AMERICA, N.A. OR THAT THE CURRENT DATE IS DECEMBER 16, 2011 OR LATER.

No. R-1

PRINCIPAL AMOUNT: \$152,000,000

PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO NON—TRANSFERABLE SUBORDINATED SEWER REVENUE BOND, SERIES 2004 (PAYABLE SOLELY FROM SERIES 2004 SUBORDINATED INSTALLMENT PAYMENTS SECURED BY WASTEWATER SYSTEM NET REVENUE)

Maturity
Date

Dated
Date

December 15, 2011

June 14, 2004

REGISTERED OWNER:

BANK OF AMERICA, N.A.

The PUBLIC FACILITIES FINANCING AUTHORITY OF THE CITY OF SAN DIEGO, a California joint exercise of powers authority, duly organized and validly existing under and pursuant to the laws of the State of California (the “Authority”), for value received, hereby promises to pay (but only out of the Revenues hereinafter referred to) to the registered owner specified above or registered assigns on the maturity date specified above (subject to any right of prior redemption provided for) the principal amount specified above, together with interest thereon on the Index Rates determined in accordance with the Subordinated Indenture on each Interest Payment Date.

Payment of principal of, redemption premium, if any, and interest on this Subordinated Bond shall be made to the Owner by wire transfer of immediately available funds to the bank account or number within the United States specified by the Owner in writing to the Trustee for that purpose in lawful money of the United States of America. The Subordinated Bonds are subject to optional redemption as described in the Subordinated Indenture.

This Subordinated Bond is the duly authorized issue of the Authority’s “Public Facilities Financing Authority of the City of San Diego Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004 (Payable Solely From Series 2004 Subordinated Installment Payments