

ORDINANCE NO. 2016-01-15-____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS PROVIDING FOR THE DISSOLUTION OF THE DISTRICT SPECIAL PROJECT; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR 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 pledged revenues (the *Pledged Revenues*) of the City's combined utility systems (the *System*), on a parity with certain currently outstanding revenue bonds and revenue and refunding bonds (the *Senior Lien Obligations*); and

WHEREAS, the City Council of the City has heretofore issued, and there are currently outstanding, revenue and refunding bonds (the *Junior Lien Obligations*) supported by a junior lien on and pledge of the net revenues (the *Net Revenues*) of the System; and

WHEREAS, the City Council of the City has heretofore issued, and there are related obligations currently outstanding supported by a subordinate lien on and pledge of the Net Revenues of the System (the *Subordinate Lien Obligations*); and

WHEREAS, the City has heretofore issued, and there are currently outstanding, series of commercial paper notes (the *Commercial Paper*) which are equally and ratably secured by a lien on and pledge of the Net Revenues of the System subordinate to the lien securing the payment of the Senior Lien Obligations and Junior Lien Obligations but on parity with the lien thereon securing the Subordinate Lien Obligations; and

WHEREAS, the City has, by Ordinance No. 2012-03-08-0181 adopted by the City Council on March 8, 2012, effected the amendment of the respective City ordinances authorizing the issuance of each series of Junior Lien Obligations prior to such date and that now remain Outstanding to permit the issuance of certain Additional Junior Lien Obligations that are Junior Lien Obligations—No Reserve Fund, which ordinance amendments have been consented to by the parties whose consent serves as a prerequisite to the effectiveness thereof; and

WHEREAS, the City has heretofore issued multiple series of obligations as Additional Junior Lien Obligations that are Junior Lien Obligations – No Reserve Fund; and

WHEREAS, on June 17, 2011, Senate Bill 341 (*SB 341*), enacted by the 82nd Regular Texas Legislature, became law; and

WHEREAS, SB 341 required that an election (the *Election*) be held within the boundaries of the Bexar Metropolitan Water District, a conservation and reclamation district and political subdivision of the State of Texas created and existing pursuant to and in accordance with Texas law (as further described and defined herein, the *District*), to determine if the District should be dissolved and the ownership of the District's waterworks system (as further described and defined herein, the *District System*), along with the responsibility of operating and

maintaining the same and utilizing such assets to provide water service to those customers within the territory encompassed by any District certificate of convenience and necessity issued by the Texas Commission on Environmental Quality (the *Commission*), be transferred to the City, acting by and through the Board (the *SAWS Transfer*); and

WHEREAS, the Election was ordered and conducted within the District boundaries on November 8, 2011 in accordance with the provisions of SB 341 and other applicable law (including, but not limited to, the Voting Rights Act of 1965); and

WHEREAS, pursuant to voter approval at the Election, the City assumed control of the operation and management of the District and all rights, duties, and obligations as the same relate to any existing asset or obligation of the District; and

WHEREAS, pursuant to the authority vested in the City by SB 341 and to lessen the immediate impact upon the existing ratepayers of the System, the City, acting by and through the Board, took immediate possession of the District System and has, since assumption, operated the same as the “District Special Project”, being a “Special Project” as such term is defined and described herein, all pursuant to City Ordinance No. 2011-20-0845, adopted by the City Council on October 20, 2011 (the *DSP Ordinance*); and

WHEREAS, the City has heretofore issued and/or assumed, and there are currently outstanding obligations (the *District Special Project Obligations*) supported by liens on and pledges of the net revenues of the District Special Project on both a first and prior and subordinate level of priority; and

WHEREAS, the City has determined, pursuant to authority vested in the City by SB 341, to consolidate the System and the former District System, now operated as the District Special Project, which consolidation shall be effective upon the defeasance of the District Special Project Obligations; and

WHEREAS, the City has determined this consolidation and related dissolution of the District Special Project represents a necessary step undertaken in furtherance of the complete integration of the former District System into the System within the period of time specified in Section 52 of SB 341; and

WHEREAS, upon dissolution of the District Special Project and consolidation of the former District System into the System, the City will have achieved two of the three elements of complete integration required by SB 341, with the third, as of yet unachieved, element being accomplishment of rate parity among the System’s customers and the customers of the former District System (completion of all three elements in referred to herein as *Integration*); and

WHEREAS, upon consolidation as described above and the defeasance of the District Special Project Obligations, as described below, the System shall include the System, as it existed on and prior to the date hereof, and the waterworks system of the District Special Project, as it existed on and prior to the date hereof, and, hereafter, Gross Revenues (defined herein) of the System shall include such revenues of the City generated from its ownership and operation of this newly-combined System; and

WHEREAS, there are currently outstanding District Special Project Obligations in the aggregate principal amount of \$159,805,000, being the obligations set forth on Schedule I hereto (the *Refunded Obligations*), which Refunded Obligations must be replaced with obligations that are secured by and payable from a lien on and pledge of the revenues of the System; and

WHEREAS, pursuant to the provisions of Chapter 1207, as amended, Texas Government Code (*Chapter 1207*), the City Council, by Ordinance Nos. 2016-01-15-____ and 2016-01-15-____, authorized the issuance of issue revenue refunding bonds and the deposit of the proceeds from such sale pursuant to the terms of an escrow agreement to provide for the payment of the Refunded Obligations, and such deposit, when made in accordance with Chapter 1207, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, there are currently outstanding District Special Project Obligations in the aggregate principal amount of \$88,700,000, being the obligations set forth on Schedule I hereto (the *DSP Flex Rate Notes*), which DSP Flex Rate Notes must be replaced with obligations that are secured by and payable from a lien on and pledge of the revenues of the System; and

WHEREAS, the City Council of the City has determined that the issuance of Commercial Paper under the City's existing commercial paper program to refund the DSP Flex Rate Notes and the deposit of the proceeds from such sale pursuant to the terms of an escrow agreement to provide for the payment of the DSP Flex Rate Notes, and such deposit, when made in accordance with Chapter 1207, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the DSP Flex Rate Notes; and

WHEREAS, the City Council of the City has determined that the issuance of the revenue refunding bonds and the Commercial Paper, and dissolution of the District Special Project is beneficial to the ratepayers of the City and will lead to a more efficient and timely complete integration of the former District System into the System; and

WHEREAS, the Board of Trustees of the San Antonio Water System (the *Board*) has, pursuant to a resolution adopted on January 5, 2016, recommended that the City dissolve the District Special Project; and

WHEREAS, the City Council hereby finds and determines that the dissolution of the District Special Project authorized herein 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. Commercial Paper shall be and is hereby authorized to be issued pursuant to this Ordinance, in the aggregate principal amount of EIGHTY EIGHT MILLION SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS (\$88,700,000), for the purpose of (i) providing funds sufficient to refund the DSP Flex Rate Notes and (ii) paying the costs of issuance related thereto.

SECTION 2: Dissolution of the Special District Project. All assumptions by and transfers to the City as a result of the City's assumption of the former Bexar Metropolitan Water District were initially and immediately placed in, made a part of, and constituted, the District Special Project for all purposes. The City has now determined that, with respect to operations and debt management, refunding outstanding District Special Project debt obligations and, in conjunction therewith, dissolving the District Special Project and extending the System through the addition thereto of the assets of the District Special Project, represents the most efficient and a necessary step toward accomplishment of Integration, in compliance with SB 341.

As part of its assumption of the former Bexar Metropolitan Water District, the City, in Ordinance No. 2011-10-20-0845 accomplishing the assumption of the former Bexar Metropolitan Water District and the creation of the District Special Project, covenanted to provide affordable and reliable water service to all former ratepayers of the Bexar Metropolitan Water District. The City hereby affirms, ratifies, and again accepts as its own this covenant.

Furthermore, each Authorized Official, any or all, are hereby authorized and directed to take any and all actions which are necessary or incidental to accomplish the foregoing.

SECTION 3: Affirmation of Prior Rate Action. The City Council affirms Revised Ordinance No. 2015-11-19-0956, which was passed and approved thereby on November 19, 2015, including Attachments I through III attached thereto. Rate Schedule G in Attachment I specifically affirms and ratifies a rate class schedule for the customers of the former District Special Project. The rates for this rate class schedule shall not be changed until Integration occurs as required by law. However, upon Integration, the customers of the former District Special Project shall be subject to the rates charged to the System's customers, which are contained in Schedules A through F in Attachment I, and applicable future adjustments in Attachment II, including to the water delivery rates, water supply fee rates, wastewater rates and recycled rates, and any of the current special services related fees that are adopted for all the System's customers in Attachment III, and any other fees that apply to the System's customers in general.

SECTION 4: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 5: Inconsistent Provisions. 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 ordained herein.

SECTION 6: 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 7: Severability. 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 8: Incorporation of Preamble Recitals. 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 9: 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 10: No Recourse Against City or Board Officials. No recourse shall be had for the payment of principal of, premium, if any, or interest on any Bonds or for any claim based thereon or on this Ordinance against any official of the City, the Board, or any person executing any Bonds.

SECTION 11: Further Procedures. The officers and employees of the City 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. In addition, any Authorized Official and counsel to the City or the Board 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 correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance.

SECTION 12: Integration. In compliance with the requirements of SB 341 (including the requisite timing for accomplishment) the City acknowledges its obligation and affirms its commitment to achieve Integration of the former District System into the System and shall timely comply with the same.

SECTION 13: 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 eight (8) affirmative votes; otherwise, this Ordinance shall take effect ten (10) days from the date of passage.

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PASSED AND ADOPTED by an affirmative vote of __ members of the City Council of the City of San Antonio, Texas, this the 14th day of January, 2016.

CITY OF SAN ANTONIO, TEXAS

Mayor

ATTEST:

City Clerk

(CITY SEAL)

I, the undersigned, Acting 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.

Martha G. Sepeda, Acting City Attorney,
City of San Antonio, Texas

SCHEDULE I

REFUNDED OBLIGATIONS AND DSP FLEX RATE NOTES