

ORDINANCE

APPROVING AN “INTENT TO ISSUE” AUTHORIZATION TO MEET AN INTERNAL REVENUE SERVICE (IRS) REQUIREMENT AS A CONDITION PRECEDENT TO RECEIVE A FINAL FAVORABLE PRIVATE LETTER RULING (PLR); TO DEMONSTRATE TO THE IRS THAT EXTRAORDINARY CHARGES INCURRED DURING WINTER STORM URI IN FEBRUARY OF 2021 MAY BE PERMITTED TO BE FINANCED WITH TAX-EXEMPT BONDS, BASED UPON THE INTERPRETATION OF CURRENT TAX LAWS AND REGULATIONS AND THE SUBMISSION OF DOCUMENTATION TO IRS AGENTS EVIDENCING APPLICABLE ANALYSES THERETO.

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WHEREAS, CPS Energy has sought a Private Letter Ruling (“PLR”) from the Internal Revenue Service (“IRS”) that any long term debt issued by CPS Energy to cover the costs associated with Winter Storm Uri be issued as tax exempt; and

WHEREAS, a PLR request was submitted to the IRS in May 2022 and, as part of the review process, the IRS requires an Intent to Issue Authorization as evidence of an affirmation that CPS Energy intends to utilize long term financings related to such costs; and

WHEREAS, upon favorable ruling from the IRS, CPS Energy will have bond structuring flexibility to issue Tax-Exempt debt at the lowest possible financing cost; and

WHEREAS, financings qualified as Tax-Exempt are normally limited to Capital expenses; fuel expenses or “working capital” are generally issued as Taxable; and

WHEREAS, due to certain IRS statutes and regulations some “extraordinary costs”, such as those incurred during Winter Storm Uri, are permitted to be financed as Tax-Exempt; and

WHEREAS, an “Intent to Issue” Ordinance satisfies the federal tax law requirements to complete a submission to the IRS for the receipt of a PLR. The PLR is delivered in the form of a written statement from the IRS issued to a taxpayer, such as the City, establishing with certainty the federal tax consequences of a particular transaction (in this case, the financing of any Winter Storm Uri costs). A favorable PLR is binding on the IRS and would be the authority to prospectively issue Tax-Exempt bonds; and

WHEREAS, the City Council finds and determines that the recommended action should be approved and that the authorization requested by City staff as set forth above should be granted;
NOW THEREFORE:

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

SECTION 1. In connection with the costs associated with Winter Storm Uri, the City of San Antonio and/or CPS Energy intends to utilize long term financing for any outstanding Winter Strom Uri obligations.

SECTION 2. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED and APPROVED this 18th day of August, 2022.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Debbie Racca-Sittre, City Clerk

Andrew Segovia, City Attorney