

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL**

ORDINANCE

TERMINATING THE PROJECT WINTER ASSISTANCE RELIEF MOBILIZATION (WARM) PROGRAM AND AUTHORIZING THE TRANSFER OF THE WARM ACCOUNT CORPUS AND INTEREST FROM CPS ENERGY TO THE RESIDENTIAL ENERGY ASSISTANCE PARTNERSHIP, INC. (REAP) PROGRAM FOR EFFICIENT ADMINISTRATION OF A SINGLE UTILITY ASSISTANCE PROGRAM UNDER THE REAP PROGRAM; AUTHORIZING AGREEMENTS NECESSARY TO EFFECTUATE THE TRANSFER AND TERMINATION WITH CPS ENERGY AND REAP, INCLUDING AN EXTENSION OF THE CURRENT AGREEMENT WITH REAP TO DECEMBER 31, 2023, AND TWO AUTOMATIC ANNUAL RENEWALS TO DECEMBER 31, 2025.

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WHEREAS, the Winter Assistance Relief Mobilization (WARM) program (“Project WARM”) provides utility assistance benefits for qualifying low income residents of the City of San Antonio (“City”) and Bexar County; and

WHEREAS, pursuant to City Ordinance No. 56405, Project WARM was established in 1983 by the City Council and is now jointly administered by the City’s Department of Human Services (“DHS”) and CPS Energy; and

WHEREAS, Project WARM is presently funded primarily with interest earned from the approximate \$7.5 million in the WARM Account (defined below), initiated in 1984 by an Assignment of Overriding Royalty Interest (“ORRI”) in Natural Gas Reserves from the Wagner & Brown partnerships to the City, acting by and through CPS Energy; and

WHEREAS, the City and CPS Energy entered into a Memorandum of Understanding in 1985, under which the net proceeds of the ORRIs were to be maintained by CPS Energy as corpus and kept in a separate investment account (the “WARM Account”), the income from which would be used to fund Project WARM distributions; and

WHEREAS, in 2002, the City, Bexar County, and CPS Energy established the Residential Energy Assistance Program (the “REAP Program”) to help local economically disadvantaged families needing utility assistance; and

WHEREAS, the Residential Energy Assistance Partnership, Inc. (“REAP”) was formed to administer the REAP Program; and

WHEREAS, specifically, the REAP Program provides direct utility bill credits to income qualifying CPS Energy customers living within the City limits and Bexar County through funds donated by CPS Energy customers or others, fundraising activities, and investment income from the investment of REAP funds; and

WHEREAS, in 2016, pursuant to City Ordinance No. 2016-04-07-0244, the City authorized and entered into an agreement with CPS Energy through December 31, 2018, with two automatic successive annual renewals ending on December 31, 2019 and December 31, 2020, for the administration of Project WARM; and

WHEREAS, pursuant to City Ordinance No. 2019-11-07-0918, the City authorized and entered into an agreement with REAP, effective January 1, 2019 through December 31, 2020 (the “REAP Agreement”), with two automatic successive annual renewals ending on December 31, 2021 and December 31, 2022, respectively, for the administration of REAP, under which contributions to REAP are currently allocated 80% to the City for the REAP Program and 20% to any program substantially similar to the REAP Program maintained by Bexar County (such current allocation method, the “80/20 Plan”); and

WHEREAS, given the substantially similar purpose and operations of Project WARM and the REAP Program and the unprecedented effects of the coronavirus COVID-19 pandemic, particularly on the economically disadvantaged population, the City and CPS Energy desire to streamline the administration of utility assistance credits to economically disadvantaged residents by consolidating Project WARM and the REAP Program into a single utility assistance program; and

WHEREAS, the current WARM Account corpus, related interest, and any other funds received related to the WARM Account (royalty receipts, miscellaneous contributions, etc.) once transferred to REAP to facilitate efficient administration, shall not be subject to the 80/20 Plan and shall be exclusively allocated to the City for distribution; **NOW THEREFORE:**

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

SECTION 1. The transfer of the current WARM Account corpus, related interest, and any other funds received related to the WARM Account (royalty receipts, miscellaneous contributions, etc.) from CPS Energy to REAP (the “WARM Account Transfer”) is hereby authorized for the purpose of efficient administration of a single utility assistance program under the REAP Program.

SECTION 2. The termination of Project WARM following the completion of all pending WARM administrative transactions is hereby authorized for the purpose of efficient administration of a single utility assistance program under the REAP Program.

SECTION 3. The City Manager, or his designee, is hereby directed to request CPS Energy to initiate the WARM Account Transfer, which funds will be managed consistent with the REAP Agreement, as may be amended from time to time, except that such funds shall not be subject to the 80/20 Plan.

SECTION 4. The termination of (i) the Memorandum of Understanding, effective January 31, 1985, by and between the City and CPS Energy; (ii) the Agreement Between the City and CPS Energy in Connection with Project WARM, dated effective January 1, 2016, pursuant to Section 4.1 therein; and (iii) all other agreements and memorandums of understanding related to the establishment, implementation, and operation of Project WARM by and between the City and CPS Energy upon completion of the WARM Account Transfer is hereby authorized.

SECTION 5. The City Manager or his designee, is hereby authorized to execute a termination agreement (the “Termination Agreement”) with CPS Energy to terminate Project WARM. A copy of the Termination Agreement, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 6. The City Manager, or his designee, is hereby authorized to negotiate with REAP and execute a) an amendment to, or an amendment and restatement of, the REAP Agreement and b) any assignments of interest or other documents needed to authorize the transfer of other WARM Account funds to REAP to effectuate the actions authorized hereunder, provided that such agreements are first reviewed and approved by the City Attorney’s Office.

SECTION 7. The REAP Agreement , as amended or amended and restated pursuant to Section 6 herein, will provide for the distribution of REAP Program funds according to the following: (i) the \$1,000,000 annually contributed by CPS Energy to REAP and other contributions under the existing agreement will continue to be allocated according to the 80/20 Plan or such other agreement as may be approved from time to time; and (ii) the funds transferred to REAP pursuant to the WARM Account Transfer will be allocated exclusively to the City (such allocation method, the “Amended REAP Plan”). In addition, the expiration date of the Agreement may be extended to a date no later than December 31, 2023, with two automatic successive annual renewals ending on December 31, 2024 and December 31, 2025, respectively.

SECTION 8. The City Manager, or his designee, is hereby authorized, directed, and given full discretion to draft, negotiate, review, and revise any agreements or documents that are necessary to effectuate the intent of this Ordinance.

SECTION 9. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 10. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 25th day of June, 2020.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Tina Flores, Acting City Clerk

Andrew Segovia, City Attorney

DRAFT