

ORDINANCE NO. 98877

**AN ORDINANCE AUTHORIZING AND APPROVING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CITY OF SAN ANTONIO, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2004 IN A MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$30,710,000; COMPLYING WITH THE REQUIREMENTS CONTAINED IN SECURITIES AND EXCHANGE COMMISSION RULE 15c2-12, INCLUDING THE APPROVAL AND DISTRIBUTION OF THE PRELIMINARY OFFICIAL STATEMENTS PERTAINING TO THE ISSUANCE OF SUCH OBLIGATIONS AND APPROXIMATELY \$34,685,000 CITY OF SAN ANTONIO, TEXAS GENERAL IMPROVEMENT BONDS, SERIES 2004 AND APPROXIMATELY \$12,795,000 CITY OF SAN ANTONIO, TEXAS TAXABLE GENERAL IMPROVEMENT REFUNDING BONDS, SERIES 2004; AUTHORIZING THE CITY'S STAFF, CO-FINANCIAL ADVISORS, AND CO-BOND COUNSEL TO TAKE ALL ACTIONS DEEMED NECESSARY IN CONNECTION WITH THE SALE OF SUCH OBLIGATIONS; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Council (the *City Council*) of the City of San Antonio, Texas (the *City*) has determined that it is advisable and necessary to issue and sell one or more series of certificates of obligation (the *Certificates*) in an amount not to exceed \$30,710,000 as provided pursuant to the provisions of the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code, Section 271.041 through 271.063, for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) constructing public safety improvements, including constructing new fire stations and renovating and improving existing fire stations, (2) constructing drainage improvements, sidewalk improvements, bridge improvements, street improvements, and drainage incidental thereto, (3) constructing improvements and renovations to existing municipal facilities, including the Tower of the Americas, (4) acquiring, constructing, and renovating park facilities, (5) constructing improvements for flood control, dams, landscaping and amenities along the San Antonio River, (6) purchasing materials, supplies, machinery, land, and rights-of-way for authorized needs and purposes relating to public safety, drainage, street, parks, flood control, and public works purposes, (7) paying the costs associated with the implementation of a new Enterprise Resource Management System, including development and installation costs relating thereto, and (8) the payment of professional services related to the construction and financing of the aforementioned projects; and

WHEREAS, concurrently with the issuance of the *Certificates*, the City is contemplating the issuance of general improvement bonds (the *Bonds*) and taxable general improvement refunding bonds (the *Refunding Bonds* and together with the *Certificates* and the *Bonds* are collectively referred to herein as the *Obligations*);

WHEREAS, a separate preliminary official statement relating to the Refunding Bonds and a separate preliminary official statement relating to the Bonds and the Certificates, including the City's audited financial statements for the period ending September 30, 2002 (collectively, the *Official Statement*) has been prepared in connection with the proposed issuance and sale of the Obligations, and the Official Statement has been submitted to and reviewed by proper officials of the City; and

WHEREAS, prior to the offering, sale, and issuance of the Obligations, the appropriate officials of the City must review and approve the distribution of a "deemed final" preliminary official statement in order to comply with the requirements contained in 17 C.F.R. §240.15c2-12 (the *Securities and Exchange Rule*); and

WHEREAS, based upon their review of the Official Statement, the appropriate officials of the City must find to the best of their knowledge and belief, after reasonable investigation, that the representations of facts pertaining to the City contained in the Official Statement are true and correct and that, except as disclosed in the Official Statement, there are no facts pertaining to the City that would adversely affect the issuance of the Obligations or the City's ability to pay the debt service requirements on the Obligations when due; and

WHEREAS, the City Council will comply with the requirements contained in the Securities and Exchange Rule concerning the creation of a contractual obligation between the City and the proposed purchasers of the Obligations (the *Underwriters*) to provide the Underwriters with an Official Statement in a time and manner that will enable the Underwriters to comply with the distribution requirements and continuing disclosure requirements contained in the Securities and Exchange Rule; and

WHEREAS, the City Council hereby finds and determines that the Official Statement is "deemed final" as that term is defined in the Securities and Exchange Rule; and

WHEREAS, the City Council hereby finds and determines that the Official Statement should be approved and authorization to distribute such documents concerning the negotiated sale of the Obligations should be given in the manner provided by applicable law; and

WHEREAS, the City Council authorizes the Mayor, City Manager, Director of Finance, Acting City Clerk, and the City Attorney, as appropriate, or their designees, to review, approve, and execute any document or certificate in order to allow the City to comply with the requirements contained in the Securities and Exchange Rule; and

WHEREAS, prior to the issuance of the Certificates, the City Council is required to publish notice of its intention to issue the Certificates in a newspaper of general circulation in the City, such notice stating (i) the time and place the City Council tentatively proposes to pass the ordinances authorizing the issuance of the Certificates, (ii) the maximum amount proposed to be issued, (iii) the purposes for which the Certificates are to be issued, (iv) and the manner in which the City Council proposes to pay the Certificates; and

WHEREAS, the City Council hereby finds and determines that such documents pertaining to the sale of the Obligations should be approved, and the City should proceed with

the giving of notice of intention to issue the Certificates in the time, form, and manner provided by law;

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

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

SECTION 1: The preliminary official statement relating to the Refunding Bonds and the preliminary official statement relating to the Bonds and the Certificates, including the City's audited financial statements for the period ending September 30, 2002, prepared in connection with the issuance and sale of the Obligations are hereby approved, such documents to read substantially as attached hereto as Exhibit A and incorporated herein by reference and made a part of this Ordinance for all purposes, and the Mayor and the Acting City Clerk are hereby authorized to execute and cause distribution to be made of such documents for and on behalf of the City.

SECTION 2: The Mayor, City Manager, Director of Finance, Acting City Clerk, and the City Attorney, as appropriate, or their designees, are authorized to review and approve the Official Statement, including any amendment thereto, pertaining to the offering, sale, and issuance of the Obligations and to execute any document or certificate in order to comply with the requirements contained in the Securities and Exchange Rule.

SECTION 3: The City Clerk or Acting City Clerk is hereby authorized and directed to cause notice to be published of the City Council's intention to issue the Certificates in an amount not to exceed \$30,710,000 for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) constructing public safety improvements, including constructing new fire stations and renovating and improving existing fire stations, (2) constructing drainage improvements, sidewalk improvements, bridge improvements, street improvements, and drainage incidental thereto, (3) constructing improvements and renovations to existing municipal facilities, including the Tower of the Americas, (4) acquiring, constructing, and renovating park facilities, (5) constructing improvements for flood control, dams, landscaping and amenities along the San Antonio River, (6) purchasing materials, supplies, machinery, land, and rights-of-way for authorized needs and purposes relating to public safety, drainage, street, parks, flood control, and public works purposes, (7) paying the costs associated with the implementation of a new Enterprise Resource Management System, including development and installation costs relating thereto, and (8) the payment of professional services related to the construction and financing of the aforementioned projects. The Certificates will be payable from the levy of an annual ad valorem tax, within the limitations prescribed by law, upon all taxable property within the City and additionally from a pledge of and lien on certain revenues derived from the operation of the City's municipally owned parks. The notice hereby approved and authorized to be published shall read substantially in the form and content of Exhibit B attached hereto, which notice is incorporated herein by reference as a part of this Ordinance for all purposes.

SECTION 4: The City Clerk or Acting City Clerk shall cause the notice described in Section 3 to be published in a newspaper of general circulation in the City, once a week for two consecutive weeks, the date of the first publication shall be at least fifteen (15) days prior to the date stated therein for passage of the ordinances authorizing the issuance of the Certificates.

SECTION 5: The City Clerk or Acting City Clerk is directed to maintain a copy of this Ordinance in the City's official records in a manner that will allow any member of the general public to review this Ordinance during the normal business hours of the City during the period beginning thirty (30) days after the adoption hereof and ending on the date of issuance of the Obligations.

SECTION 6: The Underwriters (as identified on each Official Statement) are confirmed to serve as the underwriting syndicate for the proposed issuance of the Obligations by the City.

SECTION 7: 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 City Council.

SECTION 8: 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 9: 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: 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 City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 11: 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: This Ordinance shall be in force and shall take effect on the tenth day after the date of its adoption by the City Council, and it is so ordained.

PASSED AND APPROVED, this the 19th day of February, 2004.

CITY OF SAN ANTONIO



Mayor

EDWARD D. GARZA

ATTEST:

  
Acting City Clerk

(CITY SEAL)

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 Martin, City Attorney  
City of San Antonio, Texas