

ORDINANCE AUTHORIZING THE REDEMPTION AND DEFEASANCE OF CERTAIN CITY OF SAN ANTONIO, TEXAS WATER SYSTEM REVENUE AND REFUNDING BONDS, SERIES 2001 AND CITY OF SAN ANTONIO, TEXAS WATER SYSTEM REVENUE BONDS, SERIES 2002-A; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of San Antonio, Texas (the “City Council”) has previously authorized the issuance of obligations designated as \$58,700,000 of obligations designated as City of San Antonio, Texas Water System Revenue and Refunding Bonds, Series 2001 (the “2001 Bonds”) and \$137,820,000 of obligations designated as City of San Antonio, Texas Water System Revenue Bonds, Series 2002-A (the “2002-A Bonds” and together with the 2001 Bonds, the “Bonds”);

WHEREAS, the City Council of the City of San Antonio, Texas (the “City”) previously established an agency of the City known as the San Antonio Water System (the “System”), which agency is under the management and control of the Board of Trustees (the “Board”) established and created pursuant to the provisions of an ordinance adopted by the City Council on April 30, 1992 (the “Bond Ordinance”) and Chapter 1502, as amended, Texas Government Code;

WHEREAS, the Board adopted a resolution on March 4, 2008 requesting that certain maturities, or portions thereof, of the 2001 Bonds and 2002-A Bonds described in Exhibit A, attached hereto and incorporated by reference herein as if copied in full, be redeemed and defeased (the “Defeased Bonds”);

WHEREAS, Chapter 1207, as amended, Texas Government Code (the “Act”), the Board’s Investment Policy, and other laws of the State of Texas authorize the City to enter into an escrow agreement with any paying agent for the Defeased Bonds with respect to the safekeeping, investment, reinvestment, administration, and disposition of up to \$26,000,000 of lawfully available net revenues of the System for the purpose of acquiring government securities and irrevocably depositing same in trust with the appropriate escrow agent to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any money deposited therewith, if any, to pay when due the principal of, premium, if any, or interest on the Defeased Bonds to effectuate a legal defeasance of the Defeased Bonds and to give or arrange for notice of redemption thereof;

WHEREAS, an approximate amount of \$26,000,000 of lawfully available net revenues of the System will be utilized by the System to effectuate the legal defeasance of the Defeased Bonds;

WHEREAS, the ordinances authorizing the issuance of the 2001 Bonds and 2002-A Bonds (collectively, the “Original Ordinance”) provides the notice requirements to effectuate the redemption of the Defeased Bonds that are subject to a legal defeasance;

WHEREAS, U.S. Bank National Association, Houston, Texas is the paying agent for the 2001 Bonds and The Bank of New York Trust Company, National Association, Dallas, Texas is the paying agent for the 2002-A Bonds and U.S. Bank National Association, Houston, Texas is

hereby appointed as the Escrow Agent (hereafter defined) and is not a depository bank for the City, and the Escrow Agreement hereinafter authorized constitutes an escrow agreement of the kind authorized and permitted by the Act to effectuate a legal defeasance of the Defeased Bonds;

WHEREAS, it is in the best interest of the City and the ratepayers of the Systems to legally defease and redeem, if any, certain portions of the Defeased Bonds as herein provided in order to terminate the payment of interest thereon and to reduce the Systems' aggregate debt service requirements in the years, subsequent to the redemption date; now, therefore,

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

ARTICLE I

DEFINITIONS

SECTION 1.1 Definitions. In addition to other words and terms defined in this Ordinance, and unless a different meaning or intent clearly appears in the context, the following words and terms shall have the following meanings, respectively:

- (a) “*Board*” - The duly constituted Board of Trustees of the San Antonio Water System, or any successor thereto.
- (b) “*City*” - The City of San Antonio, Texas, or any successor thereto.
- (c) “*Code*” - The Internal Revenue Code of 1986, as amended.
- (d) “*Council*” - The City Council of the City.
- (e) “*Escrow Agent*” - U.S. Bank National Association, Houston, Texas, or any successor thereto.
- (f) “*Escrow Agreement*” – The agreement dated as of March 6, 2008, between the City and the Escrow Agent substantially in the form attached hereto as Exhibit C.
- (g) “*Government Securities*” – (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent; or (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.
- (h) “*Ordinance*” - This “ORDINANCE AUTHORIZING THE REDEMPTION AND DEFEASANCE OF CERTAIN CITY OF SAN ANTONIO, TEXAS WATER SYSTEM

REVENUE AND REFUNDING BONDS, SERIES 2001 AND CITY OF SAN ANTONIO, TEXAS WATER SYSTEM REVENUE BONDS, SERIES 2002-A; AND PROVIDING FOR AN EFFECTIVE DATE” adopted by the Council on March 6, 2008.

(i) “*Report*” - The verification report prepared by The Arbitrage Group, Inc. pursuant to the Escrow Agreement.

SECTION 1.2 Escrow Fund. The City hereby establishes the Escrow Fund held by the Escrow Agent pursuant to the Escrow Agreement into which the described available net revenues of the Systems shall be placed.

SECTION 1.3 Escrow Agreement. The Escrow Agreement is hereby approved as to form and content, and the Escrow Agreement in substantially the form and substance attached hereto, together with such changes or revisions as may be necessary to accomplish the legal defeasance or benefit the City with respect to the Defeased Bonds, are hereby authorized to be executed by the Mayor or Mayor Pro Tem and City Clerk or Assistant City Clerk on behalf of the City and as the act and deed of this Council; and the Escrow Agreement as executed by such officials shall be deemed approved by the City and the Board and shall constitute the Escrow Agreement herein approved.

Furthermore, the Mayor, City Clerk, City Manager, Director of Finance, Chairman, Board of Trustees and Secretary, Board of Trustees and President/Chief Executive Officer and Chief Financial Officer of the System, any one or more of said officials, and the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the Government Securities referenced in the Escrow Agreement and the delivery thereof to the Escrow Agent on or before May 15, 2008 for the Defeased Bonds for deposit to the credit of the Escrow Fund established pursuant to the Escrow Agreement, including the execution of any subscription forms for the purchase and issuance of the “United States Treasury Securities - State and Local Government Series” for deposit to the Escrow Fund; all as contemplated and provided by the provisions of the Act, as appropriate, this Ordinance, and the Escrow Agreement.

SECTION 1.4 Notices of Redemption. Certain of the Defeased Bonds described in Schedule I to the Escrow Agreement are or may be subject to redemption prior to their stated maturity at the price of par, premium, if any, and accrued interest to the date of redemption. If so requested by the Board, the Mayor will give written notice to the Escrow Agent that these Defeased Bonds have been called for redemption, and the Council orders that such obligations are called for redemption on the date as described in the Escrow Agreement, and such direction to redeem the Defeased Bonds on the date therein specified shall be irrevocable upon the execution of the Escrow Agreement. A copy of the notices of redemption, if any, and the notice of defeasance, if any, pertaining to these Defeased Bonds will be attached as an Exhibit to the Escrow Agreement.

SECTION 1.5 Available Funds. An approximate amount of \$26,000,000 determined by the Board to be available for such purposes and necessary for purchase of securities to be deposited in escrow and used for payment of the Defeased Bonds shall be deposited to the Escrow Fund created under the Escrow Agreement.

SECTION 1.6 Matters Related to Defeasance. In order that the City shall satisfy in a timely manner all of its obligations under this Ordinance, the Chairman of the Board and all other appropriate officers and agents of the Board, including the Chief Executive Officer and the Chief Financial Officer, are hereby authorized and directed to take all actions that are reasonably necessary to provide for the legal defeasance of the Defeased Bonds, including, without limitation, executing and delivering on behalf of the City all certificates, consents, receipts, requests, notices, escrow reinvestment agreements, float contracts, and other documents as may be reasonably necessary to satisfy the City's obligations under this Ordinance and to direct the transfer and application of the lawfully available net revenues of the Systems consistent with the provisions of this Ordinance.

No money of the City or System, other than the amount specified in Section 1.5 hereof, shall be used to defease the Defeased Bonds.

To assure the purchase of the Government Securities referred to in the Escrow Agreement, the Chief Financial Officer and the Escrow Agent are hereby authorized to subscribe for, agree to purchase, and to actually purchase Government Securities, in such amounts and maturities and bearing interest at such rates as may be provided for in the Report, and to execute any and all subscriptions, purchase agreements, commitments, float contracts, escrow reinvestment agreements, letters of authorization, and other documents necessary to effectuate the foregoing, and any actions heretofore taken for such purpose are hereby ratified and approved.

SECTION 1.7 Miscellaneous Provisions.

(a) **Titles Not Restrictive.** The titles assigned to the various sections of this Ordinance are for convenience only and shall not be considered restrictive of the subject matter of any section or of any part of this Ordinance.

(b) **Inconsistent Provisions.** All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed and declared to be inapplicable, and the provisions of this Ordinance shall be and remain controlling as to the matters prescribed herein.

(c) **Severability.** If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance shall nevertheless be valid and the Council hereby declares that this Ordinance would have been enacted without such invalid word, phrase, clause, paragraph, sentence, part, portion, or provisions.

(d) **Preamble Incorporation.** 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.

(e) **Governing Law.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas.

(f) Open Meeting. The Council officially finds and determines that the meeting at which this Ordinance is adopted was open to the public; and that public notice of the time, place, and purpose of such meeting was given, all as required by Chapter 551, Texas Government Code.

(g) 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 ____ members of the City Council of the City of San Antonio, Texas, on the 6th day of March, 2008.

Mayor, City of San Antonio, Texas

ATTEST:

City Clerk, City of San Antonio, Texas

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.

Michael D. Bernard, City Attorney, City of San Antonio, Texas

EXHIBIT A

BONDS TO BE REDEEMED AND DEFEASED

City of San Antonio, Texas Water System Revenue and Refunding Bonds, Series 2001

<u>Maturity Dates</u> <u>(May 15)</u>	<u>Refunded Principal</u> <u>Amount Being Refunded</u>	<u>Interest</u> <u>Rates (%)</u>
2011	\$1,600,000	6.25
2012*	\$1,745,000	5.00
2013*	\$2,075,000	5.00

*The Bonds will be redeemed on May 15, 2011 at a redemption price of par, without a redemption premium, plus accrued interest to the date of redemption.

City of San Antonio, Texas Water System Revenue Bonds, Series 2002-A

<u>Maturity Dates</u> <u>(May 15)</u>	<u>Refunded Principal</u> <u>Amount Being Refunded</u>	<u>Interest</u> <u>Rates (%)</u>
2010	\$3,755,000	5.25
2010	\$1,300,000	4.00
2011	\$4,365,000	4.125
2012	\$2,280,000	5.50
2012	\$2,000,000	4.25
2013**	\$4,000,000	5.50

**The Bonds will be redeemed on May 15, 2012 at a redemption price of par, without a redemption premium, plus accrued interest to the date of redemption.

EXHIBIT B

Notices of Redemption

See Tab No. __