

ORDINANCE

~~2022-08-18-0605~~

AUTHORIZING THE AMENDMENT AND EXTENSION OF THE SURETY POLICY TERMS SATISFYING THE DEBT SERVICE RESERVE FUND REQUIREMENTS RELATED TO THE CITY'S ELECTRIC AND GAS SYSTEMS NEW SERIES BONDS; DELEGATING THE AUTHORITY TO CERTAIN STAFF TO APPROVE OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the City Council (the *City Council*) of the City of San Antonio, Texas (the *City*) has heretofore issued, and there are currently outstanding, revenue bonds supported by a first and prior lien on and pledge of the net revenues (the *Net Revenues*) of the City's electric and gas systems (the *Systems*), on a parity with certain currently outstanding revenue bonds, revenue refunding bonds, and revenue and refunding bonds (the *New Series Bonds* or *Parity Bonds*); and

WHEREAS, as additional security for the New Series Bonds, the City's related ordinances require the establishment and maintenance of a reserve amount (the *Reserve*) equal to not less than the average annual principal and interest requirements of all outstanding New Series Bonds, which may be funded by securing an insurance policy, surety policy, or other similar credit facility; and

WHEREAS, the City previously made the determination that the acquisition of a debt service reserve fund surety policy (the *Surety Policy*) is cost effective to funding the Reserve relating to the New Series Bonds, and previously acquired the current Surety Policy from Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance, Inc.) (*AGM*), whereby such Surety Policy provides the City with a maximum coverage amount equal to \$300,000,000 with a term ending on December 31, 2049; and

WHEREAS, the City desires to extend the Surety Policy's terms and increase the maximum coverage available thereunder to permit the continued issuance of long-term New Series Bonds to fund the Systems' operations at the lowest costs available in the capital markets and authorize negotiations with AGM or another qualified Surety Policy provider to make the necessary amendments related thereto; and

WHEREAS, the City Council hereby finds, determines, and reaffirms that the Surety Policy and the adoption of this Ordinance is in the best interests of the residents of the City; now, therefore,

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

SECTION 1. Authorization and Limitation. As an additional option for satisfying the Reserve related to the New Series Bonds and/or to provide additional capacity to issue Additional Parity Bonds, each Designated Financial Officer (hereinafter defined) is authorized to negotiate and enter into with one or more insurance providers an insurance agreement, in substantially the form attached hereto as Exhibit A, for the purpose of causing such provider or providers to provide one

or more Surety Policies for such purpose. In addition to the foregoing, the interest due on any repayment obligation of the City by reason of payments made under such Surety Policy shall not exceed the highest lawful rate of interest which may be paid by the City at the time of delivery of any such Surety Policy.

SECTION 2. Delegated Authority - Retirement Account Reserve Amount Surety Bond Provisions. Each Designated Financial Officer acting for and on behalf of the City, is delegated the authority to complete a copy of this Ordinance as evidence of the delegated authority granted hereunder and to reflect such final terms for the Surety Policy, which includes (A) completion of this Section of the Ordinance, including deletion of those provisions that are not applicable to the particular Surety Policy then being issued and addition of any necessary provisions that are so applicable, (B) provision of appropriate terms to reflect the negotiations of the Surety Policy, including the maturity date thereof, the interest rate calculation provisions, and the maximum coverage amount available thereto, each incorporated herein as though originally included and made a part of, and having the same effect as being originally included and made a part of this Ordinance, and (C) such other necessary technical modifications to this Ordinance (including the renumbering of sections hereof) to accommodate all other terms and provisions of the Surety Policy.

The following provisions shall be effective as long as the reserve fund portion of the Retirement Account relating to the Previously Issued Parity Bonds and certain Additional Parity Bonds is insured by _____ (the *Surety Provider*) pursuant to the Surety Policy:

A. The City shall repay any draws under the Surety Policy and pay all related reasonable expenses incurred by the Surety Provider. Interest shall accrue and be payable on such draws and expenses from the date of payment by the Surety Provider at the Late Payment Rate. "Late Payment Rate" means, subject to the limitations of Chapter 1204, as amended, Texas Government Code, the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate (*Prime Rate*) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Previously Issued Parity Bonds and certain Additional Parity Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 365 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base lending rate of such national bank as the Surety Provider shall specify.

Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, *Policy Costs*) shall commence in the first month following each draw, and each such monthly payment shall in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw.

Amounts in respect of Policy Costs paid to the Surety Provider shall be credited first to interest due, then to the expenses due and then to principal due. As and to the extent that payments

are made to the Surety Provider on account of principal due, the coverage under the Surety Policy will be increased by a like amount, subject to the terms of the Surety Policy.

All cash and investments in the reserve fund portion of the Retirement Account (the *Reserve Fund*) shall be transferred to the debt service fund for payment of debt service on the Previously Issued Parity Bonds and certain Additional Parity Bonds before any drawing may be made on the Surety Policy or any other credit facility credited to the Reserve Fund in lieu of cash (*Credit Facility*). Payment of any Policy Costs shall be made prior to replenishment of any such cash amounts. Draws on all Credit Facilities (including the Surety Policy) on which there is available coverage shall be made on a pro-rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the Reserve Fund. Payment of Policy Costs and reimbursement of amounts with respect to other Credit Facilities shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Reserve Fund.

B. If the City shall fail to pay any Policy Costs in accordance with the requirements of Paragraph A hereof, the Surety Provider shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under the Ordinance other than (i) acceleration of the maturity of the Previously Issued Parity Bonds and certain Additional Parity Bonds or (ii) remedies which would adversely affect owners of the Previously Issued Parity Bonds and certain Additional Parity Bonds.

C. The Ordinance shall not be discharged until all Policy Costs owing to the Surety Provider shall have been paid in full. The City's obligation to pay such amounts shall expressly survive payment in full of certain of the Previously Issued Parity Bonds and certain Additional Parity Bonds.

D. The Paying Agent/Registrar shall ascertain the necessity for a claim upon the Surety Policy and to provide notice to the Surety Provider in accordance with the terms of the Surety Policy at least five business days prior to each date upon which interest or principal is due on the Previously Issued Parity Bonds and certain Additional Parity Bonds.

E. The Surety Policy shall expire on _____, 20__.

SECTION 3. Definitions. Unless the context shall indicate contrary meaning or intent, the terms below defined, for all purposes of this Ordinance or any ordinance amendatory or supplemental hereto, shall be construed, are used, and are intended to have meanings as follows:

A. *Additional Parity Bonds* – bonds or other obligations authorized to be issued, including refunding bonds, which are secured by a lien on and pledge of the Net Revenues of the Systems on a parity with Previously Issued Parity Bonds.

B. *Board of Trustees, Board, or City Public Service Board* – the City Public Service Board of San Antonio, Texas, existing and functioning pursuant to the ordinances authorizing the issuance of the Previously Issued Parity Bonds and this Ordinance.

C. *City or Issuer* – the City of San Antonio, Texas.

D. *Designated Financial Officer* – the President and Chief Executive Officer of the Board, the Chair or Vice Chair of the Board, the Secretary or Assistant Secretary of the Board, Chief Financial Officer of the Systems, any Treasurer or Assistant Treasurer of the Board, any party succeeding to substantially all or part of the responsibilities and duties of either of the foregoing regardless of title, or otherwise serving in an interim or acting position, or such other officer or employee of the City authorized by the City Council to act as an authorized representative, or such other financial or accounting official of the Board so designated by the City Council.

E. *Maintenance and Operating Expenses* – those expenses required by law (Section 1502.056, as amended, Texas Government Code) to be a first lien on and charge against the income of the Systems, including the cost of insurance; the purchase and carrying of stores, materials, and supplies; the purchase, manufacture, and production of gas and electricity for distribution and resale; the payment of salaries; and the payment of all other expenses properly incurred in operating and maintaining the Systems and keeping them in good repair and operating condition (classed as a maintenance and operating expense as opposed to a capital expenditure under the Uniform System of Accounts adopted by the National Association of Regulatory Utility Commissioners). Depreciation on the properties of the Systems shall not be considered or included as Maintenance and Operating Expenses in the determination of Net Revenues of the Systems.

F. *Net Revenues* – all income and revenues from the operation of the Systems after the deduction of Maintenance and Operating Expenses. The term *Net Revenues* shall also include any additional and further security for the payment of the Parity Bonds as may be pledged therefor consistent with the then applicable laws of the State of Texas, provided that any such additional and further security is made equally and ratably applicable as security for all Outstanding Parity Bonds.

G. *Parity Bonds or New Series Bonds* – the Previously Issued Parity Bonds and any Additional Parity Bonds.

H. *Previously Issued Parity Bonds* – the Outstanding and unpaid obligations of the City that are payable solely from and equally and ratably secured by a prior and first lien on and pledge of the Net Revenues of the Systems.

I. *Surety Provider* – any authorized company permitted to provide of one or more Surety Policies to municipal issuers.

J. *Systems* – the entire electric light and power plants and systems and gas distribution system and all property of every kind appurtenant to and used or acquired in connection with said electric light and power plant and systems and gas distribution system owned by the City, together with all property of every kind now and hereafter owned or acquired by the City as a part of or for use in the operation of the City's electric light and power plants and systems and gas distribution system; provided, however, the term Systems shall not mean or include facilities of any kind which are declared not to be a part of the Systems and which are acquired or constructed by or on behalf of the City with the proceeds from the issuance of *Special Facilities Bonds*, which are hereby defined as being special revenue obligations of the City which are not payable from Net Revenues

but which are payable from and equally and ratably secured by other liens on and pledges of any revenues, sources or payments, not pledged to the payment of the Parity Bonds including, but not limited to, special contract revenues or payments received from any other legal entity in connection with such facilities.

Any other terms used but not otherwise defined herein shall have the meanings set forth in the City's most recently approved Systems' ordinance authorizing the issuance of New Series Bonds.

SECTION 4. Security of Funds. All money on deposit in the special Accounts for which this Ordinance makes provision (except any portions thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds.

SECTION 5. Surety Policy is a Special Obligation. The Surety Policy premium is a special obligation of the City payable from the pledged Net Revenues, and the holders thereof shall never have the right to demand payment out of funds raised or to be raised by taxation.

SECTION 6. Approval by Attorney General. The Mayor of the City and Treasurer of the Board are hereby authorized to have control and custody of the Surety Policy and all necessary records and proceedings pertaining thereto, and the Mayor and other officers and employees of the City and the Board are hereby authorized and instructed to make such certifications, execute such instruments, and perform such acts as may be necessary to assure the proper investigation, examination and approval thereof by the Attorney General of the State of Texas.

SECTION 7. Further Actions. The officers and employees of the City and the officers and employees of the Board are hereby authorized to execute such certificates, opinions, or other documents deemed necessary to carry out the purposes of this Ordinance.

SECTION 8. Inconsistent Provisions. All ordinances, orders, or 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 contained herein.

SECTION 9. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 10. Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 11. Public Meeting. 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 12. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, Co-Bond Counsel, and the Surety Provider any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, Co-Bond Counsel, and the Surety Provider.

SECTION 13. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 14. No Recourse Against City or Board Officials. No recourse shall be had for the payment of principal of or premium on any Surety Policy or for any claim based thereon or on this Ordinance against any official of the City, the Board, or any person executing any Surety Policy.

SECTION 15. Incorporation of Preamble Recitals. The recitals contained in the preamble to this Ordinance 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 City Council of the City.

SECTION 16. Further Procedures. The officers and employees of the City and the Board are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the effectuation of the Surety Policy. In addition, prior to the initial delivery of the Surety Policy, the Mayor, the City Manager, the City's Chief Financial Officer, and any Designated Financial Officer and Co-Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain information from any of the national bond rating agencies, or (iii) obtain the approval of the Surety Policy by the Texas Attorney General's office. In case any officer of the City or the Board whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

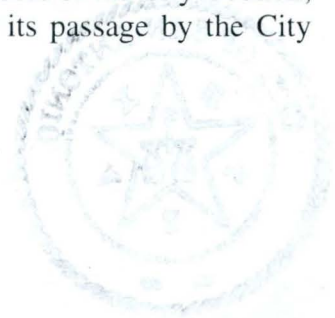
SECTION 17. City's Consent to Provide Information and Documentation to the Texas MAC. The Municipal Advisory Council of Texas (the *Texas MAC*), a non-profit membership corporation organized exclusively for non-profit purposes described in section 501(c)(6) of the Internal Revenue Code and which serves as a comprehensive financial information repository regarding municipal debt issuers in Texas, requires provision of written documentation regarding the issuance of municipal debt by the issuers thereof. In support of the purpose of the Texas MAC and in compliance with applicable law, the City hereby consents to and authorizes any Designated Financial Officer, Co-Bond Counsel to the City, and/or Co-Financial Advisors to the City to provide to the Texas MAC information and documentation requested by the Texas MAC relating to the Surety Policy; provided, however, that no such information and documentation shall be

provided prior to the effective date of the Surety Policy. This consent and authorization relates only to information and documentation that is a part of the public record concerning the effectuation of the Surety Policy.

SECTION 18. Delegation Authorization Pursuant to HB 1295. Though such parties may be identified, and the entry into a particular contract may be authorized, herein, pursuant to the Act, and any other applicable law, the City Council hereby delegates to each Designated Financial Officer the authority to independently select the counterparty to any agreement with any rating agency, insurer, securities depository, or any other contract that is determined by a Designated Financial Officer, the Co-Financial Advisors, or Co-Bond Counsel to be necessary or incidental to the issuance of the Surety Policy as long as each of such contracts has a value of less than the amount referenced in Section 2252.908 of the Texas Government Code (collectively, the *Ancillary Contracts*) and, as necessary, to execute the Ancillary Contracts on behalf and as the act and deed of the City. The City Council has not participated in the selection of any of the business entities which are counterparties to the Ancillary Contracts.

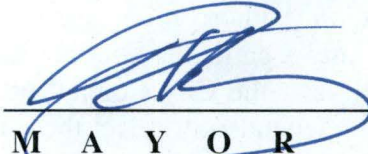
SECTION 19. Effective Date. The effective date of this Ordinance shall be governed by the provisions of Section 1-15 of the City Code of San Antonio, Texas. This Ordinance shall take effect immediately if passed by the affirmative vote of at least eight members of the City Council, otherwise the same shall take effect on the tenth day after the date of its passage by the City Council.

* * *




PASSED AND ADOPTED by an affirmative vote of 10 members of the City Council of the City of San Antonio, Texas, this the 18th day of August, 2022.

CITY OF SAN ANTONIO, TEXAS



M A Y O R
Ron Nirenberg

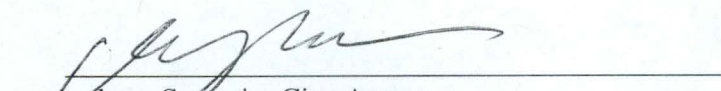
ATTEST:



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 as aforesaid.



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



City of San Antonio

City Council Meeting August 18, 2022

20.

2022-08-18-0605

Ordinance approving the amendment and extension of the Surety Policy terms satisfying the debt service reserve fund requirements related to the City's Electric and Gas systems new series bonds; delegating the authority to certain staff to approve other matters in connection therewith; and providing an effective date. [Ben Gorzell Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer]

Councilmember Courage moved to Approve on the Consent Agenda. Councilmember Rocha Garcia seconded the motion. The motion carried by the following vote:

Aye: Nirenberg, Bravo, McKee-Rodriguez, Rocha Garcia, Castillo, Cabello
Havrda, Sandoval, Pelaez, Courage, Perry

Absent: Viagran

EXHIBIT A

Form Surety Policy

See Tab No. ____

CERTIFICATE OF CITY CLERK

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §
 §
CITY OF SAN ANTONIO, TEXAS §

THE UNDERSIGNED HEREBY CERTIFIES that:

1. On the 18th day of August, 2022, the City Council (the *Council*) of the City of San Antonio, Texas (the *City*) convened in regular session at its regular meeting place in the City Hall of the City (the *Meeting*), the duly constituted members of the Council being as follows:

Ron Nirenberg	Mayor
Mario Bravo	Councilmember
Jalen McKee-Rodriguez	Councilmember
Phyllis Viagran	Councilmember
Dr. Adriana Rocha Garcia	Councilmember
Teri Castillo	Councilmember
Melissa Cabello Havrda	Councilmember
Ana Sandoval	Councilmember
Manny Pelàez	Councilmember
John Courage	Councilmember
Clayton Perry	Councilmember

and all of such persons were present at the Meeting, except the following: VIAGRAN, thus constituting a quorum. Among other business considered at the Meeting, the attached Ordinance (the *Ordinance*) entitled:

AN ORDINANCE AUTHORIZING THE AMENDMENT AND EXTENSION OF THE SURETY POLICY TERMS SATISFYING THE DEBT SERVICE RESERVE FUND REQUIREMENTS RELATED TO THE CITY'S ELECTRIC AND GAS SYSTEMS NEW SERIES BONDS; DELEGATING THE AUTHORITY TO CERTAIN STAFF TO APPROVE OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE

was introduced and submitted to the Council for passage and adoption. After presentation and discussion of the Ordinance, a motion was made by Councilmember COURAGE that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by Councilmember ROCHA GARCIA and carried by the following vote:

10 voted "For" 0 voted "Against" 1 abstained

all as shown in the official Minutes of the Council for the Meeting.

2. The attached Ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the Council of the City on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Council was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Ordinance would be considered; and the Meeting and deliberation of the aforesaid public business, including the subject of the Ordinance, was open to the public and posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

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IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this 18th day of August, 2022.

Debbie Roca Siller

City Clerk

City of San Antonio, Texas

