

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

ORDINANCE

APPROVING AN ARBITRAGE REBATE COMPLIANCE SERVICES CONTRACT WITH THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. TO PROVIDE ARBITRAGE REBATE COMPLIANCE SERVICES IN CONNECTION WITH THE CITY'S FINANCES FOR A TERM BEGINNING APRIL 1, 2021 AND ENDING MARCH 31, 2024, WITH THE OPTION TO EXTEND FOR ONE (1) ADDITIONAL TWO (2) YEAR TERM.

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WHEREAS, laws codified in Internal Revenue Service (IRS) Code Section 148 and regulations promulgated by the United States Treasury mandate that interest income derived from the investment of tax-exempt proceeds in excess of the permitted arbitrage rate must be rebated to the United States Government; and

WHEREAS, arbitrage rebate compliance requires that computations be performed which are consistent with the complex technical requirements contained in the aforementioned laws and regulations to determine the rebate amount, if any; and

WHEREAS, the scope of arbitrage rebate compliance services required by the City includes: a comprehensive review of the City's outstanding tax-exempt obligations, debt service funds, debt service reserve funds, capital projects funds and other funds, into which tax-exempt proceeds have been deposited; calculation and verification of the arbitrage rate for each tax-exempt obligation for which an arbitrage rebate computation is required; on-going services with respect to questions that may arise from time to time concerning arbitrage rebate; and assisting the City in responding to queries posed to the City related to arbitrage; and

WHEREAS, a Request for Proposal ("RFP") was developed inclusive of the various types of financings the City may undertake during the term of the Arbitrage Rebate Compliance Services Contract, for the purpose of soliciting proposals for the provision of Arbitrage Rebate Compliance Services to the City; and

WHEREAS, the RFP was released on November 1, 2020; and

WHEREAS, on December 7, 2020, three (3) firms submitted proposals for provision of Arbitrage Rebate Compliance Services, which were received by the City and evaluated by an evaluation committee; and

WHEREAS, the evaluation involved each of the following criteria: Experience, Background, and Qualifications; Proposed Plan; Price Schedule; Small Business Economic Development Advocacy

Small Business Enterprise Prime Contract Program, Local Preference Program, and the Veteran Preference Program; and

WHEREAS, City Staff has recommended that the City enter into an Arbitrage Rebate Compliance Services Contract with The Bank of New York Mellon Trust Company, N.A., with the term of the contract to begin April 1, 2020 and end March 31, 2024, and containing an option to extend for one (1) additional two (2) year term; and

WHEREAS, following discussion and deliberations by the City Council on the matter, the City Council is of the opinion that the recommendation of City Staff should be accepted and followed;
NOW THEREFORE:

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

SECTION 1. The Arbitrage Rebate Compliance Services Contract between the City and The Bank of New York Mellon Trust Company, N.A., (the “Contract”), a true and correct copy of which, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I**, is hereby approved. The City Manager or his Designee, or the Chief Financial Officer (CFO) or his Designee, or the Deputy Chief Financial Officer (DCFO) or his Designee, are hereby authorized to execute the Contract containing the same or substantially the same terms and conditions as those set forth in **Attachment I**.

SECTION 2. The City Manager or the CFO or the DCFO is authorized sixty (60) business days from the effective date of this Ordinance within which to execute a contract, substantially according to the terms and conditions set forth in **Attachment I**. If said contract is not executed within said sixty (60) business days, or if the parties cannot agree to terms of such contract that are in substantially the same form as **Attachment I** within such time, then there shall be no authority to execute said contract unless there is subsequent City Council approval.

SECTION 3. Fees for Arbitrage Rebate Compliance Services are paid from tax-exempt proceeds and the interest earned on the investment of such proceeds. Therefore, there is no impact on the City’s Operating Budget.

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SECTION 4. This ordinance is effective immediately upon passage by eight (8) affirmative votes; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this ____ day of _____, 2021.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Tina J. Flores, City Clerk

Andrew Segovia, City Attorney

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