

1 **ORDINANCE NO. 20081211-_____**

2 **AN ORDINANCE AUTHORIZING THE ISSUANCE**
3 **AND SALE OF CITY OF AUSTIN, TEXAS, WATER AND**
4 **WASTEWATER SYSTEM REVENUE REFUNDING**
5 **BONDS, SERIES 2008A.**

6 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF**
7 **AUSTIN:**

8 **SECTION 1: DEFINITIONS AND FINDINGS.** The following terms
9 shall have the meanings set forth below, unless the text specifically indicates
10 otherwise:

11 "Bonds" means the "CITY OF AUSTIN, TEXAS, WATER AND
12 WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2008A"
13 authorized for issuance by the Sixteenth Supplement.

14 "Business Day" means a day other than a Sunday, Saturday, a legal holiday,
15 or a day on which banking institutions in the city where the principal corporate
16 trust office of the Paying Agent/Registrar is located are authorized by law or
17 executive order to close.

18 "Holders" means the registered owners or holders of the Bonds.

19 "Insurance Agreement", if any, means the Insurance Agreement related to
20 the Reserve Fund Policy approved by the Pricing Officer in the Pricing Certificate.

21 "Master Ordinance" means Ordinance No. 000608-56A passed by the city
22 council on June 8, 2000.

23 "Paying Agent/Registrar" means the financial institution specified in the
24 Pricing Certificate.

25 "Previously Issued Parity Water/Wastewater Obligations" mean the
26 outstanding (1) "City of Austin, Texas, Water And Wastewater System Revenue
27 Refunding Bonds, Series 2000" (2) "City of Austin, Texas, Water And
28 Wastewater System Revenue Refunding Bonds, Series 2001A", (3) "City of
29 Austin, Texas, Water And Wastewater System Revenue Refunding Bonds, Series
30 2001B", (4) "City of Austin, Texas, Water and Wastewater System Revenue
31 Refunding Bonds, Series 2001C", (5) "City of Austin, Texas, Water and
32 Wastewater System Revenue Refunding Bonds, Series 2002A", (6) "City of

1 Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series
2 2003", (7) "City of Austin, Texas, Water and Wastewater System Variable Rate
3 Revenue Refunding Bonds, Series 2004", together with certain regularly scheduled
4 payments under the Interest Rate Swap Agreement, the Liquidity Agreement and
5 the Insurance Obligation (as such terms are defined in Ordinance No. 040812-43),
6 (8) "City of Austin, Texas, Water and Wastewater System Revenue Refunding
7 Bonds, Series 2004A", (9) "City of Austin, Texas, Water and Wastewater System
8 Revenue Refunding Bonds, Series 2005", (10) "City of Austin, Texas, Water and
9 Wastewater System Revenue Refunding Bonds, Series 2005A", (11) "City of
10 Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series
11 2006", (12) "City of Austin, Texas, Water and Wastewater System Revenue
12 Refunding Bonds, Series 2006A", (13) "City of Austin, Texas, Water and
13 Wastewater System Revenue Refunding Bonds, Series 2007", and (14) "City of
14 Austin, Texas, Water and Wastewater System Variable Rate Revenue Refunding
15 Bonds, Series 2008", together with certain regularly scheduled payments under the
16 Series 2008 Interest Rate Management Agreement and the Series 2008 Liquidity
17 Agreement (as such terms are defined in Ordinance No. 20080306-053).

18 "Prior Supplements" mean Ordinances Nos. 000608-56B, 010419-77,
19 011129-65, 020718-15, 030206-35, 040617-45, 040812-43, 040930-83, 050519-
20 37, 051020-051, 20051117-060, 20061116-051, 20071108-081, 20080306-052 and
21 20080306-053 authorizing the issuance of the Previously Issued Parity
22 Water/Wastewater Obligations.

23 "Refunded Obligations" means the principal amount of the Series A Notes
24 as specified in the Pricing Certificate.

25 "Security Register" shall have the meaning given in Section 4 of the
26 Sixteenth Supplement.

27 "Series A Notes" means the City of Austin, Texas Combined Utility System
28 Commercial Paper Notes, Series A, up to an aggregate principal amount of
29 \$350,000,000 to finance the costs of additions, improvements and extensions to the
30 City's water and wastewater system and the City's electric light and power system.

31 "Sixteenth Supplement" means Ordinance No. 20081211-____ authorizing
32 the issuance of the Bonds.

33 The terms used in the Sixteenth Supplement and not otherwise defined shall
34 have the meanings given in the Master Ordinance or the Prior Supplements.

1 In accordance with the provisions of V.T.C.A., Government Code, Chapter
2 1371, the City has authorized by ordinance and provided for the issuance and sale
3 of the Series A Notes.

4 The refunding of the Series A Notes for the purposes of making such debt
5 long-term fixed rate debt of the City and restructuring the debt payable from the
6 revenues of the System is in the best interest of the City, and the manner in which
7 such refunding is being executed does not make it practicable to make the
8 determinations otherwise required by Section 1207.008(a)(2), Texas Government
9 Code.

10 In accordance with the provisions of Chapter 1207, Texas Government
11 Code, the City Council is delegating to the Pricing Officer (as defined below) the
12 authority to establish the terms and details related to the issuance and sale of the
13 Bonds including: (i) the principal amount of the Series A Notes to be refunded, (ii)
14 the form and designation of the Bonds; (iii) the principal amount of the Bonds and
15 the amount of the Bonds to mature in each year; (iv) the dates, price, interest rates,
16 interest payment dates, principal payment dates, and redemption features of the
17 Bonds; and (v) any other details relating to the issuance, sale, delivery, and/or
18 exchange of the Bonds, all within certain specified parameters set forth in the
19 Sixteenth Supplement.

20 The Refunded Obligations should be refunded and refinanced into long term
21 obligations at this time to enable the City's Water and Wastewater Department to
22 continue utilizing its allocated share of Series A Notes.

23 The Bonds can and shall be on a parity with the outstanding "Parity
24 Water/Wastewater Obligations" issued in accordance with and under the terms and
25 provisions of the Master Ordinance and the Prior Supplements.

26 **SECTION 2: AUTHORIZATION – DESIGNATION – PRINCIPAL**
27 **AMOUNT - PURPOSE.** Revenue bonds of the City shall be and are authorized
28 to be issued in the maximum aggregate principal amount determined as provided in
29 Section 4 of the Sixteenth Supplement and designated the "CITY OF AUSTIN,
30 TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING
31 BONDS, SERIES 2008A" (the "Bonds"), for the purpose of refinancing and
32 refunding the Series A Notes in the principal amount identified in the Pricing
33 Certificate and referred to as the "Refunded Obligations"), and paying costs of
34 issuance, in conformity with the Constitution and laws of the State of Texas,
35 including V.T.C.A., Government Code, Chapter 1207.

SECTION 3: FULLY REGISTERED OBLIGATIONS –
AUTHORIZED DENOMINATIONS – STATED MATURITIES - DATE.

The Bonds shall be issued as fully registered obligations, without coupons, shall be dated as provided in the Pricing Certificate (the “Bond Date”) and, other than the single fully registered Initial Bond referenced in Section 9, shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity), shall be numbered consecutively from One (1) upward and shall become due and payable on May 15 and/or November 15 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the details of the Bonds as set forth in the Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the Bond Date or the most recent interest payment date to which interest has been paid or provided for, at the rate(s) per annum as specified in the Pricing Certificate (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on May 15 and November 15 in each year, commencing on the date specified in the Pricing Certificate, until maturity or prior redemption.

SECTION 4: DELEGATION OF AUTHORITY TO PRICING OFFICER.

(a) As authorized by Section 1207.007, Texas Government Code, the City Manager or Chief Financial Officer of the City (either, the "Pricing Officer") is authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Sixteenth Supplement, including selection of the principal amount of the Refunded Obligations to be refunded, determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the first interest payment date, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the designation of a paying agent/registrar, the selection of a surety bond provider, if any, as authorized by Chapter 1371, Texas Government Code, with respect to the Reserve Fund, and all other matters relating to the issuance, sale, and delivery of the Bonds all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Bonds shall not exceed \$175,000,000;

(ii) the Bonds shall bear interest at a rate not greater than 15.0% per annum and the net effective interest rate (as defined in V.T.C.A., Chapter 1204, Government Code) for the Bonds shall not exceed 15.0%;

(iii) the true interest cost rate for the Bonds shall not exceed 7.00%; and

(iv) the maximum maturity for the Bonds shall not extend beyond November 15, 2038.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the City to the Purchasers (defined in (b) of this Section).

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer on or prior to June 11, 2009. The Bonds shall be sold by negotiated sale to the underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate.

SECTION 5: 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 appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment 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.

The selection and appointment of the Paying Agent/Registrar for the Bonds shall be as provided in the Pricing Certificate. 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 the Sixteenth Supplement and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached to the Pricing Certificate, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Pricing Officer is authorized to execute and deliver such Agreement in connection with the

1 delivery of the Bonds. The City covenants to maintain and provide a Paying
2 Agent/Registrar at all times until the Bonds are paid and discharged, and any
3 successor Paying Agent/Registrar shall be a bank, trust company, financial
4 institution or other entity qualified and authorized to serve in such capacity and
5 perform the duties and services of Paying Agent/Registrar. Upon any change in
6 the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a
7 written notice of the change to be sent to each Holder by United States Mail, first
8 class postage prepaid, which notice shall also give the address of the new Paying
9 Agent/Registrar.

10 Principal of and premium, if any, on the Bonds shall be payable at the Stated
11 Maturities or redemption of the Bonds, only upon presentation and surrender of the
12 Bonds to the Paying Agent/Registrar at its designated offices specified in the
13 Pricing Certificate (the "Designated Payment/Transfer Office"). Interest on the
14 Bonds shall be paid to the Holders whose names appear in the Security Register at
15 the close of business on the Record Date (the last business day of the month next
16 preceding each interest payment date), and such interest shall be paid by the
17 Paying Agent/Registrar (i) by check sent United States Mail, first class postage
18 prepaid, to the address of the Holder recorded in the Security Register or (ii) by
19 such other method, acceptable to the Paying Agent/Registrar, requested by, and at
20 the risk and expense of, the Holder. If the date for the payment of the principal of
21 or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when
22 banking institutions in the city where the Designated Payment/Transfer Office of
23 the Paying Agent/ Registrar is located are authorized by law or executive order to
24 close, then the date for such payment shall be the next succeeding day which is not
25 such a Saturday, Sunday, legal holiday, or day when banking institutions are
26 authorized to close; and payment on such date shall have the same force and effect
27 as if made on the original date payment was due.

28 In the event of a non-payment of interest on one or more maturities on a
29 scheduled payment date, and for thirty (30) days thereafter, a new record date for
30 such interest payment for such maturity or maturities (a "Special Record Date")
31 will be established by the Paying Agent/Registrar, if and when funds for the
32 payment of such interest have been received from the City. Notice of the Special
33 Record Date and of the scheduled payment date of the past due interest (which
34 shall be 15 days after the Special Record Date) shall be sent at least five (5)
35 business days prior to the Special Record Date by United States Mail, first class
36 postage prepaid, to the address of each Holder of such maturity or maturities
37 appearing on the Security Register at the close of business on the last business day
38 next preceding the date of mailing of such notice.

1 **SECTION 6: REGISTRATION-TRANSFER-EXCHANGE OF BONDS**
2 **-PREDECESSOR BONDS.** The Paying Agent/Registrar shall obtain, record, and
3 maintain in the Security Register the name and address of each registered owner of
4 the Bonds issued under the provisions of the Sixteenth Supplement. Any Bond
5 may, in accordance with its terms and the terms of the Sixteenth Supplement, be
6 transferred or exchanged for Bonds of other authorized denominations upon the
7 Security Register by the Holder, in person or by his authorized agent, upon
8 surrender of such Bond to the Paying Agent/Registrar for cancellation,
9 accompanied by a written instrument of transfer or request for exchange executed
10 by the Holder or by his authorized agent, in form satisfactory to the Paying Agent/
11 Registrar.

12 Upon surrender for transfer of any Bond (other than the Initial Bond(s)
13 authorized in Section 9 of the Sixteenth Supplement) at the Designated
14 Payment/Transfer Office of the Paying Agent/Registrar, the Paying
15 Agent/Registrar shall register and deliver, in the name of the designated transferee
16 or transferees, one or more new Bonds executed on behalf of, and furnished by, the
17 City of authorized denominations and having the same Stated Maturity and of a
18 like aggregate principal amount as the Bond or Bonds surrendered for transfer.

19 At the option of the Holder, Bonds (other than the Initial Bond(s) authorized
20 in Section 9 of the Sixteenth Supplement) may be exchanged for other Bonds of
21 authorized denominations and having the same Stated Maturity, bearing the same
22 rate of interest and of like aggregate principal amount as the Bonds surrendered for
23 exchange, upon surrender of the Bonds to be exchanged at the Designated
24 Payment/Transfer Office of the Paying Agent/ Registrar. Whenever any Bonds are
25 surrendered for exchange, the Paying Agent/Registrar shall register and deliver
26 new Bonds, executed on behalf of, and furnished by, the City, to the Holder
27 requesting the exchange.

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

34 All transfers or exchanges of Bonds under this Section shall be made
35 without expense or service charge to the Holder, except as otherwise provided in
36 the Sixteenth Supplement, and except that the Paying Agent/Registrar shall require
37 payment by the Holder requesting such transfer or exchange of any tax or other

1 governmental charges required to be paid with respect to such transfer or
2 exchange.

3 Bonds canceled by reason of an exchange or transfer under the provisions of
4 the Sixteenth Supplement are defined to be "Predecessor Bonds," evidencing all or
5 a portion, as the case may be, of the same obligation to pay evidenced by the Bond
6 or Bonds registered and delivered in the exchange or transfer. Additionally, the
7 term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen
8 Bond for which a replacement Bond has been issued, registered and delivered
9 under Section 19 of the Sixteenth Supplement and such new replacement Bond
10 shall be deemed to evidence the same obligation as the mutilated, lost, destroyed,
11 or stolen Bond.

12 Neither the City nor the Paying Agent/Registrar shall be required to transfer
13 or exchange any Bond called for redemption, in whole or in part, within 45 days of
14 the date fixed for redemption of such Bond; provided, however, such limitation of
15 transfer shall not be applicable to an exchange by the Holder of the unredeemed
16 balance of a Bond called for redemption in part.

17 **SECTION 7: BOOK-ENTRY-ONLY TRANSFERS AND TRANS-**
18 **ACTIONS.** Notwithstanding the provisions contained in Sections 4, 5 and 6 of the
19 Sixteenth Supplement relating to the payment, and transfer/exchange of the Bonds,
20 the City approves and authorizes the use of the "Book-Entry-Only" securities
21 clearance, settlement and transfer system provided by The Depository Trust
22 Company ("DTC"), a limited purpose trust company organized under the laws of
23 the State of New York, in accordance with the operational arrangements referenced
24 in the Blanket Issuer Letter of Representation, by and between the City and DTC
25 (the "Depository Agreement").

26 Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall
27 be deposited with DTC, who shall hold said Bonds for its participants (the "DTC
28 Participants"). While the Bonds are held by DTC under the Depository
29 Agreement, the Holder of the Bonds on the Security Register for all purposes,
30 including payment and notices, shall be Cede & Co., as nominee of DTC,
31 notwithstanding the ownership of each actual purchaser or owner of each Bond
32 (the "Beneficial Owners") being recorded in the records of DTC and DTC
33 Participants.

34 In the event DTC determines to discontinue serving as securities depository
35 for the Bonds or otherwise ceases to provide book-entry clearance and settlement
36 of securities transactions in general or the City determines that DTC is incapable of

1 properly discharging its duties as securities depository for the Bonds, the City
2 covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in
3 definitive form and provide for the Bond certificates to be issued and delivered to
4 DTC Participants and Beneficial Owners, as the case may be. The Bonds in
5 definitive form shall be assigned, transferred and exchanged on the Security
6 Register maintained by the Paying Agent/Registrar and payment of such Bonds
7 shall be made in accordance with the provisions of Sections 4, 5 and 6 of the
8 Sixteenth Supplement.

9 **SECTION 8: EXECUTION - REGISTRATION.** The Bonds shall be
10 executed on behalf of the City by the Mayor under its seal reproduced or impressed
11 thereon and countersigned by the City Clerk. The signature of said officers on the
12 Bonds may be manual or facsimile. Bonds bearing the manual or facsimile
13 signatures of individuals who are or were the proper officers of the City on the
14 Bond Date shall be deemed to be executed on behalf of the City, notwithstanding
15 that such individuals or either of them shall cease to hold such offices at the time
16 of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds
17 delivered in subsequent exchanges and transfers, all as authorized and provided in
18 V.T.C.A., Government Code, Chapter 1201.

19 No Bond shall be entitled to any right or benefit under the Sixteenth
20 Supplement, or be valid or obligatory for any purpose, unless there appears on such
21 Bond either a certificate of registration substantially in the form provided in
22 Section 10(c), manually executed by the Comptroller of Public Accounts of the
23 State of Texas or his or her authorized agent, or a certificate of registration
24 substantially in the form provided in Section 10(d), manually executed by an
25 authorized officer, employee or representative of the Paying Agent/Registrar, and
26 either such certificate upon any Bond signed shall be conclusive evidence, and the
27 only evidence, that such Bond has been certified, registered and delivered.

28 **SECTION 9: INITIAL BOND(S).** The Bonds shall be initially issued
29 either (i) as a single fully registered bond in the total principal amount specified in
30 the Pricing Certificate with principal installments to become due and payable as
31 provided in the Pricing Certificate and numbered T-1, or (ii) as multiple fully
32 registered bonds, being one bond for each stated maturity in the applicable
33 principal amount and denomination and to be numbered consecutively from T-1
34 and upward (the "Initial Bond(s)"). In either case, the Initial Bond(s) shall be
35 registered in the name of the initial purchaser(s) or the designee thereof. The
36 Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General
37 of the State of Texas for approval, certified and registered by the Office of the
38 Comptroller of Public Accounts of the State of Texas and delivered to the initial

1 purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying
2 Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or
3 the designee thereof, shall cancel the Initial Bond(s) delivered and exchange for the
4 Initial Bond(s) definitive Bonds of authorized denominations, Stated Maturities,
5 principal amounts and bearing applicable interest rates for transfer and delivery to
6 the Holders named at the addresses identified for the Holders; all pursuant to and
7 in accordance with such written instructions from the initial purchaser(s), or the
8 designee thereof, and such other information and documentation as the Paying
9 Agent/Registrar may reasonably require.

10 SECTION 10: **FORMS.** (a) Forms Generally. The Bonds, the
11 Registration Certificate of the Comptroller of Public Accounts of the State of
12 Texas, the Certificate of Registration, and the form of Assignment to be printed on
13 each of the Bonds, shall be substantially in the forms set forth in this Section with
14 such appropriate insertions, omissions, substitutions, and other variations as are
15 permitted or required by the Sixteenth Supplement and may have such letters,
16 numbers, or other marks of identification (including identifying numbers and
17 letters of the Committee on Uniform Securities Identification Procedures of the
18 American Bankers Association) and such legends and endorsements (including
19 insurance legends in the event the Bonds, or any maturities of the Bonds, are
20 purchased with insurance and any reproduction of an opinion of counsel) as may
21 be established by the City or determined by the officers executing such Bonds as
22 evidenced by their execution of the Bonds. Any portion of the text of any Bonds
23 may be set forth on the reverse of the Bonds, with an appropriate reference on the
24 face of the Bond.

25 The definitive Bonds and the Initial Bond(s) shall be printed, lithographed,
26 or engraved, typewritten, photocopied or otherwise reproduced in any other similar
27 manner, all as determined by the officers executing such Bonds as evidenced by
28 their execution of the Bonds.

1 (b) Form of Definitive Bond.

2 REGISTERED
3 NO. _____

REGISTERED
\$ _____

4 UNITED STATES OF AMERICA
5 STATE OF TEXAS
6 CITY OF AUSTIN, TEXAS,
WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BOND,
SERIES 2008A

Bond Date: _____, 2008 Interest Rate: _____ Stated Maturity: _____ CUSIP NO: _____

Registered Owner:

Principal Amount: _____ DOLLARS

7 The City of Austin (the "City"), a body corporate and municipal corporation
8 in the Counties of Travis and Williamson, State of Texas, for value received,
9 hereby promises to pay to the registered owner named above, or their registered
10 assigns (the "Registered Owner"), solely from the revenues identified in this Bond,
11 on the Stated Maturity date specified above the Principal Amount stated above (or
12 so much of the Principal Amount as shall not have been paid upon prior
13 redemption), and to pay interest (computed on the basis of a 360-day year of
14 twelve 30-day months) on the unpaid Principal Amount of this Bond from the
15 interest payment date next preceding the "Registration Date" of this Bond
16 appearing below (unless this Bond bears a "Registration Date" as of an interest
17 payment date, in which case it shall bear interest from such date, or unless the
18 "Registration Date" of this Bond is prior to the initial interest payment date in
19 which case it shall bear interest from the Bond Date) at the per annum rate of
20 interest specified above; such interest being payable on _____, 20____ and on
21 each succeeding November 15 and May 15 until maturity or prior redemption.
22 Principal of this Bond is payable at its Stated Maturity or redemption to the
23 Registered Owner, upon presentation and surrender, at the Designated
24 Payment/Transfer Office of the Paying Agent/Registrar executing the registration
25 certificate appearing on this Bond, or its successor; provided, however, while this
26 Bond is registered to Cede & Co., the payment of principal upon a partial
27 redemption of the principal amount of this Bond may be accomplished without
28 presentation and surrender of this Bond. Interest is payable to the Registered
29 Owner of this Bond (or one or more Predecessor Bonds, as defined in the Sixteenth

Supplement) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/ Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and 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.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (the "Bonds") for the purpose of refinancing and refunding the Refunded Obligations (identified and defined in the Sixteenth Supplement), in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Government Code, Chapter 1207, and pursuant to a Master Ordinance and Sixteenth Supplement adopted by the City Council of the City, together the Pricing Certificate executed pursuant thereto (collectively referred to as the "Ordinances").

The Bonds maturing on the dates identified below (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Debt Service Fund established and maintained for the payment of the Bonds in the Master Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

1

<u>Term Bonds due Redemption Date</u>	<u>Principal Amount</u>	<u>Term Bonds due Redemption Date</u>	<u>Principal Amount</u>
	\$,000		\$,000
	\$,000		\$,000
	\$,000		\$,000
	\$,000		\$,000
			\$,000

2 The particular Term Bonds of a stated maturity to be redeemed on each
3 redemption date shall be chosen by lot by the Paying Agent/Registrar; provided,
4 however, that the principal amount of Term Bonds for a stated maturity required to
5 be redeemed on a mandatory redemption date may be reduced, at the option of the
6 City, by the principal amount of Term Bonds of like stated maturity which, at least
7 fifty days prior to the mandatory redemption date, (1) shall have been acquired by
8 the City at a price not exceeding the principal amount of such Term Bonds plus
9 accrued interest to the date of purchase, and delivered to the Paying
10 Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the
11 optional redemption provisions appearing below and not previously credited
12 against a mandatory redemption requirement.

13 The Bonds maturing on and after _____, may be redeemed prior to
14 their Stated Maturities, at the option of the City, in whole or in part in principal
15 amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity
16 by lot by the Paying Agent/Registrar), on _____ or on any date thereafter at
17 the redemption price of par plus accrued interest thereon to the redemption date.

18 Not less than thirty days prior to a redemption date, the City shall cause a
19 written notice of such redemption to be sent by United States Mail, first class
20 postage prepaid, to the registered owners of each Bond to be redeemed at the
21 address shown on the Security Register and subject to the terms and provisions
22 relating thereto contained in the Ordinances. If a Bond (or any portion of its
23 principal sum) shall have been called for redemption and notice of such
24 redemption given, then upon such redemption date such Bond (or the portion of its
25 principal sum to be redeemed) shall become due and payable, and interest thereon
26 shall cease to accrue from and after the redemption date therefor, provided moneys
27 for the payment of the redemption price and the interest on the principal amount to
28 be redeemed to the date of redemption are held for the purpose of such payment by
29 the Paying Agent/Registrar.

1 In the event a portion of the principal amount of a Bond is to be redeemed
2 and the registered owner is someone other than Cede & Co., payment of the
3 redemption price of such principal amount shall be made to the registered owner
4 only upon presentation and surrender of such Bond to the Designated
5 Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds
6 of like maturity and interest rate in any authorized denominations provided by the
7 Ordinances for the then unredeemed balance of the principal sum of such Bond or
8 Bonds will be issued to the registered owner, without charge. If a Bond is selected
9 for redemption, in whole or in part, the City and the Paying Agent/Registrar shall
10 not be required to transfer such Bond to an assignee of the registered owner within
11 forty-five days of the redemption date; provided, however, such limitation on
12 transferability shall not be applicable to an exchange by the registered owner of the
13 unredeemed balance of a Bond redeemed in part.

14 The Bonds are special obligations of the City payable solely from and,
15 together with the Prior Subordinate Lien Obligations, the Previously Issued
16 Separate Lien Obligations, and Previously Issued Parity Water/Wastewater
17 Obligations currently Outstanding, equally and ratably secured by a parity lien on
18 and pledge of, the Net Revenues of the Water/Wastewater System in the manner
19 provided in the Ordinances. Additionally, the Bonds and Previously Issued Parity
20 Water/Wastewater Obligations referenced above shall be equally and ratably
21 secured by a parity lien on the funds, if any, deposited to the credit of the Debt
22 Service Fund and the Reserve Fund in accordance with the terms of the
23 Ordinances. The Bonds do not constitute a legal or equitable pledge, charge, lien
24 or encumbrance upon any property of the City or the Water/Wastewater System,
25 except with respect to the Net Revenues. The Holder of this Bond shall never have
26 the right to demand payment of this obligation out of any funds raised or to be
27 raised by taxation.

28 Subject to satisfying the related terms and conditions, the City has reserved
29 the right to issue additional revenue obligations payable from and equally and
30 ratably secured by a parity lien on and pledge of the Net Revenues of the
31 Water/Wastewater System, in the same manner and to the same extent as the
32 Bonds.

33 Reference is made to the Ordinances, copies of which are on file with the
34 Paying Agent/Registrar, and to all of the provisions of which the Holder by the
35 acceptance of this Bond hereby assents, for definitions of terms; the description of
36 and the nature and extent of the security for the Bonds; the properties constituting
37 the Water/Wastewater System; the Net Revenues pledged to the payment of the
38 principal of and interest on the Bonds; the nature and extent and manner of

1 enforcement of the lien and pledge securing the payment of the Bonds; the terms
2 and conditions for the issuance of additional revenue obligations; the terms and
3 conditions relating to the transfer or exchange of this Bond; the conditions upon
4 which the Ordinances may be amended or supplemented with or without the
5 consent of the Holders; the rights, duties, and obligations of the City and the
6 Paying Agent/Registrar; the terms and provisions upon which the liens, pledges,
7 charges and covenants made in the Ordinances may be discharged at or prior to the
8 maturity of this Bond, and this Bond deemed to be no longer Outstanding under the
9 Ordinances; and for the other terms and provisions contained in the Ordinances.
10 Capitalized terms used in this Bond have the same meanings assigned in the
11 Ordinances.

12 This Bond, subject to certain limitations contained in the Ordinances, may
13 be transferred on the Security Register only upon its presentation and surrender at
14 the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the
15 Assignment endorsed by, or accompanied by a written instrument of transfer in
16 form satisfactory to the Paying Agent/Registrar executed by the Registered Owner,
17 or the authorized agent of the Registered Owner. When a transfer on the Security
18 Register occurs, one or more new fully registered Bonds of the same Stated
19 Maturity, of authorized denominations, bearing the same rate of interest and of the
20 same aggregate principal amount will be issued by the Paying Agent/Registrar to
21 the designated transferee or transferees.

22 The City and the Paying Agent/Registrar, and any agent of either, may treat
23 the Registered Owner of this Bond whose name appears on the Security Register
24 (i) on the Record Date as the owner entitled to payment of interest on this Bond,
25 (ii) on the date of surrender of this Bond as the owner entitled to payment of
26 principal of this Bond at its Stated Maturity, or its redemption, in whole or in part,
27 and (iii) on any other date as the owner for all other purposes, and neither the City
28 nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice
29 to the contrary. In the event of non-payment of interest on a scheduled payment
30 date and for thirty days after such event, a new record date for such interest
31 payment (a "Special Record Date") will be established by the Paying
32 Agent/Registrar, if and when funds for the payment of such interest have been
33 received from the City. Notice of the Special Record Date and of the scheduled
34 payment date of the past due interest (which shall be fifteen days after the Special
35 Record Date) shall be sent at least five business days prior to the Special Record
36 Date by United States Mail, first class postage prepaid, to the address of each
37 Holder appearing on the Security Register at the close of business on the last
38 business day next preceding the date of mailing of such notice.

1 It is hereby certified, recited, represented and covenanted that the City is a
2 duly organized and legally existing municipal corporation under and by virtue of
3 the Constitution and laws of the State of Texas; that the issuance of the Bonds is
4 authorized by law; that all acts, conditions and things required to exist and be done
5 precedent to and in the issuance of the Bonds to render the same lawful and valid
6 obligations of the City have been properly done, have happened and have been
7 performed in regular and due time, form and manner as required by the
8 Constitution and laws of the State of Texas, and the Ordinances; that the Bonds do
9 not exceed any constitutional or statutory limitation; and that due provision has
10 been made for the payment of the principal of and interest on the Bonds by a
11 pledge of the Net Revenues of the Water/Wastewater System. In case any
12 provision in this Bond or any application thereof shall be invalid, illegal, or
13 unenforceable, the validity, legality, and enforceability of the remaining provisions
14 and applications shall not in any way be affected or impaired. The terms and
15 provisions of this Bond and the Ordinances shall be construed in accordance with
16 and shall be governed by the laws of the State of Texas.

17 IN WITNESS WHEREOF, the City Council of the City has caused this
18 Bond to be executed under the official seal of the City.

19 CITY OF AUSTIN, TEXAS
20

21
22 _____
Mayor

23 COUNTERSIGNED:
24

25 _____
26 City Clerk
27

28 (SEAL)
29

1 (c) Form of Registration Certificate of Comptroller of Public Accounts
2 to Appear on Initial Bond(s) only.

3 REGISTRATION CERTIFICATE OF
4 COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER)

)

OF PUBLIC ACCOUNTS)

)

THE STATE OF TEXAS)

REGISTER NO. _____

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

8 WITNESS my signature and seal of office this _____.

9 _____
10 Comptroller of Public Accounts
11 of the State of Texas

12 (SEAL)
13

14 (d) Form of Certificate of Paying Agent/Registrar to Appear on Definitive
15 Bonds only.

16 REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

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

23 The designated office of the Paying Agent/Registrar in _____ is the
24 Designated Payment/Transfer Office for this Bond.

_____,
as Paying Agent/Registrar

Registration date:

By _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned 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 under this Bond, and
irrevocably constitutes and appoints _____
attorney to transfer the within Bond on the books kept for registration of the
Bonds, 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.

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of
this Section, except that the form of a single fully registered Initial Bond shall be
modified as follows:

1 REGISTERED
NO. T-1

REGISTERED
\$ _____

2 UNITED STATES OF AMERICA
3 STATE OF TEXAS
4 CITY OF AUSTIN, TEXAS,
5 WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BOND,
6 SERIES 2008A

Bond Date:

Registered Owner:

Principal Amount:

7 The City of Austin (the "City"), a body corporate and municipal corporation
8 in the Counties of Travis and Williamson, State of Texas, for value received,
9 promises to pay to the registered owner named above, or their registered assigns
10 (the "Registered Owner"), solely from the revenues identified in this Bond, the
11 Principal Amount stated above on _____ in each of the years and in principal
12 installments in accordance with the following schedule:

STATED
MATURITY

PRINCIPAL
INSTALLMENTS

INTEREST
RATE

(Information to be inserted from schedule in the Pricing
Certificate).

13 (or so much thereof as shall not have been paid upon prior redemption) and to pay
14 interest, computed on the basis of a 360-day year of twelve 30-day months, on the
15 unpaid principal amounts of this Bond from the interest payment date next
16 preceding the "Registration Date" of this Bond appearing below (unless this Bond
17 bears a "Registration Date" as of an interest payment date, in which case it shall
18 bear interest from such date, or unless the "Registration Date" of this Bond is prior
19 to the initial interest payment date in which case it shall bear interest from the
20 Bond Date) at the per annum rates of interest specified above; such interest being
21 payable on _____ and on each succeeding November 15 and May 15 until
22 maturity or prior redemption. Principal installments of this Bond are payable to the
23 Registered Owner by _____ (the "Paying Agent/Registrar"),
24 upon presentation and surrender, at its designated offices in

_____ (the "Designated Payment/Transfer Office"). Interest is payable to the Registered Owner whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/ Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the Registered Owner and 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.

SECTION 11: CRITERIA FOR ISSUANCE OF PARITY WATER/WASTEWATER OBLIGATIONS. The City has provided certain criteria and established certain covenants and agreements in relation to the issuance of Parity Water/Wastewater Obligations of the Water/Wastewater System pursuant to the Master Ordinance and Prior Supplements. The Sixteenth Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment, and security of the Bonds which are Parity Water/Wastewater Obligations. The Master Ordinance is incorporated by reference and made a part of the Sixteenth Supplement for all purposes, except to the extent modified and supplemented by the Prior Supplements and the Sixteenth Supplement, and the Bonds are declared to be Parity Water/Wastewater Obligations under the Master Ordinance and Prior Supplements. The City determines that it will have sufficient funds to meet the financial obligations of the Water/Wastewater System, including sufficient Net Revenues to pay the Annual Debt Service Requirements of the Bonds and the Previously Issued Parity Water/Wastewater Obligations and to meet all financial obligations of the City relating to the Water/Wastewater System.

SECTION 12: PLEDGE. Subject to the prior claim and lien on the Net Revenues of the Water/Wastewater System to the payment and security of the

1 Prior First Lien Obligations currently Outstanding, including the funding and
2 maintenance of the special funds established and maintained for the payment and
3 security of such Prior First Lien Obligations, the Net Revenues of the
4 Water/Wastewater System are pledged to the payment of the Bonds, and the
5 Bonds, together with the Prior Subordinate Lien Obligations, the Previously Issued
6 Separate Lien Obligations and the Previously Issued Parity Water/Wastewater
7 Obligations currently Outstanding, shall be equally and ratably secured by a parity
8 lien on and pledge of the Net Revenues of the Water/Wastewater System in
9 accordance with the terms of the Master Ordinance and the Sixteenth Supplement.
10 Additionally, the Bonds and the Previously Issued Parity Water/Wastewater
11 Obligations shall be equally and ratably secured by a lien on the funds, if any,
12 deposited to the credit of the Debt Service Fund and Reserve Fund in accordance
13 with the terms of the Master Ordinance, the Prior Supplements and the Sixteenth
14 Supplement. It is ordained that the Parity Water/Wastewater Obligations, and the
15 interest on the Parity Water/Wastewater Obligations, shall constitute a lien on the
16 Net Revenues of the Water/Wastewater System and be valid and binding and fully
17 perfected from and after the date of adoption of the Sixteenth Supplement without
18 physical delivery or transfer or transfer of control of the Net Revenues, the filing of
19 the Sixteenth Supplement or any other act, all as provided in Chapter 1208 of the
20 Texas Government Code. The owners of the Parity Water/Wastewater Obligations
21 shall never have the right to demand payment out of funds raised or to be raised by
22 taxation, or from any source other than specified in the Master Ordinance, the Prior
23 Supplements and the Sixteenth Supplement.

24 Section 1208 of the Texas Government Code applies to the issuance of the
25 Bonds and the pledge of the Net Revenues of the Water/Wastewater System
26 granted by the City under this Section 12, and such pledge is valid, effective and
27 perfected. If Texas law is amended at any time while the Bonds are Outstanding
28 such that the pledge of the Net Revenues of the Water/Wastewater System granted
29 by the City under this Section 12 is to be subject to the filing requirements of
30 Chapter 9, Business & Commerce Code, then to preserve to the registered owners
31 of the Bonds the perfection of the security interest in said pledge, the City agrees to
32 take such measures as it determines are reasonable and necessary under Texas law
33 to comply with the applicable provisions of Chapter 9, Business & Commerce
34 Code, and enable a filing to perfect the security interest in said pledge to occur.

35 **SECTION 13: DEBT SERVICE FUND.** By reason of the issuance of the
36 Bonds, the City need not establish any special accounts within the Debt Service
37 Fund and following the delivery of the Bonds, the City hereby agrees and
38 covenants that in addition to the deposits for the payment of the Previously Issued

1 Parity Water/Wastewater Obligations there shall be deposited to the credit of the
2 Debt Service Fund an amount equal to one hundred percent (100%) of the amount
3 required to fully pay the interest on and principal of the Bonds falling due on or
4 before each maturity, mandatory redemption date and interest payment date, and
5 such deposits shall be made in substantially equal monthly amounts on or before
6 the 14th day of each month beginning on or before the 14th day of the month next
7 following the month the Bonds are delivered to the Purchasers.

8 The required monthly deposits to the Debt Service Fund for the payment of
9 principal of and interest on the Bonds shall continue to be made in the manner
10 provided in this Section until such time as (i) the total amount on deposit in the
11 Debt Service Fund is equal to the amount required to fully pay and discharge all
12 Parity Water/Wastewater Obligations then Outstanding or (ii) the Bonds are no
13 longer outstanding, *i.e.*, fully paid as to principal and interest or all the Bonds have
14 been refunded.

15 Accrued interest received from the Purchasers of the Bonds shall be
16 deposited in the Debt Service Fund, and shall be taken into consideration and
17 reduce the amount of the monthly deposits that would otherwise be required to be
18 deposited to the credit of such Debt Service Fund from the Net Revenues of the
19 Water/Wastewater System.

20 **SECTION 14: RESERVE FUND.** In accordance with the provisions of the
21 Prior Supplements authorizing the issuance of the Previously Issued
22 Water/Wastewater Obligations, the Required Reserve Amount is funded with cash
23 and surety bonds issued by MBIA Insurance Corporation, Financial Security
24 Assurance Inc., Ambac Assurance Corporation and XL Capital Assurance Inc.. By
25 reason of the issuance of the Bonds, the Required Reserve Amount shall be as
26 specified in the Pricing Certificate. Upon the issuance of the Bonds, Reserve Fund
27 Obligations equal to 50% of the average Annual Debt Service Requirements of the
28 Bonds will be deposited to the Reserve Fund as determined by the Pricing Officer
29 and provided in the Pricing Certificate. Any draws on the surety bonds or other
30 credit agreements funding the Required Reserve Amount on which there is
31 available coverage shall be made on a pro rata basis (calculated by reference to
32 coverage then available under each such surety bond or credit agreement) after
33 applying available cash and investments in the Reserve Fund.

34 The Insurance Agreement, if any, will be attached to and approved by the
35 Pricing Certificate such Insurance Agreement in substantially the form and
36 substance attached to the Pricing Certificate and approved by the Pricing Officer,
37 together with such changes or revisions as may be necessary to comply with Texas

1 law, is authorized to be executed by the Pricing Officer for and on behalf of the
2 City and as the act and deed of this governing body; and such Insurance
3 Agreement as executed by said official shall be deemed approved by the City
4 Council and constitute the Insurance Agreement approved.

5 The provisions of Section 8 of the Master Ordinance relating to the Reserve
6 Fund, particularly paragraphs (b), (c) and (d) thereof, are incorporated by reference
7 and made a part of the Sixteenth Supplement as if the same were restated in full in
8 this Section, and to the extent of any conflict between the provisions of said
9 Section 8 and these provisions with respect to draws on any Credit Agreement and
10 the reinstatement of the full amount afforded by Credit Agreement, the provisions
11 of the Prior Supplements with respect to such Credit Agreement and such Credit
12 Agreement shall govern. Furthermore, in accordance with Section 10(d) of the
13 Master Ordinance, the City Council finds that the Gross Revenues will be
14 sufficient to meet the obligations of the Water/Wastewater System, including
15 sufficient Net Revenues to satisfy the Annual Debt Service Requirements of Parity
16 Water Wastewater Obligations currently Outstanding and the financial obligations
17 of the City under any Credit Agreement entered into with the above-named surety
18 bond providers.

19 **SECTION 15: PAYMENT OF BONDS.** On or before the first scheduled
20 interest payment date, and on or before each subsequent interest payment date and
21 principal payment date while any of the Bonds are Outstanding, the City shall
22 cause an amount to be transferred to the Paying Agent/Registrar in immediately
23 available funds from the Debt Service Fund and Reserve Fund, if necessary,
24 sufficient to pay such interest on and such principal amount of the Bonds, as shall
25 become due on such dates, respectively, at maturity or by redemption prior to
26 maturity. The Paying Agent/Registrar shall destroy all paid Bonds and furnish the
27 City with an appropriate certificate of cancellation or destruction.

28 **SECTION 16: COVENANTS TO MAINTAIN TAX-EXEMPT**
29 **STATUS.**

30 (a) Definitions. When used in this Section 16, the following terms have
31 the following meanings:

32 "Closing Date" means the date on which the Bonds are first
33 authenticated and delivered to the Purchasers against payment
34 therefor.

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

3 *"Computation Date"* has the meaning set forth in Section
4 1.148-1(b) of the Regulations.

5 *"Gross Proceeds"* means any proceeds as defined in Section
6 1.148-1(b) of the Regulations, and any replacement proceeds as
7 defined in Section 1.148-1(c) of the Regulations, of the Bonds.

8 *"Investment"* has the meaning set forth in Section 1.148-1(b) of
9 the Regulations.

10 *"Nonpurpose Investment"* means any investment property, as
11 defined in section 148(b) of the Code, in which Gross Proceeds of the
12 Bonds are invested and which is not acquired to carry out the
13 governmental purposes of the Bonds.

14 *"Rebate Amount"* has the meaning set forth in Section
15 1.148-1(b) of the Regulations.

16 *"Regulations"* means any proposed, temporary, or final Income
17 Tax Regulations issued pursuant to Sections 103 and 141 through 150
18 of the Code, and 103 of the Internal Revenue Code of 1986, which are
19 applicable to the Bonds. Any reference to any specific Regulation
20 shall also mean, as appropriate, any proposed, temporary or final
21 Income Tax Regulation designed to supplement, amend or replace the
22 specific Regulation referenced.

23 *"Yield"* of (1) any Investment has the meaning set forth in
24 Section 1.148-5 of the Regulations and (2) the Bonds has the
25 meaning set forth in Section 1.148-4 of the Regulations.

26 (b) Not to Cause Interest to Become Taxable. The City shall not use,
27 permit the use of, or omit to use Gross Proceeds or any other amounts (or any
28 property the acquisition, construction or improvement of which is to be financed
29 directly or indirectly with Gross Proceeds) in a manner which if made or omitted,
30 respectively, would cause the interest on any Bond to become includable in the
31 gross income, as defined in section 61 of the Code, of the owner thereof for federal
32 income tax purposes. Without limiting the generality of the foregoing, unless and
33 until the City receives a written opinion of counsel nationally recognized in the
34 field of municipal bond law to the effect that failure to comply with such covenant

1 will not adversely affect the exemption from federal income tax of the interest on
2 any Bond, the City shall comply with each of the specific covenants in this
3 Section.

4 (c) No Private Use or Private Payments. Except as permitted by section
5 141 of the Code and the Regulations and rulings thereunder, the City shall at all
6 times prior to the last Stated Maturity of Bonds:

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

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

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

1 any property acquired, constructed or improved with such Gross Proceeds are
2 otherwise transferred in a transaction which is the economic equivalent of a loan.

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

10 (f) Not Federally Guaranteed. Except to the extent permitted by section
11 149(b) of the Code and the Regulations and rulings thereunder, the City shall not
12 take or omit to take any action which would cause the Bonds to be federally
13 guaranteed within the meaning of section 149(b) of the Code and the Regulations
14 and rulings thereunder.

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

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

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

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

1 (3) As additional consideration for the purchase of the Bonds
2 by the Purchasers and the loan of the money represented thereby and
3 in order to induce such purchase by measures designed to insure the
4 excludability of the interest thereon from the gross income of the
5 owners thereof for federal income tax purposes, the City shall pay to
6 the United States out of the Debt Service Fund or its general fund, as
7 permitted by applicable Texas statute, regulation or opinion of the
8 Attorney General of the State of Texas, the amount that when added
9 to the future value of previous rebate payments made for the Bonds
10 equals (i) in the case of a Final Computation Date as defined in
11 Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%)
12 of the Rebate Amount on such date; and (ii) in the case of any other
13 Computation Date, ninety percent (90%) of the Rebate Amount on
14 such date. In all cases, the rebate payments shall be made at the
15 times, in the installments, to the place and in the manner as is or may
16 be required by section 148(f) of the Code and the Regulations and
17 rulings thereunder, and shall be accompanied by Form 8038-T or such
18 other forms and information as is or may be required by Section
19 148(f) of the Code and the Regulations and rulings thereunder.

20 (4) The City shall exercise reasonable diligence to assure that
21 no errors are made in the calculations and payments required by
22 paragraphs (2) and (3), and if an error is made, to discover and
23 promptly correct such error within a reasonable amount of time
24 thereafter (and in all events within one hundred eighty (180) days
25 after discovery of the error), including payment to the United States of
26 any additional Rebate Amount owed to it, interest thereon, and any
27 penalty imposed under Section 1.148-3(h) of the Regulations.

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

36 (j) Elections. The City hereby directs and authorizes the Mayor, City
37 Manager, Chief Financial Officer, Deputy Chief Financial Officer or City
38 Treasurer, individually or jointly, to make elections permitted or required pursuant

1 to the provisions of the Code or the Regulations, as they deem necessary or
2 appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or
3 similar or other appropriate certificate, form or document.

4 (k) Bonds Not Hedge Bonds. (1) At the time the original obligations
5 refunded by the Bonds were issued, the City reasonably expected to spend at least
6 85% of the spendable proceeds of such original obligations within three years after
7 such obligations were issued and (2) not more than 50% of the proceeds of the
8 original obligations refunded by the Bonds were invested in Nonpurpose
9 Investments having a substantially guaranteed Yield for a period of 4 years or
10 more.

11 (l) Current Refunding. The Refunded Obligations being refunded by the
12 Bonds constitute a current refunding as the payment of such Refunded Obligations
13 will occur within 90 days of the delivery of the Bonds.

14 SECTION 17: **AMENDMENT OF SIXTEENTH SUPPLEMENT.**

15 (a) Required Owner Consent for Amendments. The owners of a majority
16 in Outstanding Principal Amount of the Bonds shall have the right from time to
17 time to approve any amendment to the Sixteenth Supplement which may be
18 deemed necessary or desirable by the City; provided, however, nothing contained
19 in the Sixteenth Supplement shall permit or be construed to permit the amendment
20 of the terms and conditions in the Sixteenth Supplement so as to:

- 21 (1) Make any change in the maturity of any of the Outstanding Bonds;
- 22 (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- 23 (3) Reduce the amount of the principal payable on the Bonds;
- 24 (4) Modify the terms of payment of principal of, premium, if any, or
25 interest on the Outstanding Bonds or impose any conditions with respect to such
26 payment;
- 27 (5) Affect the rights of the owners of less than all of the Bonds then
28 Outstanding;
- 29 (6) Amend this subsection (a) of this Section; or
- 30 (7) Change the minimum percentage of the principal amount of Bonds
31 necessary for consent to any amendment;

32
33 unless such amendment or amendments be approved by the owners of all of the
34 Bonds affected by the change or amendment then Outstanding.

1 (b) Notice of Amendment Requiring Consent. If at any time the City
2 shall desire to amend the Sixteenth Supplement under this Section, the City shall
3 cause notice of the proposed amendment to be published in a financial newspaper
4 or journal published in The City of New York, New York, and a newspaper of
5 general circulation in the City, once during each calendar week for at least two
6 successive calendar weeks. Such notice shall briefly set forth the nature of the
7 proposed amendment and shall state that a copy of the notice is on file with the
8 Paying Agent for the Bonds. Such publication is not required, however, if notice
9 in writing is given by United States Mail, first class postage prepaid, to each owner
10 of the Bonds.

11 (c) Time Period for Obtaining Consent. If within one year from (i) the
12 date of the first publication of said notice or (ii) the date of the mailing by the
13 Paying Agent of written notice to the owners of the Bonds, whichever date first
14 occurs if both methods of giving notice are used, the City shall receive an
15 instrument or instruments executed by the owners of at least a majority in
16 Outstanding Principal Amount of the Bonds consenting to and approving such
17 amendment in substantially the form of the copy of such instrument on file with
18 each Paying Agent, the governing body of the City may pass the amendatory
19 ordinance in substantially the same form.

20 (d) Revocation of Consent. Any consent given by the owner of a Bond
21 pursuant to the provisions of this Section shall be irrevocable for a period of six
22 months from the date for measuring the one year period to obtain consents noted in
23 paragraph (c) above, and shall be conclusive and binding upon all future owners of
24 the same Bonds during such period. At any time after six months from the date for
25 measuring the one year period to obtain consents noted in paragraph (c) above,
26 such consent may be revoked by the owner who gave such consent, or by a
27 successor in title, by filing written notice thereof with the Paying Agent for such
28 Bonds and the City, but such revocation shall not be effective if the owners of at
29 least a majority in Outstanding Principal Amount of the then Outstanding Bonds as
30 determined in accordance with this Section have, prior to the attempted revocation,
31 consented to and approved the amendment.

32 (e) Implementation of Amendment. Upon the passage of any amendatory
33 ordinance pursuant to the provisions of this Section, the Sixteenth Supplement
34 shall be deemed to be amended, and the respective rights, duties and obligations of
35 the City under the Sixteenth Supplement and all the owners of then Outstanding
36 Bonds shall be determined, exercised and enforced in all respects in accordance
37 with such amendment.

1 (f) Amendment without Consent. The preceding provisions of this
2 Section notwithstanding, the City by action of its governing body may amend the
3 Sixteenth Supplement for any one or more of the following purposes:

4 (1) To add to the covenants and agreements of the City
5 contained in the Sixteenth Supplement, other covenants and
6 agreements thereafter to be observed, grant additional rights or
7 remedies to the owners of the Bonds or to surrender, restrict or limit
8 any right or power reserved in the Sixteenth Supplement to or
9 conferred upon the City;

10 (2) To make such provisions for the purpose of curing any
11 ambiguity, or curing, correcting or supplementing any defective
12 provision contained in the Sixteenth Supplement, or in regard to
13 clarifying matters or questions arising under the Sixteenth
14 Supplement, as are necessary or desirable and not contrary to or
15 inconsistent with the Sixteenth Supplement and which shall not
16 adversely affect the interests of the owners of the Bonds then
17 Outstanding;

18 (3) To modify any of the provisions of the Sixteenth
19 Supplement in any other respect whatever, provided that such
20 modification shall be, and be expressed to be, effective only after all
21 the Bonds outstanding at the date of the adoption of such modification
22 shall cease to be outstanding;

23 (4) To make such amendments to the Sixteenth Supplement as
24 may be required, in the opinion of Bond Counsel, to ensure
25 compliance with sections 103 and 141 through 150 of the Code and
26 the regulations promulgated under and applicable to such sections and
27 regulations;

28 (5) To make such changes, modifications or amendments as
29 may be necessary or desirable to allow the owners of the Bonds to
30 avail themselves of a book-entry system for payments, transfers and
31 other matters relating to the Bonds, which changes, modifications or
32 amendments are not contrary to or inconsistent with other provisions
33 of the Sixteenth Supplement and which shall not adversely affect the
34 interests of the owners of the Bonds;

1 (6) To make such changes, modifications or amendments as
2 may be necessary or desirable to obtain or maintain the granting of a
3 rating on the Bonds by a Rating Agency or to obtain or maintain a
4 Credit Agreement or a Credit Facility; and

5 (7) To make such changes, modifications or amendments as
6 may be necessary or desirable, which shall not adversely affect the
7 interests of the owners of the Bonds, in order, to the extent permitted
8 by law, to facilitate the economic and practical utilization of interest
9 rate swap agreements, foreign currency exchange agreements, or
10 similar types of agreements with respect to the Bonds. Notice of any
11 such amendment may be published by the City in the manner
12 described in clause (b) of this Section; provided, however, that the
13 publication of such notice shall not constitute a condition precedent to
14 the adoption of such amendatory ordinance and the failure to publish
15 such notice shall not adversely affect the implementation of such
16 amendment as adopted pursuant to such amendatory ordinance.

17 (g) Ownership. For the purpose of this Section, the ownership and other
18 matters relating to all Bonds shall be established by the Security Register
19 maintained by the Paying Agent. Furthermore, the owner of any Bonds insured as
20 to the payment of principal of and interest shall be deemed to be the insurance
21 company providing the insurance coverage on such Bonds; provided such
22 amendment to the Sixteenth Supplement is an amendment that can be made with
23 the consent of a majority in Outstanding Principal Amount of the Bonds and such
24 insurance company is not in default with respect to its obligations under its
25 insurance policy.

26 **SECTION 18: FINAL DEPOSITS; GOVERNMENTAL OBLI-**
27 **GATIONS.** All or any of the Bonds shall be deemed to be paid, retired and no
28 longer outstanding within the meaning of the Sixteenth Supplement when payment
29 of the principal of, and redemption premium, if any, on such Bonds, plus interest
30 on the Bonds to the due date (whether such due date be by reason of maturity or
31 otherwise) either (i) shall have been made or caused to be made in accordance with
32 the terms of such Bonds, or (ii) shall have been provided by irrevocably depositing
33 with, or making available to, the Paying Agent/Registrar, in trust and irrevocably
34 set aside exclusively for such payment, (1) money sufficient to make such payment
35 or (2) Government Obligations, certified by an independent public accounting firm
36 of national reputation, to mature as to principal and interest in such amounts and at
37 such times as will insure the availability, without reinvestment, of sufficient money
38 to make such payment, and all necessary and proper fees, compensation and

1 expenses of the Paying Agent/Registrar with respect to which such deposit is made
2 shall have been paid or the payment thereof provided for the satisfaction of the
3 Paying Agent/Registrar. At such time as a Bond shall be deemed to be paid under
4 the Sixteenth Supplement, as aforesaid, it shall no longer be secured by or entitled
5 to the benefit of the Sixteenth Supplement, the Master Ordinance or a lien on and
6 pledge of the Net Revenues of the Water/Wastewater System, and shall be entitled
7 to payment solely from such money or Government Obligations.

8 Any moneys so deposited with the Paying Agent/Registrar, or an authorized
9 escrow agent, may at the direction of the City also be invested in Government
10 Obligations, maturing in the amounts and at the times as set forth in this Section,
11 and all income from all Government Obligations not required for the payment of
12 the Bonds, the redemption premium, if any, and interest on the Bonds, with respect
13 to which such money has been so deposited, shall be turned over to the City or
14 deposited as directed by the City. The City covenants that no deposit will be made
15 or accepted under clause (ii) of this Section and no use made of any such deposit
16 which would cause the Bonds to be treated as arbitrage bonds within the meaning
17 of Section 148 of the Internal Revenue Code of 1986, as amended.

18 Notwithstanding any other provisions of the Sixteenth Supplement, all
19 money or Government Obligations set aside and held in trust pursuant to the
20 provisions of this Section for the payment of the Bonds, the redemption premium,
21 if any, and interest on the Bonds, shall be applied to and used for the payment of
22 such Bonds, the redemption premium, if any, and interest on such Bonds and the
23 income on such money or Government Obligations shall not be considered to be
24 "Gross Revenues" under the Sixteenth Supplement.

25 **SECTION 19: DAMAGED, MUTILATED, LOST, STOLEN, OR**
26 **DESTROYED BONDS.** In the event any Outstanding Bond is damaged,
27 mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be
28 printed, executed, and delivered, a new bond of the same principal amount,
29 maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed
30 Bond, in replacement for such Bond in the manner provided in this Section. An
31 application for the replacement of damaged, mutilated, lost, stolen, or destroyed
32 Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or
33 destruction of a Bond, the applicant for a replacement bond shall furnish to the
34 City and to the Paying Agent/Registrar such security or indemnity as may be
35 required by them to save each of them harmless from any loss or damage with
36 respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the
37 applicant shall furnish to the City and to the Paying Agent/Registrar evidence to
38 their satisfaction of the loss, theft, or destruction of such Bond, as the case may be.

1 In every case of damage or mutilation of a Bond, the applicant shall surrender to
2 the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.
3 Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall
4 charge the owner of such Bond with all legal, printing, and other expenses in
5 connection therewith. Every replacement bond issued pursuant to the provisions of
6 this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall
7 constitute a contractual obligation of the City whether or not the lost, stolen, or
8 destroyed Bond shall be found at any time, or be enforceable by anyone, and shall
9 be entitled to all the benefits of the Sixteenth Supplement equally and
10 proportionately with any and all other Bonds issued under the Sixteenth
11 Supplement.

12 Notwithstanding the preceding provisions of this Section, in the event any
13 such Bond shall have matured, and no default has occurred which is then
14 continuing in the payment of the principal of, redemption premium, if any, or
15 interest on the Bond, the City may authorize the payment of the same (without
16 surrender thereof except in the case of a damaged or mutilated Bond) instead of
17 issuing a replacement Bond, provided security or indemnity is furnished as above
18 provided in this Section. Furthermore, in accordance with V.T.C.A., Government
19 Code, Section 1206.022, this Section shall constitute authority for the issuance of
20 any such replacement bond without necessity of further action by the governing
21 body of the City or any other body or person, and the duty of the replacement of
22 such bonds is hereby authorized and imposed upon the Paying Agent/Registrar,
23 and the Paying Agent/Registrar shall authenticate and deliver such bonds in the
24 form and manner and with the effect, as provided in Section 6 of the Sixteenth
25 Supplement for Bonds issued in exchange for other Bonds.

26 **SECTION 20: SIXTEENTH SUPPLEMENT TO CONSTITUTE A**
27 **CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the
28 Bonds by the Holders from time to time, the Sixteenth Supplement shall be
29 deemed to be and shall constitute a contract between the City and the Holders from
30 time to time of the Bonds and the pledge made in the Sixteenth Supplement by the
31 City and the covenants and agreements set forth in the Sixteenth Supplement to be
32 performed by the City shall be for the equal and proportionate benefit, security,
33 and protection of all Holders, without preference, priority, or distinction as to
34 security or otherwise of any of the Bonds authorized under the Sixteenth
35 Supplement over any of the others by reason of time of issuance, sale, or maturity
36 thereof or otherwise for any cause whatsoever, except as expressly provided in or
37 permitted by the Sixteenth Supplement.

1 **SECTION 21: CONTINUING DISCLOSURE UNDERTAKING.**

2 (a) Definitions. As used in this Section, the following terms have the
3 meanings ascribed to such terms below:

4 "MSRB" means the Municipal Securities Rulemaking Board.

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

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

11 "SEC" means the United States Securities and Exchange
12 Commission.

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

17 (b) Annual Reports. The City shall provide annually to each NRMSIR
18 and any SID, within six months after the end of each fiscal year (beginning with
19 the fiscal year ending September 30, 2008) financial information and operating
20 data with respect to the City of the general type included in the final Official
21 Statement approved by the Pricing Officer, being the information described in the
22 Pricing Certificate. Financial statements to be provided shall be (1) prepared in
23 accordance with the accounting principles described in the Official Statement
24 approved in the Pricing Certificate and (2) audited, if the City commissions an
25 audit of such statements and the audit is completed within the period during which
26 they must be provided. If audited financial statements are not available at the time
27 the financial information and operating data must be provided, then the City shall
28 provide unaudited financial statements for the applicable fiscal year to each
29 NRMSIR and any SID with the financial information and operating data and will
30 file the annual audit report when and if the same becomes available

31 If the City changes its fiscal year, it will notify each NRMSIR and any SID
32 of the change (and of the date of the new fiscal year end) prior to the next date by
33 which the City otherwise would be required to provide financial information and
34 operating data pursuant to this Section.

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

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

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

25 The City shall notify any SID and either each NRMSIR or the MSRB, in a
26 timely manner, of any failure by the City to provide financial information or
27 operating data in accordance with subsection (b) of this Section by the time
28 required by such Section.

29 (d) Limitations, Disclaimers, and Amendments. The City shall be
30 obligated to observe and perform the covenants specified in this Section while, but
31 only while, the City remains an "obligated person" with respect to the Bonds
32 within the meaning of the Rule, except that the City in any event will give the
33 notice required by subsection (c) hereof of any Bond calls and defeasance that
34 cause the City to be no longer such an "obligated person."

35 The provisions of this Section are for the sole benefit of the Holders and
36 beneficial owners of the Bonds, and nothing in this Section, express or implied,

1 shall give any benefit or any legal or equitable right, remedy, or claim under the
2 Sixteenth Supplement to any other person. The City undertakes to provide only
3 the financial information, operating data, financial statements, and notices which it
4 has expressly agreed to provide pursuant to this Section and does not hereby
5 undertake to provide any other information that may be relevant or material to a
6 complete presentation of the City's financial results, condition, or prospects or
7 hereby undertake to update any information provided in accordance with this
8 Section or otherwise, except as expressly provided in the Sixteenth Supplement.
9 The City does not make any representation or warranty concerning such
10 information or its usefulness to a decision to invest in or sell Bonds at any future
11 date.

12 UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO
13 THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER
14 PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN
15 WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER
16 NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT
17 SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY
18 SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY
19 SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR
20 SPECIFIC PERFORMANCE.

21 No default by the City in observing or performing its obligations under this
22 Section shall constitute a breach of or default under the Sixteenth Supplement for
23 purposes of any other provision of the Sixteenth Supplement.

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

26 The provisions of this Section may be amended by the City from time to
27 time to adapt to changed circumstances resulting from a change in legal
28 requirements, a change in law, or a change in the identity, nature, status, or type of
29 operations of the City or the Water/Wastewater System, but only if (1) the
30 provisions of this Section, as so amended, would have permitted an underwriter to
31 purchase or sell Bonds in the primary offering of the Bonds in compliance with the
32 Rule, taking into account any amendments or interpretations of the Rule to the date
33 of such amendment, as well as such changed circumstances, and (2) either (a) the
34 Holders of a majority in aggregate principal amount (or any greater amount
35 required by any other provision of the Sixteenth Supplement that authorizes such
36 an amendment) of the Outstanding Bonds consent to such amendment or (b) a
37 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. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data filed with each NRMSIR and SID pursuant to subsection (b) of this Section 21 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.

SECTION 22: REMEDY IN EVENT OF DEFAULT. In addition to all rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Debt Service Fund or Reserve Fund as required by the Sixteenth Supplement or the Master Ordinance, (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in the Sixteenth Supplement or the Master Ordinance or (c) the City declares bankruptcy, the Holders of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in the Sixteenth Supplement or the Master Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence in such default, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

The specific remedy provided in this Section shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

SECTION 23: SALE OF BONDS OFFICIAL STATEMENT APPROVAL. The Bonds are to be sold by the City to the Purchasers in accordance with a bond purchase agreement (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer, in accordance with Section 3 hereof. With regard to such terms and provisions of said Purchase Contract, the Pricing Officer may come to an agreement with the Purchasers on the following, among other matters:

- 1 (1) The details of the purchase and sale of the Bonds;
- 2 (2) The details of the public offering of the Bonds by the Purchasers;
- 3 (3) The details of an Official Statement (and, if appropriate, any
- 4 Preliminary Official Statement) relating to the Bonds and the City's Rule 15c2-12
- 5 compliance;
- 6 (4) A security deposit for the Bonds;
- 7 (5) The representations and warranties of the City to the Purchasers;.
- 8 (6) The details of the delivery of, and payment for, the Bonds;
- 9 (7) The Purchasers' obligations under the Purchase Contract;
- 10 (8) The certain conditions to the obligations of the City under the
- 11 Purchase Contract;
- 12 (9) Termination of the Purchase Contract;
- 13 (10) Particular covenants of the City;
- 14 (11) The survival of representations made in the Purchase Contract;
- 15 (12) The payment of any expenses relating to the Purchase Contract;
- 16 (13) Notices; and
- 17 (14) Any and all such other details that are found by the Pricing Officer to
- 18 be necessary and advisable for the purchase and sale of the Bonds.

19 The Pricing Officer may execute said Purchase Contract for and on behalf of
20 the City and as the act and deed of this City Council.

21 The Mayor and City Clerk of the City may manually or electronically
22 execute and deliver for and on behalf of the City copies of a Preliminary Official
23 Statement and Official Statement, prepared in connection with the offering of the
24 Bonds by the Purchasers, in final form as may be required by the Purchasers, and
25 such final Official Statement in the form and content as approved by the Pricing
26 Officer or as manually or electronically executed by said officials shall be deemed
27 to be approved by the City Council of the City and constitute the Official
28 Statement authorized for distribution and use by the Purchasers.

29 **SECTION 24: CONTROL AND CUSTODY OF BONDS.** The City
30 Manager of the City shall be and is hereby authorized to take and have charge of
31 all necessary orders and records pending the sale of the Bonds, and shall take and
32 have charge and control of the Initial Bond(s) pending the approval thereof by the
33 Attorney General, the registration thereof by the Comptroller of Public Accounts
34 and the delivery thereof to the Purchasers.

35 Furthermore, the Mayor, Mayor Pro Tem, City Manager, Chief Financial
36 Officer, Deputy Chief Financial Officer, City Clerk, City Treasurer and City
37 Attorney, any one or more of said officials, are hereby authorized and directed to

1 furnish and execute such documents relating to the City and its financial affairs as
2 may be necessary for the sale of the Bonds, the approval of the Attorney General
3 and registration by the Comptroller of Public Accounts and, together with the
4 City's financial advisor, bond counsel and the Paying Agent/Registrar, make the
5 necessary arrangements for their delivery to the Purchasers following such sale.

6 **SECTION 25: PROCEEDS OF SALE.** Immediately following the
7 delivery of the Bonds, the proceeds of sale of the Bonds in an amount sufficient to
8 pay and defease the Refunded Obligations shall be deposited with US Bank
9 National Association (the "Deposit Agent") for the payment and discharge of the
10 Refunded Obligations and the balance of such proceeds shall be deposited to the
11 Reserve Fund or used for the payment of costs of issuance, including amounts to
12 pay municipal bond insurance and amounts to pay the surety bond premium, if any,
13 all in accordance with written instructions to the Paying Agent/Registrar. Accrued
14 interest received from the Purchasers shall be deposited to the credit of the Debt
15 Service Fund. Premium, if any, received from the Purchasers shall either be
16 deposited to the credit of the Debt Service Fund or used for the payment of the
17 costs of issuance or deposited with the Deposit Agent and applied to the
18 defeasance of the Refunded Obligations.

19 Furthermore, appropriate officials of the City in cooperation with the
20 Deposit Agent are hereby authorized and directed to make the necessary
21 arrangements for the deposit of funds with the Deposit Agent for the payment of
22 the Refunded Obligations; all as contemplated and provided in V.T.C.A.,
23 Government Code, Chapter 1207, and the Sixteenth Supplement.

24 Additionally, the Pricing Officer shall determine the amount of any City
25 contribution to the refunding from moneys on deposit in the interest and sinking
26 fund(s) maintained for the payment of the Refunded Obligations.

27 **SECTION 26: LEGAL OPINION.** The obligation of the Purchasers to
28 accept delivery of the Bonds is subject to being furnished a final opinion of
29 Fulbright & Jaworski L.L.P., Attorneys, approving such Bonds as to their validity,
30 said opinion to be dated and delivered as of the date of delivery and payment for
31 such Bonds. A true and correct reproduction of said opinion is hereby authorized
32 to be printed on the definitive Bonds or an executed counterpart thereof shall
33 accompany the global Bonds deposited with The Depository Trust Company.

34 **SECTION 27: CUSIP NUMBERS.** CUSIP numbers may be printed or
35 typed on the definitive Bonds. It is expressly provided, however, that the presence
36 or absence of CUSIP numbers on the definitive Bonds shall be of no significance

1 or effect as regards the legality thereof and neither the City nor attorneys approving
2 said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly
3 printed or typed on the definitive Bonds.

4 **SECTION 28: PAYMENT AND PERFORMANCE ON BUSINESS**
5 **DAYS.** Whenever under the terms of the Sixteenth Supplement or the Bonds, the
6 performance date of any provision of the Sixteenth Supplement or the Bonds,
7 including the payment of principal of or interest on the Bonds, shall occur on a day
8 other than a Business Day, then the performance thereof, including the payment of
9 principal of and interest on the Bonds, need not be made on such day but may be
10 performed or paid, as the case may be, on the next succeeding Business Day with
11 the same force and effect as if made on the date of performance or payment.

12 **SECTION 29: LIMITATION OF BENEFITS WITH RESPECT TO**
13 **THE SIXTEENTH SUPPLEMENT.** With the exception of the rights or benefits
14 expressly conferred in the Sixteenth Supplement, nothing expressed or contained in
15 the Sixteenth Supplement or implied from the provisions of the Sixteenth
16 Supplement or the Bonds is intended or should be construed to confer upon or give
17 to any person other than the City, the Holders, and the Paying Agent/Registrar, any
18 legal or equitable right, remedy, or claim under or by reason of or in respect to the
19 Sixteenth Supplement or any covenant, condition, stipulation, promise, agreement,
20 or provision contained in the Sixteenth Supplement. The Sixteenth Supplement
21 and all of the covenants, conditions, stipulations, promises, agreements, and
22 provisions hereof are intended to be and shall be for and inure to the sole and
23 exclusive benefit of the City, the Holders, and the Paying Agent/Registrar as
24 provided in the Sixteenth Supplement and in the Bonds.

25 **SECTION 30: NOTICES TO HOLDERS-WAIVER.** Wherever the
26 Sixteenth Supplement provides for notice to Holders of any event, such notice shall
27 be sufficiently given (unless otherwise expressly provided in the Sixteenth
28 Supplement) if in writing and sent by United States Mail, first class postage
29 prepaid, to the address of each Holder appearing in the Security Register at the
30 close of business on the business day next preceding the mailing of such notice.

31 In any case where notice to Holders is given by mail, neither the failure to
32 mail such notice to any particular Holders, nor any defect in any notice so mailed,
33 shall affect the sufficiency of such notice with respect to all other Bonds. Where
34 the Sixteenth Supplement provides for notice in any manner, such notice may be
35 waived in writing by the Holder entitled to receive such notice, either before or
36 after the event with respect to which such notice is given, and such waiver shall be
37 the equivalent of such notice. Waivers of notice by Holders shall be filed with the

1 Paying Agent/Registrar, but such filing shall not be a condition precedent to the
2 validity of any action taken in reliance upon such waiver.

3 **SECTION 31: GOVERNING LAW.** The Sixteenth Supplement shall be
4 construed and enforced in accordance with the laws of the State of Texas and the
5 United States of America.

6 **SECTION 32: EFFECT OF HEADINGS.** The Section headings in the
7 Sixteenth Supplement are for convenience of reference only and shall not affect the
8 construction of the Sixteenth Supplement.

9 **SECTION 33: CONSTRUCTION OF TERMS.** If appropriate in the
10 context of the Sixteenth Supplement, words of the singular number shall be
11 considered to include the plural, words of the plural number shall be considered to
12 include the singular, and words of the masculine, feminine or neuter gender shall
13 be considered to include the other genders.

14 **SECTION 34: SEVERABILITY.** If any provision of the Sixteenth
15 Supplement or the application thereof to any circumstance shall be held to be
16 invalid, the remainder of the Sixteenth Supplement and the application thereof to
17 other circumstances shall nevertheless be valid, and the City Council hereby
18 declares that the Sixteenth Supplement would have been enacted without such
19 invalid provision.

20 **SECTION 35: INCORPORATION OF FINDINGS AND**
21 **DETERMINATIONS.** The findings and determinations of the City Council
22 contained in the preamble hereof are hereby incorporated by reference and made a
23 part of this Ordinance for all purposes as if the same were restated in full in this
24 Section.

25 **SECTION 36: INSURANCE.** The Bonds may be sold with the principal
26 of and interest being insured by a qualified municipal bond insurance provider.
27 The Pricing Officer is authorized to make the selection of municipal bond
28 insurance (if any) for the Bonds and to determine the provisions of any
29 commitment for the municipal bond insurance.

30 **SECTION 37: PUBLIC MEETING.** It is officially found that the meeting
31 at which the Sixteenth Supplement is adopted was open to the public and public
32 notice of the time, place, and subject matter of the public business to be considered
33 at such meeting, including the Sixteenth Supplement, was given; all as required by
34 V.T.C.A., Government Code, Chapter 551.

1 SECTION 38: **EFFECTIVE DATE.** This Sixteenth Supplement is passed
2 on one reading as authorized by V.T.C.A., Government Code, Section 1201.028,
3 and shall be effective immediately upon its passage and adoption.

4 [remainder of page left blank intentionally]

DRAFT

PASSED AND APPROVED

CITY OF AUSTIN, TEXAS

December 11, 2008

§
§
§

WILL WYNN
Mayor

APPROVED:

ATTEST:

DAVID ALLAN SMITH
City Attorney

SHIRLEY A. GENTRY
City Clerk

(City Seal)