

Late Backup

#101
7-2408

ORDINANCE NO. 20080724-101

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF AUSTIN, TEXAS, HOTEL OCCUPANCY TAX SUBORDINATE LIEN VARIABLE RATE REVENUE REFUNDING BONDS, SERIES 2008" AND RELATED DOCUMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

ARTICLE 1. FINDINGS

PART 1.01. Findings The Council finds that:

A The City (the "City") has issued, sold, and delivered, and there is currently outstanding, obligations totaling in principal amount \$119,290,000 of the following series: City of Austin, Texas Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2005, dated August 17, 2005, and scheduled to mature on November 15, 2029 (the "Refunded Bonds");

B The City is authorized under the provisions of V.T.C.A., Government Code, Chapter 1207, to issue refunding bonds and deposit the proceeds of sale directly with the place of payment for the Refunded Bonds, or other authorized depository, and such deposit, when made in accordance with the statute, and ordinance authorizing the issuance of the Refunded Bonds, shall constitute the making of firm banking and financial arrangements for their discharge and final payment.

C The City is authorized under V.T.C.A., Government Code, Chapter 1371, to enter into credit agreements, including, but not limited to, interest rate management agreements;

D The City shall by this Ordinance, in accordance with the provisions of Section 1207.007, Texas Government Code and Section 1371.056, Texas Government Code delegate to a Pricing Officer (hereinafter designated) the authority to negotiate and approve certain matters in relation to the issuance of the Bonds, including, but not limited, to (i) the approval and execution of an interest rate management agreement in connection with the Bonds, (ii) the approval and execution of necessary documentation in relation to the termination of the interest rate management agreement currently in effect for the Refunded Bonds, (iii) determine the principal amount, terms and initial interest rate for the Bonds, (iv)

the approval and execution of an escrow agreement, if any, in connection with all or a part of the Refunded Bonds, (v) determine the dates of redemption and amounts and the Refunded Bonds to be redeemed on such dates, (vi) the final forms of the Bonds and (vii) all other matters relating to the issuance, sale, and delivery of the Bonds all of which shall be specified in the Pricing Certificate.

E. It is a public purpose and in the best interests of the City to refund the Refunded Bonds in order to achieve a present value debt service savings of not less than 50%, with such savings, among other information and terms to be included in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer (hereafter designated), all in accordance with the provisions of Section 1207 007, Texas Government Code; and

F. The Bonds should be issued as two subseries in substantially equal principal amounts to accommodate two underwriters and two remarketing agents for the Bonds.

ARTICLE 2. DEFINITIONS

PART 2.01. Definitions. Capitalized terms used but not otherwise defined in this Ordinance shall mean the meanings set forth in this Part or set forth in Appendix A to this Ordinance. Unless otherwise expressly provided or unless the context otherwise requires, the terms defined in this Part for all purposes of this Ordinance, and any ordinance amendatory or supplemental hereto shall have the respective meanings specified:

"Additional Bond" means a bond issued by the City pursuant to Part 6.02 or Part 6.03.

"Amortization End Date" shall mean with respect to any Liquidity Provider Bonds held by the Initial Liquidity Facility Provider the earliest to occur of (i) the fifth anniversary of the date the related Advance (as defined in the Series 2008 Liquidity Agreement) was made, (ii) the Mode Change Date and (iii) the Substitution Date with respect to such Liquidity Provider Bonds.

"Amortization Payment Date" shall mean, with respect to any Liquidity Provider Bonds held by the Initial Liquidity Facility Provider, (i) the first Business Day of the sixth calendar month immediately succeeding the Amortization Start Date and the first Business Day of each sixth calendar month occurring thereafter prior to the Amortization End Date and (ii) the Amortization End Date

70 "Amortization Start Date" shall mean, with respect to any Liquidity
71 Provider Bonds held by the Initial Liquidity Facility Provider, the
72 earlier to occur of (i) one hundred eighty (180) days from the related
73 Purchase Date for such Liquidity Provider Bonds, and (ii) the
74 Termination Date (as defined in the Series 2008 Liquidity
75 Agreement), provided, however, that an Amortization Start Date shall
76 occur only if (x) no Default or Event of Default (as defined in the
77 Series 2008 Liquidity Agreement) shall have occurred and be
78 continuing on any Amortization Start Date and (y) all representations
79 of warranties contained in Article IV of the Series 2008 Liquidity
80 Agreement are true and correct on any Amortization Start Date.

81 "Auction Period" has the meaning set forth in Appendix A.

82 "Auction Rate Mode" has the meaning set forth in Appendix A.

83 "Authorized Official" means, individually and collectively, each of
84 the Mayor, the City Manager, the Treasurer and the Chief Financial
85 Officer of the City.

86 "Bond Act" means, collectively, Vernon's Texas Code Annotated,
87 Government Code, Chapters 1207 and 1371, and Vernon's Texas
88 Code Annotated, Local Government Code, Chapter 334.

89 "Bond Fund" means the Fund created and established in Part 5.05 of
90 this Ordinance for the payment of the Parity Bonds

91 "Bond Purchase Agreement" means the Bond Purchase Agreements
92 approved in Part 10.01 of this Ordinance

93 "Bond Year" means the period of time that begins on the day
94 following the interest payment date on the Bonds occurring in
95 November of any year and ending on the interest payment date on the
96 Bonds occurring in November of the following year

97 "Bonds" mean, the "City of Austin, Texas, Hotel Occupancy Tax
98 Subordinate Lien Variable Rate Revenue Refunding Bonds, Series
99 2008" authorized by this Ordinance

100 "Broker-Dealer" has the meaning set forth in Appendix A

101 "Broker-Dealer Agreement" has the meaning set forth in Appendix A

102 "Business Day" has the meaning set forth in Appendix A.

103 "City" means the City of Austin, Texas, and, where appropriate, the
104 City Council thereof, or any successor thereto.

105 "Clearing Bids" has the meaning set forth in Appendix A.

106 "Closing Date" has the meaning set forth in Appendix A.

107 "Commercial Paper Mode" has the meaning set forth in Appendix A.

108 "Convention Center/Waller Creek Venue Project" means the capital
109 improvement project described generally as consisting of the
110 expansion of the City's Convention Center, including the construction
111 of tunnel improvements along Waller Creek in the vicinity of and
112 functionally related to the convention center and related infrastructure
113 and being a venue project within the meaning of Chapter 334 of the
114 Local Government Code approved at an election held in the City on
115 May 2, 1998, and designated by Resolution No. 980205-61.

116 "Credit Agreement" has the meaning set forth in Chapter 1371, Texas
117 Government Code, as the same may be amended from time to time.

118 "Credit Facility" has the meaning set forth in Appendix A.

119 "Credit Facility Provider" has the meaning set forth in Appendix A.

120 "Daily Mode" has the meaning set forth in Appendix A.

121 "Debt Service Requirements" of any series of bonds for any particular
122 Bond Year means an amount equal to the sum of the principal of and
123 interest and any redemption premium on such bonds then Outstanding
124 which will become due and owing during such Bond Year; subject,
125 however, to adjustment as provided in Part 6 03.

126 "Designated Payment/Transfer Office" means the office of the Paying
127 Agent/Registrar so designated by it from time to time.

128 "Favorable Opinion of Bond Counsel" has the meaning set forth in
129 Appendix A.

130 "Fiscal Year" means the City's fiscal year as from time to time
131 designated by the City, which is currently October 1 to September 30.

132 "Fitch" means Fitch, Inc., a corporation duly organized and existing
133 under and by virtue of the laws of the State of New York, and its
134 successors and assigns, except that if such corporation shall be
135 dissolved or liquidated or shall no longer perform the functions of a
136 securities rating agency, then the term "Fitch" shall be deemed to refer
137 to any other nationally recognized securities rating agency selected by
138 the City after consultation with the Remarketing Agent, if any, and the
139 Broker-Dealer, if any

140 "Fixed Rate Mode" has the meaning set forth in Appendix A.

141 "Government Obligations" mean (i) direct noncallable obligations of
142 the United States of America, including obligations the principal of
143 and interest on which are unconditionally guaranteed by the United
144 States of America, (ii) noncallable obligations of an agency or
145 instrumentality of the United States, including obligations
146 unconditionally guaranteed or insured by the agency or
147 instrumentality and on the date of their acquisition or purchase by the
148 City are rated as to investment quality by a nationally recognized
149 investment rating firm not less than AAA or its equivalent and (iii)
150 noncallable obligations of a state or an agency or a county,
151 municipality, or other political subdivision of a state that have been
152 refunded and on the date of their acquisition or purchase by the City,
153 are rated as to investment quality by a nationally recognized
154 investment rating firm not less than AAA or its equivalent

155 "Guaranty Agreement" has the meaning set forth in Part 5.06.

156 "Holder" or "Owner" when used with respect to any Bond (or Parity
157 Bond) means the person or entity in whose name such Bond (or Parity
158 Bond) is registered in the Security Register. Any reference to a
159 particular percentage or proportion of the Holders or Owners shall
160 mean the Holders or Owners at a particular time of the specified
161 percentage or proportion in aggregate principal amount of all Bonds
162 (or Parity Bonds) then Outstanding under this Ordinance

163 "Hotel Occupancy Tax" means the tax, levied by the City pursuant to
164 the Tax Act, on the cost of occupancy of any sleeping room furnished
165 by any hotel located within the corporate limits of the City, in which
166 the cost of occupancy is \$2 00 or more a day, which tax is currently

levied at a rate of 7% of the consideration paid by the occupant of the sleeping room to the hotel

"Interest Payment Date" has the meaning set forth in Appendix A.

"Interest Rate Management Agreement" means the Series 2008 Interest Rate Management Agreement and any other Credit Agreement between the City and another party entered into in connection with or related to the City's Variable Rate Obligations, which Credit Agreement is in the form of an interest rate exchange agreement, pursuant to which the City pays a fixed percentage rate of a notional amount and the other party pays a variable percentage rate of the same notional amount, of which the notional amount is equal to the principal amount of such Variable Rate Obligations of the City, and of which the notional amount is reduced as the principal of such Variable Rate Obligation is paid.

"Interest Rate Management Agreement Counterparty" means the Series 2008 Interest Rate Management Agreement Counterparty and any other counterparty under any Interest Rate Management Agreement.

"Initial Liquidity Facility Provider" shall mean Dexia Credit Local, acting through its New York Branch.

"Issue Date" means the date the Bonds are issued and delivered to the initial purchasers thereof.

"Junior Obligations" means the payment obligations of the City under an Interest Rate Management Agreement, including but not limited to, the Series 2008 Interest Rate Management Agreement, that are termination payments, settlement payments or other payments that are not included in clause (iii) of the definition of Parity Obligations.

"Junior Subordinate Lien Bond" means an Additional Bond issued by the City pursuant to Part 6.03 of this Ordinance secured wholly or partly by liens on the Pledged Revenues that are junior and subordinate to the lien on Pledged Revenues securing payment of the Parity Bonds.

"Liquidity Facility" has the meaning set forth in Appendix A.

“Liquidity Facility Provider” has the meaning set forth in Appendix A.

“Liquidity Provider Bonds” means any Bonds purchased by the Liquidity Facility Provider with funds drawn on or advanced under the Liquidity Facility

“Long-Term Mode” means a Term Rate Mode or a Fixed Rate Mode.

“Mode” has the meaning set forth in Appendix A.

“Mode Change Date” has the meaning set forth in Appendix A.

“Moody’s” shall mean Moody’s Investors Service, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City after consultation with the Remarketing Agent, if any, and the Broker-Dealer, if any.

“Ordinance” means this Ordinance No. 20080724-101 and all exhibits, appendices, amendments and supplements hereto and the Pricing Certificate.

“Outstanding” when used with reference to any Prior Lien Bonds, Parity Bonds or Junior Subordinate Lien Bonds means, as of a particular date, all Prior Lien Bonds, Parity Bonds or Junior Subordinate Lien Bonds, any or all, theretofore and thereupon delivered except: (a) any such Prior Lien Bond, Parity Bond or Junior Subordinate Lien Bond paid, discharged or canceled by or on behalf of the City at or before said date, (b) any such Prior Lien Bond, Parity Bond and Junior Subordinate Lien Bond defeased pursuant to the defeasance provisions of the ordinance authorizing its issuance, or otherwise defeased as permitted by applicable law, and (c) any such Prior Lien Bond, Parity Bond or Junior Subordinate Lien Bonds in lieu of or in substitution for which another obligation shall have been delivered pursuant to the ordinances authorizing the issuance of such Prior Lien Bonds, Parity Bonds or Junior Subordinate Lien Bonds.

233 "Parity Bonds" mean the Bonds and Additional Bonds secured by a
234 lien on Pledged Hotel Occupancy Tax Revenues on a parity with the
235 Bonds.

236 "Parity Obligations" mean at any time all (i) Parity Bonds, (ii) all
237 Reimbursement Obligations, (iii) obligations of the City to make
238 scheduled payments under an Interest Rate Management Agreement,
239 and (iv) any future obligation of the City under Credit Agreements or
240 other agreements to the extent such obligations are secured by a lien
241 on Pledged Hotel Occupancy Tax Revenues on an equal and ratable
242 basis with the lien securing the Parity Bonds.

243 "Paying Agent/Registrar" means with respect to the Bonds, the Paying
244 Agent/Registrar to be appointed as provided in Part 8.01 of this
245 Ordinance, and its successors in that capacity.

246 "Pledged Hotel Occupancy Tax Revenues" mean that portion of the
247 revenues derived by the City from the Hotel Occupancy Tax which is
248 equal to at least 4.5% of the consideration paid by occupants of
249 sleeping rooms furnished by hotels located within the corporate limits
250 of the City in which the cost of occupancy is \$2.00 or more a day.

251 "Pledged Revenues" mean collectively, (i) the Pledged Hotel
252 Occupancy Tax Revenues, (ii) the Special Hotel Occupancy Tax
253 deposited to the credit of the Venue Project Fund (iii) interest and
254 other income realized from the investment of amounts on deposit in
255 the funds and accounts to be maintained pursuant to Article 5 of this
256 Ordinance to the extent such interest and other income are required to
257 be transferred or credited to the Tax Fund, and (iv) any additional
258 revenue, receipts or income hereafter pledged to the Bonds in
259 accordance with Part 7.02 of this Ordinance.

260 "Pricing Certificate" means the pricing certificate to be executed by
261 an a Pricing Officer in accordance with the provisions of Section
262 1207.007 and Chapter 1371.056, Texas Government Code to evidence
263 certain approvals and determinations as authorized in this Ordinance.

264 "Pricing Officer" means either the City Manager or Chief Financial
265 Officer of the City.

266 "Prior Lien Bonds" mean (a) with respect to the Pledged Hotel
267 Occupancy Tax Revenues, the outstanding (i) "City of Austin, Texas

268 Hotel Occupancy Tax Revenue Taxable Refunding Bonds, Series
269 1999," dated June 15, 1999, and originally issued in the aggregate
270 principal amount of \$6,445,000, and (iii) "City of Austin, Texas,
271 Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004," dated
272 February 1, 2004, originally issued in the aggregate principal amount
273 of \$52,715,000. and (b) with respect to the Special Hotel Occupancy
274 Tax deposited to the credit of the Venue Project Fund the Special
275 Venue Project Bonds

276 "Purchase Date" has the meaning set forth in Appendix A

277 "Purchase Price" means an amount equal to the principal amount of
278 any Bonds purchased on any Purchase Date, plus accrued interest to
279 the Purchase Date (unless the Purchase Date is an Interest Payment
280 Date, in which case the Purchase Price shall not include accrued
281 interest, which shall be paid in the normal course).

282 "Rating Agency" means any nationally recognized rating agency that
283 maintains a rating on the Bonds at the request of the City. Initially,
284 the Rating Agencies are Moody's and Standard & Poor's

285 "Rating Category" means one of the general rating categories of any
286 Rating Agency, without regard to any refinement or gradation of such
287 rating category by a numerical modifier or otherwise.

288 "Rating Confirmation Notice" means, with respect to an action that
289 affects the Bonds, a writing from each Rating Agency confirming that
290 the rating(s) issued by such Rating Agency on such series of Bonds
291 will not be lowered or withdrawn (other than a withdrawal of a short-
292 term rating upon a change to a Long-Term Mode) as a result of the
293 action proposed to be taken

294 "Redemption Date" has the meaning set forth in Appendix A.

295 "Redemption Price" means an amount equal to the principal of and
296 premium, if any, and accrued interest, if any, on the Bonds to be paid
297 on the Redemption Date

298 "Refunded Bonds" has the meaning set forth in Part 1.01 hereof

299 "Reimbursement Obligation" mean any obligation entered into by the
300 City in connection with any Parity Bond pursuant to which the City

obligates itself to reimburse a bank, insurer, surety or other entity for amounts paid or advanced by such party pursuant to a letter of credit, line of credit, standby bond purchase agreement, credit facility, liquidity facility, insurance policy, surety bond or other similar credit agreement, guaranty or liquidity agreement to secure any portion of principal of, interest on or purchase price of any Parity Bonds or reserves in connection therewith or otherwise relating to any Parity Bond. The City's obligations under a Guaranty Agreement, its obligations under a Liquidity Facility, and its obligations to reimburse a Credit Facility Provider for amounts paid under a Credit Facility constitute Reimbursement Obligations

"Remarketing Agent" means, with respect to the Subseries 2008A Bonds, Morgan Keegan & Company, Inc. and with respect to the Subseries 2008B Bonds, Banc of America Securities LLC, and any entities that may be appointed by the City in accordance with this Ordinance as successor remarketing agents.

"Reserve Fund" mean the Fund created and established in Part 5 03(c)(1) of this Ordinance to provide a reserve amount for the payment of Parity Bonds.

"Reserve Fund Requirement" means the least of (i) 10% of the Outstanding principal amount of the Parity Bonds or (ii) the maximum annual Debt Service Requirements scheduled to occur in the then current and each future Fiscal Year for all Parity Bonds at any time Outstanding, or (iii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder

"Reserve Fund Surety Bond" mean any surety bond, insurance policy, letter of credit or other guaranty issued to the City for the benefit of the Holders of the Parity Bonds to satisfy any part of the Reserve Fund Requirement as provided in Part 5 06 of this Ordinance.

"Security Register" mean the books of registration maintained by the Paying Agent/Registrar for recording the names and addresses of and the principal amounts registered to each Holder

335 "Series 2008 Interest Rate Management Agreement" means
336 collectively, an ISDA Master Agreement (Local Currency – Single
337 Jurisdiction) together with the Schedule, and Confirmation thereto,
338 between the City and Morgan Keegan Financial Products, Inc.,
339 together with the Replacement Transaction Agreement, between the
340 City, and the Series 2008 Interest Rate Management Agreement
341 Counterparty and the ISDA Master Agreement and Schedule deemed
342 entered into pursuant to the Replacement Transaction Agreement and
343 the Credit Support Annex thereto, between the City and Deutsche
344 Bank AG, New York Branch, substantially in the form of Exhibit B
345 hereto.

346 "Series 2008 Interest Rate Management Counterparty" means Morgan
347 Keegan Financial Products, Inc. and Deutsche Bank AG, New York
348 Branch.

349 "Series 2008 Liquidity Agreement" means that certain
350 Reimbursement Agreement, between the City and the Liquidity
351 Facility Provider attached to and approved in this Ordinance

352 "Special Hotel Occupancy Tax" means the 2% hotel occupancy tax
353 approved at the election held May 2, 1998 to finance the Convention
354 Center/Waller Creek Venue Project and levied by the City pursuant to
355 Ordinance No. 980709-G, adopted by the City Council of the City on
356 July 9, 1998, on the cost of occupancy of any sleeping room furnished
357 by any hotel located within the corporate limits of the City, in which
358 the cost of occupancy is \$2.00 or more a day

359 "Special Venue Project Bonds" mean City of Austin, Texas,
360 Convention Center/Waller Creek Venue Project Bonds, Series 1999A,
361 dated June 15, 1999, and originally issued in the aggregate principal
362 amount of \$25,000,000

363 "Standard & Poor's" shall mean Standard & Poor's Ratings Services,
364 Inc., a division of The McGraw-Hill Companies, Inc., duly organized
365 and existing under and by virtue of the laws of the State of New York,
366 and its successors and assigns, except that if such corporation shall be
367 dissolved or liquidated or shall no longer perform the functions of a
368 securities rating agency, then the term "Standard & Poor's" shall be
369 deemed to refer to any other nationally recognized securities rating

agency selected by the City after consultation with the Remarketing Agent, if any, and the Broker-Dealer, if any.

"Substitution Date" has the meaning set forth in Appendix A.

"Tax Act" mean Chapter 351 of the Texas Tax Code, Vernon's Texas Codes Annotated

"Tender Agent" means with respect to the Bonds, the Paying Agent/Registrar to be appointed as provided in Part 8.06 of this Ordinance, and its successors in that capacity

"Term Rate Mode" has the meaning set forth in Appendix A.

"Transfer Date" mean each February 14, May 14, August 14, and November 14, beginning August 14, 2008.

"Transfer Period" mean the period of time beginning on any Transfer Date and ending on the day immediately preceding the next succeeding Transfer Date.

"Variable Rate Obligations" mean any obligation pursuant to which the City is to pay interest at an interest rate that is not fixed for the life of the obligation and any obligation, such as an interest rate exchange agreement or other Credit Agreement, pursuant to which the City is to make payments the amounts of which are not known at the time the obligation is issued or incurred.

"Venue Project Fund" mean the Fund so designated created and established pursuant to Ordinance No 980709-G, adopted by the City Council on July 9, 1998, providing for the levy, assessment and collection of the Special Hotel Occupancy Tax

"Weekly Mode" has the meaning set forth in Appendix A

"Winning Bid Rate" has the meaning set forth in Appendix A

PART 2.02. Interpretations. All terms defined and all pronouns used in this Ordinance applies equally to singular and plural and to all genders. The titles and headings of the articles and Parts of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. Unless otherwise specified references to Parts, Exhibits and Appendix A are to Parts,

Exhibits and Appendix A of this Ordinance. Terms "herein", "hereof" and the like refer to this Ordinance as a whole and not just to a particular portion of it. This Ordinance and all of its terms and provisions shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the Pledged Revenues to secure the payment of the Bonds and other Parity Obligations

PART 2.03. Exhibits, Appendix A

The Exhibits and Appendix A, as and when approved by an Authorized Official, as provided herein shall be considered fully incorporated in this Ordinance by reference as if fully set forth in this Ordinance.

ARTICLE 3. BONDS AND OTHER PARITY OBLIGATIONS

PART 3.01. Authorization-Designation-Principal Amount-Purpose. Bonds are hereby authorized to be issued in the aggregate principal amount determined by the Pricing Officer and specified in the Pricing Certificate and to be designated and bear the title "CITY OF AUSTIN, TEXAS, HOTEL OCCUPANCY TAX SUBORDINATE LIEN VARIABLE RATE REVENUE REFUNDING BONDS, SERIES 2008" (the "Bonds") for the purpose of providing funds for the discharge, defeasance, and final payment of certain outstanding obligations of the City (identified in Part 1.01 of this Ordinance and referred to as the "Refunded Bonds"), in accordance with authority conferred by the Bond Act. The Bonds shall be issued in two subseries as follows: (a) Subseries 2008A in the aggregate principal amount determined by the Pricing Officer and specified in the Pricing Certificate ("Subseries 2008A Bonds") and (b) Subseries 2008B in the aggregate principal amount determined by the Pricing Officer and specified in the Pricing Certificate ("Subseries 2008B Bonds"). The principal amount of the Bonds shall not exceed \$130,000,000 and the principal amount of each subseries shall not exceed \$65,000,000.

PART 3.02. Full Registration-Date - Denomination - Maturities - Interest Rates. The Bonds shall be issued in the Weekly Mode as fully registered obligations, without coupons, shall be dated August 14, 2008, or such other date specified in the Pricing Certificate and shall be in Authorized Denominations (as defined in Appendix A hereto), and shall be numbered consecutively from One (1) upward and shall become due and payable on November 15, 2029 (the "Stated Maturity"). Unpaid principal of the Bonds shall bear interest from the Issue Date until paid at the applicable per annum rates established, calculated and payable in accordance with Appendix A. The Initial Payment Date for the Bonds shall be

September 15, 2008 Any Authorized Official may approve the initial interest rate for the Bonds and all other matters relating to the aggregate principal amount, terms, issuance, sale, and delivery of the Bonds all of which shall, to the extent not otherwise specified in this Ordinance, be specified in a Pricing Certificate, provided, that the initial interest rate shall be provided for in the Bond Purchase Agreement and shall not exceed 5.00%.

PART 3.03. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the Holders of the Bonds appearing on the respective Security Register maintained by the Paying Agent/Registrar for each subseries of the Bonds and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

Separate books and records relating to the registration, payment, transfer and exchange of the Subseries 2008A Bonds and Subseries 2008B Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided in this Ordinance and in accordance with the terms and provisions of the Paying Agent/Registrar Agreement authorized by Part 8.01 of this Ordinance.

Principal of and premium, if any, on the Bonds shall be payable at their Stated Maturities or redemption only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its Designated Payment/Transfer Office. Accrued and unpaid interest on the Bonds of a subseries is due on the Interest Payment Date and is payable to the Holders whose names appear in the Security Register at the close of business on the Record Date (as provided in Appendix A) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder.

In the event of a non-payment of interest on one or more maturities on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment for such maturity or maturities (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5)

business days before the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of such maturity or maturities appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

PART 3.04. Redemptions and Tenders. The Bonds shall be subject to optional and mandatory redemption prior to maturity as provided in this Part 3.04. The Bonds shall be subject to optional and mandatory tender for purchase as set forth in Appendix A.

(a) Optional Redemption of Bonds in the Commercial Paper Mode. The City may at its option redeem Bonds of a subseries in the Commercial Paper Mode, in whole or in part, on their respective Purchase Dates at the redemption price of the principal amount thereof, plus accrued interest from the most recent Interest Payment Date to the Redemption Date.

(b) Optional Redemption of Bonds in the Auction Rate Mode. The City may at its option redeem Bonds of a subseries in the Auction Rate Mode, in whole or in part, on any Interest Payment Date immediately following an Auction Period, at the redemption price equal to the principal amount thereof, plus accrued interest from the Closing Date of the most recent interest payment date to the Redemption Date, provided, however, that for a partial redemption of Bonds of a subseries in an Auction Rate Mode, the aggregate principal amount of Bonds of a subseries in an Auction Rate Mode which will remain outstanding shall be equal to or more than \$10,000,000 unless otherwise consented to by each Broker-Dealer.

(c) Optional Redemption of Bonds in the Daily Mode or Weekly Mode. The City may at its option redeem Bonds of a subseries in the Daily Mode or Weekly Mode, in whole or in part, on any Business Day, at the redemption price equal to the principal amount thereof, plus accrued interest from the Closing Date or the most recent interest payment date to the Redemption Date.

(d) Optional Redemption of Bonds in Term Rate Mode and Fixed Rate Mode.

(i) The City may at its option redeem Bonds of a subseries in the Term Rate Mode during an Interest

Period that is less than four years, in whole or in part on their individual Purchase Dates, at the redemption price equal to the principal amount thereof, plus interest from the most recent interest payment date to the Redemption Date.

(ii) The City may at its option redeem Bonds of a subseries in the Term Rate Mode during an Interest Period that is equal to or greater than four years or Bonds of a subseries in the Fixed Rate Mode in whole or in part, on any date at a redemption price equal to the principal amount thereof plus interest from the most recent interest payment date to the Redemption Date following the "No Call Period" set forth below:

OPTIONAL REDEMPTION DURING TERM RATE MODE AND FIXED RATE MODE	
Duration of Interest Period in Term Rate Mode or Fixed Rate Mode	No Call Period (commencing on the date of commencement of the Term Rate or Fixed Rate Mode Interest Period)
Greater than or equal to 11 years	8 years
Greater than or equal to 8 years and less than 11 years	6 years
Greater than or equal to 4 years and less than 8 years	3 years
Duration of Interest Period in Fixed Rate Mode is less than 4 years	Bonds are subject to optional redemption at any time

(e) The City may, in connection with a change to a Term Rate Mode or Fixed Rate Mode, or on any Purchase Date for Bonds of a subseries bearing interest at a Term Rate, alter its rights as described above in Part 3 4(d) to redeem any Bonds of such subseries on and after the Mode Change Date or Purchase Date, as the case may be,

without the consent of Holders of the Bonds of such subseries; provided, that notice describing the alteration must be submitted to the Tender Agent, the Paying Agent/Registrar and the Remarketing Agent, together with a Favorable Opinion of Bond Counsel, addressed to them and to the City.

(f) Mandatory Sinking Fund Redemption.

(i) The Subseries 2008A Bonds shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and unpaid, accrued interest to the date of redemption on the respective dates and in principal amounts set forth in the Pricing Certificate.

(ii) The Subseries 2008B Bonds shall be subject to mandatory redemption in part prior to maturity at the redemption price of par and unpaid, accrued interest to the date of redemption on the respective dates and in principal amounts as set forth in the Pricing Certificate.

Approximately forty-five (45) days before each such mandatory redemption date specified above, the Paying Agent/Registrar shall select by lot the numbers of the Bonds of a subseries to be redeemed on the next following November 15 from money set aside for that purpose in the Bond Fund. Any Bonds not selected for prior redemption shall be paid on the date of their Stated Maturity.

The principal amount of the Bonds of a subseries required to be redeemed pursuant to the operation of such mandatory redemption provisions may be reduced, at the option of the City, by the principal amount of Bonds of like subseries which, at least 50 days before a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions set forth in this Part and not theretofore credited against a mandatory redemption requirement.

(g) Special Mandatory Redemption Provisions. Liquidity Provider Bonds held by the Initial Liquidity Facility Provider shall be

563 subject to special mandatory redemption after an Amortization Start
564 Date. Such Liquidity Provider Bonds shall be redeemed in
565 substantially equal installments of principal due and payable on each
566 Amortization Payment Date together with the interest then accrued.
567 Interest on such Liquidity Provider Bonds shall accrue at the rate
568 calculated in accordance with the Series 2008 Liquidity Agreement
569 and shall be payable on each Interest Payment Date and upon
570 remarketing and redemption thereof

571 (h) Selection of Bonds for Redemption. If less than all the
572 Bonds of a subseries having the same maturity date and bearing the
573 same interest rate are to be redeemed, then, unless the Liquidity
574 Facility Provider has failed to honor a properly presented and
575 conforming drawing under the Letter of Credit, the Paying
576 Agent/Registrar shall (unless otherwise provided in the Liquidity
577 Facility applicable thereto) first select for redemption all then
578 Outstanding Liquidity Provider Bonds prior to selecting for
579 redemption any Bonds of such subseries which are not Liquidity
580 Provider Bonds. If the Liquidity Facility Provider has failed to honor a
581 properly presented and conforming drawing under the Liquidity
582 Facility, then the Paying Agent/Registrar shall at the written direction
583 of the City, select for redemption all then Outstanding Bonds of the
584 subseries in accordance with the City's written direction. The Paying
585 Agent/Registrar shall promptly give the Liquidity Facility Provider,
586 Tender Agent, and the Remarketing Agent notice by telephone
587 (subsequently confirmed in writing) of the selection of any Liquidity
588 Provider Bonds for redemption pursuant to the foregoing provision. If
589 fewer than all Outstanding Bonds of the same Stated Maturity of the
590 same subseries are to be redeemed on a redemption date, the Paying
591 Agent/Registrar shall treat such Bonds as representing the number of
592 Bonds Outstanding which is obtained by dividing the principal
593 amount of such Bonds by the lowest Authorized Denomination
594 therefor and shall select the Bonds to be redeemed within such Stated
595 Maturity by such method as the Paying Agent/Registrar may select.

596 (i) Notice of Redemption. Not fewer than thirty (30) days
597 before a redemption date for the Bonds in a Long-Term Mode and not
598 fewer than fifteen (15) for all other Bonds, a notice of redemption
599 shall be sent by United States Mail, first class postage prepaid, in the
600 name of the City and at the City's expense, to each Holder of a Bond

to be redeemed wholly or partly at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds of a subseries to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been given as provided above, such Bond (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the redemption date therefor, provided money sufficient for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar

Notwithstanding anything herein to the contrary, no notice of redemption is required to be given for a redemption occurring on a Mandatory Purchase Date

PART 3.05. Registration - Transfer - Exchange of Bonds - Predecessor Bonds The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of each subseries of the Bonds issued under and pursuant to the provisions of this Ordinance. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other Authorized Denominations upon the Security Register by the Holder, in person or by his authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a

written instrument of transfer or request for exchange executed by the Holder or by his authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds, executed on behalf of, and furnished by, the City of Authorized Denominations, of like subseries, and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds may be exchanged for other Bonds of like subseries, of Authorized Denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of, and furnished by, the City, to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Part shall be made without expense or service charge to the Holder, except as otherwise provided in this Ordinance, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to Part 3 09 hereof and such new

673 replacement Bond shall be considered to evidence the same obligation as the
674 mutilated, lost, destroyed, or stolen Bond.

675 Neither the City nor the Paying Agent/ Registrar shall be required to issue or
676 transfer to an assignee of a Holder any Bond called for redemption, wholly or
677 partly, within 45 days of the date fixed for the redemption of such Bond; provided,
678 however, such limitation on transferability shall not be applicable to an exchange
679 by the Holder of the unredeemed balance of a Bond called for redemption in part.

680 **PART 3.06. Book-Entry-Only Transfers and Transactions.** Notwith-
681 standing the provisions contained in Parts 3.03, 3.04 and 3.05 hereof relating to the
682 payment, redemption and transfer/exchange of the Bonds, the City hereby
683 approves and authorizes the use of "Book-Entry-Only" securities clearance,
684 settlement and transfer system provided by The Depository Trust Company
685 ("DTC"), a limited purpose trust company organized under the laws of the State of
686 New York, in accordance with the operational arrangements referenced in the
687 Blanket Issuer Letter of Representation by and between the City and DTC (the
688 "Depository Agreement").

689 Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall
690 be deposited with DTC who shall hold the Bonds for its participants (the "DTC
691 Participants") and, while the Bonds are held by DTC under the Depository
692 Agreement, the Holder of the Bonds on the Security Register for all purposes,
693 including payment and notices, shall be Cede & Co., as nominee of DTC,
694 notwithstanding the fact that beneficial ownership of the Bonds is recorded in the
695 records of DTC and DTC Participants.

696 In the event DTC determines to discontinue serving as securities depository
697 for the Bonds or otherwise ceases to provide book-entry clearance and settlement
698 of securities transactions in general or the City determines that DTC is incapable of
699 properly discharging its duties as securities depository for the Bonds, the City
700 covenants and agrees with the Holders to cause Bonds to be printed in definitive
701 form and provide for the Bond certificates to be issued and delivered to the Persons
702 identified by DTC as those entitled to receive the same and to become the Holders
703 of the Bonds. Thereafter, the Bonds in definitive form shall be assigned
704 transferred and exchanged on the Security Register maintained by the Paying
705 Agent/Registrar and payment of such Bonds shall be made in accordance with the
706 provisions of Parts 3.03, 3.04 and 3.05 of this Ordinance

707 **PART 3.07. Execution - Registration** The Bonds shall be executed on
708 behalf of the City by the Mayor under its seal reproduced or impressed thereon and

709 countersigned by the City Clerk. The signature of said officers on the Bonds may
710 be manual or facsimile. Bonds bearing the manual or facsimile signatures of
711 individuals who are or were the proper officers of the City on the date of the
712 adoption of this Ordinance shall be considered to be executed on behalf of the
713 City, notwithstanding that such individuals or either of them shall cease to hold
714 such offices at the time of delivery of the Bonds to the initial purchaser(s) and with
715 respect to Bonds delivered in subsequent exchanges and transfers, all as authorized
716 and provided in V.T.C.A., Government Code, Chapter 1201.

717 No Bond shall be entitled to any right or benefit under this Ordinance, or be
718 valid or obligatory for any purpose, unless there appears on such Bond either a
719 certificate of registration substantially in the form provided in Part 4.03, manually
720 executed by the Comptroller of Public Accounts of the State of Texas or his
721 authorized agent, or a certificate of registration substantially in the form provided
722 in Part 4.04, manually executed by an authorized officer, employee or
723 representative of the Paying Agent/Registrar, and either such certificate upon any
724 Bond signed shall be conclusive evidence and the only evidence, that such Bond
725 has been certified, registered and delivered.

726 **PART 3.08. Initial Bond(s).** The Subseries 2008A Bonds shall be initially
727 issued as a single, fully registered bond in the total principal amount specified in
728 the Pricing Certificate and numbered T-1 (the "Subseries 2008A Initial Bond"),
729 which shall be registered in the name of the initial purchaser(s) or the designee
730 thereof. The Subseries 2008B Bonds shall be initially issued as a single fully
731 registered bond in the total principal amount specified in the Pricing Certificate
732 and numbered T-1 (the "Subseries 2008B Initial Bond," together with the
733 Subseries 2008A Initial Bond, the "Initial Bonds"), which shall be registered in the
734 name of the initial purchaser(s) or the designee thereof. The Initial Bonds shall be
735 submitted to the Office of the Attorney General of the State of Texas for approval,
736 certified and registered by the Office of the Comptroller of Public Accounts of the
737 State of Texas and delivered to the respective initial purchaser(s). Any time after
738 the delivery of the Subseries 2008A Initial Bond and the Subseries 2008B Initial
739 Bond, the Paying Agent/Registrar, pursuant to written instructions from the
740 respective initial purchaser(s), or the designee thereof, shall cancel the Initial
741 Bonds delivered hereunder and exchange therefor definitive Bonds of the same
742 subseries, of Authorized Denominations, principal amounts and bearing applicable
743 interest rates for transfer and delivery to the Holders named at the addresses
744 identified therefor, all pursuant to and in accordance with such written instructions
745 from the initial purchaser(s), or the designee thereof, and such other information
746 and documentation as the Paying Agent/Registrar may reasonably require.

PART 3.09. Mutilated-Destroyed - Lost and Stolen Bonds. If any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like subseries, form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof, and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Part shall be a valid and binding obligation and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds, notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Part are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

PART 3.10. Interest Rate Management Agreement The Series 2008 Interest Rate Management Agreement, substantially in the form attached hereto as Exhibit B, with such changes as the Pricing Officer executing the same may approve and such approval to be conclusively evidenced by the Pricing Officer's execution thereof, is hereby approved and confirmed. In accordance with the provisions of Section 1371.056, Texas Government Code, the Pricing Officer is hereby authorized to execute and deliver, and the City Clerk may attest to, for and on behalf of and in the name of the City, and as the act and deed of the City Council of the City, prior to, at, or after the delivery of the Bonds, but in no case later than January 24, 2009, the Series 2008 Interest Rate Management Agreement, and including such amendments to such Series 2008 Interest Rate Management Agreement after the execution and delivery thereof that are required in connection with the issuance of the Bonds, as may be approved by the Pricing Officer, as evidenced by his or her execution thereof, unless otherwise provided by ordinance of the City Council; the Pricing Officer shall further determine, which shall be determined in the Pricing Certificate, the term of such Series 2008 Interest Rate Management Agreement, the fixed rates of interest at which the obligations of the

City under the Series 2008 Interest Rate Management Agreement shall be calculated; provided, however, that the rate applicable to such fixed rates of interest may not exceed 5.00% per annum; provided that.

(1) such Series 2008 Interest Rate Management Agreement shall provide for the reduction in notional amount equivalent to the reduction in outstanding principal amount of the Bonds after the same have been issued and once the outstanding principal amount of the Bonds has been reduced to an amount, equal to or less than the original notional amount and in all events in accordance with the amortization schedule set forth as an attachment to the Interest Rate Management Agreement;

(2) such Series 2008 Interest Rate Management Agreement permits the City to terminate the same or reduce the notional amount thereof at any time, which right may be made conditional upon the payment by the City of the amount due in respect of such partial or complete termination or upon demonstration of the capacity to do so.

(3) such Series 2008 Interest Rate Management Agreement, being entered into in connection with the issuance of the Bonds, shall result in present value debt service savings of at least 50%, net of any contribution by the City;

(4) such Series 2008 Interest Rate Management Agreement or the proceedings of the City Council of the City authorizing the same shall be approved by the Attorney General of Texas and such proceedings shall be registered by the Comptroller of Public Accounts of the State of Texas prior to delivering such Credit Agreements, and

(5) the cost of credit enhancement obtained in relation to the Series 2008 Interest Rate Management Agreement, if any, shall result in present value debt service savings of at least 5 50%, net of any contribution by the City

The obligations of the Series 2008 Interest Rate Management Agreement Counterparty to the City are hereby pledged as additional security for the Parity Obligations of the City that are secured by the Pledged Revenues and the payments from the Series 2008 Interest Rate Management Agreement Counterparty to the City are hereby declared to constitute Pledged Revenues.

Junior Obligations are to be payable from and secured by a lien on the Pledged Revenues that is junior and subordinate to the lien on Pledged Revenues that secures the Parity Obligations.

PART 3.11. Termination of Interest Rate Management Agreement; and
Prior Interest Rate Management Agreement. The City currently intends to issue the Bonds in a variable rate interest mode and to maintain in effect the Series 2008 Interest Rate Management Agreement. If, however, the City does not, prior to, on, or within 140 days after the effective date of the Series 2008 Interest Rate Management Agreement, issue the Bonds in one or more subseries in an aggregate original principal amount equal to or greater than the notional amount of the Series 2008 Interest Rate Management Agreement and rated as required to be an obligation as defined in Texas Government Code, 1371.001(5), then the City shall promptly exercise its option reserved in the Series 2008 Interest Rate Management Agreement to terminate or reduce the resulting notional amount of the Series 2008 Interest Rate Management Agreement to achieve the result that the notional amount, if any, of the Series 2008 Interest Rate Management Agreement does not exceed the original principal amount of the Bonds that are issued. In addition to such required full or partial termination of the Series 2008 Interest Rate Management Agreement, to the extent the Chief Financial Officer may deem advisable he or she may, and the City Council hereby delegates to such person the authority to, at any time terminate in whole or in part the Series 2008 Interest Rate Management Agreement as permitted thereby, provided appropriate documentation is furnished the City Manager and City Attorney evidencing the amount or payment owed by the City, if any, as a result of such termination and that such amount can be paid from available funds of the City (including, without limitation, proceeds of bonds issued for such purpose) without a budget amendment, or should such termination payment require City Council action by a budget amendment or otherwise, obtaining City Council approval prior to its termination.

854 In accordance with the provisions of Section 1371.056, Texas Government
855 Code, the Pricing Officer is hereby authorized to terminate the Interest Rate
856 Management Agreements, both dated as of July 19, 2005, between the City and
857 Lehman Brothers Derivative Products Inc., and Lehman Brothers Special
858 Financing Inc., respectively, and may execute and deliver, if necessary, any
859 interest rate management termination agreements, and the City Clerk may attest to,
860 for and on behalf of and in the name of the City, and as the act and deed of the City
861 Council of the City, prior to, at or after the delivery of the Bonds, but in no case
862 later than January 24, 2009; provided that such termination fees owed by the City
863 upon such terminations shall not exceed in the aggregate \$10,000,000

864 **PART 3.12. Credit Facility.** The Series 2008 Liquidity Agreement in
865 substantially the form attached hereto as Exhibit C with such changes as may be
866 approved by an Authorized Official is hereby approved and confirmed. Any
867 Authorized Officials are hereby authorized and directed to execute the Series
868 2008 Liquidity Agreement as the City Council's act and deed.

869 **ARTICLE 4. FORM OF BONDS AND CERTIFICATES**

870 **PART 4.01. Forms Generally.** The Bonds of each subseries, the
871 Registration Certificate of the Comptroller of Public Accounts of the State of
872 Texas, the Certificate of Registration of Paying Agent/Registrar, and the form of
873 Assignment to be printed on each of the Bonds, shall be substantially in the forms
874 provided for in this Part with such appropriate insertions, omissions, substitutions,
875 and other variations as are permitted or required by this Ordinance and may have
876 such letters, numbers, or other marks of identification (including identifying
877 numbers and letters of the Committee on Uniform Securities Identification
878 Procedures of the American Bankers Association) and such legends and
879 endorsements (including legends reflecting the purchase of insurance for payment
880 of the Bonds and any reproduction of an opinion of counsel) thereon as may,
881 consistently herewith, be established by the City or determined by the officers
882 executing such Bonds as evidenced by their execution. Any portion of the text of
883 any Bonds may be set forth on the reverse thereof, with an appropriate reference
884 thereto on the face of the Bond

885 The definitive Bonds and the Initial Bonds shall be printed, lithographed,
886 engraved, typewritten, photocopied or otherwise reproduced in any other similar
887 manner, all as determined by the officers executing such Bonds as evidenced by
888 their execution

PART 4.02. Form of Bond. The form of definitive Bond of each subseries shall be as set forth in Exhibit H hereto with respect to Bonds in a Weekly Mode or Daily Mode, Exhibit I hereto with respect to Bonds in a Auction Rate Mode, and Exhibit J hereto with respect to Bonds in a Commercial Paper Mode, Term Rate Mode or Fixed Rate Mode and final forms thereof may be approved by the Pricing Officer and attached to the Pricing Certificate.

PART 4.03. Form of Registration Certificate of Comptroller of Public Accounts. To appear on Initial Bonds only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER
OF PUBLIC ACCOUNTS

REGISTER NO. _____

THE STATE OF TEXAS

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____

(SEAL) _____

Comptroller of Public Accounts
of the State of Texas

PART 4.04. Form of Certificate of Paying Agent/ Registrar. To appear on all Bonds other than the Initial Bonds

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar

The designated offices of the Paying Agent/Registrar in New York, New York is the "Designated Payment/Transfer Office" for this Bond.

DEUTSCHE BANK TRUST
COMPANY AMERICAS,
New York, New York,
as Paying Agent/Registrar

Registration Date:

By:

Authorized Signature

PART 4.05. Form of Assignment

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee)

(Social Security or other identifying number)
the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED

Signature guaranteed:

NOTICE The signature on this - assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

PART 4.06. CUSIP Numbers CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds

943 **ARTICLE 5. SECURITY AND SOURCE OF PAYMENT FOR PARITY**
944 **OBLIGATIONS**

945 **PART 5.01. Pledge and Source of Payment** The Bonds and other Parity
946 Obligations shall constitute special obligations of the City payable from and,
947 subject and subordinate to the payment of the Prior Lien Bonds and priority clauses
948 contained in the ordinances authorizing the issuance of the Prior Lien Bonds,
949 equally and ratably secured by a lien on the Pledged Revenues. Such Pledged
950 Revenues or other lawfully available funds of the City shall, in the manner
951 provided in this Ordinance, be set aside for and pledged to the payment of the
952 Parity Obligations and Junior Obligations (as defined herein), and all expenses of
953 providing for their full and timely payment in accordance with their terms, in the
954 Bond Fund and the Reserve Fund as provided in this Ordinance. The City hereby
955 grants a lien on the Pledged Revenues and Bond Fund to secure the payment of
956 principal of and premium, if any, and interest on the Parity Bonds and all other
957 payments due on the Parity Obligations and Junior Obligations; and the City
958 further grants a lien on the Reserve Fund to secure the payment of principal of and
959 premium, if any, and interest on the Parity Bonds. Except as otherwise expressly
960 provided by their terms, all Parity Obligations shall be in all respects on a parity
961 with and of equal dignity with one another. The liens granted under this Ordinance
962 shall be valid and binding and fully perfected after the date of adoption of this
963 Ordinance without physical delivery or transfer of control of the Pledged
964 Revenues, the filing of this Ordinance or any other act, all as provided in Chapter
965 1208 of the Texas Government Code. The Holders of the Parity Bonds and the
966 beneficiaries of the other Parity Obligations and Junior Obligations shall never
967 have the right to demand payment of the principal of, interest on or any redemption
968 premium on the Parity Bonds (or payment of other amounts owed by the City in
969 respect of other Parity Obligations or Junior Obligations) out of any funds raised or
970 to be raised by taxation, other than the Pledged Revenues

971 If Texas law is amended at any time while the Bonds and Parity Obligations
972 or Junior Obligations related to the Bonds are Outstanding such that the pledge of
973 the Pledged Revenues granted by the City under this Part 5.01 is to be subject to
974 the filing requirements of Chapter 9, Business & Commerce Code, or other law,
975 then to preserve to the registered owners of the Bonds the perfection of the security
976 interest in said pledge, the City agrees to take such measures as it determines are
977 reasonable and necessary under Texas law to comply with the applicable filing
978 requirements to continue the perfection of such security interest.

979 **PART 5.02. Levy of Hotel Occupancy Tax.**

980 (a) The City has levied, and while any Bonds and Parity
981 Obligations or Junior Obligations related to the Bonds remain
982 Outstanding the City hereby levies and covenants that it shall continue
983 to levy, a Hotel Occupancy Tax on the cost of occupancy of any
984 sleeping room furnished by any hotel within the corporate limits of
985 the City, in which the cost of occupancy is \$2.00 or more a day, at a
986 rate of at least 7% of the consideration paid by the occupant of the
987 sleeping room to the hotel, all as authorized by the Tax Act. The City
988 further covenants that it shall enforce the provisions of this Ordinance,
989 or any other ordinance levying a hotel occupancy tax, concerning the
990 collection, remittance and payment of the Hotel Occupancy Tax.

991 (b) In addition to the Hotel Occupancy Tax levied and to be
992 collected pursuant to (a) above, the City has levied, and while any
993 Parity Obligations or Junior Obligations remain Outstanding the City
994 hereby levies and covenants that it shall continue to levy, a Special
995 Hotel Occupancy Tax on the cost of occupancy of any sleeping room
996 furnished by any hotel within the corporate limits of the City, in
997 which the cost of occupancy is \$2.00 or more a day, at a rate of at
998 least 2% of the consideration paid by the occupant of the sleeping
999 room to the hotel to finance the costs of the Convention
1000 Center/Waller Creek Venue Project, all to the extent authorized by
1001 V.T.C.A. Local Government Code, Chapter 334, particularly
1002 Subchapter H and an election held in the City on May 2, 1998. The
1003 City further covenants that it shall enforce the provisions of this
1004 Ordinance and Ordinance No. 980709-G, or any other ordinance
1005 levying a hotel occupancy tax, concerning the collection, remittance
1006 and payment of the Special Hotel Occupancy Tax.

1007 **PART 5.03. Special Fund**

1008 (a) Hotel Occupancy Tax Special Funds. In accordance with
1009 the ordinances authorizing the issuance of the Prior Lien Bonds
1010 payable from and secured by a lien on and pledge of the Pledged
1011 Hotel Occupancy Tax Revenues, the following special funds and
1012 accounts have been created, established and shall be maintained while
1013 any of the Prior Lien Bonds remain Outstanding

1014 (i) Convention Center Hotel Occupancy Tax
1015 Fund ("Tax Fund"),

1016 (ii) Convention Center Hotel Occupancy Tax
1017 Bond Debt Service Fund ("Senior Debt Service Fund");

1018 (iii) Subordinate Lien Hotel Occupancy Tax
1019 Debt Service Fund ("Original Subordinate Debt Service
1020 Fund", and together with the Senior Debt Service Fund,
1021 the "Debt Service Fund");

1022 (iv) Convention Center Hotel Occupancy Tax
1023 Bond Debt Service Reserve Fund ("Senior Debt Service
1024 Reserve Fund") and

1025 (v) Subordinate Lien Hotel Occupancy Tax
1026 Debt Service Reserve Fund ("Original Subordinate Debt
1027 Service Reserve Fund", and together with the Senior
1028 Debt Service Reserve Fund, the "Debt Service Reserve
1029 Fund");

1030 Such funds and accounts may also include any additional accounts or
1031 subaccounts as may from time to time be designated by the City,
1032 including specifically rebate accounts or subaccounts for
1033 accumulating rebatable arbitrage payable to the federal government,
1034 provided such accounts or subaccounts are not inconsistent with the
1035 ordinances authorizing the issuance of the Prior Lien Bonds and this
1036 Ordinance

1037 (b) Special Hotel Occupancy Tax Special Funds. In
1038 accordance with the ordinance authorizing the issuance of the Special
1039 Venue Project Bonds, the City hereby confirms the establishment of
1040 the Venue Project Fund maintained at an official depository of the
1041 City for the Convention Center/Waller Creek Venue Project in
1042 accordance with Section 334.042 of the Venue Act and pursuant to
1043 Ordinance No. 980709-G and the establishment of the following sub-
1044 accounts within such Venue Project Fund on the books of the City for
1045 the benefit of such Prior Lien Bonds, namely

1046 (i) Convention Center/Waller Creek Venue
1047 Project Special Hotel Occupancy Tax Account ("Tax
1048 Account"),

(ii) Convention Center/Waller Creek Venue
Project Bond Debt Service Account ("Debt Service
Account"); and

(iii) Convention Center/Waller Creek Venue
Project Bond Debt Service Reserve Account ("Debt
Service Reserve Account").

Such funds and accounts may also include any additional accounts or subaccounts as may from time to time be designated by the City, including specifically rebate accounts or subaccounts for accumulating rebatable arbitrage payable to the federal government, provided such accounts or subaccounts are not inconsistent with the ordinance authorizing the issuance of the Special Venue Project Bonds and this Ordinance.

(c) Special Funds for Parity Obligations: For the benefit of the Holders of the Parity Bonds and the beneficiaries of the other Parity Obligations, the City hereby agrees and covenants to establish and maintain the following special funds or accounts

(i) Subordinate Lien Hotel Occupancy Tax Fund (the "Bond Fund") for the payment of the Parity Obligations when and as the same shall become due and payable, and

(ii) Subordinate Lien Hotel Occupancy Tax Reserve Fund (the "Reserve Fund") to provide a reserve to pay the principal of and interest on the Parity Bonds when funds in the Bond Fund are insufficient

The Bond Fund and Reserve Fund may also include any additional accounts or subaccounts as may from time to time be designated by the City, including specifically rebate accounts or subaccounts for accumulating rebatable arbitrage payable to the federal government, provided such accounts or subaccounts are not inconsistent with the provisions of this Ordinance.

PART 5.04. Flow of Funds

(a) Flow of Funds regarding Pledged Hotel Occupancy Tax Revenues. The City covenants and agrees that all Pledged Hotel

Occupancy Tax Revenues shall be deposited as received into the Tax Fund. Money from time to time credited to the Tax Fund shall be applied as follows in the following order of priority:

First, to transfer all amounts to the Debt Service Fund required by the ordinances authorizing the issuance of the Prior Lien Bonds (in such relative order of priority as is required by the related ordinances).

Second, to transfer all amounts to the Debt Service Reserve Fund required by the ordinances authorizing the issuance of the Prior Lien Bonds (in such relative order of priority as is required by the related ordinances).

Third, to transfer to the Bond Fund all amounts necessary to provide for the payment of Party Obligations.

Fourth, to transfer to the Reserve Fund the amounts required pursuant to Part 5.06 of this Ordinance.

Fifth, to the payment of all Junior Obligations secured hereunder on a pari passu basis.

Sixth, for any lawful purpose under the Tax Act.

(b) Flow of Funds regarding Special Hotel Occupancy Tax

The City covenants and agrees that all receipts and revenues collected and received by the City from the Special Hotel Occupancy Tax shall be deposited to the credit of the Venue Project Fund and more particularly to the credit of the Tax Account. Following the issuance of the Bonds and while Party Obligations and Junior Obligations remain Outstanding, money from time to time credited to the Tax Account shall be applied as follows in the following order of priority:

First, to transfer all amounts to the Debt Service Account required by the ordinances authorizing the issuance of the Prior Lien Bonds (in such relative order of priority as is required by the related ordinances).

Second, to transfer all amounts to the Debt Service Reserve Account required by the ordinances authorizing

the issuance of the Prior Lien Bonds (in such relative order of priority as is required by the related ordinances).

Third, to transfer to the Bond Fund all amounts necessary to provide for the payment of the Parity Bonds and Parity Obligations related to the Parity Bonds

Fourth, to transfer to the Reserve Fund the amounts required pursuant to Part 5.06 of this Ordinance.

Fifth, to the payment of all Junior Obligations secured hereunder on a *pari passu* basis.

Sixth, to pay the costs of operating or maintaining the Convention Center/Waller Creek Venue Project

PART 5.05. Bond Fund. Subject to satisfying the required payments for the benefit of the Prior Lien Bonds in accordance with the ordinances authorizing their issuance, the City hereby covenants and agrees that before each Interest Payment Date, stated maturity date and mandatory redemption date for the Parity Bonds (and before the dates payments are due on other Parity Obligations) there shall be deposited into the Bond Fund, which is to be an Eligible Account held for the benefit of the Parity Obligations, from the Pledged Revenues, an amount equal to one hundred percent (100%) of the amount required to fully pay the amount then due and payable on the Parity Obligations, and such deposits shall be made in substantially equal quarterly installments (based on the total annual Debt Service Requirements to be paid on the Parity Obligations divided by the number of Transfer Dates to occur during the period covered by such calculation) on or before each Transfer Date, beginning on the first Transfer Date to occur after the delivery of the Bonds.

In addition, on each Transfer Date, the City covenants and agrees to cause to be deposited into the Bond Fund from the Pledged Revenues an amount calculated to pay all expenses of providing for the full and timely payment of the principal of, premium, if any, and interest on the Parity Bonds in accordance with their terms, including without limitation, all fees charged or incurred by the Paying Agent/Registrar and any Remarketing Agent, Tender Agent, Auction Agent, Broker-Dealer and Calculation Agent, and for paying agent/registrar services rendered in connection with the Parity Bonds

Money credited to the Bond Fund shall be used solely for the purpose of paying on a *pari passu* basis (except as otherwise provided) principal (at maturity

or prior redemption or to purchase Parity Bonds issued as term bonds in the open market to be credited against mandatory redemption requirements), interest and redemption premiums on Parity Bonds and all other amounts due on other Parity Obligations, plus all other charges, costs and expenses relating to such payment, including those described in the preceding paragraph. On the Business Day immediately preceding each payment due date for the Parity Obligations, the City shall transfer from the Bond Fund and Reserve Fund, if necessary, to the appropriate paying agent/registrar amounts equal to the amounts due on the Parity Obligations on such date.

If a Liquidity Facility is in effect with respect to the Bonds, the City may pay the fees and expenses of the Liquidity Facility Provider from the Bond Fund, and shall disburse funds from the Bond Fund as needed to pay principal and redemption price of and interest on Liquidity Provider Bonds and other amounts owed to the Liquidity Facility Provider. Amounts in the Bond Fund shall not be used to pay the Purchase Price of the Bonds.

Notwithstanding anything herein to the contrary, the City shall deposit to the Bond Fund and credit against the City's monthly deposit obligations for the payment of interest on the Bonds under this Part 5.05 all money received from the Series 2008 Interest Rate Management Counterparty to the Series 2008 Interest Rate Management Agreement, except for any moneys received due to early termination thereof.

The City may establish and utilize such accounts within the Bond Fund as it may from time to time, deem appropriate.

PART 5.06 - Reserve Fund.

(a) The Reserve Fund shall be established for the benefit of the Parity Bonds. The City shall establish and maintain a balance in the Reserve Fund equal to the Reserve Fund Requirement. The Reserve Fund Requirement may be funded by a Reserve Fund Surety Bond issued by an insurance company or other entity that maintains ratings (either for the long term unsecured debt of the issuer of such Reserve Fund Surety Bond or for obligations insured, secured or guaranteed by such issuer) in the highest letter category by two major municipal securities credit rating services

(b) In any Transfer Period in which the Reserve Fund contains less than the Reserve Fund Requirement or in which the City

is obligated to repay or reimburse any issuer of a Reserve Fund Surety Bond (in the event such Reserve Fund Surety Bond is drawn upon), then after making all required transfers to the Bond Fund, there shall be transferred into the Reserve Fund from the available Pledged Revenues on each Transfer Date such amounts as shall be necessary to reestablish the Reserve Fund Requirement and satisfy any repayment obligations to the issuer of any Reserve Fund Surety Bond. After such amount has been accumulated in the Reserve Fund and after satisfying any repayment obligation to any Reserve Fund Surety Bond issuer and so long thereafter as such fund contains such amount and all such repayment obligations have been satisfied, no further transfers shall be required to be made, and any excess amounts in such fund shall be transferred to the Bond Fund. But if and whenever the balance in the Reserve Fund is reduced below the Reserve Fund Requirement or any Reserve Fund Surety Bond repayment obligations arise, transfers to the Reserve Fund shall be resumed and continued in the manner stated above to restore the Reserve Fund Requirement and to pay such reimbursement obligations.

(c) The Reserve Fund shall be used to pay the principal of and interest on the Parity Bonds at any time when there is not sufficient money available in the Bond Fund for such purpose and to make any payments required to satisfy repayment obligations to issuers of Reserve Fund Surety Bonds, and may also be used to make the final payments for the retirement or defeasance of the Parity Bonds.

(d) If an Authorized Official determines that doing so would be in the best interest of the City, the Reserve Fund Requirement may be funded wholly or partly by a Reserve Fund Surety Bond selected by an Authorized Official (the "Surety Bond Issuer"). An Authorized Official may approve the terms and form of the Reserve Fund Surety Bond and of a guaranty or other agreement pursuant to which the City is obligated to pay premiums, fees, and reimbursement obligations owing to the Surety Bond Issuer (a "Guaranty Agreement"). In connection with a Reserve Fund Surety Bond and any Additional Bonds that are Parity Bonds, the City, the Paying Agent/Registrar and the Surety Bond Issuer may approve procedures providing for a reasonable allocation among Reserve Fund Surety Bonds and funds

held in the Reserve Fund to make payments on Parity Bonds and to provide for repayments to Surety Bond Issuers.

PART 5.07. Deficiencies in Funds or Accounts. Subject to satisfying the required payments for the benefit of the Prior Lien Bonds in accordance with the ordinances authorizing their issuance, if on any Transfer Date there shall not be transferred into any fund or account maintained pursuant to this Article, the full amounts required in this Ordinance, amounts equivalent to such deficiency shall be set apart and transferred to such fund or account from the first available and unallocated Pledged Revenues, and such transfer shall be in addition to the amounts otherwise required to be transferred to such fund or account on any succeeding Transfer Date or Transfer Dates.

PART 5.08. Investment of Funds; Transfer of Investment Income

(a) Money in all funds shall, at the option of the City, be invested in the manner provided by Texas law, except all such deposits and investments shall be made in such manner that the money required to be expended from any fund will be available at the proper time or times. All such investments shall be valued no less frequently than the last business day of the City's Fiscal Year at market value, except that any direct obligations of the United States of America - State and Local Government Series shall be continuously valued at their par value or principal face amount. For purposes of maximizing investment returns, money in such funds may be invested, together with money in other funds or with other money of the City, in common investments or in a common pool of such investments maintained by the City at an official depository of the City or in any fund or investment vehicle permitted by Texas law, which shall not be considered to be a loss of the segregation of such money or funds if safekeeping receipts, certificates of participation or other documents clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such funds are held by or on behalf of each such fund. If and to the extent necessary, such investments or participations therein shall be promptly sold to prevent any default.

(b) All interest and income derived from deposits and investments credited to the Bond Fund and Reserve Fund shall remain a part of the fund from which such investment was made, and such investment interest and income shall reduce by like amount any

required transfer to such funds from the Pledged Revenues, except at any time when the Reserve Fund has on deposit an amount more than the Reserve Fund Requirement, all investment interest and income received on any investment of funds in such fund shall be deposited to the credit of the Bond Fund

(c) Notwithstanding anything to the contrary contained in this Ordinance, any interest and income derived from deposits and investments of any amounts credited to any fund or account may be (i) transferred into any rebate account or subaccount and (ii) paid to the federal government if in the opinion of nationally recognized bond counsel such payment is required to comply with any covenant contained in an order, resolution or ordinance to prevent interest on any Parity Bonds from being includable within the gross income of the owners thereof for federal income tax purposes

ARTICLE 6. ADDITIONAL BONDS

PART 6.01. No Prior Lien Bonds. The City covenants that it will not issue any additional bonds or other obligations payable from and secured by a lien on and pledge of the Pledged Revenues that is senior to the lien securing the Parity Obligations

PART 6.02. Refunding Bonds. The City expressly reserves the right to issue refunding bonds to refund all or a portion of the Parity Bonds or refunding bonds previously issued to refund Parity Bonds. Such refunding bonds may be secured by a lien on Pledged Revenues on a parity with or subordinate to the lien securing the Parity Bonds

PART 6.03. Other Additional Bonds.

(a) In regard to the Pledged Revenues, the City reserves and retains the right to issue or incur additional obligations secured wholly or partly by a parity lien on such Pledged Revenues or by a lien junior and subordinate to the lien on such Pledged Revenues securing payment of the Parity Bonds, provided, however, that no such Parity Bonds or Junior Subordinate Lien Bonds shall be issued unless the following conditions are satisfied

(1) the City's Chief Financial Officer (or other officer of the City having primary responsibility for the financial affairs of the City) shall provide a certificate

showing that, for the City's most recent completed Fiscal Year or for any consecutive 12-month period out of the most recent 18 months preceding the month the ordinance authorizing the issuance of the Parity Bonds or Junior Subordinate Lien Bonds is adopted (the "Coverage Period"), (A) the Pledged Hotel Occupancy Tax Revenues for the Coverage Period are equal to at least 130% of the maximum annual Debt Service Requirement of all Prior Lien Bonds and Parity Bonds then Outstanding scheduled to occur in the then current or any future Fiscal Year after taking into consideration the issuance of the Parity Bonds, if any, proposed to be issued, and deducting from the maximum annual Debt Service Requirement for such Prior Lien Bonds and Parity Bonds an amount equal to the revenues received from the Special Hotel Occupancy Tax for the Coverage Period; and (B) the "Net Pledged Hotel Occupancy Tax Revenues" for the Coverage Period (i.e. the Pledged Hotel Occupancy Tax Revenues after deducting an amount equal to the maximum annual Debt Service Requirement applied in satisfying the coverage requirement in clause (A) above), together with any other revenues pledged wholly or partly to the payment of any Junior Subordinate Lien Bonds, are equal to at least 130% of the maximum annual Debt Service Requirement on all Junior Subordinate Lien Bonds then Outstanding and scheduled to occur in the then current or any future Fiscal Year after giving effect to the issuance of the Junior Subordinate Lien Bonds then being issued, if any; provided, however, at such time as the Prior Lien Bonds are no longer Outstanding, the coverage requirement in clause (A) above shall be reduced to 125% and the coverage requirement of clause (B) shall be reduced to 100%; and

(ii) provision is made in the ordinance authorizing issuance of the Parity Bonds or Junior Subordinate Lien Bonds, as the case may be, for the complete funding of any required reserves for payment of

1333 principal of and interest on such Parity Bonds or Junior
1334 Subordinate Lien Bonds as of the initial delivery thereof

1335 (b) Among the future obligations authorized to be issued or
1336 incurred pursuant to Part 6.03(a) are Credit Agreements. The City
1337 may enter into such a Credit Agreement payable from and secured
1338 wholly or partly by a lien on Pledged Revenues if it obtains either
1339 (i) the consent from any Credit Facility Provider issuing a Credit
1340 Facility in support of the Bonds or (ii) written confirmation from each
1341 Rating Agency then rating the Parity Bonds at the request of the City
1342 that issuance of the Credit Agreement will not cause a withdrawal or
1343 reduction in the rating assigned to the Bonds, provided, however, that
1344 such consent in clause (i) and confirmation in clause (ii) above is not
1345 required for Interest Rate Management Agreements. The City may
1346 secure its obligations under a future Credit Agreement by a lien on
1347 Pledged Revenues if such lien is on a parity with or subordinate to the
1348 lien securing the Parity Bonds

1349 (c) If the City issues Variable Rate Obligations, it shall use
1350 the following procedures for purposes of determining the maximum
1351 and the average annual Debt Service Requirements of Variable Rate
1352 Obligations:

1353 (i) At the sole discretion of the City, such
1354 Variable Rate Obligation shall be deemed to bear interest
1355 at one of the following rates: (A) an interest rate equal to
1356 the average rate borne by such obligations (or by
1357 comparable debt if such obligations have not been
1358 outstanding during the preceding 24 months) for any
1359 24-month period ending within 30 days before the date of
1360 calculation, (B) if the City has entered into a related
1361 Credit Agreement in the nature of an Interest Rate
1362 Management Agreement, the rate payable by the City
1363 under such Credit Agreement, or (C) an interest rate
1364 equal to the 30-Year Tax-Exempt Revenue Bond Index
1365 rate as published in The Bond Buyer on any date selected
1366 by the City within 30 days before the date of calculation.
1367 If such index is no longer published in The Bond Buyer,
1368 an index of tax-exempt revenue bonds with maturities of
1369 20 years, or more, published in a financial newspaper or

1370 journal with national circulation may be selected by the
1371 City and used for this purpose.

1372 (u) If the City has entered into a Credit
1373 Agreement in connection with an issue of obligations
1374 payable from and secured by Pledged Revenues and if
1375 Clause B of paragraph (c)(i) above does not apply,
1376 (X) payments due under the Credit Agreement from
1377 either the City or the other party to the Credit Agreement
1378 shall be included in such calculation except to the extent
1379 that the payments are already taken into account in the
1380 debt service calculation, (Y) any payments that would
1381 otherwise be included under the debt service calculation
1382 which are to be replaced by payments under a Credit
1383 Agreement from either the City or the other party to the
1384 Credit Agreement shall be excluded from such
1385 calculation, and (Z) payments due under a Credit
1386 Agreement that are paid at a variable rate shall be
1387 deemed to be made at a fixed rate determined in a
1388 manner consistent with Clause A of paragraph (c)(i)
1389 above. For any calculation of historic data, only those
1390 payments actually made in the subject period shall be
1391 taken into account in making such calculation and for
1392 prospective calculations, only those payments reasonably
1393 expected to be made in the subject period shall be taken
1394 into account in making the calculation

1395 (d) If the City has entered into a Credit Agreement to
1396 discharge or purchase any of its obligations payable from or secured
1397 by Pledged Revenues under arrangements whereby the City's
1398 obligation to repay the amounts advanced under the Credit Agreement
1399 for the discharge or purchase is payable over more than one year from
1400 the advance under the Credit Agreement, then the portion of the
1401 obligations committed to be discharged or purchased pursuant to the
1402 Credit Agreement shall be excluded from any calculation of debt
1403 service requirements, and the principal of and interest requirements
1404 that constitute the City's reimbursement obligation shall be added

1405 (e) In determining the Pledged Hotel Occupancy Tax
1406 Revenues available to satisfy the coverage requirements of condition
1407 (a) above, the City may take into consideration an increase in the

1408 portion of the Pledged Hotel Occupancy Tax Revenues that became
1409 effective during the Coverage Period and, for purposes of satisfying
1410 the above coverage tests, make a pro forma determination of the
1411 Pledged Hotel Occupancy Tax Revenues for the Coverage Period
1412 based on such increased portion of the Pledged Hotel Occupancy Tax
1413 Revenues being in effect for the entire Coverage Period.

1414 (f) Any Additional Bonds may bear any name or designation
1415 provided by the ordinance authorizing their issuance and be issued in
1416 such form and manner as may be authorized by law. Furthermore,
1417 any such bonds may be secured by any other source of payment
1418 lawfully available for such purposes, including a Credit Agreement,
1419 financial guaranty insurance policy or similar credit or liquidity
1420 support. Any Reimbursement Obligation or obligation under a Credit
1421 Agreement may be secured by Pledged Revenues on a basis *pari*
1422 *passu* with the Parity Bonds or Junior Subordinate Lien Bonds

1423 **ARTICLE 7. COVENANTS AND PROVISIONS RELATING TO ALL** 1424 **PARITY OBLIGATIONS.**

1425 **PART 7.01. Punctual Payment of Parity Obligations.** The City covenants
1426 it will punctually pay or cause to be paid the interest and any premium on and
1427 principal of all Parity Obligations according to the terms thereof and will faithfully
1428 do and perform, and at all times fully observe, any and all covenants, undertakings,
1429 stipulations and provisions contained in this Ordinance and in any other ordinance
1430 authorizing the issuance of such Parity Obligations

1431 **PART 7.02. Pledge and Encumbrance of Pledged Revenues.** The City
1432 covenants and represents that it has the lawful power to create a lien on and to
1433 pledge the Pledged Revenues to secure the payment of the Parity Obligations and
1434 Junior Obligations and has lawfully exercised such power under the Constitution
1435 and laws of the State of Texas. The City further covenants and represents that,
1436 other than to the payment of the Prior Lien Bonds, the bonds and obligations
1437 authorized and reserved to be issued in this Ordinance, the Pledged Revenues are
1438 not and will not be made subject to any other lien, pledge or encumbrance to
1439 secure the payment of any debt or obligation of the City unless such lien, pledge or
1440 encumbrance is junior and subordinate to the lien and pledge securing payment of
1441 the Parity Obligations

1442 **PART 7.03. Bondholders Remedies** This Ordinance shall constitute a
1443 contract between the City and the Holders of the Bonds from time to time

1444 Outstanding and the beneficiaries of other Parity Obligations and Junior
1445 Obligations and this Ordinance shall be and remain irrevocable until the Bonds
1446 and the other Parity Obligations and Junior Obligations shall be fully paid or
1447 discharged or provision therefor shall have been made as provided in this
1448 Ordinance. In the event of a default in the payment of the principal of or interest
1449 or any premium on any of the Bonds or a default in the performance of any duty or
1450 covenant provided by law or in this Ordinance, each Holder of a Bond and each
1451 beneficiary of any Parity Obligation or Junior Obligations may pursue all legal
1452 remedies afforded by the Constitution and laws of the State of Texas to compel the
1453 City to remedy such default and to prevent further default or defaults. Without in
1454 any way limiting the generality of the preceding, it is expressly provided that each
1455 Holder of a Bond and each beneficiary of any Parity Obligation or Junior
1456 Obligations may at law or in equity by suit, action, mandamus, or other
1457 proceedings, enforce and compel performance of all duties required to be
1458 performed by the City under this Ordinance including the application of Pledged
1459 Revenues in the manner required in this Ordinance; provided, however, that no
1460 Holder of a Bond and no beneficiary of a Parity Obligation or a Junior Obligation
1461 shall ever have the right to demand payment of the principal of, interest on or any
1462 redemption premium on the Bonds or any payment on any Parity Obligation or
1463 Junior Obligations out of any funds raised or to be raised by taxation, other than
1464 the Pledged Hotel Occupancy Tax Revenues and the Special Hotel Occupancy
1465 Tax.

1466 PART 7.04: Satisfaction of Obligation of City If the City shall pay or
1467 cause to be paid, or there shall otherwise be paid to the Holders, the principal of,
1468 premium, if any, and interest on the Bonds, at the times and in the manner
1469 stipulated in this Ordinance, then the pledge of the Pledged Revenues under this
1470 Ordinance and all other obligations of the City to the Holders shall thereupon
1471 cease, terminate, and become void and be discharged and satisfied

1472 Bonds or any principal amount(s) thereof shall be considered to have been
1473 paid within the meaning and with the effect expressed above in this Part when (i)
1474 money sufficient to pay in full such Bonds or the principal amount(s) thereof at
1475 maturity or to the redemption date therefor, together with all interest due thereon,
1476 shall have been irrevocably deposited with and held in trust by the Paying
1477 Agent/Registrar, or an authorized escrow agent, or (ii) Government Obligations
1478 shall have been irrevocably deposited in trust with the Paying Agent/ Registrar, or
1479 an authorized escrow agent, which Government Obligations have been certified by
1480 an independent accounting firm to mature as to principal and interest in such
1481 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 and interest on such Bonds, or the principal amount(s) thereof, on and before the Stated Maturity thereof or (if notice of redemption has been given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of money or Government Obligations will be made under this Part and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code, or Regulations.

Any money so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or an authorized escrow agent pursuant to this Part which is not required for the payment of the Bonds or any principal amount(s) thereof, or interest thereon with respect to which such money have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such money was deposited and are held in trust to pay shall, upon the request of the City, be remitted to the City against a written receipt therefor. Notwithstanding the above and preceding, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas

All money or Government Obligations set aside and held in trust pursuant to the provisions of this Part 7.04 shall be used at the first practicable date to pay the Purchase Price or Redemption Price, as applicable, of the Bonds being deemed paid, retired and no longer outstanding as contemplated in the first paragraph of this Part 7.04

No Bonds of a subseries in the Daily Mode or Weekly Mode may be defeased without prior written consent of the Credit Facility Provider and written confirmation from each Rating Agency then rating such Bonds to the effect that the deposit made pursuant to the Ordinance will not, by itself, result in a reduction or withdrawal of the short-term or long-term rating of such Bonds below the rating category of such Rating Agency then in effect with respect to such Bonds

PART 7.05. Non-Business Days In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds or the due date for the payment or performance of any obligation shall be other than a Business Day, then such payment need not be made on such due date but

may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or other due date, and no interest shall accrue for the period from the scheduled due date to the date of actual payment. If any Transfer Date shall not be a Business Day, then the transfer otherwise required to be made on such date pursuant to Part 5.05 shall be made on the next succeeding Business Day.

ARTICLE 8. CONCERNING CERTAIN AGENTS

PART 8.01. Paying Agent/Registrar Agreement. The selection and appointment of Deutsche Bank Trust Company Americas, New York, New York, to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, transfer and exchange of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided in this Ordinance and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as Exhibit A, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. One or more Authorized Officials are and shall be authorized to execute and deliver such Paying Agent/Registrar Agreement, with such changes as the Authorized Official executing such Paying Agent/Registrar Agreement may approve.

PART 8.02. Trust Funds. All money transferred by the City to the Paying Agent/Registrar under this Ordinance (except sums representing Registrar's/Paying Agent's fees) shall be held in trust for the benefit of the City, shall be the property of the City, and shall be disbursed in accordance with this Ordinance.

PART 8.03. Bonds Presented Subject to the provisions of Part 8.04, all matured Bonds presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the City. Such Bonds shall be canceled as provided in this Ordinance.

PART 8.04. Successor Paying Agent/Registrars The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Such successor Paying Agent/Registrar must execute a Paying Agent/Registrar Agreement having substantially the same terms as the Paying Agent/Registrar Agreement attached to this Ordinance as Exhibit A. The Paying Agent/Registrar's

1555 resignation and removal shall not be effective until a successor Paying
1556 Agent/Registrar has been appointed by the City and such appointment accepted.
1557 Concurrently with any such resignation or removal, the Paying Agent/Registrar
1558 shall transfer any Liquidity Facility or Credit Facility to such successor Paying
1559 Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds,
1560 the City agrees to promptly cause a written notice thereof to be sent to each Holder
1561 by United States Mail, first class postage prepaid, which notice shall also give the
1562 address of the new Paying Agent/Registrar.

1563 **PART 8.05. Remarketing Agent.** The selection and appointment of (i)
1564 Morgan Keegan & Company, Inc. to serve as remarketing agent for the Subseries
1565 2008A Bonds and (ii) Bank of America Securities LLC to serve as remarketing
1566 agent for the Subseries 2008B Bonds is hereby approved and confirmed, and such
1567 appointments shall be governed by Part 6.1 of the Appendix A hereto and the
1568 Remarketing Agreements (each a "Remarketing Agreement" and collectively, the
1569 "Remarketing Agreements") in substantially the forms attached hereto as Exhibit
1570 D are hereby approved. One or more Authorized Officials are and shall be
1571 authorized to execute and deliver such Remarketing Agreements with such
1572 changes as the Authorized Official executing such Remarketing Agreements may
1573 approve.

1574 **PART 8.06. Tender Agent.** The selection and appointment of Deutsche
1575 Bank Trust Company Americas, New York, New York, to serve as tender agent for
1576 the Bonds is hereby approved and confirmed, and such appointment shall be
1577 governed by Part 6.2 of Appendix A hereto, and a Tender Agent Agreement
1578 between the City and the Tender Agent, substantially in the form attached hereto as
1579 Exhibit E, is hereby approved. One or more Authorized Officials are and shall be
1580 authorized to execute and deliver such Tender Agent Agreement with such changes
1581 as the Authorized Official executing the same may approve.

1582 Any successor Tender Agent shall be a bank, trust company, financial
1583 institution or other entity maintaining trust powers that is qualified and authorized
1584 to serve in such capacity and perform the duties and services of Tender Agent.
1585 Such successor Tender Agent must execute a Tender Agent Agreement having
1586 substantially the same terms as the Tender Agent Agreement to be attached to this
1587 Ordinance as Exhibit E. The Tender Agent's resignation and removal shall not be
1588 effective until a successor Tender Agent has been appointed by the City and such
1589 appointment accepted.

1590 **ARTICLE 9. ALTERATION OF RIGHTS AND DUTIES; AMENDMENT**
1591 **OF ORDINANCE**

1592 **PART 9.01. Alteration of Rights and Duties** The rights, duties, and
1593 obligations of the City and the Holders of the Bonds are subject in all respects to
1594 all applicable federal and state laws including, without limitation, the provisions of
1595 federal law regarding the composition of indebtedness of political subdivisions, as
1596 the same now exist or may hereafter be amended

1597 **PART 9.02. Amendment of Ordinance Without Consent** The City may,
1598 without the consent of or notice to any of the Holders of the Bonds, amend this
1599 Ordinance for any one or more of the following purposes:

1600 (a) to cure any ambiguity, defect, omission, or inconsistent
1601 provision in this Ordinance or in the Bonds, or to comply with any
1602 applicable provision of law or regulations of federal agencies;
1603 provided, however, that such action shall not adversely affect the
1604 interests of the Holders of the Bonds;

1605 (b) to change the terms or provisions of this Ordinance to the
1606 extent necessary to prevent the interest on the Bonds from being
1607 includable within the gross income of the owners thereof for federal
1608 income tax purposes;

1609 (c) to grant to or confer upon the Holders of the Bonds any
1610 additional rights, remedies, powers or authority that may lawfully be
1611 granted to or conferred upon the Holders of the Bonds,

1612 (d) to add to the covenants and agreements of the City
1613 contained in this Ordinance other covenants and agreements of, or
1614 conditions or restrictions upon, the City or to surrender or eliminate
1615 any right or power reserved to or conferred upon the City in this
1616 Ordinance,

1617 (e) to amend any provisions hereof relating to the issuance of
1618 Additional Bonds if the City first obtains a Rating Confirmation
1619 Notice with respect to such amendment, and

1620 (f) to subject to the lien and pledge of this Ordinance
1621 additional Pledged Revenues, provided such amendment does not
1622 cause any reduction in any rating assigned to the Bonds by any major
1623 municipal securities evaluation service then rating the Bonds;

provided, however, that if and to the extent required by a Credit Facility, Liquidity Facility, an Interest Rate Management Agreement, another Credit Agreement or other provision of this Ordinance, the City shall first obtain the consent of the Credit Facility Provider, any Liquidity Facility Provider and the Interest Rate Management Agreement Counterparty to any such amendment pursuant to this Part 9.02.

PART 9.03. Amendments of Ordinance Requiring Consent

(a) The City may at any time adopt one or more ordinances amending, modifying, adding to or eliminating any of the provisions of this Ordinance but, if such amendment is not of the character described in Part 9.02 hereof, only with the consent given in accordance with Part 9.04 hereof of the Holders of not fewer than a majority of the aggregate unpaid principal amount of the Party Bonds then Outstanding and affected by such amendment, modification, addition, or elimination, provided, however, that nothing in this Part shall permit, (1) an extension of the maturity of the principal of or interest on any Bond issued thereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest on any Bond or redemption price therefor, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of the Bonds required for consent to such amendment.

(b) If and to the extent required by a Credit Facility, Liquidity Facility, an Interest Rate Management Agreement, another Credit Agreement or other provision of this Ordinance, the City shall first obtain the consent of the Credit Facility Provider, any Liquidity Provider and the Interest Rate Management Agreement Counterparty to any such amendment pursuant to this Part 9.03

PART 9.04. Consent of Holders Any consent required by Part 9.03 shall be considered given

(a) By all Holders of Outstanding Bonds if a Credit Facility is in effect, the Credit Facility Provider is not in default thereunder and the Credit Facility Provider has given its written consent to the amendments in writing,

(b) By all Holders of Outstanding Bonds if the Bonds are remarketed following a mandatory tender of all Bonds and the substance of such amendment has been disclosed to the market in connection with such remarketing,

(c) By all Holders of Outstanding Bonds if the Bonds are in a Auction Rate Mode and if written notice of the substance of the proposed amendment has been furnished to the Holders and following such disclosure, there have occurred at least two consecutive Auctions (as defined in Appendix A) and in each such Auction either Sufficient Clearing Bids existed or the Auction Rate determined was the Winning Bid Rate;

(d) By any Holder in any number of concurrent writings of similar tenor, signed by such Holder or his authorized attorney. Proof of the execution of any such consent or of the writing appointing any such attorney and of the ownership of Parity Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted to be taken by the City under such instrument, namely:

(i) the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution, and

(ii) the fact of the ownership by any person of any Bond and the date of the ownership of same may be proved by a certificate executed by an appropriate officer of the Paying Agent/Registrar, stating that at the date thereof such Bond was registered in the name of such party in the Security Register

In lieu of the preceding the City may accept such other proofs of the preceding as it shall consider appropriate.

Consents obtained pursuant to Part 9 04(d) shall be valid only if given following the mailing of notice by or on behalf of the City requesting such consent and setting forth the substance of the amendment of this Ordinance in respect of which such consent is sought and stating that copies thereof are available at the office of the City Clerk for inspection. Such notice shall be mailed by certified mail to each Holder of the Parity Bonds affected at the address shown on the Security Register.

PART 9.05. Revocation of Consent. Any consent by any Holder of a Bond pursuant to the provisions of Part 9 04(d) shall be irrevocable for a period of six months from the date of mailing of the notice provided for in this Article, and shall be conclusive and binding upon all future Holders of the same Bond and any Bond delivered on transfer thereof or in exchange for or replacement thereof during such period. Such consent may be revoked at any time after six months from the date of the first mailing of such notice by the owner who gave such consent or by a successor in title, by filing notice thereof with the Paying Agent/Registrar, but such revocation shall not be effective if the Holders of a majority in aggregate principal amount of the Parity Bonds Outstanding as in this Ordinance defined have, before the attempted revocation, consented to and approved the amendment.

ARTICLE 10. PROVISIONS CONCERNING SALE AND APPLICATION OF PROCEEDS OF BONDS

PART 10.01 Sale of Bonds

(a) The Bond Purchase Agreement between the City and Morgan Keegan & Company, Inc. (the "Subseries 2008A Underwriter") relating to the Subseries 2008A Bonds in substantially the form and content of Exhibit F attached to this Ordinance, with such changes as the Pricing Officer executing the same may approve, is hereby approved. A Pricing Officer may complete the Bond Purchase Agreement with respect to the pricing information and execute such Bond Purchase Agreement as the City Council's act and deed.

(b) The Bond Purchase Agreement between the City and Banc of America Securities LLC (the "Subseries 2008B Underwriter") relating to the Subseries 2008B Bonds in substantially the form and content of Exhibit F attached to this Ordinance, with such changes as the Pricing Officer executing the same may approve, is hereby approved. A Pricing Officer may complete the Bond Purchase Agreement with respect to the pricing information and execute such Bond Purchase Agreement as the City Council's act and deed.

The Subseries 2008A Underwriter and the Subseries 2008B Underwriter are referred to in this Ordinance collectively as the "Underwriters".

PART 10.02. Control and Custody of Bonds The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending the delivery of the Bonds, and shall take and have charge and control of the Initial Bonds pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Underwriters.

Furthermore, any Authorized Official is hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General and registration by the Comptroller of Public Accounts and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bonds to the initial purchasers thereof and the exchange thereof for obligations described in this Ordinance and in the Official Statement described in Part 10.03 below.

PART 10.03. Offering Documents. An official statement relating to the Bonds is hereby authorized and may be considered final by an Authorized Official, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). An Authorized Official may approve the form and terms of such document and authorize its use and distribution by the Underwriters. Furthermore, if considered appropriate by an Authorized Official the use of a preliminary official statement, to be dated on or about the date of sale of the Bonds and the form of which is approved by an Authorized Official, in the offering and sale of the Bonds is hereby authorized (but not required) and approved in all respects.

PART 10.04. Special Escrow Agreement. A "Special Escrow Agreement" (the "Escrow Agreement") by and between the City and an authorized escrow agent (the "Escrow Agent"), if any such agreement is required in connection with the issuance of the Bonds, shall be attached to the Pricing Certificate. Such Escrow Agreement is hereby authorized to be finalized and executed by the Pricing Officer for and on behalf of the City and as the act and deed of the City Council; and such Escrow Agreement as executed by said Pricing Officer shall be deemed approved by the City Council and constitute the Escrow Agreement herein approved. With regard to the finalization of certain terms and provisions of any Escrow Agreement, a Pricing Officer is hereby authorized to come to an agreement with the Escrow Agent on the following details, among other matters

1. The creation and funding of the Escrow Fund;
2. The Escrow Agent's compensation, administration of the Escrow Fund, and the settlement of any paying agents' charges relating to the Refunded Bonds; and
3. The determination of the redemption date(s) and method of selection of the Refunded Bonds to be redeemed on such date(s).

Furthermore, any Authorized Officials in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement, if any, and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Underwriters for deposit to the credit of a **SPECIAL 2008 CITY OF AUSTIN, TEXAS, HOTEL OCCUPANCY TAX REVENUE REFUNDING BOND ESCROW FUND** (the "Escrow Fund") for such other designation as specified in the Pricing Certificate; all as contemplated and provided in Chapter 1207, V.T.C.A., Government Code, this Ordinance, the Pricing Certificate, and the Escrow Agreement.

PART 10.05. Proceeds of Sale. Immediately following the delivery of the Bonds, proceeds of sale thereof, less amounts to pay costs of issuance, purchase prices and premiums of the Liquidity Facility, and related fees and expenses, and to fund the Reserve Fund, shall be deposited to the credit of the Escrow Fund, if any, or transmitted to the paying agent/registrar for the Refunded Bonds for the payment of the redemption price thereof on the redemption date specified in the Pricing Certificate. Any excess amount budgeted for such purposes shall be deposited to the credit of the Bond Fund.

Additionally, on or immediately before the date of the delivery of the Bonds to the Underwriters, an Authorized Official shall cause to be transferred in immediately available funds to the Paying Agent/Registrar from money legally available for purpose the sum specified in the Pricing Certificate to accomplish the refunding.

PART 10.06. Redemption of Refunded Bonds (a) In order to provide for the refunding, discharge, and retirement of the Refunded Bonds, the Refunded Bonds will be called for redemption on the date(s) specified by the Pricing Officer in the Pricing Certificate at the price of par plus accrued interest to the redemption date(s), and notice(s) of such redemption shall be given in accordance with the applicable provisions of the ordinance adopted by the City Council of the City,

1799 which authorized the issuance of the Refunded Bonds. The Pricing Officer is
1800 hereby authorized and directed to issue or cause to be issued a Notice or Notices of
1801 Redemption for the Refunded Bonds in substantially the form(s) set forth as an
1802 Exhibit to the Pricing Certificate, to the paying agent/registrar for Refunded Bonds,
1803 in accordance with the redemption provisions applicable to the Refunded Bonds.

1804 (b) The paying agent/registrar for Refunded Bonds is hereby directed to
1805 provide the appropriate notice(s) of redemption as required by the ordinance
1806 authorizing the Refunded Bonds and is hereby directed to make appropriate
1807 arrangements so that the Refunded Bonds may be redeemed on the redemption
1808 date(s).

1809 **ARTICLE 11. CONTINUING DISCLOSURE OF INFORMATION**

1810 **PART 11.01. Definitions** As used in this Part, the following terms have the
1811 meanings ascribed to such terms below:

1812 "MSRB" means the Municipal Securities Rulemaking Board.

1813 "NRMSIR" means each person whom the SEC or its staff has determined to
1814 be a nationally recognized municipal securities information repository within the
1815 meaning of the Rule from time to time.

1816 "Rule" means SEC Rule 15c2-12, as amended from time to time.

1817 "SEC" means the United States Securities and Exchange Commission

1818 "SID" means any person designated by the State of Texas or an authorized
1819 department officer, or agency thereof as, and determined by the SEC or its staff to
1820 be a state information depository within the meaning of the Rule from time to
1821 time.

1822 **PART 11.02. Annual Reports** The City shall provide annually to each
1823 NRMSIR and any SID, within six months after the end of each Fiscal Year
1824 (beginning with the Fiscal Year ending September 30, 2008) financial information
1825 and operating data with respect to the City of the general type included in the final
1826 Official Statement referenced by Part 10.01 of this Ordinance, being the
1827 information described in Exhibit G hereto. Financial statements to be provided
1828 shall be (1) prepared in accordance with the accounting principles described in
1829 Exhibit G hereto and (2) audited, if the City commissions an audit of such
1830 statements and the audit is completed within the period during which they must be
1831 provided. If audited financial statements are not available at the time the financial

information and operating data must be provided, then the City shall provide unaudited financial statements for the applicable fiscal year to each NRMSIR and any SID with the financial information and operating data and will file the annual audit report when and if the same becomes available.

If the City changes its Fiscal Year, it will notify each NRMSIR and any SID of the change (and of the date of the new Fiscal Year end) before the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Part.

The financial information and operating data to be provided pursuant to this Part may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

PART 11.03 Material Event Notices. The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. Modifications to rights of holders of the Bonds;
8. Bond calls.
9. Defeasances,
10. Release, substitution, or sale of property securing repayment of the Bonds, and
11. Rating changes.

The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or

operating data in accordance with Part 10 02 hereof by the time required by such Part.

PART 11.04. Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Part while, but only while, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by Part 11 03 hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Part are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Part, express or implied, shall give any benefit or any legal or equitable right, remedy or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Part and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Part or otherwise, except as expressly provided in this Ordinance. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING WHOLLY OR PARTLY FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS PART, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Part shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Part is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Part may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Part, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. If the City so amends the provisions of this Part, it shall include with any amended financial information or operating data next provided in accordance with Part 10.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

ARTICLE 12 TAX MATTERS

PART 12.01 Tax Exemption

(a) Definitions When used in this Article 12, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1 148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1 148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1 148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1 148-1(b) of the Regulations.

1933 "Nonpurpose Investment" means any investment property, as defined
1934 in section 148(b) of the Code, in which Gross Proceeds of the Bonds
1935 are invested and which is not acquired to carry out the governmental
1936 purposes of the Bonds.

1937 "Rebate Amount" has the meaning set forth in Section 1.148-1(b) of
1938 the Regulations

1939 "Regulations" means any proposed, temporary, or final Income Tax
1940 Regulations issued pursuant to Sections 103 and 141 through 150 of
1941 the Code, and 103 of the Internal Revenue Code of 1954, which are
1942 applicable to the Bonds.

1943 "Yield" of (1) any Investment has the meaning set forth in Section
1944 1.148-5 of the Regulations and (2) the Bonds has the meaning set
1945 forth in Section 1.148-4 of the Regulations

1946 Any reference to any specific Regulation shall also mean, as appropriate,
1947 any proposed, temporary or final Income Tax Regulation designed to supplement,
1948 amend or replace the specific Regulation referenced.

1949 (b) Not to Cause Interest to Become Taxable. The City shall
1950 not use, permit the use of, or omit to use Gross Proceeds or any other
1951 amounts for any property the acquisition, construction or
1952 improvement of which is to be financed directly or indirectly with
1953 Gross Proceeds in a manner which if made or omitted, respectively,
1954 would cause the interest on any Bond to become includable in the
1955 gross income, as defined in section 61 of the Code, of the owner
1956 thereof for federal income tax purposes. Without limiting the
1957 generality of the preceding, unless and until the City receives a written
1958 opinion of counsel nationally recognized in the field of municipal
1959 bond law to the effect that failure to comply with such covenant will
1960 not adversely affect the exemption from federal income tax of the
1961 interest on any Bond, the City shall comply with each of the specific
1962 covenants in this Part

1963 (c) No Private Use or Private Payments Except as permitted
1964 by section 141 of the Code and the Regulations and rulings
1965 thereunder, the City shall at all times before the last Stated Maturity of
1966 Bonds

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Bonds), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Bonds), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the preceding covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds

are otherwise transferred in a transaction which is the economic equivalent of a loan

(e) Not to Invest at Higher Yield Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time before the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested) if as a result of such investment the Yield from the Closing Date of all investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder

(g) Information Report The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder.

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith

(ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Underwriter and the loan of the money represented thereby and to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Debt Service Account or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United

States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations

(v) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time before the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Part because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(i) Elections. The City hereby directs and authorizes the Mayor, the City Manager, the Treasurer and the Chief Financial Officer of the City, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they consider necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(j) Bonds Not Hedge Bonds. With respect to the original bonds refinanced by the Refunded Bonds, (1) the City reasonably expected to spend at least 85% of the spendable proceeds of the original bonds within three years after such original bonds were issued and (2) not more than 50% of proceeds of the original bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(k) Current Refunding. The Bonds are issued to refund the Refunded Bonds, and the Bonds will be issued within 90 days before the redemption of the Refunded Bonds.

(l) Reimbursement. The City reasonably expects to reimburse capital expenditures with respect to the termination payment referenced in Part 3 11 hereof paid with funds on hand from the proceeds of sale of Bonds, and this paragraph shall constitute a declaration of official intent under the Treas Reg §1 150-2 The

2114 maximum principal amount of the Bonds expected to be issued for the
2115 termination payment is \$10,000,000

2116 **ARTICLE 13. MISCELLANEOUS**

2117 **PART 13.01. Further Procedures** The Mayor, the Mayor Pro Tem, the City
2118 Manager, the Chief Financial Officer, City Treasurer and the City Clerk, and other
2119 appropriate officials of the City, are hereby authorized and directed to do any and
2120 all things necessary or convenient to carry out the terms of this Ordinance.

2121 **PART 13.02. Severability.** If any Part, paragraph, clause or provision of this
2122 Ordinance shall for any reason be held to be invalid or unenforceable, the
2123 invalidity or unenforceability of such Part, paragraph, clause or provision shall not
2124 affect any of the remaining provisions of this Ordinance.

2125 **PART 13.03. Meeting.** It is hereby found, determined and declared that a
2126 sufficient written notice of the date, hour, place and subject of the meeting of the
2127 City Council at which this Ordinance was adopted was posted at a place
2128 convenient and readily accessible at all times to the general public at the City Hall
2129 of the City for the time required by law preceding this meeting, as required by
2130 V.T.C.A. Government Code, Chapter 551, and that this meeting has been open to
2131 the public as required by law at all times during which this Ordinance and the
2132 subject matter thereof has been discussed, considered and formally acted upon.
2133 The City Council further ratifies, approves and confirms such written notice and
2134 the contents and posting thereof.

2135 **PART 13.04. Benefits of Ordinance.** Nothing in this Ordinance, expressed
2136 or implied, is intended or shall be construed to confer upon any person other than
2137 the City, the Paying Agent/Registrar, the Credit Facility Provider, the Surety Bond
2138 Issuer, the Liquidity Provider, the Interest Rate Management Agreement
2139 Counterparty(ies), the Remarketing Agent, the Tender Agent, any future Auction
2140 Agent, or Broker-Dealer, the Holders and any other beneficiary of a Party
2141 Obligation, any right, remedy, or claim, legal or equitable, under or by reason of
2142 this Ordinance or any provision hereof, this Ordinance and all its provisions being
2143 intended to be and being for the sole and exclusive benefit of such Persons.

2144 **PART 13.05. Inconsistent Provisions** All ordinances, orders or resolutions,
2145 or parts thereof, which are in conflict or inconsistent with any provision of this
2146 Ordinance are hereby repealed to the extent of such conflict and the provisions of
2147 this Ordinance shall be and remain controlling as to the matters contained in this
2148 Ordinance.

2149 **PART 13.06. Rating Agencies.**

2150 (a) If Moody's, Fitch or Standard & Poor's maintain a rating
2151 on the Bonds such rating agencies shall receive notice by or on behalf
2152 of the City, of:

2153 (i) any change to the Paying Agent/Registrar/
2154 Tender Agent or Remarketing Agent,

2155 (ii) any amendment pursuant to Part 9.05 of
2156 Article 9 of this Ordinance or any amendment or
2157 supplement to the Series 2008 Liquidity Agreement,
2158 including, but not limited to, any expiration, termination,
2159 or extension thereof; and of defeasance of the Bonds in
2160 full

2161 (iii) Any changes to the Liquidity Facility, the
2162 Credit Facility or any agreement with the Liquidity
2163 Facility Provider, Credit Facility Provider, Remarketing
2164 Agent or Tender Agent pertaining to the Bonds,

2165 (iv) Any expiration, termination or extension of
2166 any Liquidity Facility or Credit Facility or the obtaining
2167 of an Alternate Liquidity Facility, or Alternate Credit
2168 Facility pertaining to the Bonds,

2169 (v) Any action in connection with a change to a
2170 Daily Mode, Term Rate Mode or Fixed Rate Mode or
2171 Commercial Paper Mode; and

2172 (vi) Any redemption, defeasance, mandatory
2173 tender, Mandatory Purchase Date or acceleration of all
2174 the Outstanding Bonds

2175 (b) Information Provided to Rating Agencies. The City
2176 agrees to provide any Rating Agency with respect to the Bonds of a
2177 subseries such information with respect to the City as the Rating
2178 Agency reasonably requests from time to time, which information is
2179 customarily prepared by the City and publicly available

2180 (c) Rating Agency Requirements Notwithstanding anything
2181 herein to the contrary and as authorized by law, the Pricing Officer is

2182 hereby authorized to include in the Pricing Certificate any provision
2183 required by Moody's, Fitch or Standard & Poor's required to obtain
2184 the initial ratings on the Bonds.

2185 **PART 13.07. Demands, Requests.** All notices, demands and requests to be
2186 given to or made hereunder by the City, the Paying Agent/Registrar, the Tender
2187 Agent, the Remarketing Agents, the Liquidity Facility Providers, the Credit
2188 Facility Providers, the Rating Agencies shall, unless otherwise expressly provided
2189 herein, be given or made in writing and is deemed to be properly given or made if
2190 by United States registered or certified mail, return receipt requested, postage
2191 prepaid, addressed as set forth below. Notices, demands and requests that may be
2192 given by Electronic Means may be sent to the telephone or fax numbers, as
2193 applicable, set forth below:

As to the City:

City of Austin
700 Lavaca, Suite 1510
Austin, Texas 78701
Attention: Art Alfaro, Treasurer
Phone: (512) 974-7882
Fax: (512) 370-3838
E-Mail: art.alfaro@ci.austin.tx.us

As to the Paying Agent/Registrar:

Deutsche Bank
25 DeForest Avenue, 2nd Floor
Summit, New Jersey 07901
Attention: Trust & Securities Services
Phone: (908) 608-4094
Fax: (908) 608-3220
E-mail: debra.schwalb@db.com

As to the Tender Agent:

Deutsche Bank
25 DeForest Avenue, 2nd Floor
Summit, New Jersey 07901
Attention: Trust & Securities Services
Phone: (908) 608-4094
Fax: (908) 608-3220
E-mail: debra.schwalb@db.com

As to the Remarketing Agent(s):	The Address, Phone Number, Fax Number and E-mail Address Specified in the Related Remarketing Agreement
As to the Credit Facility Provider(s) and Liquidity Facility Provider(s)	The Address, Phone Number, Fax Number and E-mail Address Specified in the Related Credit Facility or Liquidity Facility, as the case may be
As to the Auction Agent:	The Address, Phone Number, Fax Number and E-mail Address Specified in the Auction Agreement

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As to the Broker-Dealer(s)

The Address, Phone Number, Fax
Number and E-mail Address Specified
in the Related Broker-Dealer Agreement

As to the Series 2008 Interest Rate
Management Agreement Counterparty

Morgan Keegan Financial Products, Inc.
50 North Front Street, 16th Floor
Memphis, Tennessee 38103
Attention: Swap Desk
Fax: (901) 579-4363

and

Deutsche Bank AG New York Branch
60 Wall Street
New York, New York 10005
Attention: Patrick Marsh
Fax: (212) 797-2210 or (212) 797-2218

As to the Rating Agencies

Fitch Ratings, Inc.
One State Street Plaza
New York, New York 10004
Attention: Municipal Structured Finance
Phone:
Fax:
Email: trudy.zabit@fitchratings.com

Moody's Investors Service, Inc.
7 World Trade Center at 250 Greenwich
Street
Public Finance Group
New York, New York 10007
Attention: MSPG – 23rd Floor
Phone:
Fax: 212-553-1066
Email: MSPGSurveillance@moodys
com

2196

Standard & Poor's
55 Water Street, 38th Floor
New York, New York 10041
Phone.
Fax:
Email: pubfin_structured@sandp.com

2197 or to such other address as is provided by the entity

2198 The City shall provide, or cause to be provided, each rating agency then
2199 maintaining a rating on the Bonds with the notice of any redemption and the notice
2200 of any Mandatory Purchase Dates.

2201 **PART 13.08. Public Meeting.** It is officially found, determined, and
2202 declared that the meeting at which this Ordinance is adopted was open to the
2203 public and public notice of the time, place, and subject matter of the public
2204 business to be considered at such meeting, including this Ordinance, was given; all
2205 as required by V.T.C.A., Government Code, Chapter 551.

2206 **PART 13.09. Authorized Officials.** Any agreement, instrument, certificate
2207 or other document which this Ordinance provides may be approved or executed by
2208 one or more Authorized Officials, including the Pricing Certificate, shall be
2209 considered conclusively to be approved, executed and delivered on behalf of the
2210 City, as its act and deed, in the form and content executed and delivered by an
2211 Authorized Official. Any finding or determination made by an Authorized Official
2212 relating to the issuance of the Bonds and the terms and execution of documents in
2213 connection therewith and the terms and execution of the other agreements and
2214 documents referenced in this Ordinance, shall have the same force and effect as a
2215 finding or determination made by the City Council.

2216 **PART 13.10. Governing Law** This Ordinance shall be construed and
2217 enforced in accordance with the laws of the State of Texas and the United States of
2218 America

2219 **PART 13.11. Effective Date** This Ordinance is hereby passed one reading
2220 as authorized by V T C A., Government Code, Section 1201.028 and shall be
2221 effective immediately upon its passage and adoption.

2222 [remainder of page left blank intentionally]

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APPENDIX A

PROVISIONS FOR MULTI-MODAL OBLIGATIONS FOR THE BONDS

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PROVISIONS FOR MULTI-MODAL OBLIGATIONS FOR THE BONDS

ARTICLE I

DEFINITIONS

Part 1.1 Definitions. Capitalized terms used but not otherwise defined in this Appendix A shall have the meanings set forth in the Ordinance to which this Appendix A is appended. Unless otherwise specified, references to Parts and articles herein are to the Parts and articles in this Appendix A and not the Ordinance. For all purposes herein and (except as the context may otherwise require) in the Ordinance, the following terms have the following meanings:

“Alternate Credit Facility” means a Credit Facility that is issued in substitution for a then-existing Credit Facility in accordance with, and pursuant to, Part 5.1 hereof, as the same may be amended or supplemented from time to time

“Alternate Liquidity Facility” means a Liquidity Facility that is issued in substitution for a then-existing Liquidity Facility in accordance with, and pursuant to, Part 5.1 hereof, as the same may be amended or supplemented from time to time

“Alternate Rate” means, on any Rate Determination Date, the SIFMA Index or if the SIFMA Index is no longer published, the Kenny Index, or if neither the SIFMA Index nor the Kenny Index are published, an index or a rate selected or determined by the Paying Agent/Registrar and consented to by the City and the Credit Facility Provider.

“Auction Agent” has the meaning set forth in Exhibit 1 hereto.

“Auction Agreement” has the meaning set forth in Exhibit 1 hereto

“Auction Date” has the meaning set forth in Exhibit 1 hereto

“Auction Period” has the meaning set forth in Exhibit 1 hereto

“Auction Period Rate” has the meaning set forth in Exhibit 1 hereto

“Auction Procedures” has the meaning set forth in Exhibit 1 hereto.

“Auction Rate Mode” means the mode during which the duration of the Auction Period and the interest rate is determined in accordance with Part 2 7 hereof and Exhibit 1 hereto.

“Authorized Denominations” means with respect to Bonds of a subseries (i) in an Auction Rate Mode, \$25,000 and any integral multiple thereof, (ii) in a Commercial Paper Mode, Daily Mode or Weekly Mode, \$100,000 and any integral multiple of \$5,000 in excess thereof and (iii) in a Term Rate Mode or Fixed Rate Mode, \$5,000 and any integral multiple thereof, provided, however, that if as a result of the change in the Mode of the Bonds of a subseries from a Term Rate Mode to a Commercial Paper Mode, Daily Mode or Weekly Mode, it is not possible to deliver all the Bonds of a subseries required or permitted to be Outstanding in a denomination permitted above, Bonds of a subseries may be delivered, to the extent necessary, in different denominations.

“Available Amount” means the amount available under the Credit Facility or Liquidity Facility, as applicable, to pay the principal of and interest on the Bonds or the Purchase Price of the Bonds, as applicable.

“Broker-Dealer” has the meaning set forth in Exhibit 1 hereto

“Broker-Dealer Agreement” has the meaning set forth in Exhibit 1 hereto.

“Business Day” shall mean any day other than (a) a Saturday or Sunday, (b) a day on which banks located in the cities in which the designated office of any of the Tender Agent, the Remarketing Agent, the Paying Agent/Registrar, the Credit Provider or the Liquidity Provider is located are required or authorized by law or executive order to close, (c) a day on which the New York Stock Exchange is closed, or (d) a day on which the payment system of the Federal Reserve System is not operational

“Closing Date” when used with respect to the Bonds of a subseries, means the date on which such Bonds are first issued, sold and delivered.

“Commercial Paper Mode” means the mode during which the duration of the Interest Periods and the interest rates are determined under Part 2 2 hereof

“Commercial Paper Rate Bond” means any Bond of a subseries while in a Commercial Paper Mode

“Credit Facility” shall mean a letter of credit, insurance policy, surety bond, line of credit or other instrument then in effect which secures or guarantees the

payment of principal of and interest on the Bonds. The initial Credit Facility for the Bonds is the Series 2008 Liquidity Agreement

“Credit Facility Provider” shall mean any bank, insurance company, pension fund or other financial institution which provides a Credit Facility or Alternate Credit Facility for the Bonds. The initial Credit Facility Provider shall be Dexia Crédit Local, acting through its New York branch

“Current Mode” has the meaning specified in Part 2.8(b) hereof

“Daily Mode” means the mode during which Bonds of a subseries bear interest at a Daily Rate

“Daily Rate” means an interest rate determined pursuant to Part 2.3 hereof.

“Delayed Remarketing Period” has the meaning stated in Part 2.5(b)

“Differential Interest Amount” has the meaning specified in Part 2.1 hereof.

“Direct-Pay Liquidity Facility” means a Liquidity Facility that is issued in the form of a direct-pay letter of credit

“Direct-Pay Liquidity Facility Drawing Account” means the Account that may be established pursuant to Part 5.2 hereof.

“DTC” means The Depository Trust Company, New York, New York, or its successors.

“Electronic Means” means telecopy, facsimile transmission, e-mail transmission or other similar electronic means of communication providing evidence of transmission, including a telephonic communication confirmed by any other method set forth in this definition.

“Eligible Account” means an account that must be maintained either with (1) a federal or state-chartered depository institution or trust company that has a Standard & Poor’s short-term debt rating of at least “A-2” (or, if no short-term debt rating, a long-term debt rating of “BBB+”), or (b) the corporate trust department of a federal depository institution or state-chartered depository institution subject to regulations regarding fiduciary funds on deposit similar to Title 12 of the U.S. Code of Federal Regulation Part 9.10(b), which, in either case, has corporate trust powers and is acting in its fiduciary capacity.

“Expiration Date” means, with respect to a Credit Facility or Liquidity Facility with respect to the Bonds of a subseries, the stated expiration date of such Credit Facility or Liquidity Facility, or such stated expiration date as it may be extended from time to time as provided therein, provided, however, that the “Expiration Date” does not mean any date upon which a Credit Facility or Liquidity Facility is no longer effective by reason of its Termination Date, the date on which all Bonds of such subseries bear interest at a Fixed Rate or an Auction Period Rate or the expiration of such Credit Facility or Liquidity Facility by reason of the obtaining of an Alternate Credit Facility or Alternate Liquidity Facility.

“Expiration Tender Date” has the meaning set forth in Part 4 5(a) hereof.

“Favorable Opinion of Bond Counsel” means, with respect to any action the occurrence of which requires such an opinion, an unqualified opinion of counsel to the effect that such action is permitted under the Ordinance and that such action will not impair the exclusion of interest on such Bonds from gross income for purposes of federal income taxation (subject to the inclusion of any exceptions contained in the opinion delivered upon original issuance of the Bonds).

“Fixed Rate” means an interest rate fixed to the Maturity Date of the Bonds of a subseries

“Fixed Rate Mode” means the period during which Bonds of a subseries bear interest at a Fixed Rate

“Interest Payment Date” means the following dates upon which interest is payable on Bonds of a subseries:

- (a) the Maturity Date or any Mode Change Date,
- (b) with respect to a Commercial Paper Rate Bond, the Business Day following the last day of the Interest Period therefor,
- (c) with respect to the Daily Mode and the Weekly Mode, the fifteenth day of each calendar month (provided that if such day is not a Business Day, interest shall be paid on the next Business Day), provided, however, the initial Interest Payment Date for the Bonds shall be September 15, 2008,
- (d) with respect to the Term Rate Mode, each May 15 and November 15 prior to the Purchase Date and the Purchase Date,

(e) with respect to the Auction Rate Mode, each date that is specified as an "Interest Payment Date" in Exhibit 1 hereto;

(f) with respect to the Fixed Rate Mode, each May 15 and November 15, provided that the Interest Payment Dates for the Fixed Rate Mode may be changed in connection with the conversion to such Mode upon receipt of a Favorable Opinion of Bond Counsel, and

(g) with respect to a Liquidity Provider Bond, each date that is specified as a date on which interest is payable thereon pursuant to the Liquidity Facility under which such Liquidity Provider Bond was purchased

"Interest Period" means the period of time that any interest rate remains in effect, which period:

(a) with respect to a Commercial Paper Rate Bond, is the period of time established by the Remarketing Agent pursuant to Part 2.2 hereof;

(b) with respect to Bonds of a subseries in the Daily Mode, is the period from and including the Closing Date (if initially issued in the Daily Mode), the Mode Change Date that they began to bear interest at the Daily Rate to and excluding the next Business Day and thereafter commencing on each Business Day to and excluding the next Business Day,

(c) with respect to Bonds of a subseries in the Weekly Mode, is the period from and including the Closing Date (if initially issued in the Weekly Mode), the Mode Change Date that they began to bear interest at the Weekly Rate to and including the following Wednesday and thereafter commencing on each Thursday to and including the earlier of the Wednesday of the following week or the day preceding any Mandatory Purchase Date or the Maturity Date,

(d) with respect to Bonds of a subseries in the Term Rate Mode, is the period from and including the Closing Date (if initially issued in the Term Rate Mode), the Mode Change Date when they began to bear interest at the Term Rate, to and including the date selected by the City prior to the Closing Date or the Mode Change Date, as the case may be, as the last day upon which an interest rate determined by the Remarketing Agent pursuant to Part 2.5 hereof is in effect and thereafter is the period beginning on the day after the end of the prior Interest Period and ending on the date selected by the City prior to the end of such Interest Period as the last day upon which an interest rate determined by the Remarketing Agent pursuant to

Part 2.5 hereof is in effect; provided, that no Interest Period may extend beyond the day preceding any Mandatory Purchase Date or the Maturity Date, and

(e) with respect to Bonds of a subseries in the Fixed Rate Mode, is the period from and including the Mode Change Date that they began to bear interest at the Fixed Rate to and including the Maturity Date.

“Kenny Index” means the rate determined on the basis of the Kenny 30-Day High Grade Index announced on Tuesday or the next preceding Business Day and as computed by Kenny Information Systems, Inc.

“Liquidity Facility” means any letter of credit, line of credit, standby purchase agreement or other instrument then in effect which provides for the payment of the purchase price of Bonds upon the tender thereof in the event remarketing proceeds are insufficient therefor. The initial Liquidity Facility for the Bonds is the Series 2008 Liquidity Agreement issued by the Initial Liquidity Facility Provider. The City is required by this Ordinance to provide a Liquidity Facility for all modes other than Auction Mode, a Term Rate Mode of greater than four years and the Fixed Rate Mode.

“Liquidity Facility Provider” shall mean any bank, insurance company, pension fund or other financial institution which provides a Liquidity Facility or Alternate Liquidity Facility for the Bonds, including the Initial Liquidity Facility Provider.

“Liquidity Facility Purchase Account” means the account by the name created pursuant to Part 4 7 hereof

“Liquidity Provider Bond Maximum Rate” means the greater of 15% per annum or such higher rate as may be permitted by applicable law from time to time, as evidenced by a Favorable Opinion of Bond Counsel to such effect

“Liquidity Provider Interest Rate” means with respect to any amounts owing under any Liquidity Provider Bond, the rate of interest which is (i) applicable to the amounts owing under such Liquidity Provider Bond as specified in and computed in accordance with the Liquidity Facility and (ii) not in excess of the Maximum Rate

“Mandatory Purchase Date” means (i) the Purchase Date of Bonds of a subseries in the Commercial Paper Mode or the Term Rate Mode, (ii) any Mode Change Date, (iii) the Interest Non-Reinstatement Tender Date, (iv) the

Substitution Date, (v) the Expiration Tender Date and (vi) the Termination Tender Date

“Maturity Date” means, with respect to any Bond of a subseries, the final date specified therefor in the Ordinance.

“Maximum Auction Rate” has the meaning set forth in Exhibit I hereto.

“Maximum Rate” means, (i) the Tax-Exempt Maximum Rate or such lesser rate as may be specified in the Liquidity Facility for the Bonds of such subseries and (ii) with respect to Bonds of a subseries that are Liquidity Provider Bonds, the Liquidity Provider Bond Maximum Rate; provided, however, that if the Bonds are in the Auction Mode, the Maximum Rate shall be the Maximum Auction Rate; provided, further, that in no event may the Maximum Rate on any such Bonds exceed the maximum rate permitted by applicable law.

“Mode” means the Commercial Paper Mode, the Daily Mode, the Weekly Mode, the Term Rate Mode, the Auction Rate Mode or the Fixed Rate Mode.

“Mode Change Date” means, with respect to Bonds of a subseries, the date one Mode terminates and another Mode begins

“Mode Change Notice” has the meaning specified in Part 2.8(a) hereof.

“New Mode” has the meaning specified in Part 2.8(b) hereof

“Notice Parties.” if not the Person providing the notice, means the City, the Paying Agent/Registrar, the Remarketing Agent (if any), the Tender Agent, the Auction Agent (if any), all Broker-Dealers (if any), the Credit Facility Provider (if any), and the Liquidity Facility Provider (if any)

“Officers Pricing Certificate” means a certificate or certificates to be signed by the City Manager or Chief Financial Officer pursuant to the Ordinance containing pricing information and other terms for one or more series of Bonds.

“One Week LIBOR Rate” means, as of any date of determination, the offered rate for deposits in U.S. dollars for a seven-day period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market

“Paying Agent/Registrar” has the meaning stated in the Ordinance

“Purchase Date” means with respect to any Bond of a subseries (i) in the Commercial Paper Mode or the Term Rate Mode, the Business Day after the last day of the Interest Period applicable thereto and (ii) during the Daily Mode or Weekly Mode, any Business Day upon which such Bond is tendered or deemed tendered for purchase pursuant to Part 4.1 hereof.

“Purchase Fund” means the fund created in Part 4.7 hereof.

“Purchase Price” means an amount equal to the principal amount of any Bond of a subseries purchased on any Purchase Date or Mandatory Purchase Date, plus, in the case of any Bond of a subseries that has been tendered pursuant to Part 4.1 hereof, unless the Purchase Date for such Bond is also an Interest Payment Date, accrued interest to the Purchase Date.

“Rate Determination Date” means any date on which the interest rate on any Bonds of a subseries is required to be determined, being: (i) in the case of any Commercial Paper Rate Bond, the first day of each Interest Period for any Commercial Paper Rate Bond, (ii) in the case of Bonds of a subseries in the Daily Mode, each Business Day, (iii) in the case of any Bonds of a subseries in the Weekly Mode, for any Interest Period commencing on a Mode Change Date, the Business Day immediately preceding the Mode Change Date, and for any other Interest Period, each Wednesday or, if such Wednesday is not a Business Day, the Business Day next preceding such Wednesday, and (iv) in the case of any Bonds of a subseries to be, or continue to be, in the Term Rate Mode or Fixed Rate Mode, a Business Day prior to the first day of an Interest Period

“Record Date” means, with respect to Bonds of a subseries (i) in a Commercial Paper Mode, the day (whether or not a Business Day) next preceding each Interest Payment Date, (ii) in the Auction Rate Mode, the Daily Mode or the Weekly Mode, the opening of business on the Business Day next preceding an Interest Payment Date and (iii) in the Term Rate Mode or the Fixed Rate Mode, the 15th day (whether or not a Business Day) of the calendar month next preceding each Interest Payment Date

“Redemption Date” means the date fixed for redemption of Bonds of a subseries subject to redemption in any notice of redemption given in accordance with the terms hereof

“Reimbursement Agreement” means the reimbursement agreement dated as of August 1, 2008, between the City and the Initial Liquidity Facility Provider, and any supplement or amendment thereof, or any replacement therefor.

“Remarketing Agents” means a remarketing agent appointed pursuant to the Ordinance and Part 6.1 of this Appendix A

“Remarketing Agreement” means a remarketing agreement entered into by and between the City and a Remarketing Agent with respect to the Bonds of a subseries pursuant to which the Remarketing Agent has agreed to remarket the Bonds of such subseries on the Purchase Date or the Mandatory Purchase Date at a price of not less than 100% of the principal amount thereof

“Remarketing Proceeds Account” means the account by that name created in Part 4.7 hereof.

“SIFMA Index” means the Securities Industry and Financial Markets Association Municipal Swap Index reported by the Securities Industry and Financial Markets Association SIFMA Index was formerly called the BMA Index

“Substitution Date” means:

(a) the second Business Day preceding the date that is specified in a written notice given to the Paying Agent/Registrar and the Tender Agent in accordance with the Liquidity Facility or the Credit Facility as the date on which the assignment of the obligation of the Liquidity Facility Provider or the Credit Facility Provider under such Liquidity Facility or Credit Facility is effective; provided, however, that any date specified in such written notice as the effective date of such assignment is treated as the effective date of such assignment even if the assignment fails to occur on such date, and

(b) the date that is specified in a written notice given by the City to the Paying Agent/Registrar and the Tender Agent as the date on which an Alternate Credit Facility or an Alternate Liquidity Facility is to be substituted for a then-existing Credit Facility or Liquidity Facility in effect pursuant to Part 5.1 hereof; provided, however, that any date so specified in the written notice is treated as a Substitution Date only if a written notice thereof is given to the Paying Agent/Registrar and the Tender Agent at least 16 days preceding such date, provided further, however, that any date so specified in the written notice is treated as a Substitution Date even if the substitution of the Alternate Credit Facility or the Alternate Liquidity Facility fails to occur on such date

“Tax-Exempt Maximum Rate” means the greater of 12% per annum or the maximum allowed by Chapter 1204, Texas Government Code, as amended

“Tender Agent” means the tender agent appointed pursuant to Part 6.2 hereof.

“Tender Agent Agreement” means the tender agent agreement entered into by and between the Tender Agent and the City with respect to the Bonds of a subseries.

“Term Rate” means an interest rate determined pursuant to Part 2.5 hereof.

“Term Rate Mode” means the mode during which Bonds of a subseries bear interest at a Term Rate.

“Termination Date” means, with respect to a Credit Facility or a Liquidity Facility, (i) the date on which such Credit Facility or Liquidity Facility terminates pursuant to its terms or otherwise be terminated prior to its Expiration Date, including as a result of any default or event of default under the Credit Facility or Liquidity Facility, or (ii) the date on which the obligation of the Credit Facility Provider or the Liquidity Facility Provider to provide a loan terminates, provided, however, that “Termination Date” does not mean any date upon which a Credit Facility or Liquidity Facility is no longer effective by reason of its Expiration Date.

“Termination Tender Date” has the meaning set forth in clause (ii) of Part 4.5 hereof.

“Weekly Mode” means a period of time during which Bonds of a subseries bear interest at a Weekly Rate

“Weekly Rate” means an interest rate determined pursuant to Part 2.4 hereof

Part 1.2 Rules of Construction.

(a) This Appendix A is an integral part of the Ordinance and, except to the extent provided in the next sentence, has the same force and effect as if set forth in the Ordinance. In the event of any conflict between this Appendix A and the Ordinance, the Ordinance controls

(b) If the Bonds of any subseries are issued in or re-designated into two or more subseries, references in the Ordinance and in this Appendix A to the Bonds of a subseries is deemed to refer to Bonds of such subseries

(c) Unless otherwise provided in the Ordinance and this Appendix A, references in the Ordinance and in this Appendix A to “time” is deemed

to refer to New York, New York time. All times herein may be adjusted from time to time in connection with a Mandatory Tender on a Substitution Date.

ARTICLE II

INTEREST RATE MODES, INTEREST RATES AND PAYMENT

Part 2.1 Denominations; Medium, Method and Place of Payment of Principal and Interest. Interest on Bonds of a subseries issued in the Commercial Paper Mode, the Daily Mode or Weekly Mode is calculated on the basis of a 365/366-day year for the actual number of days elapsed to the Interest Payment Date. Interest on Bonds of a subseries issued in the Auction Rate Mode with an Auction Period over 180 days, the Term Rate Mode or Fixed Rate Mode is calculated on the basis of a 360-day year composed of twelve 30-day months. Interest on Bonds of a subseries issued in the Auction Rate Mode with an Auction Period of 180 days or less is calculated on the basis of a 360-day year for the actual number of days elapsed to the Interest Payment Date.

The interest rates for Bonds of a subseries contained in the records of the Paying Agent/Registrar are conclusive and binding upon the City, the Remarketing Agent, the Tender Agent, the Paying Agent/Registrar, the Auction Agent, all Broker-Dealers, the Liquidity Facility Provider, the Credit Facility Provider and the Owners

The payment of the Purchase Price of Bonds of a subseries on any Purchase Date or Mandatory Purchase Date, as the case may be, will be made by wire transfer in immediately available funds by the Tender Agent to the account specified by the Owner in a written direction received by the Tender Agent or, if no such account number is furnished, by check mailed by the Tender Agent to the Owner at the address appearing on the books required to be kept by the Paying Agent/Registrar pursuant to the Ordinance. Any such direction will remain in effect until revoked or revised by such Owner by an instrument in writing delivered to the Paying Agent/Registrar or the Tender Agent, as the case may be.

Notwithstanding the provisions of Parts 2.2 through 2.7, inclusive, each Liquidity Provider Bond bears interest on the outstanding principal amount thereof, and on the amount (if any) of accrued and unpaid interest thereon, at the Liquidity Provider Interest Rate for each day from and including the date such Bond becomes a Liquidity Provider Bond to, but not including, the date such Bond is paid in full or is remarketed. The Owner of a Bond of a subseries other than the

Liquidity Facility Provider or its permitted assignee will be paid (and is obligated to pay as part of the price paid by such Owner in connection with the remarketing to it of such Bonds) interest thereon for an Interest Period only in the amount that would have accrued thereon at the rate or rates established pursuant to Parts 2.2, through 2.7, as applicable, regardless of whether such Bond was a Liquidity Provider Bond during any portion of such Interest Period. Accrued interest in respect to any Liquidity Provider Bond is payable to the Liquidity Facility Provider or its permitted assignee on each Interest Payment Date applicable thereto; provided that any fees, or Excess Interest (as such term is defined in the Reimbursement Agreement), due to the Liquidity Facility Provider or its permitted assignee shall be paid by the City as provided in Reimbursement Agreement

No Bond of a subseries may bear interest at an interest rate higher than the Maximum Rate.

Part 2.2 Determination of Interest Rates and Interest Periods During Commercial Paper Mode. Interest Periods in a Commercial Paper Mode are of such duration, of at least one day and not more than 270 days, ending on a day next preceding a Business Day or the Maturity Date, as the Remarketing Agent determines in accordance with the provisions of this Part 2.2. In making the determinations with respect to Interest Periods, subject to the limitations imposed by the preceding sentence, the Remarketing Agent shall on each Rate Determination Date select for each Bond of a subseries then subject to such adjustment the Interest Period which, if implemented on such Rate Determination Date, would result in the Remarketing Agent being able to remarket such Bond at par in the secondary market at the lowest interest rate then available and for the longest Interest Period available at such rate, provided that if on any Rate Determination Date, the Remarketing Agent determines that current or anticipated future market conditions or anticipated future events are such that a different Interest Period would result in a lower average interest cost on such Bond, then the Remarketing Agent shall select the Interest Period which in the judgment of the Remarketing Agent would permit such Bond to achieve such lower average interest cost, provided, however, that if the Remarketing Agent receives notice from the City that any Bond of a subseries is to be changed from the Commercial Paper Mode to any other Mode or if it is to be purchased pursuant to Part 4.5, the Remarketing Agent shall, with respect to such Bond, select Interest Periods which do not extend beyond the Mandatory Purchase Date

By 11:45 a.m. on each Rate Determination Date, the Remarketing Agent, with respect to each Commercial Paper Rate Bond that is subject to adjustment on such date, will determine an interest rate for the Interest Period then selected for

such Bond and, no later than 11.45 a.m., must give notice by Electronic Means to the Paying Agent/Registrar of the applicable Interest Period, Purchase Date and interest rate.

Anything in this Appendix A to the contrary notwithstanding, to the extent a Liquidity Facility and/or Credit Facility is in effect, no Interest Period may be implemented and no interest rate for such Interest Period may be determined if it would cause the principal of and interest on Bonds in the Commercial Paper Mode to be Outstanding immediately thereafter to be in excess of the Available Amount therefor. No remarketing of Bonds in the Commercial Paper Mode may be given effect by the Paying Agent/Registrar if it would cause such limitation to be exceeded.

By acceptance of any Commercial Paper Rate Bond, the Owner thereof is deemed to have agreed, during each Interest Period, to the interest rate (including the Alternate Rate, if applicable), Interest Period and Purchase Date then applicable thereto and to have further agreed to tender such Bond to the Tender Agent for purchase on the next succeeding Purchase Date at the Purchase Price. Such Owner further acknowledges that if funds for such purchase are on deposit with the Tender Agent on such Purchase Date, such Owner has no rights under the Ordinance other than to receive the payment of such Purchase Price and that interest ceases to accrue to such Owner on such Purchase Date.

Part 2.3 Determination of Interest Rate During Daily Mode. The interest rate for any Bond of a subseries in the Daily Mode is the rate of interest per annum determined by the Remarketing Agent on or before 9.30 a.m. on the Rate Determination Date as the minimum rate of interest that, in the opinion of the Remarketing Agent, would, under then existing market conditions, result in the sale of the Bonds of the subseries in the Daily Mode on the Rate Determination Date at a price equal to the principal amount thereof, plus accrued interest, if any. The Remarketing Agent shall make the rate available by Electronic Means to each other Notice Party by 10.30 a.m. on the Rate Determination Date. With respect to any day that is not a Business Day, the interest rate is the same rate as the interest rate established for the immediately preceding Business Day. The determination of each interest rate by the Remarketing Agent, in the absence of manifest error, is conclusive and binding upon the Remarketing Agent, the Tender Agent, the Paying Agent/Registrar, the Liquidity Facility Provider, the Credit Facility Provider, the City and the Owners.

Part 2.4 Determination of Interest Rate During Weekly Mode. To the extent the Bonds of a subseries are initially issued in a Weekly Mode, the

interest rate for Bonds of such subseries for the initial Interest Period is the rate of interest per annum set forth in the Bond Purchase Agreement. For any Interest Period that is not an initial Interest Period, the interest rate for Bonds of a subseries in a Weekly Mode for each such Interest Period is the rate of interest per annum determined by each Remarketing Agent on and as of the applicable Rate Determination Date or, in the case of an optional tender of Bonds, the optional tender date, as the minimum rate of interest that, in the opinion of the Remarketing Agent, would, under then existing market conditions, result in the sale of the Bonds of the subseries in the Weekly Mode on the Rate Determination Date or the optional tender date, as applicable, at a price equal to the principal amount thereof, plus accrued interest, if any. The Remarketing Agent shall make the rate available by Electronic Means to each other Notice Party by 5:00 p.m. on the Rate Determination Date or the optional tender date, as applicable. The determination of each interest rate by the Remarketing Agent is conclusive and binding, in the absence of manifest error, upon the Remarketing Agent, the Tender Agent, the Paying Agent/Registrar, the Liquidity Facility Provider, the Credit Facility Provider, the City and the Owners.

Part 2.5 Determination of Term Rate(s) and Fixed Rate

(a) Term Rates. The Term Rate to be effective for the Interest Period commencing on any Mode Change Date after which Bonds of a subseries will bear interest at a Term Rate or any Purchase Date while Bonds of a subseries are in the Term Rate Mode is determined by the Remarketing Agent. No later than 4:00 p.m. on the Business Day next preceding the Mode Change Date or the Purchase Date, as the case may be, the Remarketing Agent shall determine the Term Rate and shall make the Term Rate available by Electronic Means to each other Notice Party. The Term Rate shall be the minimum rate that would result in a sale of the Bonds of the subseries at a price equal to the principal amount thereof plus premium, if any, on the Rate Determination Date, taking into consideration the duration of the Interest Period, which is established by the City.

(b) Fixed Rate. The Fixed Rate to be effective for the Interest Period commencing on any Mode Change Date after which Bonds of a subseries will bear interest at a Fixed Rate, is determined by the Remarketing Agent. No later than 4:00 p.m. on the Business Day next preceding the Mode Change Date, the Remarketing Agent shall determine the Fixed Rate and shall make the Fixed Rate available by Electronic Means to each other Notice Party. The Fixed Rate is the minimum rate that, in the sole judgment of the Remarketing Agent, would result in a sale of the Bonds

of the subseries at a price equal to the principal amount thereof on the Rate Determination Date taking into consideration the duration of the Interest Period.

(c) Failure to Establish Term Rate or Fixed Rate If, for any reason, a Term Rate or Fixed Rate cannot be established on a Mode Change Date or Purchase Date, as the case may be, the Bonds of the subseries affected, other than Bonds of a subseries in an Auction Rate Mode, will be changed automatically to the Weekly Mode on the Purchase Date. Notwithstanding the foregoing, if the Bonds of a subseries are in a Term Rate Mode and there is a failure to pay the Purchase Price of the Bonds of such subseries on the Purchase Date, the Bonds of such subseries bear interest at the Maximum Rate from the failed Purchase Date to the date that all such Bonds are successfully remarketed (the "Delayed Remarketing Period") until such Purchase Price is paid.

Part 2.6 Alternate Rate for Interest Calculation. If (i) the Remarketing Agent fails to determine the interest rate(s) or Interest Periods for the Bonds of a subseries, or (ii) the method of determining the interest rate(s) or Interest Periods with respect to the Bonds of a subseries is held unenforceable by a court of law of competent jurisdiction, the Bonds of a subseries, other than Bonds of a subseries in an Auction Rate Mode, shall thereupon, (i) in the case of Commercial Paper Rate Bonds and Bonds in the Daily Mode and Term Rate Mode, be automatically converted to a Weekly Rate Mode, and (ii) in the case of Bonds in the Weekly Rate Mode, or Bonds to be converted to the Weekly Mode pursuant to clause (i) above and such Weekly Rate Mode has failed to be determined, bear interest at the Alternate Rate for subsequent Interest Periods, in each case until the Remarketing Agent again makes such determination or until there is delivered to the City and the Paying Agent/Registrar a Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, if the Bonds of a subseries are in a Term Rate Mode and there has been a failure to pay the Purchase Price of the Bonds of such subseries on the Purchase Date, the Bonds of such subseries shall bear interest in accordance with Part 2.8(c)(7)

Part 2.7 Determination of Interest Rate and Auction Period During Auction Rate Mode

(a) During any Auction Rate Mode, the Bonds of a subseries bear interest at the Auction Period Rate for each Auction Period determined as set forth in this Part 2.7 and Exhibit 1 hereto. The provisions of such Exhibit 1

constitute an integral part of this Appendix and the Ordinance and have the same force and effect as if set forth in this Appendix A or the Ordinance.

If the Mode applicable to the Bonds of a subseries is changed to an Auction Rate Mode, the initial Auction Period immediately after such change commences from and includes the Mode Change Date and expires on and includes the initial Auction Date. The initial Auction Date (which is the day of the week on which Auctions will generally be conducted) immediately after any change in the Mode applicable to the Bonds of a subseries to an Auction Rate Mode, is the date determined and certified to the Paying Agent/Registrar (with a copy to the Remarketing Agent, the Broker-Dealer(s), the Auction Agent and the Credit Facility Provider (if any)) by the City on or before the Mode Change Date. The Auction Period Rate for any initial Auction Period immediately after any change in the Mode applicable to the Bonds of a subseries to an Auction Rate Mode is the rate of interest per annum determined and certified to the Paying Agent/Registrar (with a copy to the City, the Remarketing Agent, the Auction Agent, the other Broker-Dealers, if any, and the Credit Facility Provider (if any)) by the Broker-Dealer designated by the City on a date not later than the Mode Change Date as the minimum rate of interest which, in the opinion of such Broker-Dealer, would be necessary as of such date to market Bonds of a subseries in an Auction Rate Mode in a secondary market transaction at a price equal to the principal amount thereof, provided that such interest rate may not exceed the Maximum Rate. After the initial Auction Period, each Auction Period is an Auction Period certified to the Paying Agent/Registrar (with a copy to the Remarketing Agent, the Broker-Dealer(s), the Auction Agent and the Credit Facility Provider (if any)) by the City on or before the Mode Change Date, unless such Auction Period is adjusted or changed to a daily, 7-day, 28-day, 35-day, three-month, six-month or a Special Auction Period in accordance with Exhibit 1 hereto. For any other Auction Period that is not an initial Auction Period, the Auction Period Rate is the rate of interest determined in accordance with Exhibit 1.

(b) During any Auction Rate Mode, upon the occurrence of (i) a default of the City in the payment of principal, Sinking Fund Installment, interest or premium on any Bond of a subseries in the Auction Rate Mode after the same becomes due, whether at maturity, upon call for redemption or on an Interest Payment Date and (ii) a default of the Credit Facility Provider under the Credit Facility securing such Bond, if any, the Paying Agent/Registrar must immediately give notice of the occurrence of such

events to the Auction Agent. Immediately after the Credit Facility Provider cures its default under the Credit Facility by making payments that the City failed to make when the same became due, the Paying Agent/Registrar shall give notice of such payment to the Auction Agent.

(c) (1) Less than all of the Bonds of a subseries then subject to a particular Auction Period may be converted to another Auction Period in accordance with Exhibit 1, provided, however, that in such event such subseries is re-designated into two or more further subseries for each separate Auction Period with a new CUSIP number for each such further subseries

(2) If less than all of the Bonds of a subseries then subject to a particular Auction Period are converted to another Auction Period in accordance with Exhibit 1, then the Auction Agent will select in its discretion the particular Bonds of a subseries or portions thereof which are to be converted to a new Auction Period subject to the provisions hereof regarding Authorized Denominations of Bonds of a subseries subject to such Mode.

(3) All Bonds of any subseries must be in the same Auction Period, except to the extent that the Bonds of any subseries are issued in or re-designated into two or more further subseries. If the Bonds of any subseries are issued in or re-designated into two or more further subseries, then all Bonds within any subseries must be in the same Auction Period.

Part 2.8 Changes in Mode.

(a) Changes. Any Mode, other than a Fixed Rate Mode, may be changed to any other Mode at the times and in the manner hereinafter provided. Subsequent to such change in Mode, the Bonds of the subseries may again be changed to a different Mode at the times and in the manner hereinafter provided. Any Bonds of a subseries converted to a Fixed Rate Mode may not be changed to any other Mode.

(b) Notice of Intention to Change Mode. To effect a Mode change, the City shall give written notice (the "Mode Change Notice") to the Notice Parties of its intention to effect a change in the Mode from the Mode then prevailing (the "Current Mode") to another Mode (the "New Mode") specified in such written notice, together with the proposed Mode Change

Date. Such notice must be given at least 20 days prior to the Mode Change Date.

(c) General Provisions Applying to Changes from One Mode to Another.

(1) The Mode Change Date must be a Business Day.

(2) Additionally, the Mode Change Date.

(A) from the Commercial Paper Mode is the last Purchase Date for the Commercial Paper Rate Bonds with respect to which a change is to be made,

(B) from a Term Rate Mode is the Purchase Date of the current Interest Period, and

(C) from an Auction Rate Mode is the Interest Payment Date following the last day of an Auction Period.

(3) On or prior to the date the City provides the notice to the Notice Parties pursuant to Part 2.8(b) hereof, the City shall deliver to the Paying Agent/Registrar a letter from counsel satisfactory to the Paying Agent/Registrar and addressed to the Paying Agent/Registrar (with a copy to all other Notice Parties) to the effect that such counsel expects to be able to deliver a Favorable Opinion of Bond Counsel on the Mode Change Date

(4) No change in Mode will become effective unless all conditions precedent thereto are met and the following items are delivered to the Paying Agent/Registrar and the Remarketing Agent by 11 00 a.m. or such later time as is acceptable to the City, the Paying Agent/Registrar and the Remarketing Agent, on the Mode Change Date:

(A) except for a change in Mode pursuant to Parts 2.5(c), 2.6 or Part 2.8(c)(6), a Favorable Opinion of Bond Counsel dated the Mode Change Date,

(B) if required, unless Tender Agent and Remarketing Agreements are already effective, executed copies of Tender Agent and Remarketing Agreements;

(C) a certificate of an authorized officer of the Tender Agent to the effect that all of the Bonds of a subseries tendered or deemed tendered, unless otherwise redeemed, have been purchased at a price at least equal to the Purchase Price thereof.

(D) with respect to a change in the Mode to an Auction Rate Mode, an executed copy of an Auction Agreement and one or more Broker-Dealer Agreements

(5) If all conditions to the Mode change are met, the Interest Period(s) or the Auction Period for the New Mode commences on the Mode Change Date and the Interest Rate(s) (together, in the case of a change to the Commercial Paper Mode, with the Interest Period(s)) shall be determined by the Remarketing Agent in the manner provided in Parts 2.2 through 2.7, as applicable.

(6) With respect to a change in the Mode from any Mode (other than an Auction Rate Mode or a Term Rate Mode) to any other Mode, if the foregoing conditions have not been satisfied by the Mode Change Date, the New Mode shall not take effect and (1) no purchase or tender of Bonds shall be consummated on the Mandatory Purchase Date, (2) the Tender Agent shall return all tendered Bonds to the Owner thereof, and (3) the Tender Agent will return all remarketing proceeds to the Remarketing Agent for return to the Persons who provided such funds. The Bonds of the subseries that are the subject of the Mode Change Notice are changed to Bonds in the Weekly Mode on the failed Mode Change Date, provided, however, if such Bonds are in the Weekly Mode, the interest rate shall be determined in accordance with this Ordinance on and as of the failed Mode Change Date.

(7) With respect to a change in the Mode from a Term Rate Mode to any other Mode, if the foregoing conditions have not been satisfied by the Mode Change Date, the New Mode shall not take effect and (1) no purchase or tender of Bonds shall be consummated on the Mandatory Purchase Date, (2) the Tender Agent shall return all tendered Bonds to the Owner thereof, and (3) the Tender Agent will return all remarketing proceeds to the Remarketing Agent for return to the Persons providing the money. On each Business Day following the failed remarketing, the Remarketing Agent will continue to use its best efforts to remarket the applicable Bonds into the Mode

designated by the City (or such other Mode as the City thereafter designates to the Remarketing Agent and the prospective Owners). When the Remarketing Agent advises the City, the Paying Agent/Registrar, and the Tender Agent that it believes in good faith that it is able to remarket all of the Bonds into the designated Mode, the Paying Agent/Registrar will give notice meeting the requirements of Part 4 6(f) for a notice of a Mode Conversion Date to the Holders of such Bonds not later than five days prior to the new Mandatory Purchase Date. During the Delayed Remarketing Period, the Bonds will pay interest to the Owners thereof (i) as if in the Term Rate Mode on May 15 and November 15 and (ii) the new Mandatory Purchase Date, and will bear interest at the Tax Exempt Maximum Rate.

(8) With respect to a change in the Mode from an Auction Rate Mode to any other Mode, in the event the foregoing conditions have not been satisfied, the Bonds of a subseries that are subject to the Mode Change Notice will not be subject to mandatory tender for purchase, will continue to bear interest in the Auction Rate Mode and the Auction Period Rate for the Auction Period commencing on the failed Mode Change Date is equal to the Maximum Auction Rate as determined on the Auction Date for such Auction Period and the Auction Period commencing on the failed Mode Change Date is a seven-day Auction Period. Thereafter, the Auction Period Rate for each succeeding Auction Period is determined in accordance with Exhibit 1 and each Auction Period is a seven-day Auction Period until the length of the Auction Period is changed in accordance with Exhibit 1.

(d) Serial Bonds In the notice given pursuant to Part 2 8(b) hereof in connection with any change of Bonds of a subseries to the Term Rate Mode or Fixed Rate Mode, the City may provide that all or some of such Bonds shall be Serial Bonds. The principal amount of Serial Bonds due on any date is equal to the sinking fund installment specified for such date in the Ordinance, and the remaining sinking fund installments continue to be Sinking Fund Installments for the Bonds of the subseries due on the Maturity Date, unless the City specifies otherwise in the notice. The interest rate for the Serial Bonds maturing on a particular date may differ from the interest rate or rates established for other Bonds.

(e) Partial Mode Changes and Further Subseries Designations.

(1) Less than all of the Bonds of a subseries then subject to a particular Mode may be converted to another Mode pursuant to this Part 2.8 hereof; provided, however, that in such event such subseries shall be re-designated into two or more further subseries for each separate Mode with a new CUSIP number for each further subseries.

(2) If less than all of the Bonds of a subseries then subject to a particular Mode are converted to another Mode pursuant to this Part 2.8 hereof, the particular Bonds of a subseries or portions thereof which are to be converted to a New Mode shall be selected by the Paying Agent/Registrar in its discretion subject to the provisions hereof regarding Authorized Denominations of Bonds of a subseries subject to such New Mode.

ARTICLE III

[RESERVED]

ARTICLE IV

PURCHASE OF BONDS

Part 4.1 Optional Tenders of Bonds in Daily Mode and Weekly Mode

(a) Any Bond of a subseries (or portions thereof in Authorized Denominations) in the Daily Mode that is not a Liquidity Provider Bond is subject to purchase, on the demand of the Owner thereof, at a price equal to the Purchase Price on any Business Day (such purchase to be made on the Business Day upon which such demand is made), upon irrevocable notice submitted by Electronic Means to the Tender Agent and the Remarketing Agent (promptly confirmed in writing by such Owner, delivered to the Tender Agent and the Remarketing Agent by telecopier by 11 00 a m , or such other time as required by the Liquidity Facility, at their respective offices set forth in Part 13 07 of the Ordinance) which states the number and principal amount of such Bond being tendered and the Purchase Date. Such tender notice, once transmitted to the Tender Agent, is irrevocable with respect to the tender for which such tender notice was delivered and such tender shall occur on the Business Day specified in such tender notice. The

Tender Agent shall, as soon as practicable, notify the Paying Agent/Registrar of the principal amount of Bonds of the subseries being tendered. The contents of any such irrevocable telephonic tender notice is conclusive and binding on all parties.

(b) The Owners of Bonds of a subseries in a Weekly Mode that are not Liquidity Provider Bonds and are not owned by or on behalf of the City may elect to have such Bonds (or portions thereof in Authorized Denominations) purchased at a price equal to the Purchase Price upon irrevocable notice submitted by Electronic Means to the Tender Agent and the Remarketing Agent, promptly confirmed in writing to the Tender Agent and Remarketing Agent at their respective offices set forth in Part 13 07 of the Ordinance, not later than 4.00 p.m. on a Business Day not less than seven days before the Purchase Date specified by the Owner. Such notice shall (i) state the number and the principal amount of such Bond being tendered and (ii) state that such Bond shall be purchased on the Purchase Date so specified by the Owner. The Tender Agent shall notify the Remarketing Agent, Paying Agent/Registrar, City, and any Liquidity Facility Provider by 11.00 a.m. on the next succeeding Business Day of the receipt of any notice pursuant to this paragraph.

(c) Notwithstanding anything herein to the contrary, during any period that the Bonds of a subseries are issued registered in the name of DTC or a nominee thereof pursuant to the Ordinance, (i) any notice of tender delivered pursuant to this Part shall identify the DTC participant through whom the beneficial owner will direct transfer; (ii) on or before the Purchase Date, the beneficial owner must direct (or if the beneficial owner is not a DTC participant, cause its DTC participant to direct) the transfer of said Bond on the records of DTC; and (iii) it shall not be necessary for Bonds of a subseries to be physically delivered on the date specified for purchase thereof, but such purchase shall be made as if such Bonds had been so delivered, and the Purchase Price thereof shall be paid to DTC. In accepting a notice of tender of any Bond of a subseries pursuant to this Part, the Paying Agent/Registrar and the Tender Agent may conclusively assume that the Person providing the notice of tender is the beneficial owner of the Bonds being tendered and therefore entitled to tender them. The Paying Agent/Registrar and Tender Agent assume no liability to anyone in accepting a notice of tender from a Person whom it reasonably believes to be such a beneficial owner of the Bonds of the subseries.

Part 4.2 Mandatory Purchase at End of Commercial Paper Mode Interest Periods. Except for Liquidity Provider Bonds, each Bond of a subseries in the Commercial Paper Mode is subject to mandatory tender for purchase on its Purchase Date at the Purchase Price. No notice of such mandatory purchase shall be given to the Owners.

Part 4.3 Mandatory Purchase on Any Mode Change Date. Except for Liquidity Provider Bonds, the Bonds of a subseries to be changed to any Mode from any other Mode are subject to mandatory tender for purchase on the Mode Change Date at the Purchase Price.

Part 4.4 Mandatory Purchase at End of each Term Rate Mode Interest Period. Except for Liquidity Provider Bonds, the Bonds of a subseries in the Term Rate Mode are subject to mandatory tender for purchase on each Purchase Date at the Purchase Price.

Part 4.5 Mandatory Purchase Upon Expiration Date, Termination Tender Date, and Substitution Date. Except for Liquidity Provider Bonds and Bonds owned by or on behalf of the City, the Bonds of a subseries are subject to mandatory tender at the Purchase Price for purchase on

(a) the second Business Day preceding the Expiration Date of a Credit Facility or Liquidity Facility, which second Business Day is hereinafter referred to as an "Expiration Tender Date",

(b) the fifth calendar day (or if such day is not a Business Day, the preceding Business Day) following the receipt by the Paying Agent/Registrar of a written notice from a Credit Facility Provider or Liquidity Facility Provider as a result of an event of default or other event which directs the Paying Agent/Registrar to cause a mandatory tender, which fifth calendar day is hereinafter referred to as a "Termination Tender Date", if the Liquidity Facility permits a draw thereon on the Termination Tender Date; and

(c) the Substitution Date for a Credit Facility or a Liquidity Facility.

Part 4.6 Notice of Mandatory Tender for Purchase

(a) The Paying Agent/Registrar shall, at least 15 days prior to the Expiration Tender Date with respect to Bonds of a subseries, give notice to the Owners and Notice Parties of the mandatory tender of the Bonds of such

subseries on such Expiration Tender Date if it has not theretofore received confirmation that the Expiration Date has been extended.

(b) Upon receipt of a written notice from the Credit Facility Provider, the Liquidity Facility Provider or the City that the Credit Facility or the Liquidity Facility, as the case may be, will terminate or the obligation of the Credit Facility Provider or Liquidity Facility Provider, as the case may be, to provide a loan thereunder will terminate prior to its Expiration Date, the Paying Agent/Registrar shall within one Business Day after receipt of such written notice give notice to the Owners and any other Notice Parties of the mandatory tender of the Bonds of such subseries that is to occur on such Termination Tender Date if it has not theretofore received from the Credit Facility Provider, the Liquidity Facility Provider or the City, as the case may be, a notice to the Owners stating that the event which resulted in the Credit Facility Provider, the Liquidity Facility Provider or the City giving a notice of the Termination Date has been cured and that the Credit Facility Provider, the Liquidity Facility Provider or the City has rescinded its election to terminate the Credit Facility or Liquidity Facility, as the case may be. Notwithstanding anything to the contrary in subpart (e) below, such notice shall be given by Electronic Means capable of creating a written notice. Any notice given substantially as provided in this subpart is conclusively presumed to have been duly given, whether or not actually received by each Owner.

(c) The Paying Agent/Registrar shall, at least 15 days prior to any Substitution Date with respect to a Liquidity Facility relating to any Bonds, give notice of the mandatory tender of such Bonds that is to occur on such Substitution Date to the Owners and the Notice Parties

(d) The Paying Agent/Registrar shall, at least 15 days prior to any Mode Change Date or any Purchase Date (other than a Purchase Date for any Commercial Paper Rate Bond or a Purchase Date under Clause (ii) of the definition thereof) give notice to the Owners and the Notice Parties of the mandatory tender for purchase of such Bonds that is to occur on such date.

(e) Except as provided in Part 4.2, notice of any mandatory tender of Bonds of a subseries shall state that such Bonds are to be purchased pursuant to Parts 4.3, 4.4 or 4.5, and except as provided in Part 4.5(b) shall be provided by the Paying Agent/Registrar or caused to be provided by the Paying Agent/Registrar by mailing a copy of the notice of mandatory tender

by first-class mail to each Owner of Bonds of the subseries at the respective addresses shown on the registry books. Each notice of mandatory tender for purchase shall identify the reason for the mandatory tender for purchase, and specify the Mandatory Purchase Date, the Purchase Price, the place and manner of payment, that the Owner has no right to retain such Bonds and that no further interest will accrue from and after the Mandatory Purchase Date to such Owner. Each notice of mandatory tender for purchase caused by a change in the Mode applicable to the Bonds of a subseries shall in addition specify the conditions that have to be satisfied pursuant to Part 2.8 hereof in order for the New Mode to become effective and the consequences that the failure to satisfy any of such conditions would have. In the event a mandatory tender of Bonds of a subseries shall occur at or prior to the same date on which an optional tender for purchase is scheduled to occur, the terms and conditions of the applicable mandatory tender for purchase shall control. The Paying Agent/Registrar shall give a copy of any notice of mandatory tender given by it to the other Notice Parties. Any notice to Owners mailed or given as provided in this Part is conclusively presumed to have been duly given, whether or not the Owner of any Bond receives the notice, and the failure of such Owner to receive any such notice shall not affect the validity of the action described in such notice. Failure by the Paying Agent/Registrar to give a notice as provided in this Part shall not affect the obligation of the Tender Agent to purchase the Bonds of a subseries subject to mandatory tender for purchase on the Mandatory Purchase Date.

Part 4.7 Purchase Fund

(a) Funds and Accounts There is hereby created and established, and there shall be maintained as an Eligible Account with the Tender Agent for the Bonds of each subseries, a separate fund to be known as the "Purchase Fund". The Tender Agent shall further establish a separate account within such Purchase Fund to be known as the "Liquidity Facility Purchase Account" and a separate account within such Purchase Fund to be known as the "Remarketing Proceeds Account", each of which shall be an Eligible Account. To the extent that the Bonds of a subseries are re-designated into two or more further subseries, the Tender Agent shall establish and maintain a separate Purchase Fund with separate accounts therein for the Bonds of each such further subseries, which shall be Eligible Accounts.

(b) Remarketing Proceeds Account. Upon receipt of the proceeds of a remarketing of Bonds of a subseries on a Purchase Date or Mandatory Purchase Date, the Tender Agent shall deposit such proceeds in the related Remarketing Proceeds Account for application to the payment of the Purchase Price of such Bonds. Notwithstanding the foregoing, upon receipt of the proceeds of a remarketing of Liquidity Provider Bonds, the Tender Agent shall immediately pay such proceeds to or for the account of the related Liquidity Facility Provider to the extent of any amount owing to the Liquidity Facility Provider.

(c) Liquidity Facility Purchase Account. Upon receipt by the Tender Agent of the proceeds of any draw on a Liquidity Facility supporting Bonds of a subseries that are transferred to such Tender Agent pursuant to Part 4.1(a) hereof, the Tender Agent shall deposit such moneys in the related Liquidity Facility Purchase Account for application to the payment of the Purchase Price of Bonds of such subseries. Any amounts deposited in the Liquidity Facility Purchase Account for a subseries of Bonds and not needed with respect to any Purchase Date or Mandatory Purchase Date for payment of the Purchase Price for any Bonds of such subseries shall be returned immediately to the Liquidity Facility Provider.

(d) No Investment, Amounts Applied Solely to Related Subseries. Amounts held by the Tender Agent in the Liquidity Facility Purchase Account and the Remarketing Proceeds Account relating to the Bonds of a subseries shall not be deemed as part of the Trust Estate and shall be held uninvested and separate and apart from all other funds and accounts. Amounts so held or available to be drawn under the Liquidity Facility for deposit in a Liquidity Facility Purchase Account shall not be available to pay the Purchase Price of Bonds of any subseries other than Bonds of a subseries that are supported by such Liquidity Facility.

(e) Payment of Purchase Price by Tender Agent. The Tender Agent shall pay the Purchase Price of Bonds of a subseries to their Owners from the moneys in the Liquidity Facility Purchase Account and the Remarketing Proceeds Account in accordance with this Appendix A by 3:30 p.m. on any Purchase Date or Mandatory Purchase Date, as the case may be.

(f) No Lien for Tender Agent. The Tender Agent shall have no lien on amounts in the Liquidity Purchase Account or the Remarketing Proceeds Account for payment of fees or other amounts owed to the Tender Agent.

Part 4.8 Remarketing of Bonds of a Subseries; Notices.

(a) Remarketing of Bonds of a Subseries The Remarketing Agent(s) for Bonds of a subseries shall offer for sale at par and use its best efforts to find purchasers for (i) all Bonds of such subseries or portions thereof as to which notice of tender pursuant to Part 4.1 has been given and (ii) all Bonds required to be tendered for purchase. To the extent a Liquidity Facility is in effect, no Bonds of a subseries supported by such Liquidity Facility shall be remarketed to the City nor may any Liquidity Provider Bonds be remarketed unless the Liquidity Facility has been reinstated by the amount of the reduction that occurred when such Bonds became Liquidity Provider Bonds

(b) Notice of Remarketing; Registration Instructions, New Bonds.

(1) The Remarketing Agent shall notify the Tender Agent by Electronic Means not later than 12 45 p m on the Purchase Date or Mandatory Purchase Date of the registration instructions as may be necessary to re-register Bonds; and

(2) Unless otherwise permitted by the Securities Depository and the book-entry-only system applicable to a subseries of Bonds, the Tender Agent shall authenticate and have available for delivery to the Remarketing Agent prior to 2 30 p m on the Purchase Date or Mandatory Tender Date new Bonds of the subseries for the respective purchasers thereof

(c) Transfer of Funds, Draw on Liquidity Facility

(1) The Remarketing Agent shall at or before 9.30 a m on the Purchase Date or Mandatory Purchase Date, as the case may be, (x) notify the City, the Paying Agent/Registrar and the Tender Agent by Electronic Means of the amount of tendered Bonds of the subseries that were not successfully remarketed, and (y) confirm by Electronic Means to the Paying Agent/Registrar and the Tender Agent the transfer of the Purchase Price of remarketed Bonds of the subseries to the Tender Agent in immediately available funds at or before 9 45 a m, such confirmation to include the pertinent Fed Wire reference number

(2) To the extent a Liquidity Facility is in effect, the Paying Agent/Registrar or the Tender Agent acting on its behalf shall draw on

the Liquidity Facility, in accordance with the terms thereof before 10:30 a.m. on the Purchase Date or Mandatory Purchase Date, as the case may be, in an amount equal to the Purchase Price of all Bonds of the subseries tendered or deemed tendered less the aggregate amount of remarketing proceeds confirmed to the Paying Agent/Registrar and the Tender Agent by the Remarketing Agent pursuant to clause (1) of this subpart and shall cause the proceeds of such draw to be transferred to the Tender Agent by no later than 2:30 p.m. provided notice of such draw is delivered to the Paying Agent/Registrar (or the Tender Agent acting on its behalf) in accordance with the terms of the Credit Facility Agreement. Notwithstanding the foregoing, the Paying Agent/Registrar (or the Tender Agent acting on its behalf) shall draw on the Liquidity Facility, if any, in an amount equal to the Purchase Price of all Bonds of the subseries tendered or deemed tendered for purchase on each Purchase Date or Mandatory Purchase Date, as the case may be, if it does not receive a confirmation from the Remarketing Agent pursuant to clause (1) above of this subpart.

(3) To the extent a Liquidity Facility is in effect, the Tender Agent shall confirm to the City and the Paying Agent/Registrar by 2:45 p.m. on the Purchase Date or Mandatory Purchase Date, receipt of the proceeds of any draw on the Liquidity Facility.

(d) Notice to the City of Liquidity Provider Bond Remarketing
The Remarketing Agent shall notify the City by Electronic Means of any proposed remarketing of Liquidity Provider Bonds by the close of business on the Business Day preceding the proposed date of remarketing of such Liquidity Provider Bonds.

Part 4.9 Source of Funds for Purchase of Bonds of a Subseries. On or before the close of business on the Purchase Date or the Mandatory Purchase Date with respect to Bonds of a subseries, the Tender Agent shall purchase such Bonds from the Owners at the Purchase Price. Unless otherwise provided in the Ordinance or in a certificate of an Authorized Officer of the City delivered to the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent on a Mandatory Purchase Date, funds for the payment of such Purchase Price shall be derived solely from the following sources in the order of priority indicated:

(a) immediately available funds on deposit in the Remarketing Proceeds Account with respect to Bonds of such subseries, and

(b) to the extent a Liquidity Facility is in effect, immediately available funds on deposit in the Liquidity Facility Purchase Account derived from the Liquidity Facility relating to Bonds of such subseries.

Notwithstanding the foregoing, unless otherwise provided in the Ordinance or in a certificate of an Authorized Officer of the City delivered to the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent on a Mandatory Purchase Date (accompanied by an Opinion of Counsel to the effect that such payment will not constitute an avoidable preference under Part 547 of the United States Bankruptcy Code), the City and for so long as the Liquidity Facility Provider is not in default on its payment obligations under the Liquidity Facility may not transfer funds to the Tender Agent for the payment of the Purchase Price of any Bond that is tendered or deemed tendered for purchase in accordance with this Appendix A and the Purchase Price of which is not paid on the Purchase Date or Mandatory Purchase Date from any of the sources identified above. None of the City, the Paying Agent/Registrar, the Tender Agent nor the Remarketing Agent shall have any liability or obligation to pay or, except from the sources identified above, make available such Purchase Price. Unless otherwise provided in the Ordinance or in a certificate of an Authorized Officer of the City delivered to the Paying Agent/Registrar and Tender Agent on a Mandatory Purchase Date, the failure to pay any such Purchase Price for Bonds of a subseries that have been tendered or deemed tendered for purchase from any of the sources identified above shall not constitute an Event of Default under the Ordinance and in the case of such failure none of such Bonds shall be purchased and such Bonds shall remain in the Mode in effect immediately preceding such Purchase Date or Mandatory Purchase Date, as the case may be, unless such Mode is automatically converted to a Weekly Rate Mode pursuant to Part 2.6 hereof, or unless such Bonds are in a Term Mode.

For Bonds in a Term Mode, on each Business Day following the failed remarketing on the applicable Purchase Date, the Remarketing Agent shall continue to use its best efforts to remarket the applicable subseries of Bonds into the Mode Period designated by the City, at the direction of the Authorized Representative (or such other Interest Rate Period as the Paying Agent/Registrar, at the direction of the Authorized Representative shall thereafter designate to the Remarketing Agent). Once the Remarketing Agent has advised the City that it has a good faith belief that it is able to remarket all of the applicable subseries of Bonds into the designated Mode, the Paying Agent/Registrar, at the direction of the Authorized Representative, will give notice by mail to the Owners of such Bonds not later than five Business Days prior to the purchase date, which notice will state (1) that the Mode on such Bonds will continue to be a Term Mode or will be

adjusted to a different Mode on and after the purchase date; (2) that such Bonds will be subject to mandatory tender for purchase on the purchase date; (3) the procedures for such mandatory tender; (4) the purchase price of such Bonds on the purchase date (expressed as a percentage of the principal amount thereof), and (5) the consequences of a failed remarketing.

Part 4.10 Delivery of Bonds. *Book-Entry Tenders* Notwithstanding any other provision of this Part 4.10 to the contrary, all tenders for purchase during any period in which the Bonds are registered in the name of Cede & Co (or the nominee of any successor Securities Depository) shall be subject to the terms and conditions set forth in the Representations Letter and to any regulations promulgated by DTC (or any successor Securities Depository). For so long as the Bonds are registered in the name of Cede & Co , as nominee for DTC, the tender option rights of Holders of Bonds may be exercised only by DTC by giving notice of its election to tender Bonds or portions thereof at the times and in the manner described above. Beneficial Owners will not have any rights to tender Bonds directly to the Tender Agent. Procedures under which a Beneficial Owner may direct a Direct Participant or DTC, or an Indirect Participant of DTC acting through a Direct Participant of DTC, to exercise a tender option right in respect of Bonds or portions thereof in an amount equal to all or a portion of such Beneficial Owner's beneficial ownership interest therein shall be governed by standing instructions and customary practices determined by such Direct Participant or Indirect Participant. For so long as the Bonds are registered in the name of Cede & Co , as nominee for DTC, delivery of Bonds required to be tendered for purchase shall be effected by the transfer on the applicable Purchase Date of a book-entry credit to the account of the Tender Agent of a beneficial interest in such Bonds.

Except as otherwise required or permitted by the book-entry-only system of the Securities Depository, the Bonds of a subseries shall be delivered as follows.

(a) Bonds of a subseries sold by the Remarketing Agent pursuant to Part 4.8 shall be delivered by the Remarketing Agent to the purchasers of those Bonds by 3 30 p m on the Purchase Date or the Mandatory Purchase Date, as the case may be

(b) The Tender Agent shall, as appropriate to the circumstances, either (1) register Bonds of a subseries purchased by the Tender Agent with moneys described in Part 4.9(b), or if any such Bond is not delivered by the Owner thereof, a new Bond of such subseries in replacement of the undelivered Bond, in the name of the Liquidity Facility Provider or, if directed in writing by the Liquidity Facility Provider, its nominee or

designee on the registry books on or before the close of business on the Purchase Date or Mandatory Purchase Date, as the case may be, and shall promptly deliver such Bonds to the custodian, if any, provided for in the Liquidity Facility or as the Liquidity Facility Provider may otherwise direct in writing, and prior to such delivery shall hold such Bonds of such subseries in trust for the benefit of the Liquidity Facility Provider or (11) cause the beneficial ownership of such Bonds of such subseries to be credited to the account of the Liquidity Facility Provider or, if directed in writing by the Liquidity Facility Provider, its nominee or designee with DTC

(c) When any Liquidity Provider Bonds of a subseries are remarketed, the Tender Agent shall not release the Bonds so remarketed to the Remarketing Agent until the Tender Agent has received and forwarded to or for the account of the Liquidity Facility Provider the proceeds of such remarketing and (i) the Liquidity Facility has been reinstated by an amount equal to the principal amount of Liquidity Provider Bonds so remarketed plus the interest component of the Available Amount calculated with respect to such principal amount of Bonds, which reinstatement the Tender Agent has confirmed by Electronic Means with the Liquidity Facility Provider, or (ii) if the Bonds of a subseries became Liquidity Provider Bonds on a Mandatory Purchase Date and a Liquidity Facility is no longer in effect with respect to Bonds of such subseries after the Mandatory Purchase Date, any draws on such Liquidity Facility and interest thereon have been reimbursed to the Liquidity Facility Provider

Part 4.11 Delivery and Payment for Purchased Bonds of a Subseries: Undelivered Bonds. Except as otherwise required or permitted by the book-entry-only system of the Securities Depository, the Bonds of a subseries purchased pursuant to this Article shall be delivered (with all necessary endorsements) at or before 3:30 p.m. on the Purchase Date or Mandatory Purchase Date, as the case may be, at the office of the Tender Agent in New York, New York, provided, however, that payment of the Purchase Price of any Bond of a subseries purchased pursuant to Part 4.1 hereof shall be made only if such Bond so delivered to the Tender Agent conforms in all respects to the description thereof in the notice of tender. Payment of the Purchase Price shall be made by wire transfer in immediately available funds by the Tender Agent by the close of business on the Purchase Date or Mandatory Purchase Date, as the case may be, or, if the Owner has not provided or caused to be provided wire transfer instructions, by check mailed to the Owner at the address appearing in the books required to be kept by the Paying Agent/Registrar pursuant to the Ordinance. If Bonds of a subseries to be

purchased are not delivered by the Owners to the Tender Agent by 3 30 p.m. on the Purchase Date or the Mandatory Purchase Date, as the case may be, the Tender Agent shall hold any funds received for the purchase of those Bonds in trust in a separate account and shall pay such funds to the former Owners upon presentation of the Bonds subject to tender. Any such amounts shall be held uninvested. Such undelivered Bonds are deemed tendered and cease to accrue interest as to the former Owners on the Purchase Date or the Mandatory Purchase Date, as the case may be, and moneys representing the Purchase Price shall be available against delivery of those Bonds at the office of the Tender Agent in New York, New York, provided, however, that any funds which are so held by the Tender Agent and which remain unclaimed by the former Owner of any such Bond not presented for purchase for a period of two years after delivery of such funds to the Tender Agent, shall, to the extent permitted by law, upon request in writing by the City and the furnishing of security or indemnity to the Tender Agent's satisfaction, be paid to the City free of any trust or lien and thereafter the former Owner of such Bond shall look only to the City and then only to the extent of the amounts so received by the City without any interest thereon and the Tender Agent shall have no further responsibility with respect to such moneys or payment of the Purchase Price of such Bonds. The Tender Agent shall authenticate a replacement Bond of a subseries for any undelivered Bond of such subseries which may then be remarketed by the Remarketing Agent.

Part 4.12 Draws on Liquidity Facility.

(a) To the extent a Liquidity Facility is in effect with respect to the Bonds of a subseries, on each Purchase Date or Mandatory Purchase Date with respect to Bonds of such subseries, as the case may be, the Paying Agent/Registrar or the Tender Agent shall draw on the Liquidity Facility supporting the Bonds of such subseries in accordance with the terms thereof or if provided in the Liquidity Facility the Paying Agent/Registrar shall cause to have transferred the proceeds of such draw to the Tender Agent so as to have funds deposited with the Tender Agent by 2 30 p.m. on such date in an amount, in immediately available funds, sufficient, together with the proceeds of the remarketing of such Bonds on such date, to enable the Tender Agent to pay the Purchase Price in connection therewith, provided notice of such draw is delivered to the Paying Agent/Registrar in accordance with the terms of the Credit Facility Agreement. The Tender Agent shall deposit said proceeds in the related Liquidity Facility Purchase Account.

(b) Notwithstanding the foregoing provisions of this Part, the Paying Agent/Registrar shall not draw on a Liquidity Facility with respect to

the Purchase Price of Liquidity Provider Bonds or Bonds of a subseries owned by or on behalf of the City or the Liquidity Facility Provider.

ARTICLE V

LIQUIDITY FACILITIES AND CREDIT FACILITIES

Part 5.1 Liquidity Facility and Credit Facility.

(a) Subject to the terms of the existing Credit Facility or Liquidity Facility, as applicable, at any time the City may provide for the delivery to the Paying Agent/Registrar of (i) an initial and an Alternate Liquidity Facility with respect to the Bonds of any subseries, and/or (ii) an initial and an Alternate Credit Facility with respect to the Bonds of any subseries. The City shall not obtain a Liquidity Facility for the Bonds of a subseries or provide for the delivery of a Liquidity Facility for the Bonds of a subseries to the Paying Agent/Registrar without the prior written consent of the Credit Facility Provider for the Bonds of such subseries. Any such Liquidity Facility or Credit Facility shall provide that a Termination Date which permits the Paying Agent/Registrar to make on the Termination Tender Date a draw under the Liquidity Facility or the Credit Facility, as the case may be, shall not occur unless written notice thereof is given to the Paying Agent/Registrar and the Tender Agent at least 15 days prior to the Termination Tender Date. To the extent that any Liquidity Facility or Credit Facility permits the City thereof to assign its obligation thereunder, such Liquidity Facility or Credit Facility, as the case may be, shall provide that such assignment shall not be effective unless a written notice of such assignment is given to the Paying Agent/Registrar and the Tender Agent at least 16 days prior to the effective date of such assignment. On or prior to the date on which an Alternate Liquidity Facility, or an initial or an Alternate Credit Facility, is obtained or delivered to the Paying Agent/Registrar, the City shall furnish to the Paying Agent/Registrar a Favorable Opinion of Bond Counsel as set forth in subpart (c)(ii) herein. As provided in Part 4.5 hereof, all Outstanding Bonds of the subseries to which such Liquidity Facility or Credit Facility relates will become subject to mandatory tender for purchase on the Substitution Date.

(b) At the direction of the City, the Paying Agent/Registrar shall execute and deliver any instrument that, upon such execution and delivery by the Paying Agent/Registrar, would constitute a "Credit Facility" or "Liquidity Facility."

(c) The City shall deliver to the Paying Agent/Registrar, the Tender Agent, the Credit Facility Provider and the Remarketing Agent a copy of each Liquidity Facility or Credit Facility obtained pursuant to this article on the effective date of such Liquidity Facility or Credit Facility. If at any time there shall have been delivered to the Paying Agent/Registrar (i) an Alternate Credit Facility or Alternate Liquidity Facility in substitution for the Credit Facility or Liquidity Facility with respect to Bonds of a subseries then in effect and (ii) a Favorable Opinion of Bond Counsel, then, providing that any condition to substitution contained in the existing Credit Facility or Liquidity Facility shall have been satisfied, the Paying Agent/Registrar shall accept such Alternate Credit Facility or Alternate Liquidity Facility and, subject to subpart (d) of this Part, shall surrender the Credit Facility or Liquidity Facility then in effect to the Credit Facility Provider or Liquidity Facility Provider on the effective date of the Alternate Credit Facility or Alternate Liquidity Facility. In the event of an extension of the Expiration Date, the City shall give the Paying Agent/Registrar, the Tender Agent, the Credit Facility Provider and the Remarketing Agent a written notice of the new Expiration Date at least 16 days prior to the Expiration Tender Date. In the event of a substitution of a Liquidity Facility with an Alternate Liquidity Facility or of a Credit Facility with an Alternate Credit Facility, the City shall give the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent a written notice of the Substitution Date at least 16 days prior to such Substitution Date. The City shall give the Paying Agent/Registrar, Tender Agent and the Remarketing Agent a written notice of its election to terminate the Credit Facility or the Liquidity Facility at least 16 days prior to the Termination Tender Date resulting from its election to terminate such Credit Facility or Liquidity Facility.

(d) In no event shall the Paying Agent/Registrar surrender or cancel a Liquidity Facility relating to the Bonds of any subseries unless it has received funds, either from proceeds of remarketing or a draw under such Liquidity Facility to be surrendered or cancelled, sufficient to pay the Purchase Price of such Bonds to the applicable Mandatory Purchase Date. In no event shall the Paying Agent/Registrar surrender or cancel a Credit Facility relating to the Bonds of any subseries unless it has received funds sufficient to pay the Purchase Price of such Bonds to the applicable Mandatory Purchase Date.

(e) The Paying Agent/Registrar shall not sell, assign or otherwise transfer the Credit Facility or Liquidity Facility, except to a successor

Paying Agent/Registrar hereunder and in accordance with the terms of the Credit Facility or Liquidity Facility and the Ordinance

(f) To the extent that both the Liquidity Facility Provider for the Bonds of a subseries is not at the same time also the Credit Facility Provider with respect to such Bonds and the Credit Facility Provider is an insurance company, neither the City, nor the Paying Agent/Registrar shall consent to the substitution of a new Credit Facility Provider for the then-existing Credit Facility Provider, or the surrender, cancellation, termination, amendment or modification of the then-existing Credit Facility, without the prior written consent of the Liquidity Facility Provider.

(g) On or prior to the Substitution Date, no drawing under an Alternate Liquidity Facility shall be made by the Paying Agent/Registrar if the predecessor Liquidity Facility is effective and available to make drawings thereunder on the date of such drawing. After the Substitution Date, no drawing under a predecessor Liquidity Facility shall be made by the Paying Agent/Registrar if the Alternate Liquidity Facility is effective and available to make drawings thereunder on the date of such drawing

(h) In connection with a mandatory tender for purchase upon substitution of an Alternate Credit Facility or Liquidity Facility pursuant to Part 4 5(1v), the City may provide that any Credit Facility or Liquidity Facility is terminated on and after such substitution, and that provided that no amounts are then owed to the Credit Facility Provider or Liquidity Facility Provider and that no Liquidity Provider Bonds are then held under the Liquidity Facility, the rights of the Liquidity Facility Provider or Credit Facility Provider under the Ordinance and with respect to the Bonds thereafter cease.

Part 5.2 Direct-Pay Liquidity Facility Drawing Account

(a) If a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of any subseries, there is hereby created and established, and there shall be maintained as an Eligible Account and held for the benefit of the holders of the Bonds with the Paying Agent/Registrar for the Bonds of each subseries, a separate fund to be know as "City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008 Direct-Pay Liquidity Facility Drawing Account" (the "Direct-Pay Liquidity Facility Drawing Account")

(b) The City shall make payments of principal and redemption price of and interest on the Bonds of a subseries in accordance with the Ordinance into the Bond Fund and transfer such amounts to the respective paying agent/registrars in accordance with Part 5 05 of the Ordinance as and when the same becomes due and payable regardless of whether a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of such subseries.

(c) If a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of a subseries, the Paying Agent/Registrar shall take all action necessary to draw or make a claim on the related Direct-Pay Liquidity Facility in such amounts, at such times, and in such manner as is necessary to pay the principal and redemption price (including, to the extent amounts are available therefor under the Direct-Pay Liquidity Facility, from Sinking Fund Installments) of and interest on all Bonds payable therefrom as and when the same becomes due and payable. The Paying Agent/Registrar shall promptly deposit into the related Direct-Pay Liquidity Facility Drawing Account all moneys so drawn by the Paying Agent/Registrar under the related Direct-Pay Liquidity Facility, which may not be with any other moneys held by Paying Agent/Registrar and which must be applied to the payment of such principal, redemption price and interest. If such a draw is required, the provision of indemnification under the Paying Agent/Registrar Agreement may not be a condition precedent to such draw or any payment therefrom, including payment of Purchase Price. Further, if a Direct-Pay Liquidity Facility is in effect, the provision of indemnification under the Paying Agent/Registrar Agreement may not be a condition precedent to causing a mandatory tender hereunder or carrying out the provisions of this Ordinance to effectuate such mandatory tender.

(d) Subject to the immediately succeeding paragraph, on each principal installment due date or Redemption Date, as the case may be, and Interest Payment Date, the Paying Agent/Registrar shall make payments of principal or redemption price of and interest on the Bonds of a subseries for which a drawing on the Credit Facility has been made to their Owners in accordance with the Ordinance. Amounts of such drawing are not available to pay principal or the redemption price of or interest on Bonds of any subseries other than Bonds of a subseries which are supported by such Direct-Pay Liquidity Facility.

If a Direct-Pay Liquidity Facility is in effect with respect to the Bonds of any subseries, notwithstanding the immediately preceding paragraph, the Paying Agent/Registrar shall make payments of principal or redemption price of and

interest on the Bonds of such subseries to their Owners in the manner provided for in the Ordinance from the moneys deposited in the related Direct-Pay Liquidity Facility Drawing Account pursuant to subpart (c) of this Part. If sufficient funds are not available in the related Direct-Pay Liquidity Facility Drawing Account, and the Liquidity Facility Provider has failed to honor a properly presented drawing, the Paying Agent/Registrar shall promptly apply other moneys, if any, transferred by the City from the Bond Fund, including but not limited to the City's payments pursuant to subpart (b) of this Part (excluding moneys available in any other Direct-Pay Liquidity Facility Drawing Account established with respect to any other subseries of Bonds), to the extent necessary to make such payment. If the principal or redemption price of and interest on the Bonds of a subseries has been paid in full when due and all payments required to be made under the Direct-Pay Liquidity Facility have been made, the Paying Agent/Registrar shall apply remaining moneys, if any, transferred by the City from the Bond Fund, including but not limited to the City's payments pursuant to subpart (b) of this Part (excluding moneys available in any other Direct-Pay Liquidity Facility Drawing Account established with respect to any other subseries of Bonds) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Liquidity Facility to reimburse Liquidity Facility Provider.

(e) Amounts held in each Direct-Pay Liquidity Facility Drawing Account must be held uninvested and separate and apart from all other funds and accounts. The Paying Agent/Registrar shall have no lien on amounts in the Direct-Pay Facility Drawing Account or any account of the Purchase Fund for payment of fees or other amounts owed to the Paying Agent/Registrar.

(f) Notwithstanding the foregoing provisions of this Part, the Paying Agent/Registrar shall not draw on a Direct-Pay Liquidity Facility with respect to principal of or interest on Liquidity Provider Bonds.

Part 5.3 No Draws Under Credit Facility or Direct-Pay Liquidity Facility for City. Unless permitted under the Credit Facility or Direct-Pay Liquidity Facility, the Paying Agent/Registrar may make no drawings under the Credit Facility or Direct-Pay Liquidity Facility for payment of regularly scheduled principal of or interest on Bonds owned by or on behalf of the City or any affiliate or agent of the City.

ARTICLE VI

AGENTS

Part 6.1 Remarketing Agent. The City shall appoint and employ the services of a Remarketing Agent while the Bonds of any subseries are in the Daily Mode, the Weekly Mode or the Commercial Paper Mode. The City shall appoint and employ the services of a Remarketing Agent prior to any Purchase Date or Mode Change Date while the Bonds of any subseries are in the Term Rate Mode or the Auction Rate Mode.

Any Remarketing Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving notice to the related Liquidity Facility Provider, the Paying Agent/Registrar, the City, the related Credit Facility Provider and the Tender Agent in accordance with the Remarketing Agreement. Any Remarketing Agent may be removed at any time, at the direction of the City, by an instrument filed with the Paying Agent/Registrar, the related Remarketing Agent and the related Tender Agent in accordance with the Remarketing Agreement

Any Remarketing Agent and any successor Remarketing Agent shall be selected by the City, with the prior written consent of the Credit Facility Provider, and shall be a member of the National Association of Securities Dealers, Inc , shall have a capitalization of at least \$15,000,000, and shall be authorized by law to perform all the duties set forth in the Ordinance. The City's delivery to the Paying Agent/Registrar of a Certificate setting forth the effective date of the appointment of a Remarketing Agent and the name, address and telephone number of such Remarketing Agent is conclusive evidence that (i) such Remarketing Agent has been appointed and is qualified to act as Remarketing Agent under the terms of the Ordinance and (ii) if applicable, the predecessor Remarketing Agent has been removed in accordance with the provisions of the Ordinance

Each Remarketing Agent shall keep such books and records as are consistent with prudent industry practice and make such books and records available for inspection by the City, the Paying Agent/Registrar, the related Credit Facility Provider and the related Liquidity Facility Provider at all reasonable times

Part 6.2 Tender Agent. The City shall appoint and employ the services of the Tender Agent while the Bonds of any subseries are in the Daily Mode, the Weekly Mode or the Commercial Paper Mode. The City shall appoint and employ the services of the Tender Agent prior to any Purchase Date or Mode Change Date while the Bonds of any subseries are in the Term Rate Mode or the Auction Rate Mode

The Tender Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving at least 15 days' notice to the related Liquidity Facility Provider, the Paying Agent/Registrar, the City and the related Credit Facility Provider, provided that a successor Tender Agent is appointed and acting hereunder on or prior to the effective date of such resignation or discharge, any Liquidity Facility has been transferred to such successor Tender Agent, and the City has received from such successor written notice of acceptance of the duties of Tender Agent. The Tender Agent may be removed at any time, at the direction of the City, by an instrument filed with the Paying Agent/Registrar and the related Remarketing Agent and upon at least 15 days' notice to the Tender Agent, provided that a successor Tender Agent is appointed and acting hereunder on or prior to the effective date of such removal, any Liquidity Facility has been transferred to such successor Tender Agent, and the City has received from such successor written notice of acceptance of the duties of Tender Agent, which may be in the form of a new Tender Agent Agreement.

A successor Tender Agent shall be selected by the City, with the prior written consent of any Credit Facility Provider, and shall be a bank or other financial institution that satisfies the qualifications set forth in the Ordinance for a Paying Agent/Registrar. The City's delivery to the Paying Agent/Registrar of a Certificate setting forth the effective date of the appointment of a Tender Agent and the name, address and telephone number of such Tender Agent shall be conclusive evidence that (i) such Tender Agent has been appointed and is qualified to act as Tender Agent under the terms of the Ordinance and (ii) if applicable, the predecessor Tender Agent has been removed in accordance with the provisions of the Ordinance.

The Tender Agent shall keep such books and records as are consistent with prudent industry practice and make such books and records available for inspection by the City, the Paying Agent/Registrar, the related Credit Facility Provider and the related Liquidity Facility Provider at all reasonable times.

The Tender Agent shall be a fiduciary. Unless otherwise provided, the Paying Agent/Registrar is deemed the Tender Agent for purposes of this Appendix A and Exhibit 1 hereto.

Part 6.3 Auction Agent. The City shall direct the Paying Agent/Registrar in writing to appoint and employ the services of an Auction Agent while the Bonds of any subseries are in the Auction Rate Mode. The Paying Agent/Registrar shall upon such direction appoint the Auction Agent. No appointment of the Auction Agent for the Bonds of a subseries is effective without

the consent of the Credit Facility Provider for the Bonds of such subseries. Such consent is deemed to have been given if such Credit Facility Provider delivers the Credit Facility on the Closing Date or Mode Change Date, as the case may be, or unreasonably withholds its consent. The Paying Agent/Registrar shall have the right to remove the Auction Agent as provided in the Auction Agreement. The Paying Agent/Registrar shall, upon a written direction of the Credit Facility Provider for the Bonds of a subseries, remove the Auction Agent for the Bonds of such subseries if the Auction Agent fails to comply with its obligations under the Auction Agreement.

Part 6.4 Broker-Dealers. The City shall appoint and employ the services of one or more Broker-Dealers for the Bonds of each subseries that are in the Auction Rate Mode.

**EXHIBIT 1
TO
PROVISIONS FOR MULTI-MODAL OBLIGATIONS**

AUCTION RATE MODE PROVISIONS

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AUCTION RATE MODE PROVISIONS

ARTICLE I

DEFINITIONS

Part 1.1 Definitions. In addition to the words and terms elsewhere defined, or whose defined meanings are incorporated by reference, in the Provisions for Multi-Modal Obligations (hereinafter referred to as "Appendix A") to which this Exhibit 1 is appended, the following words and terms as used in this Exhibit 1 and elsewhere in Appendix A have the following meanings with respect to Bonds of a subseries in an Auction Rate Mode unless the context or use indicates another or different meaning or intent.

"Agent Member" means a member of or participant in, the Securities Depository who shall act on behalf of a Bidder.

"All Hold Rate" means, as of any Auction Date, 45% of the Index in effect on such Auction Date.

"Auction" means each periodic implementation of the Auction Procedures

"Auction Agent" means the auctioneer appointed in accordance with Part 3 1 or 3 2 of this Exhibit 1.

"Auction Agreement" means an agreement between the City, the Auction Agent and the Paying Agent/Registrar pursuant to which the Auction Agent agrees to follow the procedures specified in this Exhibit 1, with respect to the Bonds of a subseries in an Auction Rate Mode, as such agreement may from time to time be amended or supplemented

"Auction Date" means during any period in which the Auction Procedures are not suspended in accordance with the provisions hereof

(a) if the Bonds of a subseries are in a daily Auction Period, each Business Day,

(b) if the Bonds of a subseries are in a Special Auction Period, the last Business Day of the Special Auction Period, and

(c) if the Bonds of a subseries are in any other Auction Period, the Business Day next preceding each Interest Payment Date for such Bonds of

a subseries (whether or not an Auction is conducted on such date); provided, however, that the last Auction Date with respect to the Bonds of any subseries in an Auction Period other than a daily Auction Period or Special Auction Period is the earlier of (i) the Business Day next preceding the Interest Payment Date next preceding the Mode Change Date for such Bonds of a subseries, and (ii) the Business Day next preceding the Interest Payment Date next preceding the Maturity Date for such Bonds; and provided, further, that if the Bonds of a subseries are in a daily Auction Period, the last Auction Date is the earlier of (x) the Business Day next preceding the Mode Change Date for such Bonds, (y) the Business Day next preceding the Maturity Date for the Bonds of a subseries

The last Business Day of a Special Auction Period is the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any, On the Business Day preceding the conversion from a daily Auction Period to another Auction Period, there shall be two Auctions, one for the last daily Auction Period and one for the first Auction Period following the conversion.

“Auction Multiple” means, as of any Auction Date, the Percentage of Index (in effect on such Auction Date) determined as set forth below, based on the Prevailing Rating and the tax status of the Bonds of such subseries in effect at the close of business on the Business Day immediately preceding such Auction Date

Prevailing Rating	Percentage of Index
AAA/AAA/Aaa	175%
AA/AA/Aa	200%
A/A/A	250%
BBB/BBB/Baa	275%
Below BBB/BBB/Baa	400%

“Auction Period” means

- (a) a Special Auction Period,
- (b) with respect to Bonds of a subseries in a daily Auction Period, a period beginning on each Business Day and extending to but not including the next succeeding Business Day,
- (c) with respect to Bonds of a subseries in a seven day Auction Period and with Auctions generally conducted on (i) Fridays, a period of

generally seven days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally seven days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally seven days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally seven days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally seven days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day).

(d) with respect to Bonds of a subseries in a 28-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 28 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the fourth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 28 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the fourth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 28 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such

Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day). (iv) Wednesdays, a period of generally 28 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the fourth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 28 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(e) with respect to Bonds of a subseries in a 35-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 35 days beginning on a Monday (or the last day of the prior Auction Period if the prior Auction Period does not end on Sunday) and ending on the fifth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 35 days beginning on a Tuesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Monday) and ending on the fifth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 35 days beginning on a Wednesday (or the last day of the prior Auction Period if the prior Auction Period does not end on Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 35 days beginning on a Thursday (or the last day of the prior Auction Period if the prior Auction Period does not end on Wednesday) and ending on the fifth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 35 days beginning on a Friday (or the last day of the prior Auction Period if the prior Auction Period does not end on Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(f) with respect to Bonds of a subseries in a three-month Auction Period, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period (unless such first day of the month is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and

(g) with respect to Bonds of a subseries in a six-month Auction Period, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the next succeeding May 14 or November 14.

provided, however, that

(h) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Fridays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion,

(i) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Mondays (1) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and

shall end on the next succeeding Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion,

(j) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Tuesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion,

(k) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Wednesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and

shall end on the next succeeding Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion; and

(l) if there is a conversion of Bonds of a subseries with Auctions generally conducted on Thursdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on the Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period begins on the date of the conversion (i.e., the Interest Payment Date for the prior Auction Period) and shall end on Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion

provided further, however, that any Auction Period that is greater than 35 days may be extended as provided in paragraph (d) of Part 2.3 of this Exhibit 1

“Auction Period Rate” means with respect to Bonds of each subseries, the rate of interest to be borne by the Bonds of such subseries during each Auction

Period determined in accordance with Part 2.3 of this Exhibit 1; provided, however, in no event may the Auction Rate exceed the Maximum Rate.

“Auction Procedures” means the procedures for conducting Auctions for Bonds of a subseries in an Auction Rate Mode set forth in this Exhibit 1.

“Auction Rate” (a) as used in the Bonds of a subseries, means (i) the per annum interest rate approved and certified by the City to the Paying Agent/Registrar on or prior to the Mode Change Date for such series for the initial Auction Period therefor, and (ii) the Auction Period Rate for the Bonds of a subseries for each subsequent Auction Period, and (b) as used in the Ordinance, means for each series of Bonds for each Auction Period, (i) if Sufficient Clearing Bids exist, the Winning Bid Rate, provided, however, if all of such Bonds of a subseries are the subject of Submitted Hold Orders, the All Hold Rate with respect to such Bonds and (ii) if Sufficient Clearing Bids do not exist, the Maximum Auction Rate with respect to such Bonds

“Available Bonds” means for each series of Bonds on each Auction Date, the aggregate principal amount of such Bonds that are not the subject of Submitted Hold Orders

“Bid” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit 1.

“Bidder” means each Existing Owner and Potential Owner who places an Order.

“Broker-Dealer” means any entity that is permitted by law to perform the function required of a Broker-Dealer described in this Exhibit 1 that is a member of, or a direct participant in, the Securities Depository, that has been selected by the City, and that is a party to a Broker-Dealer Agreement with the Auction Agent.

“Broker-Dealer Agreement” means an agreement among the Auction Agent, the City and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the procedures described in this Exhibit 1, as such agreement may from time to time be amended or supplemented

“Default Rate” means, in the case of Bonds of a subseries in any Auction Period other than a daily Auction Period, a per annum rate equal to four hundred percent (400%) of the Index determined on the Auction Date next preceding the first day of such Auction Period or in the case of Bonds of a subseries in a daily Auction Period, a per annum rate equal to four hundred percent (400%) of the

Index determined on the Auction Date which was the first day of such Auction Period, provided, however, the Default Rate shall not exceed the Maximum Rate.

“Existing Owner” means for purposes of conducting auctions by the Auction Agent the Broker-Dealers acting on behalf of each owner of any beneficial interest in any Bonds of a subseries in the records of the Auction Agent.

“Hold Order” has the meaning specified in subpart (a) of Part 2.1 of this Exhibit 1.

“Index” shall have the meaning specified in Part 2.6 of this Exhibit 1.

“Interest Payment Date” means:

(a) when used with respect to any Auction Period (including the initial Auction Period commencing on and including the Closing Date or the Mode Change Date, as the case may be, and expiring on and including the initial Auction Date specified in the Officers’ Pricing Certificate or determined and certified by the City to the Paying Agent/Registrar on or prior to the Mode Change Date, other than a daily Auction Period or a Special Auction Period, the Business Day immediately following such Auction Period; and

(b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period; and

(c) when used with respect to a Special Auction Period of (i) more than seven but fewer than 92 days, the Business Day immediately following such Special Auction Period, or (ii) 92 or more days, (A) in the case of Bonds of a subseries with Auctions generally conducted on Fridays, each thirteenth Monday after the first day of such Special Auction Period or the next Business Day if such Monday is not a Business Day and on the Business Day immediately following such Special Auction Period, (B) in the case of Bonds of a subseries with Auctions generally conducted on Mondays, each thirteenth Tuesday after the first day of such Special Auction Period or the next Business Day if such Tuesday is not a Business Day and on the Business Day immediately following such Special Auction Period, (C) in the case of Bonds of a subseries with Auctions generally conducted on Tuesdays, each thirteenth Wednesday after the first day of such Special Auction Period or the next Business Day if such Wednesday is not a Business Day and on the Business Day immediately following such Special

Auction Period, (D) in the case of Bonds of a subseries with Auctions conducted on Wednesdays, each thirteenth Thursday after the first day of such Special Auction Period or the next Business Day if such Thursday is not a Business Day and on the Business Day immediately following such Special Auction Period and (E) in the case of Bonds of a subseries with Auctions generally conducted on Thursdays, each thirteenth Friday after the first day of such Special Auction Period or the next Business Day if such Friday is not a Business Day and on the Business Day immediately following such Special Auction Period

“Maximum Auction Rate” means as of any Auction Date, the product of the Index multiplied by the Auction Multiple; provided, however, that in no event shall the Maximum Auction Rate exceed the Maximum Rate, anything herein to the contrary notwithstanding.

“Order” means a Hold Order, Bid or Sell Order

“Potential Owner” means any Person, including any Existing Owner, who may be interested in acquiring a beneficial interest in the Bonds of a subseries in addition to the Bonds currently owned by such Person, if any

“Prevailing Rating” means (a) AAA/AAA/Aaa, if the Bonds of a subseries shall have a rating of AAA or better by Standard & Poor’s and Fitch and a rating of Aaa or better by Moody’s, (b) if not AAA/AAA/Aaa, AA/AA/Aa if the Bonds of a subseries shall have a rating of AA- or better by Standard & Poor’s and Fitch and a rating of Aa3 or better by Moody’s, (c) if not AAA/AAA/Aaa or AA/AA/Aa, A/A/A if the Bonds of a subseries shall have a rating of A- or better by Standard & Poor’s and Fitch and a rating of A3 or better by Moody’s, (d) if not AAA/AAA/Aaa, AA/AA/Aa or A/A/A, BBB/BBB/Baa if the Bonds of a subseries shall have a rating of BBB- or better by Standard & Poor’s and Fitch and a rating of Baa3 or better by Moody’s, and (e) if not AAA/AAA/Aaa, AA/AA/Aa, A/A/A or BBB/BBB/Baa, then below BBB/BBB/Baa, whether or not the Bonds of a subseries are rated by any Rating Agency For purposes of this definition, Standard & Poor’s’s and Fitch’s rating categories of “AAA,” “AA-,” “A-” and “BBB-” and Moody’s rating categories of “Aaa,” “Aa3,” “A3” and “Baa3” shall be deemed to refer to and include the respective rating categories correlative thereto in the event that any such Rating Agencies shall have changed or modified their generic rating categories or if any successor thereto appointed in accordance with the definitions thereof shall use different rating categories. If the Bonds of subseries are not rated by a Rating Agency, the requirement of a rating by such Rating Agency shall be disregarded If the ratings for the Bonds of a subseries are split between the

foregoing categories, the lowest rating shall determine the Prevailing Rating. If there is no rating, then the Auction Period Rate shall be the Maximum Auction Rate.

“Principal Office” means, with respect to the Auction Agent, the office thereof designated in the Auction Agreement as the office of the Auction Agent to which notices, requests or communications should be sent.

“Securities Depository” means The Depository Trust Company and its successors and assigns or any other securities depository selected by the City which agrees to follow the procedures required to be followed by such securities depository in connection with the Bonds of a subseries

“Sell Order” has the meaning specified in subpart (a) of Part 2 I of this Exhibit I

“Special Auction Period” means any period of more than seven but less than 1,092 days which is not another Auction Period and which begins on an Interest Payment Date and ends (i) in the case of Bonds of a subseries with Auctions generally conducted on Fridays, on a Sunday unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (ii) in the case of Bonds of a subseries with Auctions generally conducted on Mondays, on a Monday unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iii) in the case of Bonds of a subseries with Auctions generally conducted on Tuesdays, on a Tuesday unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iv) in the case of Bonds of a subseries with Auctions generally conducted on Wednesdays, on a Wednesday unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, and (v) in the case of Bonds of a subseries with Auctions generally conducted on Thursdays, on a Thursday unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day.

“Submission Deadline” means 1 00 p m on each Auction Date for Bonds of a subseries not in a daily Auction Period and 11.00 a m on each Auction Date for Bonds of a subseries in a daily Auction Period, or such other time on such date as shall be specified from time to time by the Auction Agent pursuant to the Auction Agreement as the time by which Broker-Dealers are required to submit Orders to the Auction Agent

“Submitted Bid” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1

“Submitted Hold Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1.

“Submitted Sell Order” has the meaning specified in subpart (b) of Part 2.3 of this Exhibit 1

“Sufficient Clearing Bids” means with respect to Bonds of a subseries, an Auction for which the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Bids by Potential Owners specifying one or more rates not higher than the Maximum Auction Rate is not less than the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Sell Orders and of Submitted Bids by Existing Owners specifying rates higher than the Maximum Auction Rate.

“Winning Bid Rate” means with respect to Bonds of a subseries the lowest rate specified in any Submitted Bid for such subseries which if selected by the Auction Agent as the Auction Period Rate would cause the aggregate principal amount of Bonds of such subseries that are the subject of Submitted Bids specifying a rate not greater than such rate to be not less than the aggregate principal amount of Available Bonds of such series

Part 1.2 Rules of Construction

(a) This Exhibit 1 constitutes an integral part of the Appendix A and, except to the extent provided in the next sentence, has the same force and effect as if set forth in Appendix A. In the event of any conflict between this Exhibit 1 and Appendix A, Appendix A shall control

(b) References in this Exhibit 1 to Articles or Parts are to such Article or Part of this Exhibit 1.

ARTICLE II

AUCTION PROCEDURES

Part 2.1 Orders by Existing Owners and Potential Owners.

(a) Prior to the Submission Deadline on each Auction Date:

(1) each Existing Owner may submit to a Broker-Dealer, in writing or by such other method as shall be reasonably acceptable to such Broker-Dealer, information as to:

(A) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period without regard to the rate determined by the Auction Procedures for such Auction Period,

(B) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably commits to continue to hold for the next succeeding Auction Period if the rate determined by the Auction Procedures for such Auction Period shall not be less than the rate per annum then specified by such Existing Owner (and which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or the same day in the case of a daily Auction Period) if the rate determined by the Auction Procedures for the next succeeding Auction Period shall be less than the rate per annum then specified by such Existing Owner), and/or

(C) the principal amount of Bonds of a subseries, if any, held by such Existing Owner which such Existing Owner irrevocably offers to sell on the next succeeding Interest Payment Date (or on the same day in the case of a daily Auction Period) without regard to the rate determined by the Auction Procedures for the next succeeding Auction Period, and

(2) for the purpose of implementing the Auctions and thereby to achieve the lowest possible interest rate on the Bonds of a subseries, the Broker- Dealers shall contact Potential Owners,

including Persons that are Existing Owners, to determine the principal amount of Bonds of a subseries, if any, which each such Potential Owner irrevocably offers to purchase if the rate determined by the Auction Procedures for the next succeeding Auction Period is not less than the rate per annum then specified by such Potential Owner.

For the purposes hereof, an Order containing the information referred to in clause (1)(A) above is herein referred to as a "Hold Order", an Order containing the information referred to in clause (1)(B) or (2) above is herein referred to as a "Bid", and an Order containing the information referred to in clause (1)(C) above is herein referred to as a "Sell Order."

(b) (1) A Bid by an Existing Owner shall constitute an irrevocable offer to sell

(A) the principal amount of Bonds of a subseries specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be less than the rate specified therein;

(B) or such principal amount or a lesser principal amount of Bonds of a subseries to be determined as described in subpart (a)(v) of Part 2.4 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate, or

(C) a lesser principal amount of Bonds of a subseries to be determined as described in subpart (b)(iv) of Part 2.4 hereof if such specified rate shall be higher than the Maximum Auction Rate and Sufficient Clearing Bids do not exist

(2) A Sell Order by an Existing Owner shall constitute an irrevocable offer to sell

(A) the principal amount of Bonds of a subseries specified in such Sell Order, or

(B) such principal amount or a lesser principal amount of Bonds of a subseries as described in subpart (b)(iv) of Part 2.4 hereof if Sufficient Clearing Bids do not exist

(3) A Bid by a Potential Owner shall constitute an irrevocable offer to purchase:

(A) the principal amount of Bonds of a subseries specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be higher than the rate specified therein, or

(B) such principal amount or a lesser principal amount of Bonds of a subseries as described in subpart (a)(vi) of Part 2.4 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate.

(c) Anything herein to the contrary notwithstanding.

(1) for purposes of any Auction, any Order which specifies Bonds of a subseries to be held, purchased or sold in a principal amount which is not equal to the Authorized Denomination for Bonds of such subseries or an integral multiple thereof shall be rounded down to the nearest amount that is equal to the Authorized Denomination for Bonds of such subseries, and the Auction Agent shall conduct the Auction Procedures as if such Order had been submitted in such lower amount,

(2) for purposes of any Auction other than during a daily Auction Period, any portion of an Order of an Existing Owner which relates to a Bond of a subseries which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be invalid with respect to such portion and the Auction Agent shall conduct the Auction Procedures as if such portion of such Order had not been submitted,

(3) for purposes of any Auction other than during a daily Auction Period, no portion of a Bond of a subseries which has been called for redemption on or prior to the Interest Payment Date next succeeding such Auction shall be included in the calculation of Available Bonds for such Auction, and

(4) the Auction Procedures shall be suspended with respect to the Bonds of a subseries during the period commencing on the date of the Auction Agent's receipt of notice from the Paying Agent/Registrar of the occurrence of a default of the City in the

payment of principal, Sinking Fund Installment, interest or premium on any Bond of such subseries in the Auction Rate Mode after the same shall have become due, whether at maturity, upon call for redemption or on an Interest Payment Date (provided however that for purposes of this provision only payment by the Credit Facility Provider shall be deemed to cure such default and no such suspension of the Auction Procedures shall occur) but shall resume two Business Days after the date on which the Auction Agent receives notice from the Paying Agent/Registrar that such default has been waived or cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter

Part 2.2 Submission of Orders by Broker-Dealers to Auction Agent

(a) Each Broker-Dealer shall submit to the Auction Agent in writing or by such other method as shall be reasonably acceptable to the Auction Agent, including such electronic communication acceptable to the parties, prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer and, if requested, specifying with respect to each Order:

- (1) the name of the Bidder placing such Order,
- (2) the aggregate principal amount of Bonds of each subseries, if any, that are the subject of such Order;
- (3) to the extent that such Bidder is an Existing Owner:
 - (A) the principal amount of Bonds of each subseries, if any, subject to any Hold Order placed by such Existing Owner;
 - (B) the principal amount of Bonds of each subseries, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid, and
 - (C) the principal amount of Bonds of each subseries, if any, subject to any Sell Order placed by such Existing Owner,
- (4) to the extent such Bidder is a Potential Owner, the rate specified in such Bid.

(b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth of one percent (0.001%).

(c) If an Order or Orders covering all of the Bonds of a particular subseries held by an Existing Owner is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such subseries held by such Existing Owner and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a conversion from one Auction Period to another Auction Period or an amendment or modification to the Ordinance in accordance with Part 2 7(b) of this Exhibit 1 and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Bonds of the subseries to be converted held by such Existing Owner, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Owner covering the principal amount of Bonds of such subseries to be converted held by such Existing Owner not subject to Orders submitted to the Auction Agent

(d) If one or more Orders covering in the aggregate more than the principal amount of Outstanding Bonds of a subseries held by any Existing Owner are submitted to the Auction Agent, such Orders shall be considered valid as follows:

(1) all Hold Orders shall be considered Hold Orders, but only up to and including in the aggregate the principal amount of Bonds of such subseries held by such Existing Owner,

(2) (A) any Bid of an Existing Owner shall be considered valid as a Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of the Bonds of such subseries subject to Hold Orders referred to in paragraph (1) above;

(B) subject to clause (2)(A) above, all Bids of an Existing Owner with the same rate shall be aggregated and considered a single Bid of an Existing Owner up to and including the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of Bonds of such subseries held by such Existing

Owner subject to Hold Orders referred to in paragraph (1) above;

(C) subject to clause (2)(A) above, if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids shall be considered Bids of an Existing Owner in the ascending order of their respective rates up to the amount of the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the principal amount of Bonds of such subseries held by such Existing Owner subject to Hold Orders referred to in paragraph (1) above;

(D) and the principal amount, if any, of such Bonds of such subseries subject to Bids not considered to be Bids of an Existing Owner under this paragraph (2) shall be treated as the subject of a Bid by a Potential Owner,

(3) all Sell Orders shall be considered Sell Orders, but only up to and including a principal amount of Bonds of such subseries equal to the excess of the principal amount of Bonds of such subseries held by such Existing Owner over the sum of the principal amount of the Bonds considered to be subject to Hold Orders pursuant to paragraph (1) above and the principal amount of Bonds of such subseries considered to be subject to Bids of such Existing Owner pursuant to paragraph (2) above

(e) If more than one Bid is submitted on behalf of any Potential Owner, each Bid submitted with the same rate shall be aggregated and considered a single Bid and each Bid submitted with a different rate shall be considered a separate Bid with the rate and the principal amount of Bonds of such subseries specified therein

(f) Neither the City, the Paying Agent/Registrar nor the Auction Agent shall be responsible for the failure of any Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner or Potential Owner

Part 2.3 Determination of Auction Period Rate.

(a) Not later than 9.30 a.m. on each Auction Date for Bonds of each subseries in an Auction Rate Mode, the Auction Agent shall advise the

Broker-Dealers and the Paying Agent/Registrar by telephone or other electronic communication acceptable to the parties of the All Hold Rate, the Maximum Auction Rate and the Index for the Bonds of such subseries.

(b) Promptly after the Submission Deadline on each Auction Date for Bonds of each subseries in an Auction Rate Mode, the Auction Agent shall assemble all Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, and collectively as a "Submitted Order") and shall determine (i) the Available Bonds, (ii) whether there are Sufficient Clearing Bids, and (iii) the Auction Rate.

(c) Promptly after the Auction Agent has made the determinations pursuant to subpart (b) above, the Auction Agent shall advise the Paying Agent/Registrar by telephone (promptly confirmed in writing), telex or facsimile transmission or other electronic communication acceptable to the parties of the Auction Rate for the next succeeding Auction Period and the Paying Agent/Registrar shall promptly notify the Securities Depository of such Auction Rate.

(d) In the event the Auction Agent fails to calculate or, for any reason, fails to timely provide the Auction Rate for any Auction Period, (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period shall be the same as the preceding Auction Period and the Auction Period Rate for the new Auction Period shall be the same as the Auction Period Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period shall be extended to the seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the Auction Period Rate in effect for the preceding Auction Period will continue in effect for the Auction Period as so extended. In the event an Auction Period is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended to take effect for an Auction Period beginning on the Business Day immediately following the last day of the Auction Period as extended which Auction Period will end on the date it would otherwise have ended on had the prior Auction Period not been extended

(e) In the event that the Auction Procedures are suspended pursuant to paragraph (4) of subpart (c) of Part 2.1 of this Exhibit 1 with respect to any Bond of subseries, the Auction Period Rate for the next succeeding Auction Period shall be the Default Rate

(f) In the event that all of the conditions for a change in the Mode applicable to the Bonds of a subseries from an Auction Mode to any other Mode pursuant to Part 2.8 of Appendix A have not been met, or in the event of a failure to change the length of the current Auction Period due to the lack of Sufficient Clearing Bids at the Auction on the Auction Date for the first new Auction Period, the Auction Period Rate for the next Auction Period shall be the Maximum Auction Rate and the Auction Period shall be a seven-day Auction Period.

(g) If the Bonds of a subseries are not rated or if the Bonds of a subseries are no longer maintained in book-entry form by the Securities Depository, then the Auction Period Rate shall be the Maximum Auction Rate.

(h) If the Auction Period Rate for the Bonds of a subseries is equal to the Maximum Auction Rate or the Default Rate for the longer of (i) two consecutive Auction Dates or (ii) ninety (90) days, the Credit Facility Provider for the Bonds of such subseries shall have the right to direct the City to change the Mode applicable to the Bonds of such subseries to the Fixed Rate Mode and upon such direction the City shall change such Mode to a Fixed Rate Mode in accordance with Part 2.8 of Appendix A.

Part 2.4 Allocation of Bonds of a subseries.

(a) In the event of Sufficient Clearing Bids for Bonds of a subseries, subject to the further provisions of subparts (c) and (d) below, Submitted Orders for such subseries shall be accepted or rejected as follows in the following order of priority

(1) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Hold Order,

(2) the Submitted Sell Order of each Existing Owner shall be accepted and the Submitted Bid of each Existing Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected,

thus requiring each such Existing Owner to sell the Bonds of a subseries that are the subject of such Submitted Sell Order or Submitted Bid;

(3) the Submitted Bid of each Existing Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid;

(4) the Submitted Bid of each Potential Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid,

(5) the Submitted Bid of each Existing Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid, but only up to and including the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of a subseries which are not the subject of Submitted Hold Orders described in paragraph (1) above or of Submitted Bids described in paragraphs (3) or (4) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of a subseries held by such Existing Owner subject to such Submitted Bid and the denominator of which shall be the aggregate principal amount of Outstanding Bonds of a subseries subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate, and the remainder, if any, of such Submitted Bid shall be rejected, thus requiring each such Existing Owner to sell any excess amount of Bonds of a subseries;

(6) the Submitted Bid of each Potential Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid, but only in an amount equal to the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Outstanding Bonds of a subseries which are not the subject of Submitted Hold Orders described in paragraph (1) above or of Submitted Bids described in paragraphs (iii), (iv) or (v) above by (B) a fraction the

numerator of which shall be the principal amount of Outstanding Bonds of a subseries subject to such Submitted Bid and the denominator of which shall be the sum of the aggregate principal amount of Outstanding Bonds of a subseries subject to such Submitted Bids made by all such Potential Owners that specified a rate equal to the Winning Bid Rate, and the remainder of such Submitted Bid shall be rejected; and

(7) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected.

(b) In the event there are not Sufficient Clearing Bids for Bonds of a subseries, subject to the further provisions of subparts (c) and (d) below, Submitted Orders, for each Bonds of a subseries shall be accepted or rejected as follows in the following order of priority:

(1) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Hold Order,

(2) the Submitted Bid of each Existing Owner specifying any rate that is not higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be accepted, thus requiring each such Existing Owner to continue to hold the Bonds of a subseries that are the subject of such Submitted Bid;

(3) the Submitted Bid of each Potential Owner specifying any rate that is not higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be accepted, thus requiring each such Potential Owner to purchase the Bonds of a subseries that are the subject of such Submitted Bid;

(4) the Submitted Sell Orders of each Existing Owner shall be accepted as Submitted Sell Orders and the Submitted Bids of each Existing Owner specifying any rate that is higher than the Maximum Auction Rate with respect to Bonds of a subseries, shall be deemed to be and shall be accepted as Submitted Sell Orders, in both cases only up to and including the principal amount of Bonds of a subseries obtained by multiplying (A) the aggregate principal amount of Bonds of a subseries subject to Submitted Bids described in paragraph (3) of

this subpart (b) by (B) a fraction the numerator of which shall be the principal amount of Outstanding Bonds of a subseries held by such Existing Owner subject to such Submitted Sell Order or such Submitted Bid deemed to be a Submitted Sell Order and the denominator of which shall be the principal amount of Outstanding Bonds of a subseries subject to all such Submitted Sell Orders and such Submitted Bids deemed to be Submitted Sell Orders, and the remainder of each such Submitted Sell Order or Submitted Bid shall be deemed to be and shall be accepted as a Hold Order and each such Existing Owner shall be required to continue to hold such excess amount of Bonds of a subseries; and

(5) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Maximum Auction Rate with respect to the Bonds of a subseries shall be rejected.

(c) If, as a result of the procedures described in subpart (a) or (b) above, any Existing Owner or Potential Owner would be required to purchase or sell an aggregate principal amount of Bonds of a subseries which is not an integral multiple of the Authorized Denomination for Bonds of such subseries on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, round up or down the principal amount of Bonds of a subseries to be purchased or sold by any Existing Owner or Potential Owner on such Auction Date so that the aggregate principal amount of Bonds of a subseries purchased or sold by each Existing Owner or Potential Owner on such Auction Date shall be an integral multiple of the Authorized Denomination for Bonds of such subseries, even if such allocation results in one or more of such Existing Owners or Potential Owners not purchasing or selling any Bonds of a subseries on such Auction Date

(d) If, as a result of the procedures described in subpart (a) above, any Potential Owner would be required to purchase a principal amount of Bonds of a subseries that is less than the Authorized Denomination for Bonds of such subseries on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, allocate such Bonds for purchase among Potential Owners so that the principal amount of Bonds of a subseries purchased on such Auction Date by any Potential Owner shall be an integral multiple of the Authorized Denomination for Bonds of such subseries, even if such allocation results in one or more of such Potential Owners not purchasing such Bonds on such Auction Date

Part 2.5 Notice of Auction Period Rate.

(a) On each Auction Date, the Auction Agent shall notify by telephone or other telecommunication device or other electronic communication acceptable to the parties or in writing each Broker-Dealer that participated in the Auction held on such Auction Date of the following with respect to Bonds of each subseries for which an Auction was held on such Auction Date.

(1) the Auction Period Rate determined on such Auction Date for the succeeding Auction Period,

(2) whether Sufficient Clearing Bids existed for the determination of the Winning Bid Rate;

(3) if such Broker-Dealer submitted a Bid or a Sell Order on behalf of an Existing Owner, whether such Bid or Sell Order was accepted or rejected and the principal amount of Bonds of a subseries, if any, to be sold by such Existing Owner,

(4) if such Broker-Dealer submitted a Bid on behalf of a Potential Owner, whether such Bid was accepted or rejected and the principal amount of Bonds of a subseries, if any, to be purchased by such Potential Owner;

(5) if the aggregate principal amount of the Bonds of a subseries to be sold by all Existing Owners on whose behalf such Broker-Dealer submitted Bids or Sell Orders is different from the aggregate principal amount of Bonds of a subseries to be purchased by all Potential Owners on whose behalf such Broker-Dealer submitted a Bid, the name or names of one or more Broker-Dealers (and the Agent Member, if any, of each such other Broker Dealer) and the principal amount of Bonds of a subseries to be (A) purchased from one or more Existing Owners on whose behalf such other Broker-Dealers submitted Bids or Sell Orders or (B) sold to one or more Potential Owners on whose behalf such Broker-Dealer submitted Bids, and

(6) the immediately succeeding Auction Date

(b) On each Auction Date, with respect to Bonds of each subseries for which an Auction was held on such Auction Date, each Broker-Dealer

that submitted an Order on behalf of any Existing Owner or Potential Owner shall: (i) advise each Existing Owner and Potential Owner on whose behalf such Broker-Dealer submitted an Order as to (A) the Auction Period Rate determined on such Auction Date, (B) whether any Bid or Sell Order submitted on behalf of each such Owner was accepted or rejected and (C) the immediately succeeding Auction Date, (ii) instruct each Potential Owner on whose behalf such Broker-Dealer submitted a Bid that was accepted, in whole or in part, to instruct such Existing Owner's Agent Member to pay to such Broker-Dealer (or its Agent Member) through the Securities Depository the amount necessary to purchase the principal amount of such Bonds of a subseries to be purchased pursuant to such Bid (including, with respect to such Bonds of a subseries in a daily Auction Period, accrued interest if the purchase date is not an Interest Payment Date for such Bond) against receipt of such Bonds of a subseries, and (iii) instruct each Existing Owner on whose behalf such Broker-Dealer submitted a Sell Order that was accepted or a Bid that was rejected, in whole or in part, to instruct such Existing Owner's Agent Member to deliver to such Broker-Dealer (or its Agent Member) through the Securities Depository the principal amount of such Bonds of a subseries to be sold pursuant to such Bid or Sell Order against payment therefor

Part 2.6 Index.

(a) The Index on any Auction Date with respect to Bonds of a subseries in any Auction Period of 35 days or less shall be the One Month LIBOR Rate on such date. The Index with respect to Bonds of subseries in any Auction Period greater than 35 days shall be the rate on United States Treasury Securities having a maturity which most closely approximates the length of the Auction Period, as last published in The Bond Buyer. If either rate is unavailable, the Index for the Bonds of a subseries shall be an index or rate agreed to by all Broker-Dealers and consented to by the City.

"One Month LIBOR Rate" means, as of any date of determination, the offered rate for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

(b) If for any reason on any Auction Date the Index shall not be determined as hereinabove provided in this Part, the Index shall be the Index for the Auction Period ending on such Auction Date

(c) The determination of the Index as provided herein shall be conclusive and binding upon the City, the Paying Agent/Registrar, the Broker-Dealers, the Auction Agent and the Owners of the Bonds of a subseries.

Part 2.7 Miscellaneous Provisions Regarding Auctions

(a) In this Exhibit 1, each reference to the purchase, sale or holding of "Bonds" shall refer to beneficial interests in such Bonds, unless the context clearly requires otherwise.

(b) During an Auction Rate Mode, with respect to the Bonds of a subseries, the provisions of the Ordinance, including Appendix A, this Exhibit 1 and the definitions contained in this Exhibit 1, including, without limitation, the definitions of Maximum Rate, Maximum Auction Rate, All Hold Rate, Index, Default Rate, Auction Multiple and the Auction Period Rate, may be modified or amended, with the consent of the Credit Facility Provider for the Bonds of such subseries, pursuant to the Ordinance by obtaining, when required by the Ordinance, the consent of the owners of all Outstanding Bonds of such subseries as follows, provided, however, that no such modification or amendment that adversely affect the rights, duties or obligations of the Auction Agent shall be made without the consent of the Auction Agent. If on the first Auction Date occurring at least 20 days after the date on which the Paying Agent/Registrar mailed notice of such proposed modification or amendment to the registered owners of the Outstanding Bonds of a subseries as required by the Ordinance, (i) the Auction Period Rate which is determined on such date is the Winning Bid Rate and (ii) there is delivered to the City and the Paying Agent/Registrar a Favorable Opinion of Bond Counsel, the proposed modification or amendment shall be deemed to have been consented to by the owners of all affected Outstanding Bonds of such subseries.

(c) If the Securities Depository notifies the City that it is unwilling or unable to continue as Owner of the Bonds of a subseries or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation and a successor to the Securities Depository is not

appointed by the City within 90 days after the City receives notice or becomes aware of such condition, as the case may be, the City shall execute and the Paying Agent/Registrar shall authenticate and deliver certificates representing the Bonds of such subseries. Such Bonds shall be authorized in such names and authorized denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the City and the Paying Agent/Registrar.

(d) During an Auction Rate Mode, so long as the ownership of the Bonds of a subseries is maintained in book-entry form by the Securities Depository, an Existing Owner or a beneficial owner may sell, transfer or otherwise dispose of a Bond only pursuant to a Bid or Sell Order in accordance with the Auction Procedures or to or through a Broker-Dealer, provided that (i) in the case of all transfers other than pursuant to Auctions such Existing Owner or its Broker-Dealer or its Agent Member advises the Auction Agent of such transfer and (ii) a sale, transfer or other disposition of Bonds of a subseries from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such Bonds to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to be a sale, transfer or other disposition for purposes of this paragraph if such Broker-Dealer remains the Existing Owner of Bonds of a subseries so sold, transferred or disposed of immediately after such sale, transfer or disposition

Part 2.8 Changes in Auction Period or Auction Date

(a) Changes in Auction Period.

(1) During any Auction Rate Mode, the City may from time to time on any Interest Payment Date, change the length of the Auction Period with respect to all of the Bonds of any subseries among daily, seven-days, 28-days, 35-days, three months, six months and a Special Auction Period in order to accommodate economic and financial factors that may affect or be relevant to the length of the Auction Period and the interest rate borne by Bonds of such subseries. The City shall initiate the change in the length of the Auction Period by giving written notice to the Credit facility Provider, the Auction Agent, the Broker-Dealers and the Securities Depository that the Auction Period shall change if the conditions described herein are satisfied and the proposed effective date of the change, at least 10 Business Days prior to the Auction Date for such Auction Period,

provided, however, that in the case of a change from a Special Auction Period of 92 or more days, the date of such change shall be the Interest Payment Date immediately following the last day of such Special Auction Period.

(2) Any such changed Auction Period shall be for a period of one day, seven-days, 28-days, 35-days, three months, six months or a Special Auction Period and shall be for all of the Bonds of a subseries in an Auction Rate Mode.

(3) The change in the length of the Auction Period for Bonds of any subseries shall not be allowed unless Sufficient Clearing Bids existed at both the Auction before the date on which the notice of the proposed change was given as provided in this subpart (a) and the Auction immediately preceding the proposed change

(4) The change in length of the Auction Period for Bonds of any subseries shall take effect only if (A) the Paying Agent/Registrar and the Auction Agent receive, by 11 00 a m on the Business Day before the Auction Date for the first such Auction Period, a certificate from the City consenting to the change in the length of the Auction Period specified in such certificate and (B) Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Auction Period. For purposes of the Auction for such first Auction Period only, each Existing Owner shall be deemed to have submitted Sell Orders with respect to all of its Bonds of a subseries for which there is to be a change in the length of the Auction Period except to the extent such Existing Owner submits an Order with respect to such Bonds. If the condition referred to in (A) above is not met, the Auction Rate for the next Auction Period shall be determined pursuant to the Auction Procedures and the Auction Period shall be the Auction Period determined without reference to the proposed change. If the condition referred to in (A) is met but the condition referred to in (B) above is not met, the Auction Rate for the next Auction Period shall be the Maximum Auction Rate and the Auction Period shall be a seven-day Auction Period

(5) On the conversion date for Bonds of a subseries from one Auction Period to another, any Bonds of such subseries which are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order

(b) Changes in Auction Date. During any Auction Rate Mode, the Auction Agent, with the written consent of the City, may specify an earlier Auction Date for Bonds of any subseries (but in no event more than five Business Days earlier) than the Auction Date that would otherwise be determined in accordance with the definition of "Auction Date" in order to conform with then current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date and the interest rate borne on such Bonds. The Auction Agent shall provide notice of its determination to specify an earlier Auction Date for an Auction Period by means of a written notice delivered at least 45 days prior to the proposed changed Auction Date to the Paying Agent/Registrar, the City, the Credit Facility Provider, the Broker-Dealers and the Securities Depository.

ARTICLE III

AUCTION AGENT

Part 3.1 Auction Agent.

(a) The Auction Agent shall be appointed by the Paying Agent/Registrar at the written direction of the City, to perform the functions specified herein. The Auction Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by an Auction Agreement delivered to the City, the Paying Agent/Registrar and each Broker-Dealer which shall set forth such procedural and other matters relating to the implementation of the Auction Procedures as shall be satisfactory to the City and the Paying Agent/Registrar.

(b) Subject to any applicable governmental restrictions, the Auction Agent may be or become the owner of or trade in Bonds with the same rights as if such entity were not the Auction Agent

Part 3.2 Qualifications of Auction Agent; Resignation; Removal

The Auction Agent shall be (a) a bank or trust company organized under the laws of the United States or any state or territory thereof having a combined capital stock, surplus and undivided profits of at least \$30,000,000, or (b) a member of National Association of Securities Dealers having a capitalization of at least \$30,000,000 and, in either case, authorized by law to perform all the duties imposed upon it by the Ordinance and a member of or a participant in, the

Securities Depository The Auction Agent may at any time resign and be discharged of the duties and obligations created by the Ordinance by giving at least ninety (90) days notice to the City, the Credit Facility Provider, each Broker-Dealer and the Paying Agent/Registrar. The Auction Agent may be removed at any time by the City by written notice, delivered to the Auction Agent, the City, the Credit Facility Provider, each Broker-Dealer and the Paying Agent/Registrar. Upon any such resignation or removal, the Paying Agent/Registrar shall appoint a successor Auction Agent meeting the requirements of this Part. In the event of the resignation or removal of the Auction Agent, the Auction Agent shall pay over, assign and deliver any moneys and Bonds held by it in such capacity to its successor. The Auction Agent shall continue to perform its duties hereunder until its successor has been appointed by the Paying Agent/Registrar. In the event that the Auction Agent has not been compensated for its services, the Auction Agent may resign by giving thirty (30) days notice to the City and the Paying Agent/Registrar even if a successor Auction Agent has not been appointed.

**Exhibit A
to
Ordinance**

PAYING AGENT/REGISTRAR AGREEMENT

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT entered into as of July 24, 2008 (this "Agreement"), by and between the City of Austin, Texas (the "City"), and Deutsche Bank Trust Company Americas, 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 "Bank"),

RECITALS

WHEREAS, the City has duly authorized and provided for the execution and delivery of its "City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008" (the "Securities"), pursuant to an Ordinance No. 20080724-101, together with all appendices and exhibits thereto, to be adopted by the City on July 24, 2008 (the "Ordinance"), which Securities are scheduled to be delivered to the initial purchaser on or about August 14, 2008, and

WHEREAS, the City has selected the Bank to serve as paying agent, registrar and transfer agent with respect to such Securities; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the City and is duly qualified and otherwise capable of performing the duties and responsibilities contemplated by this Agreement with respect to the Securities;

NOW, THEREFORE, it is mutually agreed as follows

ARTICLE ONE
APPOINTMENT OF BANK AS
PAYING AGENT/REGISTRAR

Section 1.01: Appointment 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 Paying Agent/Registrar 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 Paying Agent/Registrar under the Ordinance, and has the capacity to, and agrees to, perform the duties and responsibilities of the Paying Agent/Registrar herein and under the Ordinance.

Section 1 02: Compensation As compensation for the Bank's services as Paying Agent/Registrar, the City hereby agrees to pay the Bank the fees and amounts set forth in Annex A attached.

In addition, the City agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

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

ARTICLE TWO DEFINITIONS

Section 2 01 Definitions For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security

“Bank Office” means the designated office of the Bank as indicated in Section 3 01 hereof. The Bank will notify the City in writing of any change in location of the Bank Office

“City Request” and “City Order” means a written request or order signed in the name of the City by the Mayor, City Clerk, City Manager, Assistant City Manager, Chief Financial Officer, Deputy Chief Financial Officer, or City Treasurer, any one or more of said officials, and delivered to the Bank

“Fiscal Year” means the fiscal year of the City, ending September 30th

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Resolution)

“Redemption Date” when used with respect to any Security to be redeemed means the date fixed for such redemption pursuant to the terms of the Ordinance.

“Responsible Officer” when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject

“Security Register” means a register maintained by the Bank on behalf of the City providing for the registration and transfers of Securities

“Stated Maturity” means the date specified in the Ordinance the principal of a Security is scheduled to be due and payable

Section 2 02 Other Definitions The terms “Bank,” “City,” and “Securities (Security)” have the meanings assigned to them in the recital paragraphs of this Agreement. Capitalized terms used herein but not otherwise defined herein shall have the meaning set forth in the Ordinance

The term “Paying Agent/Registrar” refers to the Bank in the performance of the duties and functions of this Agreement

ARTICLE THREE
PAYING AGENT/REGISTRAR

Section 3 01: Payments. As Paying Agent/Registrar, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the City or drawn by the Bank under any Liquidity Facility, pay on behalf of the City the principal of each Security at its Stated Maturity, Redemption Date, or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following office:

Deutsche Bank Trust Company Americas
Trust & Securities Services
60 Wall Street
27th Floor, MS NYC60-2715
New York, New York 10005

As Paying Agent/Registrar, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the City, pay on behalf of the City or drawn by the Bank under any Liquidity Facility, the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date. All payments of principal and/or interest on the Securities to the registered owners shall be accomplished by the method set forth in the Ordinance or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense

Section 3 02 Payment Dates The City hereby instructs the Bank to pay the principal of and interest on the Securities at the dates specified in the Ordinance

Section 3 03: Security Register - Transfers and Exchanges. The Bank agrees to keep and maintain for and on behalf of the City at the Bank Office books and records (herein sometimes referred to as the "Security Register") for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the City and subject to such reasonable regulations as the City and Bank may prescribe. The Bank represents and warrants that it will file and maintain a copy of the Security Register with the City of Austin, Texas, and shall cause the Security Register to be current with all registration and transfer

information as from time to time may be applicable. All transfers, exchanges and replacement of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the National Association of Securities Dealers, in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 3.04. Draws on the Liquidity Facility. As Paying Agent/Registrar, the Bank shall draw on the Liquidity Facility when and as requested under the Ordinance. Such drawn funds shall be transferred or deposited to the appropriate parties or accounts, as the case may be, in accordance with the Ordinance.

Section 3.05. Certificates. The City shall provide an adequate inventory of printed Securities to facilitate transfers or exchanges thereof. The Bank covenants that the inventory of printed Securities will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

Section 3.06. Form of Security Register. The Bank, as Paying Agent/Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 3.07: List of Security Holders. The Bank will provide the City at any time requested by the City, upon payment of the required fee, a copy of the information contained in the Security Register. The City may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the City, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the City so that the City may contest the court order or such release or disclosure of the contents of the Security Register.

Section 3.08 Return of Cancelled Certificates. The Bank will, at such reasonable intervals as it determines, surrender to the City, Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

Section 3.09 Mutilated, Destroyed, Lost or Stolen Securities. The City hereby instructs the Bank, subject to the provisions of the Ordinance, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, or destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such destroyed lost or stolen Security, only upon the approval of the City and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the City and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, or destroyed, lost or stolen.

Section 3.10: Transaction Information to City. The Bank will, within a reasonable time after receipt of written request from the City, furnish the City information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 3.03, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 3.08 \

Section 3.11: Creation of Direct-Pay Liquidity Facility Drawing Account. There is established in the Ordinance and maintained with the Bank, as the Paying Agent/Registrar, a separate fund to be known as the "City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008 Direct-Pay Liquidity Facility Drawing Account" (the "Direct-Pay Liquidity Facility Drawing Account"), and funds deposited to such account shall be held and disbursed by the Bank in accordance with the provisions of Part 5.2 of Appendix A to the Ordinance.

Amounts held in the Direct-Pay Liquidity Facility Drawing Account by the Bank shall be held uninvested and separate and apart from all other funds and accounts.

ARTICLE FOUR THE BANK

Section 4.01: Duties of Bank The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 4.02: Reliance on Documents, Etc

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security, or other paper or document supplied by City.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

Section 4 03. Recitals of City The recitals contained herein with respect to the City and in the Securities shall be taken as the statements of the City, and the Bank assumes no responsibility for their correctness

The Bank shall in no event be liable to the City, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds

Section 4 04 May Hold Securities. The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the City with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent

Section 4 05 Moneys Held by Bank - Paying Agent Account/Collateralization A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping and disbursement of moneys received from the City hereunder for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United

States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such account shall be made by check drawn on such account unless the owner of such Securities shall, at its own expense and risk, request such other medium of payment.

The Bank shall be under no liability for interest on any money received by it hereunder.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be paid by the Bank to the City, and the Holder of such Security shall thereafter look only to the City for payment thereof, and all liability of the Bank with respect to such moneys shall thereupon cease

Section 4.06 Indemnification To the extent permitted by law, the City agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement

Section 4.07 Interpleader The City and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State and County where the administrative offices of the City is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 3.01 of this Agreement shall constitute adequate service. The City and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein

Section 4.08 DTC Services It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements," which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and

funds availability, transfer turnaround time, and notification of redemptions and calls.

ARTICLE FIVE MISCELLANEOUS PROVISIONS

Section 5 01 Amendment This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 5 02. Assignment. This Agreement may not be assigned by either party without the prior written consent of the other.

Section 5 03. Notices Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the City or the Bank shall be mailed or delivered to the City or the Bank, respectively, at the addresses shown on the signature page hereto.

Section 5.04. Effect of Headings The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 5.05. Successors and Assigns. All covenants and agreements herein by the City shall bind its successors and assigns, whether so expressed or not

Section 5 06. Severability In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby

Section 5.07: Benefits of Agreement. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 5 08 Entire Agreement This Agreement and the Ordinance constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Ordinance, the Ordinance shall govern

Section 5 09. Counterparts This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement

Section 5 10 Termination. This Agreement will terminate (1) on the date of final payment of the principal of and interest on the Securities to the

Holders thereof or (11) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the City and such appointment accepted and (b) notice given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and City mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the City

The provisions of Section 1 02 and of Article Four shall survive and remain in full force and effect following the termination of this Agreement.

Section 5 11: Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas

[remainder of page left blank intentionally]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement
as of the day and year first above written.

DEUTSCHE BANK TRUST COMPANY
AMERICAS, New York, New York

Attest

By. _____
Title. _____

Title

Address: 60 Wall Street
27th Floor, MS NYC60-2715
New York, New York 10005

CITY OF AUSTIN, TEXAS

Attest.

Will Wynn, Mayor

Address 700 Lavaca, Suite 1510
Austin, Texas 78701

Shirley A Gentry
City Clerk

**Exhibit B
to
Ordinance**

INTEREST RATE MANAGEMENT AGREEMENT

(Local Currency—Single Jurisdiction)



International Swap Dealers Association Inc

MASTER AGREEMENT

dated as of August 11, 2008

MORGAN KEEGAN FINANCIAL
PRODUCTS, INC.

and

CITY OF AUSTIN, TEXAS

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions

Accordingly, the parties agree as follows —

1 Interpretation

- (a) **Definitions.** The terms defined in Section 12 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this Agreement"), and the parties would not otherwise enter into any Transactions

2. Obligations

(a) General Conditions

- (i) Each party will make each payment or delivery specified in each Confirmation to be made by it subject to the other provisions of this Agreement
- (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment) such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement
- (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant

- (b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change
- (c) **Netting.** If on any date amounts would otherwise be payable —
 - (i) in the same currency, and
 - (ii) in respect of the same Transaction

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of branches or offices through which the parties make and receive payments or deliveries

- (d) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement

3 Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that —

- (a) **Basic Representations**
 - (i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing.
 - (ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance.
 - (iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment

of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets,

- (iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with, and
- (v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law))
- (b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party
- (c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.
- (d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect

4 Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party —

- (a) **Furnish Specified Information.** It will deliver to the other party any forms, documents or certificates specified in the Schedule or any Confirmation by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable
- (b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future
- (c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party

5 Events of Default and Termination Events

- (a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party —
 - (i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(1) or 2(d) required to be made by it if such failure is not

remedied on or before the third Local Business Day after notice of such failure is given to the party,

- (ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) or to give notice of a Termination Event) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party,
- (iii) **Credit Support Default.**
 - (1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed,
 - (2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party, or
 - (3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part or challenges the validity of, such Credit Support Document,
- (iv) **Misrepresentation.** A representation made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated,
- (v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms disclaims repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf),
- (vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period),

- (vii) **Bankruptcy** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party —

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger), (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due, (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof, (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger), (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter, (8) causes or is subject to any event with respect to it which under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive), or (9) takes any action in furtherance of or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts, or

- (viii) **Merger Without Assumption** The party or any Credit Support Provider of such party consolidates or amalgamates with or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation merger or transfer

- (1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement or
- (2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement

- (b) **Termination Events** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (ii) below or an Additional Termination Event if the event is specified pursuant to (iii) below —

- (i) **Illegality** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party) —

- (1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction, or

- (2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction,
- (ii) **Credit Event Upon Merger** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party), or
- (iii) **Additional Termination Event** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation)
- (c) **Event of Default and Illegality** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default

6. Early Termination

- (a) **Right to Terminate Following Event of Default** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8)
- (b) **Right to Terminate Following Termination Event.**
 - (i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require
 - (ii) **Two Affected Parties** If an Illegality under Section 5(b)(i)(1) occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event
 - (iii) **Right to Terminate.** If —
 - (1) an agreement under Section 6(b)(ii) has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i), or
 - (2) an Illegality other than that referred to in Section 6(b)(i), a Credit Event Upon Merger or an Additional Termination Event occurs,

either party in the case of an Illegality, any Affected Party in the case of an Additional Termination Event if there is more than one Affected Party or the party which is not the Affected Party in the case of a Credit

Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions

(c) ***Effect of Designation.***

- (i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing
- (ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(d) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e)

(d) ***Calculations***

- (i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation
- (ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment), from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method" as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off

(i) ***Events of Default.*** If the Early Termination Date results from an Event of Default —

- (1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party over (B) the Unpaid Amounts owing to the Defaulting Party
- (2) ***First Method and Loss.*** If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement

- (3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party less (B) the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party, if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.
- (4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party, if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.
- (ii) *Termination Events.* If the Early Termination Date results from a Termination Event —
- (1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(1)(3), if Market Quotation applies, or Section 6(e)(1)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.
- (2) *Two Affected Parties.* If there are two Affected Parties —
- (A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (i) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Unpaid Amounts owing to X less (ii) the Unpaid Amounts owing to Y, and
- (B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").
- If the amount payable is a positive number, Y will pay it to X, if it is a negative number, X will pay the absolute value of that amount to Y.
- (iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).
- (iv) *Pre-Estimate.* The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. **Transfer**

Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that —

- (a) a party may make such a transfer of this Agreement pursuant to a consolidation amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement), and
- (b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e)

Any purported transfer that is not in compliance with this Section will be void

8. **Miscellaneous**

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto
- (b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system
- (c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction
- (d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law
- (e) **Counterparts and Confirmations**
 - (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission) each of which will be deemed an original
 - (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart telex or electronic message constitutes a Confirmation
- (f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege
- (g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement

9. **Expenses**

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection

10. Notices

- (a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated —

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received,
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine),
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted, or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day

- (b) **Change of Addresses** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it

11. Governing Law and Jurisdiction

- (a) **Governing Law** This Agreement will be governed by and construed in accordance with the law specified in the Schedule

- (b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably —

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York, and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction

- (c) **Waiver of Immunities** Each party irrevocably waives, to the fullest extent permitted by applicable law with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction or order for specific performance or for recovery of property, (iv) attachment of its assets

(whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings

12. Definitions

As used in this Agreement —

"Additional Termination Event" has the meaning specified in Section 5(b)

"Affected Party" has the meaning specified in Section 5(b)

"Affected Transactions" means (a) with respect to any Termination Event consisting of an Illegality, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions

"Affiliate" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose "control" of any entity or person means ownership of a majority of the voting power of the entity or person

"Applicable Rate" means —

- (a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate,
- (b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate,
- (c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate and
- (d) in all other cases, the Termination Rate

"Consent" includes a consent, approval, action, authorisation, exemption, notice filing, registration or exchange control consent

"Credit Event Upon Merger" has the meaning specified in Section 5(b)

"Credit Support Document" means any agreement or instrument that is specified as such in this Agreement

"Credit Support Provider" has the meaning specified in the Schedule

"Default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum

"Defaulting Party" has the meaning specified in Section 6(a)

"Early Termination Date" means the date determined in accordance with Section 6(a) or 6(b)(iii)

"Event of Default" has the meaning specified in Section 5(a) and, if applicable, in the Schedule

"Illegality" has the meaning specified in Section 5(b)

law includes any treaty, law, rule or regulation and *"lawful"* and *"unlawful"* will be construed accordingly

"Local Business Day" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under

Section 2(a)(1), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(1), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction

"Loss" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain cost of funding or, at the election of such party but without duplication loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them) Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except so as to avoid duplication, if Section 6(e)(1)(1) or (3) or 6(e)(1)(2)(A) applies Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 9 A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets

"Market Quotation" means with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(1) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged after consultation with the other If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations without regard to the quotations having the highest and lowest values If exactly three such quotations are provided the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount

"Non-defaulting Party" has the meaning specified in Section 6(a)

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both would constitute an Event of Default

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(1) with respect to a Transaction

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on such payer

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of —

- (a) the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined, and
- (b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result

"Specified Entity" has the meaning specified in the Schedule

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money

"Specified Transaction" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date)

"Termination Event" means an Illegality or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event

"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts

"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(1) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(1) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery in each case together with (to the extent permitted under

Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document

**MORGAN KEEGAN FINANCIAL
PRODUCTS, INC.**

CITY OF AUSTIN, TEXAS

By _____	By _____
Name	Name
Title	Title
Date	Date

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Entity of such party), provided that, such term shall include only those transactions pursuant to which the Counterparty's obligations are payable in whole or in part from Pledged Revenues

- (c) The "**Cross Default**" provisions of Section 5(a)(vi) of this Agreement will apply to the Counterparty and the Provider provided that

(1) With respect to any Specified Indebtedness that is not capable of being declared due and payable as a result of the occurrence or existence of a default, event of default or other similar condition or event (however described) under the agreement or instrument relating to such Specified Indebtedness, the words "which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable" shall be deleted from clause (1) of such Section 5(a)(vi) and the words "and the bondholders or trustee are permitted to exercise any remedies under the agreements and instruments" shall be added in its place, and

(ii) The following language shall be added to the end thereof "*provided, however that, notwithstanding the foregoing, an Event of Default shall not occur under either (1) or (2) above if (A) (I) the default, or other similar event or condition referred to in (1) or the failure to pay referred to in (2) is a failure to pay or deliver caused by an error or omission of an administrative or operational nature, and (II) funds or the asset to be delivered were available to such party to enable it to make the relevant payment or delivery when due and (III) such payment or delivery is made within three (3) Local Business Days following receipt of written notice from an interested party of such failure to pay, or (B) such party was precluded from paying, or was unable to pay, using reasonable means, through the office of the party through which it was acting for purposes of the relevant Specified Indebtedness, by reason of force majeure, act of State illegality or impossibility*

- (d) "**Specified Indebtedness**" has the meaning specified in Section 12, except that with respect to the Counterparty, such term shall include only those obligations payable in whole or in part from Pledged Revenues

- (e) "**Threshold Amount**" means (i) with respect to the Provider, U S \$10,000,000, (ii) with respect to any Credit Support Provider of such party, 1% of its shareholders' equity (determined in accordance with generally accepted accounting principles), and (iii) with respect to the Counterparty, U S \$10,000,000 (or the equivalent in another currency, currency unit or combination thereof)

- (f) **Bankruptcy** Clause (6) of Section 5(a)(vii) of this Agreement is hereby amended to read in its entirety as follows

"(6)(A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee custodian or other similar official for it or for all or substantially all its assets or (B) in the case of the Counterparty, any Credit Support Provider of the Counterparty or any applicable Specified Entity of such Counterparty,

(I) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or (II) there shall be declared or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it.”

- (g) **Merger Without Assumption** Section 5(a)(viii) is hereby amended to read in its entirety as follows

“(viii) *Merger Without Assumption.* The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, in the case of the Counterparty, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, such party, or any Credit Support Provider of such party) and, at the time of such consolidation, amalgamation, merger, transfer, or succession

(1) the resulting, surviving, transferee or successor entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement, or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving transferee or successor entity of its obligations under this Agreement

- (h) **“Credit Event Upon Merger”** applies to the Provider and the Counterparty Section 5(b)(ii) is hereby deleted in its entirety and replaced by the following

“(ii) *Credit Event Upon Merger* If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to another entity (or, without limiting the foregoing, if X is the Counterparty, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, X, any Credit Support Provider of X, or any applicable Specified Entity of X), and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of X or the resulting, surviving, transferee, or successor entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party), or”

- (i) The **“Automatic Early Termination”** provisions of Section 6(a) will apply to the Provider and will not apply to the Counterparty, *provided* where an Event of Default under Section 5(a)(vii) with respect to the Provider arises solely by reason of an event or

condition that is directly attributable to its Credit Support Provider, then the Automatic Early Termination provisions of Section 6(a) will not apply to the Provider, and *provided further*, with respect to the Counterparty, where the Event of Default is specified in Section 5(a)(vii)(1), (3), (4), (5), (6) or to the extent analogous thereto, (8), and is governed by a system of law which does not permit termination to take place upon or after the occurrence of the relevant Event of Default in accordance with the terms of this Agreement, then the Automatic Early Termination provisions of Section 6(a) will apply to the Counterparty or (to the extent the preceding *proviso* is applicable) to the Provider, as the case may be

- (j) For purposes of Section 6(e). Market Quotation and the Second Method will apply, modified as provided in Part 5 below
- (k) **Additional Termination Event** will apply Each of the following shall constitute an Additional Termination Event

(1) **Counterparty Credit Event** The occurrence at any time of a Counterparty Credit Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Counterparty As used herein, "Counterparty Credit Event" shall mean that the long-term, public, unenhanced Bonds of the Counterparty shall cease to be rated at least "Baa3" by Moody's Investors Service, Inc ("Moody's") or "BBB-" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc ("S&P"), or such Bonds cease to be rated by Moody's or S&P or either of such ratings is withdrawn or suspended Upon the occurrence of a Counterparty Credit Event, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions

(ii) **CSP Credit Event** The occurrence at any time of a CSP Credit Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Provider As used herein, "CSP Credit Event" shall mean that, with respect to the CSP, the long-term, unsecured, unenhanced and unsubordinated indebtedness of the CSP shall cease to be rated at least "Baa3" by Moody's or "BBB-" by S&P, or such indebtedness ceases to be rated by Moody's or S&P or either of such ratings is withdrawn or suspended Upon the occurrence of a CSP Credit Event, the Provider shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions

(iii) **Incipient Illegality** The occurrence at any time of an Incipient Illegality (as defined herein) shall be an Additional Termination Event with respect to the Counterparty Upon the occurrence of an Incipient Illegality the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions

(iv) **Covered Agreement Amendment Event** The occurrence at any time of Covered Agreement Amendment Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Counterparty As used herein, "Covered Agreement Amendment Event" shall occur when the Counterparty amends, repeals, or

otherwise modifies the Covered Agreement without the prior written consent of the Provider, and in the reasonable judgment of the Provider, as a result of such amendment, repeal or other modification, the ability of the Counterparty to comply with and perform its obligations under this Agreement or in respect of any Transaction hereunder shall be materially adversely affected. Upon the occurrence of a Covered Agreement Amendment Event, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions

(v) **Counterparty Default Under Credit Support Annex** The occurrence at any time of a Counterparty Default Under Credit Support Annex Event (as hereinafter defined) shall be an Additional Termination Event with respect to the Counterparty. As used herein, "Counterparty Default Under Credit Support Annex Event" shall mean the occurrence at any time of an Event of Default under the Credit Support Annex where the Counterparty is the Defaulting Party. Upon the occurrence of a Counterparty Default Under Credit Support Annex Event, the Counterparty shall be deemed to be the sole Affected Party and all Transactions shall be deemed to be Affected Transactions

- (l) **Additional Event of Default** Section 5(a) of the Agreement is hereby amended to include the following additional Events of Default with respect to the Counterparty, which shall be added as subparagraphs (ix) and (x) of such Section 5(a)

"(ix) **Authority; Repudiation** The Counterparty shall cease to have authority to make payments under this Agreement or any Transaction subject to this Agreement, or any legislative body having jurisdiction over the Counterparty shall adopt any legislation which would have the effect of repudiating this Agreement or any Transaction subject to this Agreement

(x) **Default under Reimbursement Agreement** The occurrence and continuance of any event that constitutes an Event of Default with respect to the Counterparty under Section 6.01 (subject to any applicable right to cure such Events of Default as set forth therein) of the Reimbursement Agreement, dated as of August 1, 2008, between the Counterparty and Dexia Credit Local, relating to the Bonds, and any default provisions of any replacement or substitute reimbursement agreement (the "Reimbursement Agreement")

Part 2

AGREEMENT TO DELIVER DOCUMENTS

For the purpose of Section 4(a), each party agrees to deliver the following documents, with each document to be delivered to the Provider also to be delivered to any Credit Support Provider of such party

<u>Party required to deliver document</u>	<u>Form/Document/Certificate</u>	<u>Date by which to be delivered</u>	<u>Covered by Sec. 3(d) Representation</u>
the Counterparty	Either (1) a signature booklet	Upon or prior to the	Yes

<u>Party required to deliver document</u>	<u>Form/Document/Certificate</u>	<u>Date by which to be delivered</u>	<u>Covered by Sec. 3(d) Representation</u>
	containing secretary's certificate and resolutions ("authorizing resolutions") authorizing the Counterparty to enter into derivatives transactions of the type contemplated by the parties or (2) a secretary's certificate, authorizing resolutions and incumbency certificate, in either case, for the Counterparty reasonably satisfactory in form and substance to the Provider and any Credit Support Provider of the Provider	execution and delivery of this Agreement and, with respect to any Confirmation upon request by the Provider	
the Provider	Evidence of the authority, incumbency and specimen signature of each person executing this Agreement or any Confirmation, Credit Support Document or other document entered into in connection with this Agreement on its behalf or on behalf of a Credit Support Provider or otherwise, as the case may be	Upon or prior to the execution and delivery of this Agreement and, with respect to any Confirmation upon request by the other party	Yes
the Counterparty	A written opinion of legal counsel to the Counterparty and its Credit Support Provider, if any, addressed to the Provider, reasonably satisfactory in form and substance to the Provider and its Credit Support Provider	Upon execution of this Agreement and upon the execution of each Confirmation	No
the Provider	A written opinion of legal counsel to the Provider and its Credit Support Provider addressed to the Counterparty,	Upon execution of this Agreement and upon the execution of each Confirmation	No

<u>Party required to deliver document</u>	<u>Form/Document/Certificate</u>	<u>Date by which to be delivered</u>	<u>Covered by Sec. 3(d) Representation</u>
	reasonably satisfactory in form and substance to the Counterparty		
the Provider and the Counterparty	A duly executed copy of the Credit Support Documents specified in Part 3 of this Schedule	Upon the execution of this Agreement	No
the Provider and Counterparty	The Provider shall deliver a copy of the annual report of the CSP and the Counterparty shall deliver a copy of its own annual report. Such reports shall contain audited consolidated financial statements for each such fiscal year, certified by independent certified public accountants and prepared in accordance with generally accepted accounting principles	As soon as practicable after the execution of this Agreement and also within 120 days (or as soon as practicable after becoming publicly available) after the end of each of its fiscal years while there are any obligations outstanding under this Agreement	Yes
Counterparty	Certified copies of all resolutions adopted or other actions taken by Counterparty to authorize the execution, delivery and performance of this Agreement, along with such other documents, certificates, or other information with respect to such authorization as Provider may reasonably request, and in connection with any Transaction, any supplements to such authorization or additional authorization relating to such Transaction	Upon execution and delivery of this Agreement and, upon request of Provider, prior to the execution and delivery of any Confirmation	Yes
Counterparty	All documents evidencing the necessary authorizations,	On the Effective Date of any Bond-Related	Yes

<u>Party required to deliver document</u>	<u>Form/Document/Certificate</u>	<u>Date by which to be delivered</u>	<u>Covered by Sec. 3(d) Representation</u>
	determinations and approvals for the offering, sale and issuance of the Bonds	Transaction	
Counterparty	A reliance letter from Bond Counsel permitting the Provider and the CSP to rely on the opinion of Bond Counsel with respect to the Covered Agreement [unless included in other opinions]	On the Effective Date of any relevant Bond-Related Transaction	No
Counterparty	Covered Agreement and all other documents relating to the Incorporated Provisions	Upon execution of the Confirmation for the relevant Bond-Related Transaction	Yes
Counterparty	The official statement or similar disclosure document or other information provided in connection with the issuance of Bonds	On the Effective Date of the relevant Bond-Related Transaction and, otherwise, as soon as practicable but in any event not later than thirty (30) days after initial delivery or publication thereof	No
Counterparty	Evidence that proceedings authorizing this Agreement and each Transaction, to the extent required by law, have been approved by the Attorney General and registered by the Comptroller of Public Accounts of Texas	At execution of this Agreement and any Transaction hereunder	No

Part 3

MISCELLANEOUS

- (a) **Address for Notices** For the purpose of Section 10(a)

Address for notice or communications to the Counterparty (with a mandatory copy to the CSP at the address for notices set forth below):

City of Austin, Texas
P.O. Box 2106
Austin, Texas 78768
Attention: City Treasurer
Facsimile (512) 370-3838

Address for notice or communications to the Provider (with a mandatory copy to the CSP at the address for notices set forth below):

Morgan Keegan Financial Products, Inc.
50 North Front Street, 16th Floor
Memphis, TN 38103
Attention: Swap Desk
Facsimile (901) 579-4363

Address for notice or communications to the CSP:

Deutsche Bank AG, New York Branch
60 Wall Street
New York, NY 10005
Attention: Patrick Marsh
Facsimile (212) 797-2210 or (212) 797-2218
Email: Patrick.Marsh@db.com

No notice or communication required or permitted to be delivered under this Agreement shall be deemed effective unless and until it is also deemed effective with respect to the CSP.

- (b) **Calculation Agent.** The Calculation Agent is the Provider

- (c) **Credit Support Document** Details of any Credit Support Document

Credit Support Document means in relation to the Counterparty the Covered Agreement

Credit Support Document means in relation to the Provider the Replacement Transaction Agreement and the Credit Support Annex relating thereto

(d) **Credit Support Provider**

Credit Support Provider means in relation to the Counterparty Not applicable

Credit Support Provider means in relation to the Provider: the CSP.

(e) **Governing Law.** THIS AGREEMENT SHALL BE CONSTRUED, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED, IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS

(f) **Submission to Jurisdiction** Section 11(b) of this Agreement is hereby deleted in its entirety and replaced with the following “[Intentionally Omitted]”.

(g) **Waiver of Jury Trial** EACH OF THE PROVIDER AND THE COUNTERPARTY, TO THE FULLEST EXTENT PERMITTED BY THE TEXAS CONSTITUTION AND APPLICABLE LAW, WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ENFORCING OR DEFENDING ANY RIGHTS UNDER THIS AGREEMENT OR RELATING THERETO EACH OF THE PROVIDER AND THE COUNTERPARTY ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION HAVE BEEN BARGAINED FOR AND THAT IT HAS BEEN REPRESENTED BY COUNSEL IN CONNECTION THEREWITH THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT OR THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS EACH OF THE PROVIDER, AND THE COUNTERPARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH OF THE PROVIDER AND THE COUNTERPARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY IS WAIVING ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY A COURT (RATHER THAN BY A JURY) UNDER THIS AGREEMENT.

(h) **Netting of Payments** Subparagraph (u) of Section 2(c) will apply

Part 4

OTHER PROVISIONS

- (a) **Accuracy of Specified Information.** Section 3(d) is hereby amended by adding in the third line thereof after the word “respect” and before the period, the phrase “or, in the case of audited or unaudited financial statements, a fair presentation of the financial condition of the relevant person ”

- (b) **Deferral of Payments and Deliveries in Connection with Default, Illegality and Incipient Illegality; Interest on Deferred Payments.** Section 2(a)(iii) is hereby amended to read in its entirety as follows

(iii) Each obligation of each party (or any Credit Support Provider of such party) under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default, Illegality, Potential Event of Default or Incipient Illegality with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement

- (c) **Representations**

(i) The introductory clause of Section 3 is hereby amended to read in its entirety as follows

“Each party represents to the other party (all of which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(a), at all times until the termination of this Agreement) that ”

(ii) Section 3(a)(i) is hereby amended to read in its entirety as follows

“(ii) **Powers** It has the power (in the case of the Counterparty, pursuant to its Authorizing Law) to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party, and has taken all necessary action and made all necessary determinations and findings to authorize such execution, delivery and performance.”

(iii) Section 3(b) is hereby amended to read in its entirety as follows

“(b) **Absence of Certain Events** No Event of Default, Potential Event of Default, Incipient Illegality (in the case of the Counterparty) or Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its

obligations under this Agreement or any Credit Support Document to which it is a party ”

(iv) For purposes of Section 3, the following shall be added, immediately following paragraph (d) thereof

“[(e) **Eligible Contract Participant** It is an “eligible contract participant” as defined in Section 1a(12) of the Commodity Exchange Act (7 U S C 1a), as amended by the Commodity Futures Modernization Act of 2000]

(f) **Negotiations.** This Agreement has been subject to individual negotiation by it

(g) **No Agency.** It is entering into this Agreement, any Credit Support Document to which it is a party, each Transaction and any other documentation relating to this Agreement or any Transaction as principal (and not as agent or in any other capacity, fiduciary or otherwise).

(i) **No Immunity.** Pursuant to Section 1371 059(c) of the Texas Government Code, the Counterparty is authorized to, and does hereby, waive immunity on the grounds of sovereignty or any other similar grounds from suit or remedies at law or in equity for enforcement of this Agreement

(j) **Termination Payments.** It acknowledges that, pursuant to the terms of this Agreement (including, without limitation, Section 6(e)), it may owe a payment to the other party upon the designation of an Early Termination Date, even in the event such Early Termination Date is the result of an Event of Default or Termination Event (including Additional Termination Events) with respect to such other party ”

(d) **Additional Representations of the Counterparty** The Counterparty hereby further represents to the Provider (which representations will be deemed to be repeated by the Counterparty at all times until the termination of this Agreement) that:

(i) **No Speculation.** This Agreement has been and each Transaction hereunder will be (and, if applicable, has been), entered into for the purposes of managing its borrowings or investments and not for purposes of speculation

(ii) **Perfection of Pledge.** The Counterparty has taken all steps necessary or advisable and has the authority to create and perfect the pledge and security interest required to be created pursuant to Part 4(e) of this Schedule and such pledge and security interest have been validly created and perfected

(iii) **Necessary Approvals.** Any Transaction entered into pursuant to this Agreement together with any Transactions that the Counterparty has or may enter into with the Provider and/or with any or all other parties does not and will not violate or

exceed any limits or restrictions contained in any authorizations, approvals or resolutions of the Counterparty.

(iv) **Governmental Purpose.** The execution and delivery by the Counterparty of this Agreement, each Confirmation and any other documentation relating hereto, and the performance by the Counterparty of its obligations hereunder and thereunder, are in furtherance, and not in violation, of the governmental purposes for which the Counterparty is organized pursuant to the laws of the relevant state

(v) **No Prohibited Investment.** This Agreement and each Transaction hereunder do not constitute any kind of investment by the Counterparty that is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which the Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

(vi) **Legal Debt Limitations.** The obligations of the Counterparty to make payments to the Provider under this Agreement and each Transaction (a) are not subject to appropriation or similar action and (b) do not (1) constitute any kind of indebtedness of the Counterparty or (2) create any kind of lien on or security interest in any property or revenues of the Counterparty which, in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which the Counterparty (or any of its officials in their respective capacities as such) or its property is subject

(vii) **Governmental Body.** The Counterparty is a state or political subdivision thereof, or an instrumentality, agency or department of either of the foregoing

(viii) **Nature of Obligations** The obligations of the Counterparty to make payments to the Provider under this Agreement and each Transaction (a) are not subject to appropriation or similar action and (b) do not (1) constitute any kind of indebtedness of the Counterparty or (2) create any kind of lien on or security interest in any property or revenues of the Counterparty which in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Party B (or any of its officials in their respective capacities as such) or its property is subject

(c) **Source of Payments** The Counterparty agrees that its obligations hereunder are, and until the termination of this Agreement pursuant to the terms hereof shall remain (i) with respect to scheduled swap payments, payable solely from and secured by a lien on and pledge of Pledged Revenues in the manner and to the extent provided in Parts 3 10 and 5 01 of the Covered Agreement, and (ii) with respect to all other payments, payable and secured by a lien on the Pledged Revenues that is junior and subordinate to the lien on Pledged Revenues that secures the Parity Obligations. Payments of scheduled swap payments by the Counterparty shall be made in the manner and to the extent provided in

Section 3.10 of the Covered Agreement. The Counterparty agrees that until all obligations under this agreement have been satisfied, no money shall be released from the Covered Agreement except to make payments specifically secured and provided for by the Covered Agreement.

(f) **Compliance with Covered Agreement.** The Counterparty will observe, perform and fulfill each covenant, term, and provision in the relevant Covered Agreement applicable to the Counterparty, as any of those covenants, terms, and provisions may be amended, supplemented or modified for the purposes of this Agreement with the prior written consent of the Provider, which consent shall not be unreasonably withheld, (the "Incorporated Provisions"), with the effect, among other things, and without limiting the generality of the foregoing, that the Provider will have the benefit of each of the Incorporated Provisions (including without limitation, covenants, right to consent to certain actions subject to consent under the relevant Covered Agreement and delivery of financial statements and other notices and information). In the event the relevant Covered Agreement ceases to be in effect for any reason, including, without limitation, defeasance of the Bonds issued in connection with such Covered Agreement, prior to the termination of this Agreement, the Incorporated Provisions (other than those provisions requiring payments in respect of bonds, notes, warrants or other similar instruments issued in connection with the relevant Covered Agreement) will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of the Counterparty under this Agreement and any obligations of the Counterparty have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of this Agreement to the same extent as if such provisions were set forth herein. For purposes of this Agreement, the Incorporated Provisions shall be construed as though (i) all references therein to any party making loans, extensions of credit or financial accommodations thereunder or commitments therefor (the "Financings") were to the Provider and (ii) to the extent that such Incorporated Provisions are conditioned on or related to the existence of such Financings or the Counterparty having any obligations in connection therewith, all references to such Financings or obligations were to the obligations of the Counterparty under this Agreement. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions effected without the prior written consent of the Provider, which consent shall not be unreasonably withheld, shall be void *ab initio* and have no force and effect with respect to this Agreement. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement.

(g) **Additional Definitions.** As used in this Schedule, the following terms shall have the following meanings:

(i) "Authorizing Law" means Chapter 1371 of the Texas Government Code, as amended from time to time.

(ii) "Bond-Related Transaction" means a Transaction entered into by or on behalf of the Counterparty in connection with the issuance of Bonds by the Counterparty.

and which is identified as such in the related Confirmation or to which the Confirmation is understood to relate.

(iii) **"Bonds"** means any bonds, notes, certificates or other indebtedness or securities identified in a Confirmation or to which the Confirmation is understood to relate

(iv) **"Bond Counsel"** means the party so identified in a Confirmation for a Bond-Related Transaction

(v) **"Covered Agreement"** means the Ordinance No [] of the City Council of the Counterparty adopted on August 24, 2008, authorizing the issuance of the Related Bonds and the Credit Agreement

(vi) **"Credit Agreement"** means the Reimbursement Agreement and any amendments or supplements thereto, together with any letter of credit, reimbursement, insurance policy or similar agreement between the Counterparty and any other provider of credit enhancement associated with Counterparty's Bonds, and any amendments and supplements thereto, provided, however, that any such instrument or agreement shall require the prior written consent of the Provider and its CSP, which consent shall not be unreasonably withheld, in order to constitute a "Credit Agreement" if it would materially adversely affect the rights and benefits of the Provider and the CSP hereunder and under the Covered Agreement

(vii) **"Credit Support Annex"** means the Credit Support Annex to the Schedule to the ISDA Master Agreement deemed entered into and binding pursuant to the Replacement Transaction Agreement, dated as of August [], 2008

(viii) **"CSP"** means Deutsche Bank AG, New York Branch

(ix) **"Incipient Illegality"** means (a) the enactment by any legislative body with competent jurisdiction over the Counterparty of legislation which, if adopted as law, would render unlawful (i) the performance by the Counterparty of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by the Counterparty with any other material provision of this Agreement relating to such Transaction or (ii) the performance by the Counterparty or a Credit Support Provider of the Counterparty of any contingent or other obligation which the Counterparty (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any assertion by the Counterparty in any proceeding, forum or action, in respect of the Counterparty or in respect of any entity located or organized under the laws of the state in which the Counterparty is located to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to the Counterparty or any Specified Entity of the Counterparty of any event that constitutes an Illegality

(x) **"Pledged Revenues"** has the meaning specified in the Covered Agreement

(xi) **“Related Bonds”** means the City of Austin, Texas, Hotel Occupancy Tax Subordinated Lien Variable Rate Revenue Refunding Bonds, Series 2008, to be issues in accordance with the Covered Agreement ”

(xii) **“Replacement Transaction Agreement”** means the Replacement Transaction Agreement dated as of the date hereof between the CSP, the Counterparty and the Provider

(h) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, the Counterparty will, promptly upon becoming aware of it, notify the Provider and the CSP, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as the Provider or the CSP may reasonably require

(i) **Confirmations.**

(i) The Provider will deliver to the Counterparty a Confirmation relating to each Transaction

(ii) Each of the Provider and the Counterparty, agrees that no Transaction shall be subject to this Agreement unless and until the CSP has consented in writing to become a Credit Support Provider of the Provider with respect thereto and such Transaction is expressly subject to the Replacement Transaction Agreement

(j) **Relationship Between Parties** Each party will be deemed to represent to the other party on the date on which the parties enter into a Transaction that (absent a written agreement between the parties and, if applicable, any Credit Support Provider of any party that expressly imposes affirmative obligations to the contrary for that Transaction)

(i) **Non-Reliance** Each of the parties is acting for its own account, and each of them has made its own independent decisions to enter into or approve, as applicable, that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party or any Credit Support Provider of such party, as applicable, as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party or any Credit Support Provider of such party, as applicable, shall be deemed to be an assurance or guarantee as to the expected results of that Transaction

(ii) **Assessment and Understanding** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions, pricing and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction

(iii) **Status of Parties** The other party and any Credit Support Provider of such party, as applicable, are not acting as a fiduciary for or an adviser to it in respect of that Transaction

(iv) **CSP** Counterparty hereby represents that the Counterparty has engaged in no discussions or negotiations with the CSP in connection with this Agreement

(k) **Bankruptcy Code** It is the express intention of the Provider, the Counterparty and each Credit Support Provider of any party that (i) this Agreement and all Transactions hereunder, the Replacement Transaction Agreement (including, without limitation, the option granted therein) and any Credit Support Annex that may be entered into between the Counterparty and the CSP shall collectively constitute a single agreement, (ii) the foregoing, together with a Replacement Master Agreement and Replacement Transactions thereunder (as such terms are defined in the Replacement Transaction Agreement) shall each constitute a "swap agreement" as defined in section 101(53B) of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq (the "Bankruptcy Code"), and (iii) each of the parties constitutes a "swap participant" under section 101(53C) of the Bankruptcy Code, in each case subject to and entitled to the exemptions and protections afforded by, among other things, sections 362(b)(17), 362(o), 546(g), 548(d) and 560 of the Bankruptcy Code.

(l) **Replacement Transaction Agreement** Notwithstanding anything contained herein to the contrary, the CSP shall have no obligations under this Agreement (other than in accordance with Part 4(m) below, if applicable) and shall only have such obligations as are expressly provided for in the Replacement Transaction Agreement and the Credit Support Annex to the Schedule to the Replacement Transaction Agreement. The parties hereto agree that the CSP shall be an express third party beneficiary of this Agreement, including but not limited to all of the representations, covenants, agreements and other obligations of the parties to this Agreement. In addition, notwithstanding anything contained herein to the contrary, the parties hereby agree that in the event the CSP is replaced as the "Credit Support Provider" by a Substitute CSP (as defined in the Replacement Transaction Agreement) under the Replacement Transaction Agreement in accordance with the terms thereof, then the Substitute CSP shall be deemed to be the Credit Support Provider hereunder and all references herein to the CSP shall be deemed to be references to such Substitute CSP.

(m) **Optional Assignment**

(i) Notwithstanding Section 7 of this Agreement, the Provider, and the Counterparty each hereby acknowledges and agrees that (A) provided that the Provider is not a Defaulting Party or the sole Affected Party, the Provider shall have at any time, including, but not limited to, following the occurrence of an Event of Default where the Counterparty is the Defaulting Party or a Termination Event where the Counterparty is the Affected Party, the right to transfer and assign all of the Provider's rights, interests and obligations in, to and under this Agreement and all Transactions hereunder to the CSP by written notice to the Counterparty and the CSP specifying the effective date (such effective date, the "Assignment Date") of such transfer and assignment (and such transfer

and assignment shall automatically occur as of the Assignment Date without the need for further action by any party), and (B) the CSP shall have the right, at any time and for any reason in its sole discretion, to request that the Provider transfer and assign all of the Provider's rights, interests and obligations in, to and under this Agreement and all Transactions hereunder to the CSP by written notice to the Counterparty and the Provider specifying the Assignment Date of such transfer and assignment (and such transfer and assignment shall automatically occur as of the Assignment Date without the need for further action by any party).

(ii) On the Assignment Date of any transfer and assignment specified in accordance with Part 4(m)(1) above,

(A) the Provider shall be deemed to have transferred and assigned all of its rights, interests and obligations in, to and under this Agreement and all Transactions hereunder to the CSP;

(B) the CSP shall have all the rights that the Provider would have under this Agreement and all Transactions hereunder,

(C) the CSP shall be obligated to perform all existing and unperformed obligations of the Provider under this Agreement and all Transactions hereunder, including those obligations arising before the Assignment Date but not yet performed,

(D) the Counterparty shall remain obligated to perform all of its existing and unperformed obligations under this Agreement and all Transactions hereunder, including those obligations arising before the Assignment Date but not yet performed;

(E) the Provider and the Counterparty shall be released and discharged from all obligations to each other with respect to this Agreement and all Transactions hereunder, and their respective rights and obligations hereunder and thereunder shall be cancelled with no payments owed by either party to the other,

(F) on and after the Assignment Date, the provisions set forth in Exhibit B to the Replacement Transaction Agreement shall be applicable to this Agreement and all Transactions hereunder as if set forth herein,

(G) any Credit Support Annex between the Counterparty and the CSP relating to the Replacement Transaction Agreement shall instead automatically relate to this Agreement and all Transactions hereunder without the need for further action by any party thereto, and

(H) the Replacement Transaction Agreement shall simultaneously automatically terminate without the need for further action by any party thereto

The Counterparty, the Provider and the CSP hereby agree to execute, acknowledge and deliver or cause to be executed, acknowledged and delivered

such further instruments and take such further action as may be reasonably necessary to effectuate the intention, performance and provisions of this Part 4(m)

- (n) **Consent to Recording.** Each party consents to the recording (with or without the use of a warning tone) of telephone conversations between the trading, marketing and other relevant personnel of the parties and their Affiliates in connection with this Agreement or any potential Transaction
- (o) **Negative Pledge.** The Counterparty shall not pledge or grant a security interest in any of its revenues or other assets to secure its obligations under any interest rate swap or other derivative transaction without the Provider's prior written consent unless a party pledge or security interest is granted to the Provider to secure the Counterparty's corresponding obligations under this Agreement
- (p) **Transfer.** Section 7 of the Agreement is hereby modified by inserting the following after the word "party" but before the comma in the third line thereof

" , provided, however, that such consent shall not be unreasonably withheld, and, provided, further, that, (i) no Potential Event of Default, Event of Default or Termination Event shall have occurred and be continuing with respect to the Counterparty, (ii) the transferee is organized under the laws of a jurisdiction and is a type of entity for which ISDA has distributed an opinion affirming the enforceability of Section 6 of the Master Agreement under the laws of such jurisdiction or the Counterparty shall have furnished to the Provider and the CSP such an opinion in form and substance and from counsel satisfactory to the Provider and the CSP and (iii) the Swap Transaction between the Provider and such transferee complies with the laws, rules and regulations applicable to the Provider and satisfies the internal policies, limits and procedures of the Provider in effect at the time of such transfer, including, without limitation, such policies, limits and procedures involving business relationship, credit, legal, accounting, tax and general prudential concerns "

- (q) **Notices** For the purposes of subsections (iii) and (v) of Section 10(a), the date of receipt shall be presumed to be the date sent if sent on a Local Business Day or, if not sent on a Local Business Day the date of receipt shall be presumed to be the first Local Business Day following the date sent

Part 5

CREDIT SUPPORT PROVISIONS

- (a) In the event that a Settlement Amount would be payable by the Provider to the Counterparty, the Counterparty agrees that (A) the termination of this Agreement concurrently with the entry by the CSP into a Replacement Transaction (as defined in Paragraph 2 of the Replacement Transaction Agreement) with the Counterparty in accordance with Paragraph 2 of the Replacement Transaction Agreement, (B) the

agreement by the Provider to pay such Settlement Amount to the CSP in consideration of the CSP entering into such Replacement Transaction (and the Provider hereby agrees to pay such Settlement Amount), *provided*, that the Replacement Transaction shall be effective irrespective of the nonpayment of such Settlement Amount by the Provider to the CSP, and (C) the payment by the CSP to the Counterparty of any net Unpaid Amounts owing to the Counterparty (which the CSP agrees to pay pursuant to the Replacement Transaction Agreement), shall constitute full satisfaction of any payment otherwise owing from the Provider to the Counterparty pursuant to Section 6(e), and that the Provider shall be fully discharged from any and all obligations under Section 6(e). In the event that any net Unpaid Amounts would be owing by the Counterparty to the Provider (such that clause (C) of the preceding sentence would not be applicable), the Provider hereby assigns to the CSP, absolutely and not for purposes of security, all of the Provider's right to receive any such net Unpaid Amounts from the Counterparty, and the Provider agrees that only the CSP shall be entitled to receive any such net Unpaid Amounts from the Counterparty, and that the Provider shall have no recourse to the Counterparty with respect thereto.

- (b) In the event that a Settlement Amount would be payable by the Counterparty to the Provider, the Provider agrees that (i) the termination of this Agreement concurrently with the entry by the CSP into a Replacement Transaction with the Counterparty in accordance with Paragraph 2 of the Replacement Transaction Agreement, (ii) the agreement by the CSP to pay such Settlement Amount to the Counterparty in consideration of the Counterparty entering into such Replacement Transaction (which the CSP agrees to pay pursuant to the Replacement Transaction Agreement), *provided*, that the Replacement Transaction shall be effective irrespective of the nonpayment of such Settlement Amount by the CSP to the Provider, (iii) the absolute assignment by the Counterparty to the Provider of the Counterparty's right to receive such Settlement Amount from the CSP, and (iv) the payment by the CSP to the Counterparty of any net Unpaid Amounts owing to the Counterparty (which the CSP agrees to pay pursuant to the Replacement Transaction Agreement) shall constitute full satisfaction of any payment otherwise owing from the Counterparty to the Provider pursuant to Section 6(e), and that the Counterparty shall be fully discharged from any and all obligations under Section 6(e). In accordance with clause (iii) of the preceding sentence, the Counterparty hereby assigns to the Provider, absolutely and not for purposes of security, all of the Counterparty's right to receive any such Settlement Amount from the CSP pursuant to clause (ii) of the preceding sentence, and the Provider agrees that only the CSP shall be obligated to pay such Settlement Amount to the Provider, and that the Provider shall have no recourse to the Counterparty with respect thereto. In the event that any net Unpaid Amounts would be owing by the Counterparty to the Provider (such that clause (iv) of the first sentence of this Part 5(b) would not be applicable) the Provider hereby assigns to the CSP, absolutely and not for purposes of security, all of the Provider's right to receive any such net Unpaid Amounts from the Counterparty, and the Provider agrees that only the CSP shall be entitled to receive any such net Unpaid Amounts from the Counterparty, and that the Provider shall have no recourse to the Counterparty with respect thereto.
- (c) In the event that a Settlement Amount is to be determined, the parties agree that such Settlement Amount shall be determined by the CSP on behalf of, and for the benefit of,

the Non-defaulting Party or the party which is not the Affected Party (as applicable), and that such Settlement Amount shall be conclusive For purposes of determining such Settlement Amount, the CSP shall not be obligated to obtain quotations from more than one Reference Market-maker, which Reference Market-maker may be the CSP Notwithstanding the foregoing, if an Event of Default or Termination Event shall have occurred with respect to which the Provider is the Defaulting Party or an Affected Party, and such Event of Default or Termination Event arises solely by reason of an event or condition that is directly attributable to the CSP or the Credit Support Document, then the Counterparty, and not the CSP, shall determine such Settlement Amount

IN WITNESS WHEREOF, the parties have executed this Schedule by their duly authorized officers as of the date hereof

CITY OF AUSTIN, TEXAS

By _____
Name
Title

MORGAN KEEGAN FINANCIAL
PRODUCTS, INC

By _____
Name
Title

Morgan Keegan Financial Products, Inc.

Date August [], 2008

To City of Austin
700 Lavaca, Suite 1510
Austin, TX 78701

Attention Ms. Leslie Browder, CFO
Facsimile no. 512-974-2573

Our Reference: [MK-]
Re: Swap Transaction

Ladies and Gentlemen

The purpose of this letter agreement is to confirm the terms and conditions of the Transaction entered into between Morgan Keegan Financial Products, Inc. ("MKFP") and City of Austin, Texas (the "Counterparty") on the Trade Date specified below (the "Transaction"). This letter agreement constitutes a "Confirmation" as referred to in the Agreement specified below.

The definitions contained in the 2006 ISDA Definitions (the "Definitions") as published by the International Swaps and Derivatives Association, Inc. are incorporated by reference herein. In the event of any inconsistency between the Definitions and this Confirmation, this Confirmation will govern.

This Confirmation supplements, forms part of, and is subject to, the certain ISDA Master Agreement dated as of August [], 2008 as the same may be amended or supplemented from time to time (the "Agreement"), between MKFP and the Counterparty. All provisions contained in the Agreement shall govern this Confirmation except as expressly modified below.

For the purpose of this Confirmation, all references in the Definitions or the Agreement to a "Swap Transaction" shall be deemed to be references to this Transaction.

1. The terms of the particular Transaction to which the Confirmation relates are as follows:

Notional Amount	Initially USD [\$119,290,000], thereafter amortizing as set forth in Exhibit 1, which is attached hereto and incorporated by reference into this Confirmation.
Trade Date	[August [] 2008]
Effective Date	[August 14, 2008]
Termination Date	November 15, 2029

Fixed Amounts:

Fixed Rate Payer	Counterparty
Fixed Rate Payer	

Morgan Keegan Financial Products, Inc.

Payment Dates	The fifteenth day of each month, commencing on [August 15, 2008], through and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention
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Fixed Rate	[TBD%] per annum
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Fixed Rate Day Count Fraction	30/360
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Floating Amounts:

Floating Rate Payer	MKFP
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Floating Rate Payer Payment Dates	The fifteenth day of each month, commencing on [August 15, 2008], through and including the Termination Date, subject to adjustment in accordance with the Following Business Day Convention
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Floating Rate Option	(i) For all Calculation Periods from and including the Effective Date to and excluding the Calculation Period End Date for the period ending November 15, 2009, Floating Rate Option 1, and (ii) all subsequent Calculation Periods, Floating Rate Option 2
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Floating Rate Option 1	USD-SIFMA Municipal Swap Index
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Floating Rate Option 2	67% of USD-LIBOR-BBA, provided that the words "on the day that is two London Banking Days preceding the Reset Date" contained in the definitions of USD-LIBOR-BBA in Section 7.1 of the Definitions shall be replaced with "on the day that is one London Banking Day preceding that Reset Date"
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Floating Rate Option 2 Designated Maturity	1 month
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Floating Rate Option 2 Reset Date	November 15, 2009, and thereafter, each Calculation Period End Date
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Floating Rate Option 2 Method of Averaging	Weighted
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Floating Rate Spread	None
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Floating Rate Day Count Fraction	Actual/Actual
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Compounding	Inapplicable
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Morgan Keegan Financial Products, Inc.

Business Days

New York and London

2. Additional Termination Provision

A. Option to Terminate in Whole or in Part with Cash Settlement

In connection with this Transaction, Counterparty shall have the option to early terminate, cancel and cash settle this Transaction, in whole or in part, effective on any Business Day after the Trade Date (the "Optional Termination Date") This option may be exercised by written, telex or facsimile notice delivered to MKFP no later than two (2) Business Days prior to the Optional Termination Date (the "Notification Date") which notice shall only be effective upon actual receipt by MKFP and shall be irrevocable Following any such early termination and cancellation and payment of the Cash Settlement Amount as calculated below, the parties shall be relieved of all further payment obligations hereunder except for (i) payment of all accrued but yet unpaid amounts calculated to but excluding the Optional Termination Date (unless otherwise included in the Cash Settlement Amount as calculated below) and (ii) payment of amounts under the remaining portion of this Transaction in the case of partial cancellation If this Transaction is cancelled in part, all payment calculations following the Optional Termination Date will be based on the remaining portion of this Transaction after giving effect to such partial cancellation, as set forth in a partial termination Confirmation to be provided by MKFP

Notwithstanding anything to the contrary contained herein, Counterparty will not exercise this option if, in connection with such exercise, a Cash Settlement Amount would be payable by Counterparty to MKFP unless Counterparty provides evidence reasonably satisfactory to MKFP that (i) such Cash Settlement Amount will be made by Counterparty on or before the second Business Day immediately following the Optional Termination Date, and (ii) such Cash Settlement Amount will not cause Counterparty to be in violation of, or in default of, any material obligation under any material agreement of Counterparty

MKFP will determine a US Dollar value for the terminated portion of this Transaction (the "Cash Settlement Amount") in accordance with Section 6(e)(ii)(1) (Loss applies) of the Swap Agreement, where Counterparty is the sole Affected Party and this Transaction is the sole Affected Transaction If such Cash Settlement Amount is not mutually acceptable to MKFP and Counterparty, MKFP shall determine a Cash Settlement Amount with respect to this Transaction in accordance with Section 6(e)(ii)(1) (Market Quotation applies) of the Swap Agreement, where (A) Counterparty is the sole Affected Party and this Transaction is the sole Affected Transaction, (B) the Reference Market-makers providing quotations are acceptable to both MKFP and Counterparty, and (C) each Reference Market-maker certifies in writing that such Reference Market-maker is prepared to take an assignment of this Transaction based on their quotation

B. Coordination with Related Bonds:

Counterparty agrees that, unless the Provider and the Credit Support Provider consent in writing, the Counterparty will not defease or redeem or otherwise effect or participate in the prepayment of, Related Bonds unless it concurrently exercises its option to terminate, in whole or in part, this Transaction (and satisfies all requirements of such optional termination) in a manner such that the Notional Amount of this Transaction does not at any time exceed the principal amount of such Related Bonds that remain outstanding after giving effect to any such defeasance, redemption or other prepayment

Morgan Keegan Financial Products, Inc.

C. Attorney General Approval

Notwithstanding anything herein to the contrary, (a) no obligation on the part of Counterparty shall be created hereunder unless the proceedings with respect to the Swap Agreement and this Confirmation shall have been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas and (b) the Floating Rate Option may not, in the aggregate exceed 15%

3. Calculation Agent:

MKFP

4. Account Details:

MKFP Payment Instructions

Account With	Deutsche Bank Trust Company Americas
ABA#	021001033
Payment Account Name	Morgan Keegan Payment
Payment Account Number	01419647 for further credit to 46892

Account Details for Counterparty

Account With
ABA#
A/C
A/C#
Attention
Phone
Ref

5. Representations:

Each party will be deemed to represent to the other party on the date on which it enters into this Transaction that (absent a written agreement between the parties and, if applicable any Credit Support Provider of any party, that expressly imposes affirmative obligations to the contrary for this Transaction)

- (i) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into this Transaction and as to whether this Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party or any Credit Support Provider of such party, as applicable, as investment advice or as a recommendation to enter into this Transaction, it being understood that information and explanations related to the terms and conditions of this Transaction shall not be considered investment advice or a recommendation to enter into this Transaction. No communication (written or oral) received from the other party or any Credit Support Provider of such party, as applicable, shall be deemed to be an assurance or guarantee as to the expected results of this Transaction.

Morgan Keegan Financial Products, Inc.

- (ii) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of this Transaction. It is also capable of assuming, and assumes, the risks of this Transaction.
- (iii) **Status of Parties.** The other party, and any Credit Support Provider of such party, as applicable, are not acting as a fiduciary for, or an adviser to it in respect of this Transaction.

6. Related Bonds.

The Bonds to which this Transaction relates are City of Austin, Texas, Hotel Occupancy Tax Subordinate Lien Variable Rate Revenue Refunding Bonds, Series 2008.

7. Provider Information:

Please confirm that the foregoing correctly sets forth the terms of our agreement by having an authorized officer sign this Confirmation and return it via facsimile to

Attention: Swap Desk/Stephen Smalling
Telephone: (901) 579-4334
Facsimile: (901) 579-4363
E-mail: Stephen.smalling@morgankeegan.com

Morgan Keegan Financial Products, Inc.

This message will be the only form of Confirmation dispatched by us

Sincerely,

Morgan Keegan Financial Products, Inc

By _____
Name _____
Title Authorized Signatory

Confirmed as of the date first written above

City of Austin, Texas

By _____
Name _____
Title _____

Morgan Keegan Financial Products, Inc.

Exhibit 1

With respect to calculating a Fixed Amount and a Floating Amount for any Calculation Period falling within any of the periods set forth below, the Notional Amount shall be the amount set forth opposite the relevant period and underneath the caption Notional Amount, as follows:

Subject to adjustment in accordance with the Following Business Day Convention