

TENDER AGENT AGREEMENT

TENDER AGENT AGREEMENT, dated as of July 24, 2008, between the City of Austin, Texas (the “City”) and Deutsche Bank Trust Company Americas, New York, New York, a banking corporation organized and existing under the laws of the State of New York and authorized to do business in the State of Texas, or its successors or assigns hereunder (the “Tender Agent”).

WHEREAS, the City proposes to issue its “City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008” in the aggregate principal amount of \$_____ (the “Bonds”), pursuant to Ordinance No. 20080724-____, together with all appendices and exhibits thereto, adopted by the City on July 24, 2008, such Ordinance delegated pricing of the Bonds and certain other matters to a “Pricing Officer” who approved a “Pricing Certificate” (the Ordinance and the Pricing Certificate, collectively hereinafter, the “Ordinance”); and

WHEREAS, the Bonds are being issued as two subseries, each in the aggregate principal amount of \$_____ as further described in the Ordinance; and

WHEREAS, the Bonds and the Ordinance provide, among other things, that the registered owners (the “Holders”) of the Bonds are required to tender their Bonds to the Tender Agent for purchase at various times and under various conditions, in each case in accordance with the provisions of the Bonds and the Ordinance; and

WHEREAS, pursuant to the terms of Remarketing Agreements, dated as of August 1, 2008 (collectively, the “Remarketing Agreement”) between the City and (i) Morgan Keegan & Company, Inc. in relation to the Subseries 2008A Bonds and (ii) Banc of America Securities LLC in relation to the Subseries 2008B Bonds, Morgan Keegan & Company, Inc. and Banc of America Securities LLC (collectively, the “Remarketing Agent”) have agreed to use its best efforts to remarket any Bonds tendered for purchase to the Tender Agent by the Holders thereof pursuant to the Ordinance; and

WHEREAS, pursuant to the terms of a Reimbursement Agreement among the City and Dexia Credit Local, acting through its New York Branch (the “Bank”), dated as of August 1, 2008 (the “Reimbursement Agreement”), the Bank has agreed to issue its letter of credit, subject to certain terms and conditions, to

purchase Bonds which have been tendered to the Tender Agent pursuant to the Ordinance and which have not been remarketed by the Remarketing Agent;

NOW, THEREFORE, in consideration of the premises and to provide for the coordination of said arrangements, the parties hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used in this Agreement and not defined herein shall have the meanings assigned to them in the Ordinance, including Appendix A thereto.

SECTION 2. Appointment of Tender Agent. Subject to the terms and conditions contained herein and in the Ordinance, Deutsche Bank Trust Company Americas, New York, New York, is hereby designated and appointed Tender Agent in the performance of its duties and obligations hereunder and under the Ordinance. Deutsche Bank Trust Company Americas, New York, New York, hereby accepts such appointment and the City consents to such designation and appointment. Deutsche Bank Trust Company Americas, New York, New York, hereby certifies that it is qualified to act as the Tender Agent under the Ordinance, and has the capacity to, and agrees to, perform the duties and responsibilities of the Tender Agent herein and under the Ordinance.

During the term hereof, the Tender Agent hereby covenants and agrees to maintain an office in New York, New York where Bonds no longer held in the Book-Entry System may be delivered and tendered for purchase to the Tender Agent. The initial designated office of the Tender Agent in New York, New York is: Deutsche Bank Trust Company Americas, Trust & Securities Services, 60 Wall Street, 27th Floor, MS NYC60-2715, New York, New York 10005.

Bonds tendered for purchase which are held in Book-Entry System shall be tendered pursuant to Article IV of Appendix A of the Ordinance.

SECTION 3. Creation of Purchase Fund. There is established in the Ordinance and maintained with the Tender Agent, as agent for the Paying Agent/Registrar, a separate fund to be known as the "Purchase Fund," which shall be held by the Tender Agent for the exclusive benefit of the Holders of Bonds who are entitled to be paid the Purchase Price of such Bonds from such Fund and, to the extent of any surplus, the Person who deposited the money into the applicable account of the Purchase Fund. The Tender Agent shall further establish separate accounts within the Purchase Fund to be known as the "Liquidity Facility Purchase Account," and the "Remarketing Proceeds Account."

Upon receipt from the Remarketing Agent of the proceeds of remarketing a Bond to Persons other than Excluded Persons on the date such Bond is to be purchased, the Tender Agent shall deposit such proceeds in the Remarketing Proceeds Account for application to the Purchase Price of the remarketed Bond. Notwithstanding the foregoing, upon the receipt of the proceeds of remarketing Liquidity Provider Bonds, the Tender Agent shall immediately pay such proceeds to the Liquidity Provider to the extent of any amount owing to the Liquidity Provider. Any amounts deposited in the Remarketing Proceeds Account and not needed with respect to the Purchase Price for any Bonds (including undetermined Bonds) shall be immediately returned to the order of the Remarketing Agent.

Upon receipt from the Liquidity Provider of immediately available funds to pay the Purchase Price of Bonds, the Tender Agent shall deposit such money in the Liquidity Facility Purchase Account for application to the Purchase Price of the Bonds to the extent that the moneys on deposit in the Remarketing Proceeds Account shall not be sufficient. Any amounts deposited in the Liquidity Facility Purchase Account and not needed with respect to the Purchase Price for any Bonds (including undetermined Bonds) shall be immediately returned to the order of the Liquidity Provider.

Amounts held in the Liquidity Facility Purchase Account and the Remarketing Proceeds Account by the Tender Agent shall be held uninvested and separate and apart from all other funds and accounts.

SECTION 4. Deposit of Bonds. The Tender Agent agrees to hold all Bonds delivered to it (or transferred to the DTC Participant account of the Tender Agent if such Bonds are held in the Book-Entry System) pursuant to Part 4.10 of Appendix A to the Ordinance, in trust for the benefit of the respective Holders which delivered or transferred such Bonds, until required to be delivered by the Tender Agent pursuant to Section 10 or Section 11 hereof. With respect to any Liquidity Provider Bonds held in the Book-Entry System and delivered to the Tender Agent under Section 8 hereof, the Tender Agent shall act as a DTC Participant on behalf of the Bank, as beneficial owner of such Liquidity Provider Bonds, and shall take all such actions on behalf of the Bank as may be required with respect thereto during such time as such Liquidity Provider Bonds are held in the Book-Entry System.

SECTION 5. Tenders; Remarketing of the Bonds.

(a) Mandatory Tenders. No later than immediately after the Tender Agent becomes aware of a Mandatory Purchase Date, it shall notify by Electronic

Means confirmed by mailed written notice the Liquidity Provider, the Credit Provider, the City and the Remarketing Agent of the clause of the definition of Mandatory Purchase Date pursuant to which such Mandatory Purchase Date exists, such Mandatory Purchase Date, the Purchase Price, the numbers of the Bonds to be purchased if less than all of the Bonds owned by such Holder are to be purchased and that interest on the Bonds subject to mandatory tender shall cease to accrue for the account of such Holders from and after the Purchase Date.

(b) Optional Tenders. Unless otherwise set forth in the Ordinance, the Beneficial Owners of Bonds in a Daily Mode or a Weekly Mode may elect to have their Bonds (or portions of those Bonds in amounts equal to an Authorized Denominations) purchased on any Business Day at a price equal to the Purchase Price, upon delivery of a an irrevocable notice submitted by Electronic Means (the “Tender Notes”) promptly confirmed in writing by such Owner by telecopier to the Tender Agent and Remarketing Agent by 11:00 a.m. (for Daily Mode) and 4:00 p.m. (for Weekly Mode). Immediately upon receipt of a Tender Notice, the Tender Agent shall notify the Remarketing Agent and provide the Remarketing Agent with a copy of such Tender Notice.

(c) Remarketing of the Bonds.

(i) On each Purchase Date on which the Remarketing Agent is to remarket Bonds, the Remarketing Agent shall notify by Electronic Means the City and the Tender Agent by 9:30 a.m., New York City time, if it has remarketed all the tendered Bonds or if it has been unable to remarket any tendered Bonds, and shall include in such notice the principal amount of Bonds it has been unable to remarket.

(ii) The Remarketing Agent shall notify the Tender Agent by Electronic Means not later than 12:45 p.m., New York City time, of the names of the purchasers of the remarketed Bonds and such information as may be necessary to register the Bonds and the registration instructions (i.e., the names, addresses and taxpayer identification numbers of the purchasers and the desired Authorized Denominations) with respect thereto.

(iii) The Remarketing Agent shall, at or prior to 9:45 a.m., New York City time, cause the aggregate Purchase Price of tendered Bonds that have been successfully remarketed to be paid to the Tender Agent in immediately available funds for deposit to the Remarketing Proceeds Account of the Purchase Fund.

(iv) On each Purchase Date, if the Remarketing Agent shall have given notice to the Tender Agent described above that it has been unable to remarket any of the Bonds, the Tender Agent shall direct the Paying Agent/Registrar to draw on the Liquidity Facility, or make demand for the purchase of tendered Bonds thereunder, by 10:30 a.m., New York City time, in an amount equal to the Purchase Price of all such Bonds which have not been successfully remarketed.

SECTION 6. Tender of Bonds to Tender Agent. Each Holder who is required to tender its Bond to the Tender Agent must tender such Bond to the Tender Agent in accordance with Part 4.10 of Appendix A, of the Ordinance. Any Bonds required to be tendered for purchase which are not in fact delivered, but for which there has been irrevocably deposited with the Tender Agent in the Purchase Fund an amount of money sufficient to pay the Purchase Price thereof, shall be deemed to have been purchased by the Tender Agent pursuant to the Ordinance.

SECTION 7. [Reserved].

SECTION 8. Purchase of Tendered Bonds by the Bank; Deposits into the Liquidity Facility Purchase Account of the Purchase Fund; Notice to Paying Agent/Registrar and Tender Agent; Release of Liquidity Provider Bonds. The Bank, upon receipt of a Liquidity Drawing Certificate in the form of Exhibit E to the Reimbursement Agreement, has agreed in the Reimbursement Agreement to purchase such unremarketed Bonds by causing an amount equal to the aggregate Purchase Price of the unremarketed Bonds to be deposited in immediately available funds in the Liquidity Facility Purchase Account of the Purchase Fund no later than 2:00 p.m. New York City time on the Purchase Date against delivery of such Bonds at the time and in the manner set forth in the Reimbursement Agreement.

The Tender Agent agrees to hold Liquidity Provider Bonds as agent of the Bank and to release any Liquidity Provider Bonds solely in accordance with Part 4.8 of Appendix A of the Ordinance.

SECTION 9. Disbursements from the Purchase Fund. Money in the Remarketing Proceeds Account and Liquidity Facility Purchase Account of the Purchase Fund shall be applied by the Tender Agent by 3:30 p.m. New York City time on each Purchase Date to purchase Bonds tendered to the Tender Agent at the Purchase Price in accordance with Part 4.9 of Appendix A of the Ordinance. Such Purchase Price shall be paid by wire transfer in immediately available funds on such Purchase Date; provided, however, for so long as the Bonds are held in the

Book-Entry System, such payment will be in accordance with the requirements of the Book-Entry System.

SECTION 10. Transfer and Delivery of Tendered Bonds for Purchase. A principal amount of Bonds equal to the principal amount of Bonds purchased on behalf of the Remarketing Agent pursuant to Sections 5 and 11 hereof or by the Bank pursuant to Section 8 hereof shall be authenticated by the Paying Agent/Registrar and delivered to, or as instructed by, the Remarketing Agent or the Bank, as appropriate, and the Tender Agent shall cause the Paying Agent/Registrar to register such Bonds in the name or names provided by the Remarketing Agent or the Bank, as applicable. The Remarketing Agent is required to redeliver such Bonds received from the Tender Agent to the respective purchasers not later than 3:30 p.m. New York City time. The Tender Agent shall deliver to the Paying Agent/Registrar for cancellation all Bonds purchased and transferred pursuant to Sections 5, 8 and 11 hereof.

Notwithstanding anything to the contrary in the foregoing paragraph, for so long as the Bonds are held in the system of book-entry of DTC in accordance with Part 3.06 of the Ordinance and Part 4.10 of Appendix A of the Ordinance , (i) any Bond remarketed by the Remarketing Agent shall be delivered to the new beneficial owner thereof by a transfer in the book-entry system of DTC of such remarketed Bond to the applicable DTC Participant account for such beneficial owner; and (ii) Liquidity Provider Bonds shall be delivered to the Bank by a transfer in the book-entry system of DTC of such Liquidity Provider Bonds to the DTC Participant account of the Tender Agent for the benefit of the Bank, as beneficial owner of such Liquidity Provider Bonds.

SECTION 11. Remarketing of Liquidity Provider Bonds. The Remarketing Agent shall exercise its best efforts to solicit purchases of any Liquidity Provider Bonds at a price of not less than par, and the proceeds of any remarketing of such Liquidity Provider Bonds shall be deposited into the Remarketing Proceeds Account of the Purchase Fund. Upon receipt by the Tender Agent of funds representing the proceeds of the remarketing of such Liquidity Provider Bonds, new Bonds in place of such Liquidity Provider Bonds so remarketed shall be registered in the names of the buyers thereof by the Paying Agent/Registrar and delivered by the Remarketing Agent to the buyers thereof and the proceeds of such remarketing shall, prior to or simultaneously with such delivery, be transferred by the Tender Agent to the Bank by wire transfer of lawful money of the United States of America freely transferable and immediately available funds as set forth in Section 2.06 of the Reimbursement Agreement. The Tender Agent agrees that it will, immediately upon receipt, send to the Bank by facsimile transmission or other

electronic means copies of all notices and other communications received by the Tender Agent with respect to any of the Liquidity Provider Bonds.

SECTION 12. Maintenance of Books and Records. The Tender Agent agrees to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the City and the Paying Agent/Registrar at all reasonable times.

SECTION 13. Notice. Except as specifically provided in this Tender Agent Agreement, all notices, demands and formal actions under this Tender Agent Agreement shall be in writing and mailed, telecommunicated or otherwise delivered to:

The Tender Agent:	Deutsche Bank Trust Company Americas 60 Wall Street 27 th Floor, MS NYC60-2715 New York, New York 10005 Attention: Corporate Trust Telephone: (908)-608-4094 Telecopy: (908) 608-3220
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The City:	City of Austin, Texas 700 Lavaca, Suite 1510 Austin, Texas 78701 Attention: Treasurer Telephone: (512) 974-7882 Telecopy: (512) 370-3838
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The Bank:	Dexia Credit Local, New York Branch 445 Park Avenue, 7 th Floor New York, New York 10022 Attention: Senior Vice President and Manager, Public Finance Telephone: (212) 515-7003 Telecopy: (212) 753-7516 Attention: Vice President of Operations Telephone: (212) 408-6016 Facsimile: (212) 581-3268
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SECTION 14. General.

(a) Payment of Tender Agent: Indemnification. The City shall pay all reasonable and actual out of pocket expenses of the Tender Agent for acting under and pursuant to this Tender Agent Agreement as set forth in Annex A hereto. To the extent permitted by law, the City shall indemnify and save harmless the Tender Agent and its officers and employees from and against any and all losses, costs, charges, expenses, judgments and liabilities to third parties arising out of its acting in good faith to carry out the transactions contemplated by this Tender Agent Agreement; provided, however, that such indemnification shall not apply to any losses, costs, charges, expenses, judgments or liabilities caused by the negligence or willful misconduct of the Tender Agent or its officers or employees. The terms of this Section 14(a) shall survive the termination of this Tender Agent Agreement and the payment of the all fees, expenses and amounts due hereunder shall be subject to annual appropriation of available funds by the City for the payment thereof.

(b) Tender Agent's Performance: Duty of Care. The Tender Agent consents and agrees to (i) hold all sums held by it for the payment of Bonds or Liquidity Provider Bonds, as applicable, in trust for the benefit of the Holders or the Bank, as applicable, until such sums shall be paid to the Holders or the Bank or otherwise disposed of as herein provided, and (ii) perform and comply with all the terms and provisions on its part contained in this Tender Agent Agreement.

The duties and obligations of the Tender Agent shall be determined solely by the express provisions of this Tender Agent Agreement and the Ordinance, and no implied covenants or obligations shall be read into this Tender Agent Agreement against the Tender Agent; and in the absence of negligence or willful misconduct on the part of the Tender Agent, the Tender Agent may conclusively rely, as to the truth of the statements expressed therein, upon any document furnished to the Tender Agent and conforming to the requirements of this Tender Agent Agreement and the Tender Agent may rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties; but in the case of any such document which by any provision hereof is specifically required to be furnished to the Tender Agent, the Tender Agent shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Tender Agent Agreement.

No provision of this Tender Agent Agreement shall be construed to relieve the Tender Agent from liability for its own negligence or willful misconduct or that of its officers or employees.

(c) Payments. Any provision of this Tender Agent Agreement or any statute to the contrary notwithstanding, the Tender Agent hereby waives any rights to, or liens for, its fees, charges and expenses for services hereunder from funds or obligations credited to the Purchase Fund. The Tender Agent agrees that it will be reimbursed and compensated for its fees, charges and expenses for acting under and pursuant to this Tender Agent Agreement only from payments to be made by the City pursuant to Section 14(a) hereof.

(d) Term of Tender Agent Agreement. This Tender Agent Agreement shall become effective upon the issuance of the Bonds and shall remain in full force and effect until (i) such time as the principal of and premium, if any, and interest on all Bonds under the Ordinance shall have been paid or shall no longer have the right to be tendered for purchase; provided, however, that the City and the Tender Agent shall have fulfilled all their respective obligations hereunder, whereupon this Tender Agent Agreement shall terminate; or (ii) resignation by the Tender Agent or removal of the Tender Agent in accordance with Section 14(e) hereof, it being understood, in each case, that the Tender Agent does not waive or relinquish any rights it may have under Section 14(a) hereof.

(e) Resignation by or Removal of the Tender Agent. The Tender Agent may at any time resign and be discharged from the duties and obligations hereby created by giving at least sixty (60) days' written notice by first class mail, postage prepaid, to the City, the Remarketing Agent, the Bank and the Paying Agent/Registrar; provided, that resignation or removal (as set out below) shall not be effective until a successor Tender Agent, which shall be a bank or trust company duly qualified to act in the capacity as a successor Tender Agent, shall have been appointed by the City. If no successor Tender Agent has been appointed within thirty (30) days after the effective date specified in such notice of resignation by the Tender Agent, the Tender Agent may request a court of competent jurisdiction to appoint a successor Tender Agent having the qualifications required by law. The Tender Agent may be removed at any time, at the direction of the City, by an instrument signed by the City and filed with the Tender Agent, Remarketing Agent, the Bank and the Paying Agent/Registrar. A copy of such notice of resignation or instrument of removal shall be sent by the Paying Agent/Registrar to the Rating Agency by which the Bonds are then rated.

(f) Amendments. (i) This Tender Agent Agreement may not be amended so as to adversely affect the right of the Holders or the Bank to effect the purchase of Bonds pursuant to the Ordinance without the prior written approval of the Bank and (ii) the City agrees to give to the Tender Agent prompt written notice of any modification or change of or supplement or amendment to the Ordinance which

would affect the rights or obligations of the Tender Agent hereunder. No such modification or change shall be effective against the Tender Agent unless the Tender Agent shall have consented thereto in writing.

(g) Successors and Assigns. The rights, duties and obligations of the City, the Paying Agent/Registrar, the Remarketing Agent and the Tender Agent hereunder shall inure, without further act, to their respective successors and permitted assigns; provided, however, that the Tender Agent may not assign or delegate its rights and obligations under this Tender Agent Agreement without the prior written consent of the City and, provided further, any successor Tender Agent shall execute a tender agent agreement substantially in the form and substance as this Tender Agent Agreement.

(h) Counterparts. This Tender Agent Agreement may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

(i) Limited Liability. Any obligation of the City created by or arising out of this Tender Agent Agreement and owing to the Tender Agent shall be a limited unsecured obligation of the City, payable solely from the Pledged Revenues, in accordance with the customary payment approval procedures, policies and processes of the City.

(j) Governing Law. This Agreement shall be governed by the laws of the State of Texas.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Tender Agent Agreement to be duly executed and delivered as of the date first above written by their respective officers thereunto duly authorized.

DEUTSCHE BANK TRUST COMPANY
AMERICAS, New York, New York

(BANK SEAL)

By: _____
Title: _____

ATTEST:

Address: 25 DeForest Avenue, 2nd Floor
Summit, NJ 07901

By: _____
Title: _____

CITY OF AUSTIN, TEXAS

Will Wynn, Mayor

Address: 700 Lavaca, Suite 1510
Austin, Texas 78701

(CITY SEAL)

ATTEST:

Shirley A. Gentry
City Clerk

ANNEX A

FEES OF THE TENDER AGENT