

## ORDINANCE

**AUTHORIZING AND APPROVING THE PUBLIC PROPERTY FINANCE CONTRACT (NON-APPROPRIATION) AND SCHEDULE A-1 WITH JP MORGAN CHASE BANK, N.A., AND AN ESCROW AND ACCOUNT CONTROL AGREEMENT WITH JP MORGAN CHASE BANK, N.A., AND FROST BANK FOR THE ACQUISITION OF VARIOUS WASTE MANAGEMENT CARTS FOR THE SOLID WASTE MANAGEMENT DEPARTMENT; AUTHORIZING SCHEDULE A-1 TO THE PUBLIC PROPERTY FINANCE CONTRACT (NON-APPROPRIATION) IN THE TOTAL AMOUNT OF \$4,423,000.00, AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City of San Antonio, Texas (“City” or “Lessee”) is a home rule municipality, a political subdivision of, and is duly organized and existing pursuant to the Constitution and laws of, the State of Texas (“State”); and

**WHEREAS**, pursuant to the Public Property Finance Act, Chapter 271, Subchapter A, Local Government Code, as amended (the “Act”), the City Council (“Council”) of the City is authorized to acquire, dispose of, and encumber personal property, including, without limitation, rights and interest in property, and leases necessary to the functions or operations of the City; and

**WHEREAS**, a Request for Bid for Tax-Exempt Equipment Lease/Purchase Financing (“RFB”), soliciting bids for a tax-exempt master equipment lease/purchase financing provider was issued by the City on October 24, 2022; and

**WHEREAS**, five (5) financial institutions submitted bids in response to the RFB, which were received by the City and evaluated by the Finance Department; and

**WHEREAS**, City Staff recommended that the City, as Lessee, enter into a Public Property Finance Contract (Non-Appropriation) (the “Lease”) with JP Morgan Chase Bank, N.A., as “Lessor” (attached hereto as **Exhibit A**), and an Escrow and Account Control Agreement among the Lessor, the Lessee, and Frost Bank, San Antonio, Texas as “Escrow Agent” (attached hereto as **Exhibit B**), providing terms and conditions under which lease/purchase transactions shall be conducted by and between the parties; and

**WHEREAS**, the Lessee desires to acquire on or about December 20, 2022, various waste management carts for the Solid Waste Management Department (the “Waste Management Carts”) for the total amount of \$4,423,000.00 (the “Principal Amount”), as disclosed in Schedule A-1

to the Lease attached hereto as **Exhibit C** and incorporated by reference for all purposes; and

**WHEREAS**, the waste management carts are sometimes hereafter referred to as the “Equipment”; and

**WHEREAS**, Lessor shall act as lessor under the Lease, including Loan Schedule and Schedule A-1 to the Lease; and

**WHEREAS**, the Equipment is essential for the Lessee to accomplish its governmental purposes, including to perform its governmental and/or proprietary functions; and

**WHEREAS**, the Lessee may pay certain capital expenditures in connection with the Equipment prior to its receipt of proceeds of the Leases (“Lease Purchase Proceeds”) for such expenditures and such expenditures are not expected to exceed the Principal Amount; and

**WHEREAS**, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Equipment from the Lease Purchase Proceeds; and

**WHEREAS**, the Council hereby finds and determines that the adoption of this Ordinance and authorization for the execution and delivery of Schedule A-1 to the Lease are in the best interests of the City; **NOW THEREFORE**:

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City hereby approves the bid form presented by JPMorgan Chase Bank, N.A. as the low bid and selects and approves JPMorgan Chase Bank, N.A., as the finance provider of the Lease which provides for the financing of \$4,423,000.00 for the acquisition of the Equipment for the Solid Waste Management Department at an interest rate of 3.824% for a eighty-four (84) month term to pay the costs of the transaction. The terms and conditions of the Lease, a true and correct copy of which is attached hereto as **Exhibit A**, are hereby authorized and approved. The City Manager, the City Manager’s designee, and/or the City’s Chief Financial Officer or his designee, and/or the Deputy Chief Financial Officer or his designee, acting on behalf of the City, are hereby authorized to execute and enter into the Lease in substantially the form set forth in **Exhibit A** hereto.

**SECTION 2.** The City hereby selects and approves Frost Bank, San Antonio, Texas, as the account agent of the Escrow and Account Control Agreement (the “Escrow Agreement”). The terms and conditions of that certain Escrow and Account Control Agreement (“Escrow Agreement”) by and between the City, Frost Bank, San Antonio, Texas, and JPMorgan Chase Bank, N.A., a true and correct copy of which is attached hereto as **Exhibit B**, are hereby approved. The City Manager, the City Manager’s designee, and/or the City’s Chief Financial Officer or his designee, and/or the Deputy Chief Financial Officer or his designee, acting on behalf of the City, are hereby authorized to execute and enter into the Escrow Agreement in substantially the form set forth in **Exhibit B** hereto.

**SECTION 3.** Schedule A-1 to the Lease, as attached hereto as **Exhibit C** is hereby approved and is incorporated by reference into this Ordinance for all purposes.

**SECTION 4.** The City Manager, the City Manager's designee, and/or the City's Chief Financial Officer or his designee, and/or the Deputy Chief Financial Officer or his designee, acting on behalf of the City, are hereby authorized to negotiate, execute and enter into Schedule A-1 to the Lease, which document is available for public inspection at the Office of the City Clerk. The Mayor, City Manager, Chief Financial Officer, Deputy Chief Financial Officer, City Attorney, and the City Clerk (each an "Authorized Officer"), acting on behalf of the City, are each hereby authorized to enter into, execute, and deliver such other documents and certificates relating to Schedule A-1 to the Lease as the Authorized Officer deems necessary and appropriate as specified in Schedule A-1 to the Lease, without further action by this Council. All other related contracts, certificates, and agreements necessary and incidental to Schedule A-1 to the Lease are hereby authorized, with the exception of adding future Schedules to the Lease, other than Schedule A-1 as authorized by this Ordinance. Future Schedules to the Lease shall require approval by Council.

**SECTION 5.** The aggregate original principal amount for the Equipment shall not exceed the amount set forth in Schedule A-1 to the Lease, shall bear interest as set forth in Schedule A-1 to the Lease, and Schedule A-1 to the Lease shall contain such options to purchase and/or prepay by the City as set forth therein.

**SECTION 6.** The City's obligations under the Lease and Schedule A-1 to the Lease shall be subject to annual appropriation or renewal by the Council as set forth in the Lease, and the City's obligations under the Lease and Schedule A-1 to the Lease shall not constitute a general obligation of the City or indebtedness under the Constitution or laws of the State.

**SECTION 7.** The Chief Financial Officer and/or the Deputy Chief Financial Officer are authorized to record and account for Schedule A-1 to the Lease in accordance with generally accepted accounting principles and all other applicable laws.

**SECTION 8.** The Council anticipates that as Lessee, the City may pay certain capital expenditures in connection with the Equipment prior to the receipt of the Lease Purchase Proceeds for the Equipment. The Council hereby declares the Lessee's official intent to use the Lease Purchase Proceeds to reimburse itself for Equipment expenditures. This section is adopted by the Council for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Equipment.

**SECTION 9.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

**SECTION 10.** All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters

resolved herein.

**SECTION 11.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 12.** If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 13.** Funding in the amount of \$309,028.00 for this ordinance is available in Fund 55001000, Cost Center 5555050004 and General Ledger 5404010as part of the Fiscal Year 2023 Adopted Budget approved by City Council.

**SECTION 14.** Payment is authorized to JP Morgan Chase Bank, N.A and should be encumbered with a purchase order.

**SECTION 15.** Additional funding is contingent upon City Council approval of the Fiscal Year 2024 and subsequent budgets that fall within the contract terms of this ordinance.

**SECTION 16.** The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer of the City. The Deputy Chief Financial Officer, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 17.** It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

**SECTION 18.** This Ordinance is effective immediately, upon passage by eight (8) affirmative votes; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

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PASSED AND ADOPTED by an affirmative vote of \_\_\_\_\_ members of the City Council of the City of San Antonio, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**M A Y O R**  
Ron Nirenberg

ATTEST:

\_\_\_\_\_  
Debbie Racca-Sittre, City  
Clerk

I the undersigned, City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Ordinance prior to its adoption and passage aforesaid.

\_\_\_\_\_  
Andrew Segovia, City Attorney  
City of San Antonio, Texas

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## **EXHIBIT A**

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## **EXHIBIT B**

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## **EXHIBIT C**