

---

---

**LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT**

**dated as of February 1, 2009**

**between**

**CITY OF AUSTIN, TEXAS**

**and**

**STATE STREET BANK AND TRUST COMPANY**

**\$28,000,000**  
**CITY OF AUSTIN, TEXAS**  
**AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES**  
**SERIES A**

---

---

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I      DEFINITIONS .....	1
Section 1.01.      Definitions. ....	1
Section 1.02.      Accounting Matters .....	9
Section 1.03.      Interpretation .....	9
ARTICLE II      TERMS OF LETTER OF CREDIT, REIMBURSEMENT AND OTHER PAYMENTS .....	9
Section 2.01.      Letter of Credit .....	9
Section 2.02.      Reimbursement and Other Payments .....	9
Section 2.03.      Liquidity Advance; Term Loans and Bank Notes. ....	10
Section 2.04.      Payments on Bank Notes. ....	11
Section 2.05.      Additional Payments. ....	13
Section 2.06.      Sale of Notes Owned by the Bank. ....	14
Section 2.07.      Stated Expiration Date; Right of the City to Terminate. ....	16
Section 2.08.      Fees and Payments. ....	17
Section 2.09.      Substitution of Alternate Letter of Credit or Termination of Letter of Credit. ....	17
Section 2.10.      Bank Records. ....	18
Section 2.11.      Source of Payment. ....	18
ARTICLE III      CONDITIONS TO ISSUANCE OF LETTER OF CREDIT .....	18
Section 3.01.      Conditions to Issuance of Letter of Credit. ....	18
ARTICLE IV      REPRESENTATIONS AND WARRANTIES OF THE CITY .....	20
Section 4.01.      Status .....	20
Section 4.02.      Power and Authority. ....	20
Section 4.03.      Enforceability .....	20
Section 4.04.      No Conflict .....	21
Section 4.05.      Consents .....	21
Section 4.06.      Litigation .....	21
Section 4.07.      Default .....	21
Section 4.08.      Remarketing Memorandum. ....	21
Section 4.09.      Notes. ....	21
Section 4.10.      Assignment of Notes .....	22
Section 4.11.      Incorporation of Representations and Warranties .....	22
Section 4.12.      Financial Statements. ....	22
Section 4.13.      Complete and Correct Information. ....	22
Section 4.14.      Regulatory Authority. ....	22
Section 4.15.      Insurance. ....	23
Section 4.16.      The Paying Agent/Registrar and the Remarketing Agent .....	23
Section 4.17.      Security. ....	23
Section 4.18.      Pending Legislation .....	23
Section 4.19.      Environmental Matters .....	23
ARTICLE V      COVENANTS OF THE CITY .....	24
Section 5.01.      Payment Obligations .....	24

Section 5.02.	Financing Documents.....	24
Section 5.03.	Reporting Requirements.....	26
Section 5.04.	Compliance With Law and Ordinance.....	27
Section 5.05.	Notices.....	27
Section 5.06.	Certain Information.....	28
Section 5.07.	Maintenance of Approvals: Filings, Etc.....	28
Section 5.08.	Inspection Rights.....	28
Section 5.09.	Additional Obligations.....	28
Section 5.10.	Permitted Liens.....	28
Section 5.11.	Insurance.....	28
Section 5.12.	Redemption of Bank Notes; Payment of Fees.....	28
Section 5.13.	Maintenance of Existence.....	29
Section 5.14.	Use of Proceeds.....	29
Section 5.15.	Optional Redemption.....	29
Section 5.16.	Conversions.....	29
Section 5.17.	Regulation U.....	29
Section 5.18.	Appointment of Successors and Replacements.....	29
Section 5.19.	Sovereign Immunity.....	30
Section 5.20.	Sale or Other Disposition of Airport System.....	30
Section 5.21.	Exempt Status.....	30
Section 5.22.	Replacement Facility or Defeasance.....	30
Section 5.23.	Maintenance of Ratings.....	30
Section 5.24.	Bank Note Ratings.....	30
Section 5.25.	Further Assurances.....	30
ARTICLE VI	EVENTS OF DEFAULT; REMEDIES.....	31
Section 6.01.	Events of Default.....	31
Section 6.02.	Remedies.....	33
Section 6.03.	Adjustment; Right of Set-off.....	33
ARTICLE VII	MISCELLANEOUS.....	34
Section 7.01.	Amendments and Non-Waiver.....	34
Section 7.02.	Survival of Representations and Warranties.....	34
Section 7.03.	Expenses; Documentary Taxes.....	35
Section 7.04.	Notices.....	36
Section 7.05.	Participation.....	37
Section 7.06.	Satisfaction Requirement.....	38
Section 7.07.	Governing Law.....	38
Section 7.08.	Counterparts.....	38
Section 7.09.	Severability.....	38
Section 7.10.	Headings.....	38
Section 7.11.	Integration.....	38
Section 7.12.	Net of Taxes, Etc.....	38
Section 7.13.	Successors and Assigns; Benefit of Agreement.....	39
Section 7.14.	Term of Agreement; Continuing Obligations.....	40
Section 7.15.	Nature of Bank's Duties.....	40
Section 7.16.	USA PATRIOT Act.....	41

**EXHIBITS:**

**Exhibit A – Form of Letter of Credit**

**Exhibit B – Form of Custody Agreement**

## LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT

LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT dated as of February 1, 2009, between the **CITY OF AUSTIN, TEXAS**, a political subdivision of the State of Texas (the "*City*"), and **STATE STREET BANK AND TRUST COMPANY**, a state-chartered trust company organized under the laws of the Commonwealth of Massachusetts (the "*Bank*").

WHEREAS, the City adopted Ordinance No. 950817-B on August 17, 1995 (as amended and restated by the Ordinance No. 98-0205-A adopted on February 5, 1998, the "*Ordinance*") providing for the issuance of not exceeding \$28,000,000 of its Airport System Variable Rate Revenue Notes, Series A (the "*Notes*");

WHEREAS, the payment of the principal of and interest on the Notes had previously been enhanced by a direct-pay letter of credit (the "*Prior Letter of Credit*") issued by Morgan Guaranty Trust Company of New York (the "*Prior Credit Issuer*") in favor of the Paying Agent/Registrar (such term, and each other capitalized term used herein, having the meaning assigned to such term in, or in accordance with, Article I hereof) for the benefit of the holders of the Notes; and

WHEREAS, the City has determined to not extend the Prior Letter of Credit for the Notes; and

WHEREAS, in order to enhance the marketability of the Notes, the City has requested the Bank to issue an irrevocable, direct-pay letter of credit in the form attached hereto as Exhibit A (such letter of credit or any successor or substitute letter of credit issued by the Bank herein individually and collectively referred to as the "*Letter of Credit*") in the face amount of \$28,702,000 of which (a) \$28,000,000 shall support the payment of principal or portion of the purchase price corresponding to principal of the Notes, and (b) \$702,000 shall support the payment of up to [61] days' interest or portion of the purchase price corresponding to interest on the Notes at an assumed interest rate of 15% per annum (computed on the basis of a 365-day year and actual days elapsed).

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, including the covenants, terms and conditions hereinafter appearing, and to induce the Bank to issue the Letter of Credit, the parties hereto agree as follows:

### ARTICLE I

#### DEFINITIONS

##### Section 1.01. Definitions.

(a) Capitalized terms used herein but not otherwise defined in subsection (b) below or elsewhere herein shall have the meanings given to them in the Ordinance.

(b) The following terms, as used herein, shall have the following meanings:



"*Act*" shall mean, collectively, Chapters 1371 and 1503, Texas Government Code, and Chapter 22, Texas Transportation Code.

"*Agreement*" shall mean this Letter of Credit and Reimbursement Agreement, as the same may be amended or supplemented from time to time.

"*Airport*" shall mean the air carrier airport developed, constructed and operated by the City pursuant to the City-wide election held within the City on May 1, 1993, and designated as the Austin-Bergstrom International Airport (ABIA).

"*Airport Obligations*" shall have the meaning assigned thereto in the Ordinance.

"*Airport System*" shall mean all airport, heliport and aviation facilities, or any interest therein, now or from time to time hereafter owned, operated or controlled in whole or in part by the City, including the Airport, together with all properties, facilities and services thereof, and all additions, extensions, replacements and improvements thereto, and all services provided or to be provided by the City in connection therewith, but expressly excluding (i) any heliport or heliports operated by City Departments other than the Aviation Department, and (ii) the Mueller Airport Property.

"*Alternate Letter of Credit*" shall mean an alternative letter of credit or other facility meeting the requirements of an "Alternate Letter of Credit" set forth in the Ordinance.

"*Amortization Commencement Date*" shall have the meaning assigned to that term in Section 2.04(a) hereof.

"*Annual Filing*" shall mean the annual financial information, if any, to be provided by the City pursuant to the continuing disclosure undertaking of the City with respect to the Notes pursuant to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended.

"*Authorized Officer*" shall mean, with respect to the City, (a) the Aviation Director, (b) such other person or persons at the time designated to act on behalf of the City in matters relating to this Agreement as evidenced by a written certificate furnished to the Bank containing the specimen signature of such person or persons and signed on behalf of the City, and (c) any other duly authorized officer of the City whose authority to execute any particular instrument or take a particular action under this Agreement shall be evidenced to the satisfaction of the Bank.

"*Bank*" shall mean State Street Bank and Trust Company, and its successors and assigns.

"*Bank Noteholder*" shall mean the Bank (in its capacity as owner (which shall include the beneficial owner if the Notes are Book-Entry Notes) of Bank Notes pursuant to this Agreement) and any assignee or other Person to whom the Bank has sold Bank Notes or beneficial interests therein pursuant to Section 2.06(d) hereof.

"*Bank Notes*" shall mean Notes purchased with a Liquidity Advance, until such Notes are remarketed in accordance with Section 2.06 hereof or cease to bear interest at the Bank Rate pursuant to Section 2.06(b) hereof, and shall further be "Escrow Series A Notes" for purposes of the Ordinance.

"*Bank Rate*" shall mean, with respect to any Bank Note, and subject to Section 2.04(c) hereof, (a) for the period from and including the Purchase Date for such Bank Note to (but not including) the 61<sup>st</sup> calendar day following the related Purchase Date, the Base Rate plus two percent (2.00%), and (b) from (and including) the 61<sup>st</sup> calendar day following the date of following the date of the Liquidity Advance relating to such Bank Note and thereafter (and assuming the conditions for the creation of a Term Loan have been satisfied pursuant to Section 2.03(b)), to and including the date such Bank Note is required to be paid, the rate per annum equal to the Base Rate from time to time in effect plus three percent (3.00%); *provided* that from the occurrence and during the continuation of an Event of Default, the Bank Rate shall be equal to the Default Rate; and *provided further* that the Bank Rate may never exceed the Maximum Rate.

"*Bank's Lending Office*" shall mean the office of the Bank specified in Section 7.04 hereof or any different office for which the Bank has furnished notice thereof to the City and the Paying Agent/Registrar pursuant to Section 7.04 hereof.

"*Base Rate*" shall mean , for any day, a fluctuating rate of interest per annum equal to the higher of (i) the Federal Funds Rate in effect on such day plus one percent (1.00%), and (iii) the Prime Rate in effect on such day; *provided*, that the Base Rate shall not exceed the Maximum Rate at any time. Each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate or the Federal Funds Rate, as the case may be.

"*Book Entry Notes*" shall mean the Notes so long as the book entry system with DTC and its participants is used for determining beneficial ownership of the Notes.

"*Business Day*" shall mean any business day other than (i) a Saturday, Sunday or any other day on which banks located in the City of Austin, Texas, and the City of New York, New York, are authorized or required by law or executive order to remain closed, (ii) a day on which the office of the Bank at which it will pay draws or advances are required or authorized to be closed, or (iii) a day on which the New York Stock Exchange is closed.

"*City*" shall mean the City of Austin, Texas, and, where appropriate, the City Council thereof, or any successor thereto as owner and operator of the Airport System.

"*Closing Date*" shall mean the date on which the Notes were initially issued by the City.

"*Code*" means the Internal Revenue Code of 1986, as amended from time to time, and all rules and temporary, proposed or final regulations from time to time promulgated thereunder.

"*Conversion Date*" shall mean the date on which the City Converts all of the Notes to an Interest Rate Period other than a Weekly Interest Rate Period.

"*Convert*" or "*Converted*" or "*Conversion*" shall mean, with respect to any Note, a change or conversion of the Interest Rate Period to other than a Weekly Interest Rate Period.



*"Custody Agreement"* shall mean the Custody Agreement dated as of February 1, 2009 between the Paying Agent/Registrar and the Bank, as it may be hereafter modified in accordance with the terms thereof.

*"Debt"* shall mean with respect to the City, all items that would be classified as a liability in accordance with generally accepted accounting principles applicable to the City, consistently applied, including, without limitation, (a) indebtedness or liability for borrowed money, or for the deferred purchase price of property or services (including trade obligations); (b) obligations as lessee under leases which should have been, or should be, recorded as capital leases in accordance with generally accepted accounting principles applicable to the City, consistently applied; (c) current liabilities in respect of unfunded benefits under employee benefit, retirement or pension plans; (d) obligations issued for the account of any other Person; (e) all obligations arising under acceptance facilities; (f) all Guarantees; (g) obligations secured by any mortgage, lien, pledge, security interest or other charge or encumbrance on property, whether or not the obligations have been assumed and (h) obligations of the City under Interest Rate Protection Agreements.

*"Default"* shall mean any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time and/or giving of notice, would constitute an Event of Default.

*"Default Rate"* shall mean the Base Rate from time to time in effect plus four percent (4.00%); *provided*, that the Default Rate shall not exceed the Maximum Rate at any time.

*"Defaulted Interest"* shall mean accrued interest payable on a Note, which Note was not paid when due under the terms of the Ordinance.

*"Differential Interest Amount"* shall mean, for any period and with respect to any Bank Note, the difference (if positive) between (i) the amount of interest which has accrued and could actually be paid on such Bank Note during such period at the Bank Rate or Rates in effect during such period and (ii) to the extent received by the Bank, the amount of interest that would have accrued on such Bank Note during such period had such Bank Note borne interest during such period at the Note Rate.

*"Dollars," "US\$," and "U.S. Dollars"* shall mean the lawful currency of the United States of America.

*"DTC"* shall mean The Depository Trust Company.

*"Effective Date"* shall mean the date on which all conditions precedent to the effectiveness of this Agreement described in Section 3.01 of this Agreement have been satisfied or waived by the Bank and the Letter of Credit has been issued and is in effect.

*"Eligible Notes"* shall mean any Notes bearing interest at a Weekly Interest Rate, other than Notes owned by, for the account of, or on behalf of, the City, and excludes, in any event, Bank Notes and Notes that have been removed from coverage under this Agreement by redemption or defeasance, or substitution of an Alternate Letter of Credit.

"*Environmental Law*" shall mean any and all federal, state and local laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land.

"*ERISA*" shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

"*Event of Default*" shall have the meaning assigned to that term in Section 7.01 hereof.

"*Excess Note Interest Amount*" shall have the meaning assigned to that term in Section 2.04(c) hereof.

"*Excess Note Interest*" shall have the meaning assigned to that term in Section 2.04(c) hereof.

"*Expiration Date*" shall have the meaning assigned thereto in the Letter of Credit.

"*Federal Funds Rate*" shall mean, for any day, the rate of interest per annum determined by the Bank to be the weighted average rate for the overnight purchase by the Bank of federal funds on such day (or if such day is not a day for trading in federal funds by and between banks in the market, the next preceding day for such trading).

"*Final Excess Note Interest Amount*" shall have the meaning assigned to that term in Section 2.04(c) hereof.

"*Financing Documents*" shall mean the Ordinance, the Tender Agreement, this Agreement, the Custody Agreement, the Tax Agreement, the Remarketing Memorandum, the Remarketing Agreement and the Notes.

"*Fiscal Year*" shall mean the fiscal year of the City ending on September 30 of each calendar year or such other fiscal year as may be adopted by the City from time to time to the extent permitted hereunder.

"*Governmental Agency*" shall mean any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including any zoning authority, the Federal Deposit Insurance Corporation or the Federal Reserve Board, any central bank or any comparable authority).

"*Guarantee*" by any Person shall mean any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to

take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided, however*, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term "*Guarantee*" used as a verb has a corresponding meaning.

"*Interest Component*" shall mean the portion of any Liquidity Advance or Term Loan, as the case may be, corresponding to accrued interest, if any, on the Notes purchased therewith.

"*Interest Payment Date*" shall have the meaning assigned thereto in the Ordinance.

"*Interest Rate Period*" shall have the meaning assigned thereto in the Ordinance.

"*Interest Rate Protection Agreement*" shall mean an interest rate swap, cap or collar agreement or similar arrangement between any Person and a financial institution providing for the transfer or mitigation of interest rate risks or currency or foreign exchange risks either generally or under specific contingencies.

"*Letter Agreement*" shall mean the Letter Agreement dated as of the Effective Date between the City and the Bank, as the same may be amended, modified or supplemented from time to time in accordance with its terms.

"*Letter of Credit*" shall have the meaning assigned to that term in the fourth "Whereas" clause in the recitals to this Agreement.

"*Letter of Credit Amount*" has the meaning ascribed in the Letter of Credit.

"*Lien*" shall mean, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. For the purposes of this Agreement, the City shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"*Liquidity Advance*" shall have the meaning assigned thereto in Section 2.03 hereof.

"*Liquidity Advance Due Date*" shall have the meaning assigned thereto in Section 2.03 hereof.

"*Liquidity Drawing*" shall have the meaning assigned thereto in the Letter of Credit.

"*LOC Redemption Account*" shall have the meaning set forth in Section 5.13(a) hereof.

"*Material Adverse Effect*" shall mean a material adverse effect on (i) the business, property, assets or condition (financial or otherwise), operations or prospects of the Airport System, (ii) the ability of the City to perform its obligations under this Agreement or under the Financing Documents to which it is a party, or (iii) the validity or enforceability of any of the Financing Documents to which the City is a party or the rights or remedies of the Bank thereunder

"*Maximum Rate*" shall mean the maximum net effective interest rate permitted to be paid by law on the relevant obligation (as established and calculated in the manner prescribed by Chapter 1204, Texas Government Code, or any successor provision).

"*Moody's*" shall mean Moody's Investors Service, Inc. and its successors and assigns.

"*Mueller Airport Property*" shall mean the property and facilities that comprised the former Robert Mueller Municipal Airport, located within the City. The Mueller Airport Property is not part of the Airport System.

"*Net Revenues*" shall have the meaning assigned thereto in the Ordinance.

"*Non-Covered Interest Rate*" means, with respect to any Note, a rate of interest other than the Weekly Interest Rate.

"*Noteowner*" shall mean each Owner (which term has the meaning set forth in the Ordinance).

"*Note Rate*" shall have the meaning set forth in Section 2.06(a) hereof.

"*Note Register*" shall mean the Register, as defined in the Ordinance.

"*Notes*" shall have the meaning set forth in the recitals hereof.

"*Ordinance*" shall have the meaning given such term in the recitals hereof.

"*Outstanding*" when used with regard to the Notes shall have the meaning assigned in the Ordinance.

"*Paying Agent/Registrar*" shall mean The Bank of New York Mellon Trust Company, N.A., in its capacity as Paying Agent/Registrar under the Ordinance, and any permitted successors as Paying Agent/Registrar under the Ordinance.

"*Person*" shall mean an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"*Prior Lien Bonds*" shall have the meaning assigned thereto in the Ordinance.

"*Purchase Date*" shall mean each Business Day that is an optional tender date or mandatory tender date pursuant to the Ordinance for the Notes bearing interest at a Weekly Interest Rate.

"*Quarterly Payment Date*" shall mean the first Business Day of February, May, August and November of each year.

"*Rating Agency*" shall mean S&P or Moody's or any successor or additional rating agency that rates the Notes at the written request of the City with the prior written consent of the Bank.

"*Reimbursement Obligations*" shall mean all obligations of the City to the Bank arising under this Agreement, including without limitation, all obligations to reimburse the Bank for draws made from time to time under the Letter of Credit, all obligations to pay the amounts due under the Bank Notes, and all obligations to pay the amounts due under Article II and Article VII.

"*Remarketing Account*" shall have the meaning assigned thereto in the Ordinance.

"*Remarketing Agent*" shall have the meaning assigned thereto in the Ordinance, and for the Notes, shall initially be Citigroup Global Markets Inc.

"*Remarketing Agreement*" shall have the meaning assigned thereto in the Ordinance.

"*Remarketing Memorandum*" shall mean the Remarketing Memorandum of the City, dated February \_\_\_\_, 2009, relating to the offering of the Notes and any supplement thereto used with respect to the Notes.

"*Revenue Bonds*" shall have the meaning assigned thereto in the Ordinance.

"*Sale Date*" shall have the meaning assigned to that term in Section 2.06(a) hereof, and shall additionally mean any other date that Bank Notes are purchased from a Bank Noteholder as permitted hereunder.

"*S&P*" shall mean Standard & Poor's, a division of The McGraw-Hill Companies, Inc., and its successors and assigns.

"*State*" shall mean the State of Texas.

"*Stated Expiration Date*" shall have the meaning set forth in Section 2.07(a) hereof.

"*Subordinate Obligations*" shall have the meaning assigned thereto in the Ordinance.

"*Tax Agreement*" shall mean the [Tax Certificate and Agreement] executed and delivered by the City on the Closing Date.

"*Tender Agent*" shall have the meaning assigned thereto in the Ordinance.

"*Tender Agreement*" shall mean the Amended and Restated Tender Agent Agreement by and among the City, the Paying Agent/Registrar, the Tender Agent and the Remarketing Agent, as the same may be supplemented or amended from time to time.

"*Tendered Notes*" shall mean Eligible Notes that have been tendered for purchase or are deemed to have been tendered for purchase pursuant to and in accordance with the provisions of the Ordinance.

"*Term Loan*" shall mean any loan made pursuant to Section 2.03(b).

"*Weekly Interest Rate*" shall have the meaning assigned thereto in the Ordinance.

"*Weekly Interest Rate Period*" shall have the meaning assigned thereto in the Ordinance.

"*Written*" or "*in writing*" shall mean any form of written communication or a communication by means of telecopier device.

**Section 1.02. Accounting Matters.** All accounting terms used herein without definition shall be interpreted in accordance with generally accepted accounting principles applicable to the City, consistently applied, and except as otherwise expressly provided herein all accounting determinations required to be made pursuant to this Agreement shall be made in accordance with generally accepted accounting principles applicable to the City, consistently applied.

**Section 1.03. Interpretation.** All words used herein shall be construed to be of such gender or number as the circumstances require. Reference to any document means such document as amended or supplemented from time to time as permitted pursuant to its terms and the terms hereof. Reference herein to any Article or Section shall be deemed to be a reference to the corresponding Article or Section of this Agreement unless otherwise specified. All references herein to times of the day shall be presumed to refer to New York City time unless otherwise specified.

## ARTICLE II

### TERMS OF LETTER OF CREDIT, REIMBURSEMENT AND OTHER PAYMENTS

**Section 2.01. Letter of Credit.** The Bank agrees, on the terms and conditions hereinafter set forth, to issue and deliver the Letter of Credit in favor of the Paying Agent/Registrar in substantially the form of Exhibit A attached hereto upon fulfillment of the applicable conditions set forth in Article III hereof. The Bank agrees that any and all payments under the Letter of Credit will be made with the Bank's own funds.

**Section 2.02. Reimbursement and Other Payments.** The City's obligations to reimburse the Bank for amounts advanced under the Letter of Credit and to pay any other amounts due hereunder, including, without limitation, the Bank Notes, are payable solely from and secured solely by a lien and charge upon the Net Revenues, equal in rank to the lien and charge upon such Net Revenues of the amounts required to pay and secure the payment of the Revenue Bonds and any Additional Revenue Bonds, but subordinate to the Lien and charge on Net Revenues securing the payment of the Prior Lien Bonds.. The City shall pay to the Bank, without setoff or counterclaim, from the Net Revenues:

(a) on or before 3:30 p.m., on the date that any amount is drawn under the Letter of Credit a sum equal to such amount so drawn under the Letter of Credit, other than as provided by the terms of Section 2.03;

(b) on demand, interest on any and all amounts remaining unpaid by the City when due hereunder (including any applicable grace period) from the date such amounts become due until payment thereof in full, at a fluctuating interest rate per annum equal at all times to the Default Rate;

(c) on demand, any and all reasonable expenses incurred by the Bank in enforcing any rights under this Agreement; and

(d) on demand, all charges, commissions, costs and expenses set forth in Sections 2.04, 2.05 and 2.08 hereof or otherwise payable hereunder.

**Section 2.03. Liquidity Advance; Term Loans and Bank Notes.**

(a) If the Bank shall make any payment of that portion of the purchase price corresponding to principal and interest of the Notes drawn under the Letter of Credit pursuant to a Liquidity Drawing and no Event of Default or Default shall have occurred and be continuing, such payment shall constitute a liquidity advance (a "*Liquidity Advance*") made by the Bank to the City on the date of such payment and in the amount of such payment and shall not be required to be repaid by the City to the Bank on the date of such drawing under the Letter of Credit but rather the City agrees to pay such Liquidity Advance, with interest at the rate per annum equal to the Bank Rate, to the Bank no later than the 61<sup>st</sup> day following the date of such Liquidity Advance (the "*Liquidity Advance Due Date*"), subject to Section 2.03(b) hereof.

(b) Subject to the terms and conditions of this Agreement and so long as no Event of Default or Default shall have occurred and be continuing, the Bank agrees to make a Term Loan to the City on any Liquidity Advance Due Date occurring with respect to a Liquidity Advance for the purpose of repaying such Liquidity Advance. The amount of the Term Loan to be made by the Bank shall be equal to the principal amount of the Liquidity Advance to be paid with the proceeds of such Term Loan. Each Term Loan shall bear interest, payable monthly in arrears, at a rate per annum equal to the Bank Rate (with respect to clause (b) of said definition) from time to time in effect until due as provided herein.

(c) The City and the Bank agree that any Notes purchased with the proceeds of a Liquidity Drawing (i) shall be and constitute Bank Notes for all purposes of this Agreement, and shall be subject to all of the provisions hereof applicable thereto, (ii) shall bear interest at the Bank Rate, and (iii) shall be and constitute "Escrow Series A Notes" for all purposes of the Ordinance, and shall be subject to all of the provisions of the Ordinance applicable thereto.

(d) Pursuant to the Custody Agreement, the City has agreed that Notes purchased with proceeds of any Liquidity Drawing shall be delivered by the Paying Agent/Registrar to the Bank or its designee to be held by the Bank or its designee

(e) So long as the Notes are issued in book-entry form and held by the Paying Agent/Registrar as custodian of DTC as part of DTC's fast automated transfer program ("*FAST Eligible Notes*"), concurrently with the Paying Agent/Registrar's receipt of the proceeds of the Liquidity Drawing under the Letter of Credit, the Paying Agent/Registrar, as a participant of DTC (or any other successor securities depository) or an eligible transfer agent, shall make a direct registration electronic book-entry (A) crediting the DTC account designated by the Bank as its account in which to hold Bank Notes held by it (the "*Bank Book-Entry Account*") by the principal amount of the Notes held by the

Bank using the Bank Note CUSIP number for such Notes set forth below; and (B) debiting the book-entry account of DTC for the Notes (thereby reducing the principal balance of the global certificate representing the Notes) (the "*DTC Book-Entry Account*") by the principal amount of the Notes purchased hereunder by the Bank. The CUSIP number for the Notes that are Bank Notes is \_\_\_\_\_.

#### **Section 2.04. Payments on Bank Notes.**

(a) **Bank Rate; Principal Payments.** Principal of and interest at the Bank Rate on Bank Notes shall be payable in the manner provided in the Ordinance and in this Agreement for the period commencing from the date the Paying Agent/Registrar shall have purchased such Notes with the proceeds of a Liquidity Drawing and, subject to Section 2.06 hereof, continuing until such Note is paid in full or remarketed as provided in Section 2.06 hereof. In the case of Bank Notes outstanding on the 61<sup>st</sup> day following the Purchase Date thereof (the "*Amortization Commencement Date*"), principal shall be paid thereon in twelve (12) equal, quarterly installments commencing the first Business Day of the month following the Amortization Commencement Date thereof (*provided* that in any event all of the then unpaid principal amount of Bank Notes shall be redeemed on the earlier of (A) the third anniversary of the Purchase Date relating thereto, (B) the delivery on behalf of the City of an Alternate Letter of Credit with respect to the Notes, (C) the Expiration Date, or (D) upon the occurrence of an Event of Default); and accrued interest on such Bank Note shall be paid on each quarterly principal payment date or such other date on which principal of the Notes shall be paid. At the option of the City, payments due under this subsection may be prepaid on any date without penalty.

(b) **Overdue Rate.** If the principal amount of any Bank Note or Term Loan or, to the extent permitted by law, any interest payment required thereunder, is not paid when due (whether by acceleration, redemption or otherwise) or any other Reimbursement Obligation to be paid by the City to the Bank is not paid when due, such overdue principal, interest or other payment obligation shall bear interest from the date such amount was due until paid in full (after as well as before judgment) at a rate per annum equal to the Default Rate, such interest to be payable on the earlier of (i) the demand by the Bank or (ii) the next Interest Payment Date.

(c) **Excess Note Interest Amount.** The Bank Rate, without giving effect to the last proviso therein limiting the Bank Rate to the Maximum Rate, is referred to in this Section 2.04(c) as the "*Section 2.04(a) Rate*." The amount of interest, if any, that would accrue on Bank Notes, Term Loans or Liquidity Advances at the Section 2.04(a) Rate on any date but which does not so accrue due to the limitation of the Bank Rate to the Maximum Rate, shall constitute "*Excess Note Interest*" (*i.e.*, interest which would have been payable but for the Maximum Rate). As of any date, the cumulative Excess Note Interest, if any, on all days since the Effective Date hereof, reduced as set forth in the next sentence, shall constitute the "*Excess Note Interest Amount*." If there is any Excess Note Interest Amount on any date when the Section 2.04(a) Rate is less than the Maximum Rate, the Bank Rate for such date shall be the Maximum Rate rather than the Section 2.04(a) Rate and the Excess Note Interest Amount shall be reduced on such date by the excess of the amount of interest accrued on such date at the Maximum Rate over the amount of interest that would have accrued on such date at the Section 2.04(a) Rate;



*provided*, that if the accrual of interest on Bank Notes, Term Loans or Liquidity Advances at the Maximum Rate on any date would result in a reduction of the Excess Note Interest Amount to a negative number, such Bank Notes, Term Loans or Liquidity Advances shall accrue interest on such date at such lesser rate as shall result in the reduction of the Excess Note Interest Amount on such date to zero. If on the date of maturity, redemption or remarketing of any Bank Notes, Term Loans or Liquidity Advances, or on the date any Bank Notes cease to constitute Bank Notes pursuant to Section 2.06(d) hereof, there remains any unpaid Excess Note Interest Amount with respect to such Bank Notes (the "*Final Excess Note Interest Amount*"), such Final Excess Note Interest Amount, to the extent permitted by law, shall be paid by the City to the Bank Noteholder on the next Interest Payment Date, with interest accrued thereon at the Federal Funds Rate, and any such Excess Note Interest Amount so owing to the Bank at such time, to the extent permitted by law, shall convert into a fee payable to the Bank Noteholder and shall be paid, to the extent permitted by law, by the City to the Bank Noteholder on demand.

(d) **Obligation Pursuant to This Agreement.** The obligation of the City to pay interest hereunder is both an obligation to pay interest on the Bank Notes and an obligation hereunder to pay interest on funds advanced by the Bank under the Letter of Credit. The City shall receive a credit against its obligation hereunder to pay interest on funds advanced pursuant to a Liquidity Advance or Term Loan for money received by the Bank pursuant to the Bank Notes. To the extent interest owed pursuant to this Agreement is greater than the amount paid or payable on the Bank Notes, the City shall pay such greater amount to the Bank at the times and in the manner for which interest on Bank Notes is to be paid.

(e) **Bank Note Interest Payment Dates.** Notwithstanding anything to the contrary contained in the Notes or the Ordinance, the City agrees that, with respect to each Bank Note, (i) the Interest Component, if any, included in the Liquidity Advance or the Term Loan, as applicable, for such Note shall be paid as set forth in Section 2.08(b) hereof; (ii) except with respect to (A) the Differential Interest Amount (which shall be paid as set forth in Section 2.06 hereof), and (B) Excess Note Interest, the Excess Note Interest Amount and the Final Excess Note Interest Amount (which shall be payable in accordance with Section 2.03(c) hereof) interest payable pursuant to Section 2.04(a) hereof shall be payable on the first Business Day of each month or as otherwise provided in Section 2.04(a) hereof, upon redemption (to the extent of the interest accrued on the amount being redeemed), at maturity (whether by acceleration or otherwise), and after maturity on demand. In the event any Bank Note is remarketed before payment in full of the Liquidity Advance or the Term Loan, as applicable, with respect thereto, together with interest thereon, the provisions of this Section shall continue to apply to such indebtedness until all sums owing for all periods during which the same was a Bank Note are paid.

(f) **Notification of Rate.** The Bank will give telephone notice (promptly confirmed in writing) to the City and the Paying Agent/Registrar not later than 10:00 a.m. on each Interest Payment Date of the Differential Interest Amount and interest accrued thereon owed by the City hereunder as a result of any sale of Bank Notes pursuant to

Section 2.06(a) hereof. Notwithstanding the preceding sentence, the City's obligations to make payments in respect of any Differential Interest Amount (together with accrued interest thereon, if applicable) shall not be discharged or reduced in any way as a result of the Bank's failure to deliver any notice referred to in the preceding sentence. The Bank will, upon the request of the City or the Paying Agent/Registrar, notify the City or the Paying Agent/Registrar, as the case may be, of the Bank Rate in effect during any period in which Bank Notes are held by the Bank or any other Bank Noteholders or during which any Differential Interest Amount, Excess Note Interest, Excess Note Interest Amount, Final Excess Note Interest Amount or any amount in respect of the Interest Component remains unpaid. Absent manifest error, the Bank's determination of any of the foregoing shall be binding upon the City and the Paying Agent/Registrar.

(g) **General.** Except to the extent otherwise provided in the Ordinance with respect to payments on Bank Notes and in Section 2.02(d) hereof, all payments by or on behalf of the City under this Agreement shall be made to the Bank prior to 3:30 p.m. on the date such payment is due by wire transfer in immediately available funds to State Street Bank and Trust Company, ABA Number: 011-000-028 Account Number: 4867-932-8 Account Name: Municipal Finance Fee Receivable, Acct. Reference: City of Austin, Texas Airport System Variable Rate Revenue Notes, Series A. Any payment received by the Bank after 3:30 p.m. shall be deemed to be received by the Bank on the next succeeding day. Any amount owed to the Bank hereunder which is not paid when due shall bear interest from the date such payment was due until paid in full at a rate equal to the Default Rate, such interest to be payable on demand. All computations of interest and fees (other than as provided in Section 2.08(b)) shall be made on the basis of a year of 360 days, actual days elapsed. Except as may be otherwise provided herein, whenever any payment or action to be made or taken hereunder shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and such extension of time shall be included in computing interest or fees, if any, in connection with such payment or action.

(h) **Application of Payments.** Payments received by the Bank shall be applied, first, to any fees, costs, charges or expenses payable by the City under this Agreement; second, to past due interest; third, to current interest; and, fourth, to principal.

(i) **Redemption of Bank Notes First.** Amounts applied for the redemption of Notes (whether optional or otherwise) shall be used first to redeem Bank Notes.

## **Section 2.05. Additional Payments.**

(a) If (1) the introduction of or any change in or in the interpretation of any law or regulation, (2) the compliance with any guideline or request from any central bank or other governmental authority (whether or not having the force of law) or (3) the introduction of any applicable law, rule, regulation or guideline, or any change therein or any change in the interpretation or administration thereof by any central bank or governmental authority charged with the interpretation or administration thereof or compliance by the Bank (or any corporation controlling any thereof), with any request, guideline or directive regarding capital adequacy (whether or not having the force of law) of any such central bank or other authority, shall either (x) impose, modify or deem

applicable any reserve, special deposit or similar requirement against commitments to advance funds by the Bank similar to the commitments made by the Bank under the Letter of Credit, or (y) impose on the Bank any other condition relating, directly or indirectly, to this Agreement or the Letter of Credit, and the result of any event referred to in (x) or (y) above shall be to (A) increase the cost to the Bank of maintaining the Letter of Credit or (B) reduce any amount or the effective return on capital (taking into consideration the Bank's (or its parent's) policies with respect to capital adequacy) received or receivable by the Bank hereunder, then the City shall, upon written notice from the Bank (which notice shall set forth the actions described above that affect the provisions of this Section and the matters described below), pay to the Bank, from time to time as specified by the Bank, such additional amounts as reasonably shall be demanded by the Bank as sufficient to compensate the Bank for such increased cost or reduced yield or return, as the case may be, together with interest at the Default Rate (as in effect from time to time) on amounts required to be paid under this Section 2.05 from the day that is thirty (30) days after receipt by the City of such notice until payment in full thereof. Notwithstanding anything in this Section 2.05 to the contrary, in no event shall the nondeductibility of carrying costs for indebtedness, the interest on which is excluded from gross income for federal income tax purposes, be considered an increase in cost or reduction in yield or return subject to reimbursement hereunder. For purposes of determining whether any event specified in this Section 2.05 shall have resulted in a reduced yield or return for the Bank, the effect of such event on the Bank and on any corporation controlling the Bank shall be taken into account, but without duplication.

(b) The provisions of this Section 2.05 shall survive termination of this Agreement.

#### **Section 2.06. Sale of Notes Owned by the Bank.**

(a) The City agrees to cause the Remarketing Agent, pursuant to the Remarketing Agreement and Section 13.03 of the Ordinance, to use its best efforts to sell, in the secondary market, the Bank Notes at a sale price equal to the principal amount thereof, plus accrued interest, if any, thereon, calculated at the rate of interest borne by Notes which are not owned by the Bank (or, if all Notes are then held by the Bank as Bank Notes, a rate designated by the Remarketing Agent as similar to the rate borne by Notes similar in type and credit quality to the Notes which are trading in the market) (the "*Note Rate*") in effect for the period beginning on the most recent Interest Payment Date for Notes other than Bank Notes. If less than all Bank Notes are remarketed on any date, the Bank Notes having the lowest aggregate amount of Excess Note Interest payable with respect thereto shall be deemed to be remarketed first. Upon the Bank's receipt of (i) notice from the Paying Agent/Registrar, prior to 11:00 a.m. on any Business Day on which a Bank Noteholder holds Bank Notes, that the Remarketing Agent has located a purchaser for a Bank Note and that such purchaser desires to purchase such Bank Note on a Business Day (which shall be at least one Business Day after the date on which such notice is received by the Bank) and (ii) on behalf of the City, an amount equal to the Differential Interest Amount with respect to such Bank Note for the period beginning on the most recent Interest Payment Date with respect to such Bank Note to which interest has been paid in full (or the date of purchase pursuant to a Liquidity Drawing, if later)

and ending on the day prior to the date of such delivery (such date of delivery is referred to herein as the "*Sale Date*"), the Bank may, at its option, deliver (or cause to be delivered), in the manner described in the following sentence, an appropriate principal amount of Bank Notes to the Paying Agent/Registrar for sale, against payment by the Paying Agent/Registrar (from such amounts so deposited in the Remarketing Account) of an amount equal to the principal amount of Bank Notes so delivered by the Bank, plus accrued interest, if any, thereon, calculated at the Note Rate in effect for the period beginning on the most recent Interest Payment Date for Notes other than Bank Notes. The Paying Agent/Registrar shall not transfer any such Bank Notes, or re-register the same, until the Paying Agent/Registrar has received from the Bank Noteholder written confirmation of receipt of the funds referred to in the preceding sentence and the Differential Interest Amount. In the event of any such sale (i) if the Notes are not then Book-Entry Notes, the Bank shall deliver (or cause to be delivered) such Notes duly endorsed in blank for transfer, or (ii) if the Notes are then Book-Entry Notes with DTC, the Bank shall deliver (or cause to be delivered) such Notes through the facilities of DTC. Any sale of a Bank Note pursuant to this Section 2.06(a) shall be without recourse to the seller and without representation or warranty of any kind.

(b) In the event that the Remarketing Agent locates a purchaser for any Bank Note and the Bank or other Bank Noteholder elects not to sell such Note, then from and after the date of such election, such Note shall, for all purposes hereof, thereof and of the Ordinance, cease to be a Bank Note, and such Note shall no longer bear interest at the Bank Rate but shall be subject to the particular Interest Rate Period to which the Notes (other than Bank Notes) are subject, bear interest at the Note Rate, and the principal of and interest on such Note shall be payable at the times and in the manner provided in the Ordinance. Notwithstanding anything to the contrary contained herein, in the Ordinance or in any Note, the Bank hereby agrees that following the Bank's or other Bank Noteholder's election not to sell any Bank Note purchased hereunder for which the Remarketing Agent has located a purchaser, such Note, or any Note authenticated and delivered in replacement thereof or in substitution therefor, shall not thereafter be a Bank Note unless (i) after such election not to sell, such Note is sold by the Bank to another person and (ii) the Bank thereafter purchases such Note hereunder. The Bank shall notify the City, the Paying Agent/Registrar and the Remarketing Agent in writing of any such election not to sell a Bank Note by 1:00 p.m. on the Business Day preceding the Sale Date. Such election may be revoked in writing by the Bank Noteholder at any time prior to 1:00 p.m. on the Business Day preceding the Sale Date. In the event notice by the Bank of its election not to sell such Bank Notes is not received by 1:00 p.m. on the Business Day preceding the Sale Date, the Bank shall be deemed to have determined to sell such Bank Notes to the purchaser located by the Remarketing Agent.

(c) In the event that the date of the Bank's election not to sell any Bank Note as provided in Section 2.06(b) hereof is not an Interest Payment Date for such Bank Note, the City shall pay to the Bank, on or prior to 3:30 p.m. on the date of such election, an amount equal to the Differential Interest Amount with respect to such Bank Note for the period beginning on the most recent Interest Payment Date with respect to such Bank Note to which interest has been paid in full (or the date of the Liquidity Drawing, if later) and ending on the day prior to the date of such election.

(d) Notwithstanding anything to the contrary contained in the Ordinance, the Bank expressly reserves the right, and shall have the right, to sell, at any time, Bank Notes subject, however, to the express terms of this Agreement. The Bank agrees that such sales will be made only to institutional investors or other entities or individuals that customarily purchase commercial paper or tax-exempt securities in large denominations. The Bank agrees to notify the City, the Remarketing Agent and the Paying Agent/Registrar promptly of any such sale and, if such Bank Note is held in book entry form, specifying the account at DTC to which such Bank Note is to be credited; and to notify the transferee in writing that (i) so long as such Note remains a Bank Note, it is not secured by the Letter of Credit and (ii) there will not be a short-term investment rating (or any other rating) assigned to such Note so long as it remains a Bank Note. Any purchaser of a Bank Note from the Bank shall be deemed to have agreed not to sell such Bank Note to any person except to the Bank or institutional investors or other entities or individuals that customarily purchase commercial paper or tax-exempt securities in large denominations.

(e) Following any sale of Bank Notes pursuant to Section 2.06(a), Section 7.05 or otherwise, or any election to retain Notes pursuant to Section 2.06(b) hereof, the Bank and any other Bank Noteholders shall retain the right to receive payment from the City of any accrued Excess Note Interest Amount and interest thereon as provided herein and any other amounts then due and owing under this Agreement.

#### **Section 2.07. Stated Expiration Date; Right of the City to Terminate.**

(a) **Expiration of Letter of Credit.** The Letter of Credit shall terminate as set forth in the Letter of Credit.

(b) **Stated Expiration Date.** The "*Stated Expiration Date*" for the Letter of Credit initially shall be February \_\_\_\_, 2012; *provided*; that such date shall be subject to extension from time to time, upon the written request of the City, in accordance with the terms hereof, and the written consent of the Bank in its sole discretion and without obligation to so agree. Not earlier than the one hundred and eightieth (180<sup>th</sup>) day prior to the Stated Expiration Date, the City may make any such written request to the Bank for such an extension (substantially in the form of Exhibit C to this Agreement), and, if the Bank desires to extend the Stated Expiration Date as requested, the Bank shall notify the City and the Paying Agent/Registrar of its consent in writing within 60 days of the Bank's receipt of such written request; *provided, however*, that if the Bank shall not so notify the City and the Paying Agent/Registrar, the Bank shall be deemed to have rejected such request. If the Bank and the City agree to an extension of the Stated Expiration Date, the Bank shall amend the Letter of Credit to conform to such extension.

In the event that the Stated Expiration Date shall be scheduled to occur on a date which is not a Business Day or on a date on which the Bank's Lending Office is not open for business (whether or not a Business Day), the Stated Expiration Date shall occur at 5:00 p.m. at the Bank's Lending Office on the Business Day next succeeding the scheduled date of expiration.

Notwithstanding the occurrence of the Expiration Date, so long as the Bank or any other Bank Noteholder shall be the holder of any Bank Notes or any amounts payable hereunder shall remain unpaid, this Agreement shall remain in full force and effect.

**Section 2.08. Fees and Payments.**

(a) **Fees.** The City agrees to pay fees to the Bank in an amount and at such times provided in the Letter Agreement. Any amounts due and payable under the Letter Agreement shall be considered due and payable hereunder for all purposes of this Agreement as if set forth herein in full.

(b) **Payment of Interest Component.** The City shall pay the Bank, to the extent permitted by law, interest, monthly in arrears, on the amount of the Interest Component, if any, included (i) in each Liquidity Advance from the dates of such advance until paid as provided in Section 2.03(a) (until due) and (ii) in each Term Loan from the dates of such advance until paid as provided in Section 2.03(b) (until due); and the Interest Component (together with interest thereon) shall be due and payable on, the earliest of (i) the Interest Payment Date next succeeding the Purchase Date, (ii) the date on which such Purchased Notes are remarketed, paid at maturity or redeemed or (iii) the Expiration Date.

**Section 2.09. Substitution of Alternate Letter of Credit or Termination of Letter of Credit.**

(a) Subject to the terms of the Letter Agreement and the Ordinance, the City may at any time and at its option, upon at least 30 days' prior notice to the Bank, provide an Alternate Letter of Credit in substitution for the Letter of Credit with respect to not less than all of the Notes; *provided, however*, that no such substitution shall replace the Letter of Credit unless the terms and conditions of subsection (b) hereof are complied with. The City may at any time and at its option, upon at least 30 days' prior notice to the Bank, convert not less than all of the Notes to a Non-Covered Interest Rate; *provided, however*, that no such conversion shall terminate the Letter of Credit unless the terms and conditions of subsection (b) hereof are complied with. The City also may provide an Alternate Letter of Credit in substitution for the Letter of Credit or convert the Notes to a Non-Covered Interest Rate upon such other terms and conditions as shall have been consented to by the Bank in writing.

(b) The City agrees that, as a condition to the effectiveness of any Alternate Letter of Credit, the provider of the Alternate Letter of Credit, together with the City insofar as the interest due on Bank Notes exceeds the available interest coverage under the Alternate Letter of Credit, shall provide funds on the date the Alternate Letter of Credit becomes effective for the purchase of all Bank Notes at a price of par plus accrued interest in accordance with the Ordinance plus any accrued and unpaid Differential Interest Amount through and including the Sale Date, and that as a condition to the effectiveness of the conversion to a Non-Covered Interest Rate all Bank Notes will be purchased on the conversion date at a purchase price of par plus accrued interest (at the applicable Bank Rate) through the purchase date. On the effective date of such Alternate Letter of Credit or conversion to a Non-Covered Interest Rate, as the case may be, the

City shall pay in full all other amounts accrued under this Agreement (including the Excess Note Interest Amount, the entire unpaid Final Excess Note Interest Amount and unpaid interest thereon) whether or not then due and payable.

**Section 2.10. Bank Records.** All transactions relating to the Bank Notes (including, without limitation, redemptions, repayments and interest charges) and other amounts due hereunder shall be reflected in the books and records of the Bank, which books and records shall be conclusive and binding upon the City and the Bank absent manifest error.

**Section 2.11. Source of Payment.** The Bank Notes and the other Reimbursement Obligations to the Bank of the City due or to become due hereunder are special obligations of the City payable solely from and secured solely by a Lien on the Net Revenues on a parity with the lien granted by the Ordinance to Revenue Bonds, and the funds specified in the Ordinance. To the extent that any other moneys or other revenues of the City are hereafter pledged to the payment of the Notes or the Escrow Series A Notes, such additional security shall further secure the Bank Notes and the other Reimbursement Obligations of the City to the Bank.

### **ARTICLE III**

#### **CONDITIONS TO ISSUANCE OF LETTER OF CREDIT**

**Section 3.01. Conditions to Issuance of Letter of Credit.** On or prior to the issuance of the Letter of Credit, each of the following conditions shall have been fulfilled to the satisfaction of the Bank. The Bank's execution and delivery of this Agreement and the issuance of the Letter of Credit shall evidence its agreement that such conditions have been met to its satisfaction or have been waived and that the Effective Date has occurred.

(a) On the Effective Date (and after giving effect to the effectiveness of this Agreement and the issuance of the Letter of Credit), (i) there shall exist no Event of Default or Default; (ii) all representations and warranties made by the City in this Agreement or in any of the Financing Documents to which it is a party shall be true and correct with the same effect as though such representations and warranties had been made at and as of such time; (iii) no material adverse change shall have occurred in the assets, condition (financial or otherwise), operations or prospects of the Airport System between the date of the City's most recent audited financial statements for the Airport System and the Effective Date, except as previously disclosed to the Bank in writing, and no transactions or obligations having a material adverse effect on the assets, condition (financial or otherwise), operations or business prospects of the Airport System, whether or not, in either case, arising from transactions in the ordinary course of the City's business, shall have been entered into by the City subsequent to the date of the City's most recent audited financial statements with respect to the Airport System; and (iv) no transaction or event shall have occurred and no change shall have occurred in the assets, condition (financial or otherwise), operations or business prospects of the City between the date of the City's most recent audited financial statements with respect to the Airport System and the Effective Date except as previously disclosed to the Bank in writing, which could reasonably be expected to have a Material Adverse Effect.

(b) On or prior to the Effective Date, the Bank shall receive the following documents, all in form and substance satisfactory to the Bank:

(i) a certificate of an authorized officer of the City certifying that on and as of the Effective Date (i) each of the City's representations and warranties contained herein and in any of the Financing Documents to which it is a party is true and correct, (ii) no Event of Default or Default has occurred and is continuing and (iii) each of the items set forth under Section 3.01(a)(iii) and (iv) hereof is true and correct;

(ii) an incumbency certificate with respect to the officers or agents of the City who are authorized to execute any documents or instruments on behalf of the City under this Agreement and the other Financing Documents to which the City is a party and which are to be delivered on the Effective Date;

(iii) executed legal opinions, dated the Effective Date, addressed to the Bank and in form and substance satisfactory to the Bank (A) of Note Counsel, including a reliance letter if not addressed to the Bank, covering such matters as the Bank may reasonably request; (B) of counsel to the City, covering such matters relating to the Notes and the City's obligations under the Financing Documents as the Bank may reasonably request; and (C) of the Attorney General of the State specifically approving the proceedings of the City authorizing this Agreement;

(iv) a copy of the Ordinance (as in effect on the Effective Date), together with a certificate an authorized officer of the City, dated the Effective Date, certifying that the Ordinance is in full force and effect on the Effective Date and that there has been no other amendment or supplement of, or modification to, any provision of the Ordinance, except as set forth therein;

(v) a copy of the Remarketing Agreement and the Tender Agreement, together with a certificate of an authorized officer of the City, dated the Effective Date, to the effect that each of the Remarketing Agreement and the Tender Agreement is in full force and effect and has not been amended, modified or changed;

(vi) written evidence from Moody's and S&P that the Notes are rated not less than "\_\_\_" and "\_\_\_" on a long-term basis and not less than "\_\_\_" and "\_\_\_" on a short-term basis, respectively;

(vii) a copy of the Remarketing Memorandum, together with any supplements or amendments thereto prepared on or prior to the Effective Date;

(viii) evidence satisfactory to the Bank of the termination of the Prior Letter of Credit and the payment in full of all amounts due and owing to the Prior Credit Issuer;

(ix) Bank Bond CUSIP numbers with respect to the Notes;



(x) audited financial statements of the City for the fiscal year ended September 30, 2007 and a copy of the City's approved budget with respect to the Airport System for the fiscal year ending September 30, 2009, including such support documents and cash flow projections as may be requested by the Bank; and

(xi) an executed copy of this Agreement, the Custody Agreement and the Letter Agreement; and

(xii) such further documentation, certifications or opinions as the Bank may reasonably request in connection with matters arising under this Agreement or in connection with the prior issuance of the Notes.

(c) All amounts required to be paid to the Bank under this Agreement, including all fees and other costs, including fees and disbursements of counsel to the Bank, then due and payable in connection with the negotiation, preparation, execution and delivery of this Agreement, have been paid in full.

(d) On or prior to the Effective Date, no change shall have occurred in any law or regulation or in any interpretation thereof that in the written opinion of counsel for the Bank would make it illegal for the Bank to issue the Letter of Credit as provided herein.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES OF THE CITY

The City hereby represents and warrants as follows, as of the date of execution and delivery of this Agreement and as of the Effective Date:

**Section 4.01. Status.** The City is a "Home Rule City," acting as such under the Constitution and laws of the State, and has full legal right, power and authority to (i) own, operate and maintain the Airport System, (ii) adopt the Ordinance and to issue and deliver the Notes, (iii) execute and deliver this Agreement and the Financing Documents, (iv) issue and deliver the Notes, and (v) perform fully and completely all its obligations and liabilities under the Ordinance, this Agreement and under the Financing Documents;.

**Section 4.02. Power and Authority.** The City has the requisite power and authority to execute and deliver, and to perform its obligations under, this Agreement and the other Financing Documents to which it is or will be a party and has taken all necessary action to authorize the execution, delivery and performance of this Agreement and the other Financing Documents to which it is or will be a party. The City is duly authorized to conduct its business under all the applicable laws, rulings, regulations and ordinances and the departments, agencies and political subdivisions governing it or regulating its business.

**Section 4.03. Enforceability.** Assuming due authorization, execution and delivery by each of the other parties thereto, each of this Agreement and the Financing Documents to which the City is a party constitutes the legal, valid and binding obligation of the City enforceable in

accordance with its terms, subject, as to enforceability, to applicable bankruptcy, moratorium, insolvency or similar laws affecting the rights of creditors generally and to certain principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Each of the Financing Documents is or will be on the Effective Date in full force and effect.

**Section 4.04. No Conflict.** The adoption by the City of the Ordinance and the execution and delivery by the City of this Agreement and the Financing Documents and the performance by the City of its obligations thereunder do not and will not violate any constitutional provision or any law or any regulation, order, writ, injunction or decree of any court or governmental body, agency or other instrumentality applicable to the City, including, without limitation, the Act, or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien (other than the lien of the Ordinance) upon any of the assets of the City pursuant to the terms of, any ordinance, resolution, mortgage, indenture, agreement or instrument to which the City is a party or by which it or any of its properties is bound.

**Section 4.05. Consents.** As of the Effective Date, all consents, licenses, approvals, validations and authorizations of, and registrations, validations or declarations by or with, any court or any Governmental Agency, bureau or agency required to be obtained in connection with the execution, delivery, performance, validity or enforceability of this Agreement and the other Financing Documents (including the Notes) have been obtained and are in full force and effect.

**Section 4.06. Litigation.** Except as disclosed in the Remarketing Memorandum or otherwise disclosed to the Bank in writing, to its knowledge, there is no litigation, action, suit, arbitration, proceeding or administrative proceeding, or any inquiry or investigation at law or in equity or before or by any court, public board or body pending or threatened, against or affecting the City or the Airport System (x) wherein an unfavorable decision, ruling or finding could reasonably be expected to have a Material Adverse Effect; or (y) which in any way contests its existence, organization or powers or the titles of its officers to their respective offices in a manner which adversely affects its ability to perform its obligations hereunder or under the Financing Documents to which it is a party.

**Section 4.07. Default.** No Event of Default or Default has occurred and is continuing.

**Section 4.08. Remarketing Memorandum.** The Remarketing Memorandum prepared with respect to the Notes and the transactions herein contemplated, true copies of which have heretofore been delivered to the Bank, does not contain, and such Remarketing Memorandum (including any amendments or supplements prepared subsequent to its date) (a true copy of which, in each case, shall be furnished to the Bank prior to the distribution thereof) will not contain, any untrue statement of a material fact and such Remarketing Memorandum does not omit, and will not omit, to state a material fact necessary to make the statements therein, in the light of the circumstances under which made, not misleading, except no representation is made as to information furnished in writing by the Bank expressly for inclusion therein.

**Section 4.09. Notes.** Each Note (including all Bank Notes) will be duly issued under the Ordinance, is a Revenue Bond under the Ordinance, secured by a lien on the Net Revenues as set forth herein and therein, and each such Note shall otherwise be entitled to the benefits thereof.

**Section 4.10. Assignment of Notes.** The City shall not create or authorize any liens, security interests or claims on or with respect to Bank Notes other than the claim of the Bank provided in this Agreement.

**Section 4.11. Incorporation of Representations and Warranties.** The City hereby makes to the Bank the same representations and warranties as were made by it in the Ordinance and the other Financing Documents, which representations and warranties, together with the related definitions of terms contained therein, are hereby incorporated by reference with the same effect as if each and every such representation and warranty and definition were set forth herein in its entirety. No amendment to or waiver of such representations and warranties or definitions made pursuant to the relevant Financing Documents shall be effective to amend such representations and warranties and definitions as incorporated by reference herein without the prior written consent of the Bank.

**Section 4.12. Financial Statements.** The audited balance sheets of the City with respect to the Airport System and the related statement of revenues and expenses and changes in financial position for the Fiscal Year ended September 30, 2007 and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Bank, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the City with respect to the Airport System at such dates and for such periods, and were prepared in accordance with generally accepted accounting principles applicable to the City, consistently applied.. Since September 30, 2007, no transaction or event shall have occurred and no change shall have occurred in the condition (financial or otherwise) or operations of the City or the Airport System that could reasonably be expected to have a Material Adverse Effect.

**Section 4.13. Complete and Correct Information.** All information, reports and other papers and data with respect to the City furnished to the Bank were, at the time the same were so furnished, complete and correct in all material respects. No fact is known to the City that materially and adversely affects or in the future may (so far as it can reasonably foresee) materially and adversely affect the security for any of the Notes, or the City's ability to repay when due its obligations under this Agreement, any of the Notes and the Financing Documents that has not been set forth in the Remarketing Memorandum or in the financial information and other documents referred to in this Section 4.13 or in such information, reports, papers and data or otherwise disclosed in writing to the Bank. Taken as a whole, the documents furnished and statements made by the City in connection with the negotiation, preparation or execution of this Agreement and the Financing Documents do not contain untrue statements of material facts or omit to state material facts necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

**Section 4.14. Regulatory Authority.** The City is duly authorized to own and operate the Airport System as currently operated under all applicable laws, rulings, regulations and ordinances, and the City has obtained all material and requisite approvals from all applicable governmental bodies required to be obtained by the City with respect to the ownership and operation Airport System prior to the date of delivery of the Notes, the other Financing Documents and this Agreement. The City is not in violation of any applicable law, ruling, regulation or ordinance with respect to the Airport System which violation could, in the aggregate, have a Material Adverse Effect. The current collection of Net Revenues and the

management of the Airport System and the accounting and recordkeeping therefore are in material compliance with all applicable state and federal laws and all applicable resolutions, ordinances and rules of the City.

**Section 4.15. Insurance.** The City currently maintains insurance with respect to the Airport System of such type and in such amounts or in excess of such amounts as are customarily carried by, and insures against such risks as required by the Ordinance.

**Section 4.16. The Paying Agent/Registrar and the Remarketing Agent.** The Bank of New York Mellon Trust Company, N.A. (or a successor or assign approved in writing by the Bank) is the duly appointed and acting Paying Agent/Registrar. Citigroup Global Markets Inc. (or a successor or assign approved in writing by the Bank) is the duly appointed and acting Remarketing Agent as to the Notes.

**Section 4.17. Security.** Pursuant to the Ordinance, the City has pledged the Net Revenues to the payment and security of the Revenue Bonds (including the Notes and the Bank Notes). The Ordinance, together with this Agreement, creates a valid lien on, pledge of, and security interest in the Net Revenues as security for the Notes and for the repayment of the City's obligations under this Agreement and all action necessary to perfect the lien on, pledge of, and security interest of in the Net Revenues has been duly and validly taken. The payment of obligations of the City owing to the Bank hereunder, to the extent characterized in this Agreement as interest (including interest at the Bank Rate or the Default Rate on Bank Notes pursuant hereto), ranks on a parity with the payment of principal of and interest on the Revenue Bonds (including the Notes) and is not subordinate to any other payment secured by a Lien on the Net Revenues, other than the Prior Lien Bonds. The payment of obligations of the City owing to the Bank hereunder, to the extent characterized in this Agreement as principal (including the principal amount of all Bank Notes), ranks on a parity with the payment of principal of and interest on the Revenue Bonds (including the Notes) and is not subordinate to any other payment secured by a Lien on the Net Revenues, other than the Prior Lien Bonds.

**Section 4.18. Pending Legislation.** To the knowledge of the City, there are no proposed amendments certified for placement on a statewide ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any law or any legislation that has passed either house of the legislatures of the State, or any published judicial decision interpreting any of the foregoing, the effect of which is to materially adversely affect the Notes, the security for any of the Notes, or the ability of the City to repay when due its obligations under this Agreement and the other Financing Documents.

**Section 4.19. Environmental Matters.** To the best knowledge of the City, the operations of the Airport System are in compliance with all of the requirements of applicable Environmental Laws and are not the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, where a failure to comply with any such requirement or the need for any such remedial action would have a material adverse effect on the ability of the City to perform its obligations under this Agreement and the other Financing Documents.

## ARTICLE V

### COVENANTS OF THE CITY

Until the termination of this Agreement and the payment in full of all amounts payable to the Bank hereunder and under any Bank Notes, the City hereby covenants and agrees that:

**Section 5.01. Payment Obligations.** The City shall promptly pay or cause to be paid from Net Revenues all amounts payable by it hereunder and under the Financing Documents according to the terms hereof or thereof and shall duly perform each of its obligations under this Agreement and the other Financing Documents to which it is a party. All payments of principal, interest and any other sums due hereunder shall be made in the amounts required hereunder without any reduction or setoff, notwithstanding the assertion of any right of recoupment or setoff or of any counterclaim by the City.

**Section 5.02. Financing Documents.**

(a) The City agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it in each Financing Document to which it is a party and in the Custody Agreement, and in each case such provisions, together with the related definitions of terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety.

(b) Without limiting any other provision in this Agreement, the covenants of the City with respect to the priority and use of the Net Revenues set forth in the Ordinance are hereby incorporated herein for the benefit of the Bank and for the repayment of the obligations hereunder. The establishment of certain funds and accounts by the City in the Ordinance are hereby agreed to be for the further benefit of the Bank. Pursuant to the Ordinance, the City has pledged and bound itself to set aside from Net Revenues and to pay into the Debt Service Fund the various amounts required by the Ordinance to be paid into and maintained in said Fund, all within the times provided by the Ordinance. Pursuant to the Ordinance, said amounts so pledged to be paid out of Net Revenues into the Debt Service Fund have been declared to be a lien and charge upon the Net Revenues, if any, second only to the Prior Lien Bonds, but equal in rank to the lien and charge upon such Net Revenues of the amounts required to pay and secure the payment of the Revenue Bonds of the City thereafter issued on a parity with the Notes (including the Bank Notes). The terms of the Ordinance with respect to such lien and pledge are hereby incorporated herein by this reference without giving effect to any expiration, amendment, supplement or termination thereof to which the Bank has not given its express written consent.

(c) The City shall not (i) amend, supplement or otherwise modify (or permit any of the foregoing), or request or agree to any consent or waiver under, any of the Financing Documents or (ii) effect or permit the cancellation, acceleration or termination of, or (except as otherwise permitted under the Financing Documents) release or permit the release of any collateral held under any of the Financing Documents which is not otherwise contemplated by, or permitted pursuant to the terms of, any of the Financing

Documents, in either case, without the prior written consent of the Bank; *provided, however*, that the consent of the Bank shall not be required with respect to supplements entered into solely for the purpose of providing for the issuance of a series of Notes pursuant to the Ordinance; and *provided further, however*, that the consent of the Bank shall not be required in connection with the termination of this Agreement, unless otherwise provided for herein.

(d) Any financial covenants set forth in any credit agreement or other credit facility to which the City is a party and which is secured on a parity basis with respect to the Net Revenues pursuant to the Ordinance, including, without limitation, any credit agreement or other credit facility to which the City may be a party, whether now in effect or entered into by the City after the date hereof, as well as related defined terms contained in such sources, respectively, are hereby incorporated by reference (all of the foregoing are collectively referred to herein as the "*Incorporated Provisions*") in this Section 5.02 for the benefit of the Bank with the same effect as if each and every such Incorporated Provision were set forth in this Section 5.02 in its entirety. The City will perform and comply with each and every Incorporated Provision incorporated herein. The City further covenants to promptly execute and deliver at its expense an amendment to this Agreement in form and substance satisfactory to the Bank evidencing the amendment of this Agreement to include such Incorporated Provisions, *provided* that the execution and delivery of such amendment shall not be a precondition to the effectiveness of such amendment as provided for in this Section 5.02(d), but shall merely be for the convenience of the parties hereto. To the extent that any such Incorporated Provision (A) permits any Person or Persons to waive compliance with such provision or (B) requires that a document, opinion or other instrument or any event or condition be acceptable or satisfactory to any Person or Persons, for purposes of this Agreement, such Incorporated Provision shall be complied with hereunder only if (x) it is waived by the Bank or (y) such document, opinion or other instrument and such event or condition shall be acceptable or satisfactory only if it is acceptable or satisfactory to the Bank, which acceptance or satisfaction shall not be unreasonably withheld or delayed. No amendment to such Incorporated Provisions made pursuant to any of the Financing Document or otherwise shall be effective to amend such Incorporated Provision without the prior written consent of the Bank and such Incorporated Provision shall remain in full force, except to the extent modified, amended or waived by the Bank, whether or not the respective document containing such Incorporated Provision remains in effect, whether or not the original beneficiary of such Incorporated Provisions continues to be a creditor of the City or whether such original beneficiary has otherwise lost its rights to enforce such Incorporated Provisions.

(e) Notwithstanding anything in this Agreement or in any Financing Document to the contrary, to the extent permitted by law, to the extent the holder of any Revenue Bond, or any other Person, is permitted to accelerate or otherwise cause the maturity of such Debt secured by the Net Revenues to become due prior to its scheduled terms and accelerates or otherwise causes maturity of such Debt to become due and payable prior to maturity, upon the occurrence of an Event of Default hereunder, the Bank may immediately declare all of the City's obligations hereunder to be, and such

amounts shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the City.

**Section 5.03. Reporting Requirements.** The City shall keep proper books of record and account in which full, true and correct entries will be made of all dealings and transactions of or in relation to affairs, operations, transactions and activities of the Airport System in accordance with generally accepted accounting principles applicable to governmental entities, consistently applied, and will furnish to the Bank a copy of each of the following:

(a) As soon as available, and in any event not later than 210 days after the close of each Fiscal Year of the City, (i) the complete audited financial statements of the Airport System including the balance sheet as of the end of such Fiscal Year and the related statements of revenues, expenses and cash flows and changes in fund balance for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the preceding Fiscal Year all in reasonable detail, certified and prepared by an independent certified public accountant in accordance with generally accepted accounting principles applicable to the City, consistently applied, together with the most recent Annual Filing; and

(b) Within 60 days after the end of each quarter of each fiscal year financial statements similar to those described in paragraph (i) above, unaudited but certified by an authorized financial officer of the City with respect to the Airport System, such balance sheets to be as of the end of such quarter and such statements of income and surplus to be for the period from the beginning of the calendar year to the end of such quarter, in each case subject to audit and year-end adjustments;

(c) Forthwith, and in any event within five (5) Business Days, after any officer of the City obtains knowledge thereof, a certificate of the City setting forth the occurrence of any Default or Event of Default, the details thereof and the action which the City is taking or proposes to take with respect thereto;

(d) Simultaneously with the delivery of the financial statements and the Annual Filing referred to in clause (a) and clause (b) above and otherwise at the request of the Bank, a certificate of the chief financial officer or treasurer of the City stating that (i) under his/her supervision the City has made a review of its activities during the preceding annual period for the purpose of determining whether or not the City has complied with all of the terms, provisions and conditions of this Agreement and the other Financing Documents, (ii) to the best of his/her knowledge, no Event of Default or Default has occurred and is continuing, or if an Event of Default or Default has occurred and is continuing, such certificate shall specify each such Event of Default or Default, the nature and status thereof and any remedial steps taken or proposed to correct each such Event of Default or Default and (iii) to the best of his/her knowledge the City is in compliance with the Ordinance;

(e) As soon as possible and in any event within thirty (30) days after the adoption thereof, a copy of the annual budget of the Airport System, containing estimates of expenditures and anticipated Net Revenues for the Fiscal Year covered thereby;

(f) As soon as possible and in any event within thirty (30) days after the same shall have been requested by the Bank, copies of (A) all feasibility studies that have been prepared with respect to the Airport System, and (B) all final official statements or other final disclosure statement prepared with respect to any additional Revenue Bonds or other additional Debt relating to the Airport System;

(g) Simultaneously with the delivery to the Paying Agent/Registrar under the Ordinance, copies of any information or request for information concerning this Agreement or any of the Financing Documents as and when provided to the Paying Agent/Registrar;

(h) Simultaneously with the delivery of the financial statements and the Annual Filing referred to in clause (a) above and otherwise at the request of the Bank, a copy of the most recent rating letter received with respect to a new issue of the City confirming the then current long-term rating on Revenue Bonds of the City issued under the Ordinance;

(i) As soon as possible and in any event within ten (10) days after the occurrence of a failure by an airline operating at the Airport System to make a material payment under an airline agreement in effect with the City, written notice of the same; and

(j) Such other information respecting the affairs, condition and/or operations, financial or otherwise, of the Airport System as the Bank may from time to time reasonably request.

**Section 5.04. Compliance With Law and Ordinance.** The City shall comply with all laws, ordinances, orders, rules and regulations (including Environmental Laws and ERISA) that may be applicable to the City's ownership or operation of the Airport System if the failure to comply could reasonably be expected to have a Material Adverse Effect. In addition, (i) the City shall fix, charge and collect rates, fees, rentals and charges for the use and operation of the Airport System as maybe necessary or appropriate to produce Gross Revenues and Net Revenues in each Fiscal Year which will be at least sufficient to provide for the payment of expenses and the making of deposits required under Section 5.04 of the Ordinance, and (ii) the City shall cause to be included in each annual budget of the Airport System reasonable provisions for the scheduled payment of all amounts due and such other amounts reasonably estimated to become due to the Bank under this Agreement and the other Financing Documents during the Fiscal Year covered by such budget.

**Section 5.05. Notices.** The City will promptly furnish, or cause to be furnished, to the Bank in writing (i) notice of the occurrence of any default or potential default under the Ordinance which, with the lapse of time and/or giving of notice, would constitute an event of default under the Ordinance, (ii) notice of the failure by the Remarketing Agent or the Paying Agent/Registrar to perform any of its obligations under the Remarketing Agreement or the Ordinance, (iii) notice of any proposed substitution of this Agreement, (iv) each notice required to be given to the Bank pursuant to the Ordinance, (v) promptly after adoption thereof, copies of any amendments or supplements to the Act and copies of amendments or supplements to the Financing Documents, and (vi) notice of any litigation, administrative proceeding or



development of which the City has knowledge and which, in the City's reasonable judgment, could reasonably be expected to have a Material Adverse Effect.

**Section 5.06. Certain Information.** The City shall not include in an offering document for the Notes any information concerning the Bank that is not supplied in writing, or otherwise consented to, by the Bank expressly for inclusion therein.

**Section 5.07. Maintenance of Approvals: Filings, Etc.** The City shall at all times maintain in effect, renew and comply with all the terms and conditions of all consents, filings, licenses, approvals and authorizations as may be necessary or appropriate under any applicable law or regulation for its execution, delivery and performance of this Agreement and the other Financing Documents to which it is a party.

**Section 5.08. Inspection Rights.** To the extent permitted by law, the City shall, at any reasonable time during regular business hours and from time to time, upon reasonable notice, permit the Bank or any agents or representatives thereof, at the City's expense, to examine and make copies of the records and books of account related to the Notes and with respect to the Airport System, to visit its properties and to discuss the affairs, finances and accounts of the Airport System with any of its officers and independent accountants.

**Section 5.09. Additional Obligations.** The City shall not issue any bonds, notes or similar obligations or evidence of indebtedness payable from the Net Revenues or any other amounts, accounts or other property held under the Ordinance except as permitted by the Ordinance.

**Section 5.10. Permitted Liens.** The City shall not create or incur or suffer to be incurred or to exist any Lien on the Net Revenues or any other funds, accounts or other property held under the Ordinance except as permitted by the Ordinance.

**Section 5.11. Insurance.** The City will at all times maintain insurance with respect to the business operations and properties of the Airport System against such risks, in such amounts, with such companies and with such deductibles as required by the Ordinance.

**Section 5.12. Redemption of Bank Notes; Payment of Fees.**

(a) The City shall transfer or cause to be transferred such amounts on deposit in any accounts held under the Ordinance to the Bank in order to pay obligations owing to the Bank under this Agreement and the Bank Notes when due, to the extent permitted under the Ordinance.

(b) While any Bank Notes are outstanding and in accordance with the Ordinance, the City will to the extent obligated under Section 2.04(a) hereof, redeem Bank Notes from Net Revenues under the Ordinance.

(c) The City hereby agrees that fees and other amounts payable to the Bank (including principal and interest on Bank Notes) are secured by a lien and charge upon the Net Revenues, if any, equal in rank to the lien and charge upon such Net Revenues of

the amounts required to pay and secure the payment of the Revenue Bonds of the City thereafter issued on a parity with the Notes (including the Bank Notes).

**Section 5.13. Maintenance of Existence.** The City shall use its best efforts to preserve and maintain its existence as a home rule municipality organized and existing under the laws of the State, and to perform its obligations under this Agreement and the Financing Documents. Further, the City shall maintain and preserve the Airport System in good repair at all times from the Net Revenues and any other funds available for such purposes, and shall operate the Airport System in an efficient and economical manner, as required by the Ordinance.

**Section 5.14. Use of Proceeds.** The City shall use the proceeds of the Notes for the purposes set forth in the Ordinance.

**Section 5.15. Optional Redemption.** Without the prior written consent of the Bank, the City shall not optionally redeem any Notes (other than Bank Notes) issued under the Ordinance prior to redeeming Bank Notes in full or if, after giving effect to such redemption in full, there would be any unpaid Differential Interest Amount.

**Section 5.16. Conversions.**

(a) The City shall promptly furnish, or cause to be furnished, to the Bank, not later than its furnishing the same to the Remarketing Agent a copy of any written notice furnished by the City to the Remarketing Agent, pursuant to the Ordinance indicating a proposed conversion of the interest rate on the Notes to a rate of interest other than a Weekly Interest Rate.

(b) The City shall not permit a conversion of the Notes to a rate of interest other than a Weekly Interest Rate or a defeasance of all of the Notes, without, in either case, the prior written consent of the Bank, unless upon such conversion or defeasance, the Bank's obligations under this Agreement and the Letter of Credit are terminated and the obligations due and owing to the Bank are paid in full in accordance with the terms of this Agreement.

**Section 5.17. Regulation U.** The City is not engaged principally, or as one of its important activities, in the business of extending credit for the purposes of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and will not use the proceeds of the Notes or any amounts paid by the Bank under the Letter of Credit so as to violate Regulation U as it may be amended or interpreted from time to time by the Board of Governors of the Federal Reserve System.

**Section 5.18. Appointment of Successors and Replacements.** The City shall not, without the prior written consent of the Bank, such consent not to be unreasonably withheld, delayed or conditioned, appoint or consent to the appointment of a successor Paying Agent/Registrar or Remarketing Agent. The City will endeavor to replace the Paying Agent/Registrar or the Remarketing Agent upon the reasonable request of the Bank if such entity shall fail to perform its obligations under the Ordinance. The City will cause a Remarketing Agent acceptable to the Bank to be in place at all times while this Agreement is in effect or any Bank Notes are outstanding.

**Section 5.19. Sovereign Immunity.** To the extent authorized by Texas Government Code Section 1371.059(c), the City agrees to waive sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce this Agreement or for damages for breach of this Agreement. The City further represents that to the extent its obligations hereunder represent the legal obligations of the City, it believes its non-discretionary duties are subject to enforcement in Texas courts by writ of mandamus, and that is not immune to an equitable mandamus action.

**Section 5.20. Sale or Other Disposition of Airport System.** The City shall not sell, mortgage or otherwise dispose of the Airport System or any part thereof essential to the proper operation of the airports or to the maintenance of the Net Revenues, as required by the Ordinance. The City shall not enter into any lease or agreement which impairs the operation of the Airport System or any part thereof necessary to secure adequate Net Revenues for the payment of the principal of and interest on the Revenue Bonds, or which would otherwise impair the rights of the Revenue Bond Owners with respect to the Net Revenues or the operation of the Airport System, as required by the Ordinance.

**Section 5.21. Exempt Status.** The City shall not take any action or omit to take any action that, if taken or omitted, would adversely affect the excludability of interest on the Notes from the gross income of the holders thereof for purposes of Federal income taxation under the Code.

**Section 5.22. Replacement Facility or Defeasance.** The City agree to use commercially reasonable efforts to obtain an Alternate Letter of Credit to replace the Letter of Credit or to convert to a Non-Covered Mode or to otherwise refinance the Notes in the event (x) the Bank shall decide not to extend the Stated Expiration Date or the City fails to request such an extension (such replacement to occur on or before the Stated Expiration Date), or (y) the Bank shall have caused a mandatory tender of the Notes following the occurrence of an Event of Default.

**Section 5.23. Maintenance of Ratings.** The Airport shall maintain not less than one long-term unenhanced credit rating from a Rating Agency on the Revenue Bonds.

**Section 5.24. Bank Note Ratings.** At any time Bank Notes are Outstanding, upon the request of the Bank or any other institution that owns such Bank Notes or a beneficial interest therein, the City, at its expense, within fifteen (15) days following receipt of such request, (i) shall obtain from at least one of the Rating Agencies then rating the Notes, a rating specifically assigned to such Bank Notes and (ii) shall ensure that the CUSIP number and the rating assigned to such Bank Notes are available electronically to the Bank pursuant to a third-party provider of such information.

**Section 5.25. Further Assurances.** At any time and from time to time the City shall execute and deliver such further instruments and take such further action as may reasonably be requested by the Bank to effect the purposes of this Agreement.

## ARTICLE VI

### EVENTS OF DEFAULT; REMEDIES

**Section 6.01. Events of Default.** Each of the following events shall constitute an "Event of Default" under this Agreement:

(a) ***Non-Payment.*** Any Liquidity Advance, Term Loan, Note or principal due on any Liquidity Advance, Term Loan, Note or Bank Notes is not paid when due, or any interest due on any Liquidity Advance, Term Loan or Bank Notes is not paid when due; or

(b) ***Misrepresentation.*** Any representation, warranty, certification or statement made by the City (or incorporated by reference) in this Agreement or any Financing Document or in any certificate, financial statement or other document delivered pursuant to this Agreement or any Financing Document shall prove to have been incorrect in any material respect when made (or deemed made); or

(c) ***Non-Payment of Fees.*** Non-payment when due of any amounts payable under the Letter Agreement, together with interest thereon at the Default Rate; or

(d) ***Other Non-Payments.*** Non-payment when due of any other fees or amounts payable under this Agreement (together with interest thereon at the Default Rate) within five (5) days after written notice thereof to the City; or

(e) ***Nonpayment of Airport Obligations.*** Non-payment by the City of any amounts owing by it under any Airport Obligations or under other any bonds or notes secured by the Net Revenues or bonds or notes issued in anticipation of the issuance of such bonds or notes; or

(f) ***Certain Breaches.*** The City shall fail to observe or perform any covenant contained (or incorporated by reference) in any of Section 5.01, 5.02(b), 5.03(c), 5.04 (but solely as to the second sentence thereof), 5.06, 5.08, 5.09, 5.10, 5.12 through 5.16 (but solely as to subsection (b)), inclusive, 5.18 through 5.20, inclusive, or 5.23; or

(g) ***Other Breaches.*** The City shall fail to observe or perform any covenant contained (or incorporated by reference) in this Agreement (other than those specified in (a), (c), (d) or (f) of this Section) or in any Financing Document for thirty (30) days after written notice thereof has been given to the City by the Bank; or

(h) ***Insolvency.*** (A) The City or the Airport System shall commence any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, (i) seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its Debts, or (ii) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets, or the City or the Airport System shall make a

general assignment for the benefit of its creditors; or (iii) there shall be commenced against the City or the Airport System any case, proceeding or other action of a nature referred to in clause (A) above which (1) results in an order for such relief or in the appointment of a receiver or similar official or (2) remains undismissed, undischarged or unbonded for a period of 60 days; or (3) there shall be commenced against the City or the Airport System any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (4) the City or the Airport System shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (B) the City or the Airport System shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its Debts; or

(i) **Invalidity.** Any material provision of this Agreement or any Financing Document (excluding the Remarketing Memorandum) shall at any time for any reason cease to be valid and binding on the City or the Airport System or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the City or the Airport System or by any Governmental Authority having jurisdiction, or the City or the Airport System shall deny that it has any further liability or obligation under any such document, or such document is cancelled or terminated without the Bank's prior written consent; or

(j) **Cross-Default.** The City shall fail to make any payment in respect of any Airport Obligations (including any such Notes owned by or for the account of any credit enhancer or credit facility provider with respect to any Airport Obligations) or under other any bonds or notes secured by the Net Revenues or bonds or notes issued in anticipation of the issuance of such bonds or notes when due or within any applicable grace period, or the City shall fail to perform any other agreement, term or condition contained in any agreement under which any such Airport Obligations or such other bonds or notes secured by the Net Revenues or bonds or notes issued in anticipation of the issuance of such bonds or notes is created or secured, which shall permit or result in the declaring due and payable of such Airport Obligations or such other bonds or notes prior to the date on which it would otherwise have become due and payable; or

(k) **Judgment.** A final judgment or order for the payment of money by the City with respect to the Airport System in excess of \$2,500,000 shall have been rendered against the City with respect to the Airport System which is not insured through a third party-issued liability insurance policy (or with respect to which such insurer has denied coverage) or which is in excess of the Airport System's liability insurance coverage, and such final judgment or order shall, by order of the Governmental Agency issuing such final judgment or order, be payable from the Net Revenues or other monies pledged to the payment of the Notes under the Ordinance and shall not otherwise be paid or satisfied within sixty (60) Business Days of the date such judgment is rendered, and such judgment or order shall not have been stayed, bonded pending appeal, or if no bond is required pending appeal, the City shall not have reserved the amount of such judgment in a restricted account pending appeal; or

(l) **Event of Default.** The occurrence of an "event of default" under any of the Financing Documents; or

(m) **Remarketing Agent.** The City shall fail to maintain a Remarketing Agent acceptable to the Bank; or

(n) **Ratings.** Any Rating Agency then rating the Notes or any Revenue Bonds shall have (i) withdrawn its long-term unenhanced credit rating of the Notes or such Revenue Bonds, (ii) suspended its long-term unenhanced credit rating of the Notes or such Revenue Bonds, or (iii) lowered its long-term unenhanced credit rating of the Notes or such Revenue Bonds to below "BBB" (or to the equivalent rating then in effect with respect to such Rating Agency).

**Section 6.02. Remedies.** If any Event of Default shall have occurred and be continuing upon the election of the Bank: (i) all amounts payable hereunder shall upon notice to the City become immediately due and payable, with interest thereon at the Default Rate, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the City and the Airport System; *provided that*, if an Event of Default described in Section 6.01(h) has occurred, all amounts payable hereunder will be automatically accelerated on the date of the occurrence of such Event of Default without presentment, demand, protest, notice of intention to accelerate, notice of acceleration or other notice of any kind to the City, the Airport System or any other Person, all of which are hereby expressly waived; (ii) the Bank shall notify the Paying Agent/Registrar of an Event of Default under this Agreement, shall direct the Paying Agent/Registrar to cause a mandatory tender of all of the Notes, and shall state that the Letter of Credit will terminate on the twentieth (20th) day following the date of receipt by the Paying Agent/Registrar of such notice, and (iii) the Bank shall have all the rights and remedies available to it under this Agreement, the Financing Documents or otherwise pursuant to law or equity.

**Section 6.03. Adjustment; Right of Set-off.**

(a) The City expressly agrees that to the extent the City makes a payment or payments and such payment or payments, or any part thereof, are subsequently invalidated, declared to be fraudulent or preferential, set aside or are required to be repaid to a trustee, receiver, or any other party under any bankruptcy act, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the obligations to the Bank or part thereof intended to be satisfied shall be revived and continued in full force and effect as if said payment or payments had not been made.

(b) Subject to any Lien or claim having priority over the Bank's claims hereunder, upon the occurrence and during the continuance of any Event of Default, the Bank is hereby authorized at any time and from time to time, without notice to the City (any such notice being expressly waived by the City) and to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Bank to or for the credit or the account of the City, against any and all of the obligations of the City now or hereafter existing under this Agreement, irrespective of whether or not the Bank shall have made any demand hereunder; *provided that* the Bank may only set

off and apply deposits and other indebtedness which constitute, or are otherwise payable from, Net Revenues of the Airport System. The Bank agrees to notify the City promptly after any such set-off and application; *provided, however*, that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Bank under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off or recoupment) that the Bank may have.

## **ARTICLE VII**

### **MISCELLANEOUS**

#### **Section 7.01. Amendments and Non-Waiver.**

(a) No provision of this Agreement may be amended, modified, waived, discharged or terminated orally, but only by an instrument in writing signed by the parties hereto; *provided, however*, that the provisions of Sections 2.04, 2.05 and 2.07 hereof, Articles III, IV, and V and Section 7.04 hereof may be amended, modified, waived, discharged or terminated and the Stated Expiration Date may be extended in accordance with Section 2.06(b) hereof by instruments in writing signed solely by the Bank and with notice to the Paying Agent/Registrar. The City shall give notice to Moody's and S&P of any amendments to this Agreement as provided in the Ordinance.

(b) An Event of Default or Default may be waived only in writing by the Bank and any such Event of Default or Default which has been waived in writing by the Bank shall not be deemed to be continuing during the period (including any retroactive period) for which the waiver is effective, but such waiver shall not operate as a waiver of, or estoppel with respect to, any other or subsequent failure to perform or observe any obligation hereunder. No failure or delay on the part of the Bank in exercising any right, remedy, power or privilege under this Agreement or under any of the Financing Documents and no course of dealing between the City or any other person and the Bank shall operate as a waiver hereof or thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any of the Financing Documents preclude any other or further exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided herein and in the Financing Documents are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law or in equity or otherwise. No notice to or demand on the City in any case shall entitle the City to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Bank to any other or further action in any circumstances without notice or demand. The Bank may remedy any default by the City hereunder or with respect to any other person, firm or corporation in a reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the City.

**Section 7.02. Survival of Representations and Warranties.** All agreements, representations and warranties contained in this Agreement and in any certificates delivered pursuant hereto shall survive the execution and delivery of this Agreement, and the agreements

contained in Sections 2.05, 7.03 and 7.12 hereof shall survive payment of any amounts payable hereunder and with respect to any Bank Notes and the termination of this Agreement.

**Section 7.03. Expenses; Documentary Taxes.**

(a) In addition to the fees payable under Section 2.08 hereof, the City shall pay all out-of-pocket expenses of the Bank, including reasonable fees and disbursements of counsel for the Bank, in connection with the preparation of this Agreement and the Financing Documents, any waiver or consent hereunder or any amendment hereof or any Event of Default or Default or alleged Event of Default or Default or any workout or restructuring hereunder. The City also agrees to pay all of the Bank's out of pocket expenses (including, without limitations, reasonable fees and expenses of counsel to the Bank) arising in connection with the enforcement or administration of, or preservation of rights in connection with, this Agreement or the other Financing Documents

(b) The City shall pay or reimburse the Bank for (i) any present or future claim or liability for any and all stamp, transfer, documentary, excise or other similar tax and other taxes and fees, including any penalties or interest with respect thereto, which may be assessed, levied or collected by any government authority in connection with the execution, delivery, filing, recording and performance of, or any payment made under, this Agreement, the Notes and the other Related Documents, or any amendment thereto, and (ii) any penalties, interest or similar charges, which may be assessed, levied or collected under the Code as a consequence of the failure of the Bank or any other Bank Noteholder to include the interest on or any amount in respect of interest on the Notes at any time held by the Bank or such other Bank Noteholder as gross income in its tax returns for any period.

(c) To the extent permitted by law and solely from Net Revenues, the City agrees to indemnify and hold harmless the Bank, its officers, directors, employees and agents (each an "*Indemnified Party*") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever which an Indemnified Party may incur (or which may be claimed against an Indemnified Party by any Person) by reason of or in connection with the execution and delivery of and consummation of the transactions contemplated under this Agreement and any Financing Document, including, without limitation, (i) the offering, sale, remarketing or resale of Notes (including, without limitation, by reason of any untrue statement or alleged untrue statement contained or incorporated by reference in the Remarketing Memorandum, or in any supplement or amendment thereof, prepared with respect to the Notes, or the omission or alleged omission to state therein a material fact necessary to make such statements, in light of the circumstances under which they are or were made, not misleading or the failure to deliver the Remarketing Memorandum to any offeree or purchaser of Notes) and (ii) the execution and delivery of, or payment or failure to pay by any Person (other than the Bank, as and when required by the terms and provisions hereof) under this Agreement; *provided, however*, that the City shall not be required to indemnify the Bank for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or negligence of the Bank.



(d) The provisions of this Section 7.03 shall survive termination of this Agreement.

**Section 7.04. Notices.** Except as otherwise provided in Section 2.02(a) hereof, all notices, requests and other communications hereunder shall be in written form (including telecopier) and shall be given to the party to whom addressed, at its address or telecopier number set forth below, or such other address or telecopier number as such party may hereafter specify for the purpose by notice to the other parties listed below. Each such notice, request or communication shall be effective (i) if given by telecopy, when such communication is transmitted to the number specified below and the appropriate answerback is received and a confirmation of transmission retained by the sender, (ii) if given by mail, three Business Days after such communication is deposited in the United States registered mail with first class postage prepaid or by nationally-recognized overnight courier service prepaid, in each case addressed as aforesaid or (iii) if given by any other means, when hand-delivered at the address specified below:

If to the City, to:

City of Austin, Texas  
Municipal Building  
124 West Eighth Street  
Austin, Texas 78701  
Attention: \_\_\_\_\_  
Telephone: (512) 499-2450  
Facsimile: (512) 499-2573

If to the Bank:

State Street Bank and Trust Company  
State Street Financial Center  
One Lincoln Street, SFC/5  
Boston, Massachusetts 02111-2900  
Attention: Thomas Henderson (Credit Contact)  
Telephone: (617) 664-1064  
Facsimile: (617) 946-0358

State Street Bank and Trust Company  
State Street Financial Center  
One Lincoln Street, SFC/5  
Boston, Massachusetts 02111-2900  
Attention: Adam Kennedy (Operations Contact)  
Telephone: (617) 664-3818  
Facsimile: (617) 310-5757

For Letter of Credit Draws:

State Street Bank and Trust  
Company Loan Operations Department  
Attention: Standby Letter of  
Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2

4th Floor  
Boston, Massachusetts 02116  
Attention: Peter J. Connolly  
Telephone: (617) 937-8798  
Facsimile: (617) 662-4201

Wire Instructions (Commitment Fees/Draw Fees):

State Street Bank and Trust Company  
Boston, MA  
ABA Number: 011-000-028  
Account Number: 4867-932-8  
Account Name: Municipal Finance Fee Receivable  
Attention: Adam Kennedy (Operations Contact)  
Telephone: (617) 664-3818  
Facsimile: (617) 310-5757

Wire Instructions (Draw Reimbursement):

State Street Bank and Trust Company  
Boston, MA  
ABA Number: 011-000-028  
Account Number: 4867-933-6  
Account Name: Municipal Finance Draw Clearing Account  
Attention: Adam Kennedy (Operations Contact)  
Telephone: (617) 664-3818  
Facsimile: (617) 310-5757

If to the Paying  
Agent/Registrar, to:

The Bank of New York Mellon Trust Company, N.A.  
919 Congress Avenue, Floor 5  
Austin, Texas 78701  
Attention: Corporate Trust Department  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

All notices given by telephone, telecopier or other electronic means shall be confirmed in writing as promptly as practicable. All notices given to the Bank shall be given to the attention stated above or to any other attention or person(s) from time to time designated by the Bank in a written certificate of the Bank furnished to the City and the Paying Agent/Registrar, signed on behalf of the Bank.

**Section 7.05. Participation.** The Bank shall have the right at any time to sell, grant or transfer participations in all or part of this Agreement and the obligations of the City hereunder to any other bank or banks without the consent of or notice to the City; *provided* that no such action by the Bank shall relieve the Bank of its obligations under this Agreement or the Letter of Credit. The Bank may disclose to any participants or prospective participants any information or other data or material in the Bank's possession relating to this Agreement, any Financing Document and the City, without the consent of or notice to the City.

**Section 7.06. Satisfaction Requirement.** If any agreement, certificate or other writing, or any action taken or to be taken, is by the terms of this Agreement required to be satisfactory to the Bank, the determination of such satisfaction shall be made by the Bank in its sole and exclusive judgment.

**Section 7.07. Governing Law.** THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE NEW YORK AND APPLICABLE FEDERAL LAW WITHOUT REGARD TO CHOICE OF LAW RULES; *PROVIDED, HOWEVER*, THE OBLIGATIONS OF THE CITY HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE.

**Section 7.08. Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

**Section 7.09. Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**Section 7.10. Headings.** Article and Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

**Section 7.11. Integration.** This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any agreement, document or instrument attached hereto or expressly referred to herein shall supersede all oral negotiations and all prior or contemporaneous writings with respect to the subject matter hereof.

**Section 7.12. Net of Taxes, Etc.**

(a) Any and all payments to the Bank by the City hereunder shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges, withholdings or liabilities imposed thereon, excluding, however, taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political subdivision (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "*Taxes*"). If the City shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 7.12), the Bank receives an amount equal to the sum it would have received had no such deductions been

made, (ii) the City shall make such deductions and (iii) the City shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the City shall make any payment under this Section 7.12 to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States then the Bank shall pay to the City an amount equal to the amount by which such other taxes are actually reduced; provided that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the City with respect to such Taxes.

(b) The City shall, to the fullest extent permitted by State law, pay or reimburse the Bank for the full amount of Taxes including any Taxes imposed by any jurisdiction on amounts payable under this Section 7.12 paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally asserted. The Bank agrees to give notice to the City of the assertion of any claim against the Bank relating to such Taxes as promptly as is practicable after being notified of such assertion; provided that the Bank's failure to notify the City promptly of such assertion shall not relieve the City of its obligation under this Section 7.12. Payments by the City pursuant to this Section shall be made within thirty (30) days from the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank agrees to repay to the City any refund (including that portion of any interest that was included as part of such refund) with respect to Taxes paid by the City pursuant to this Section 7.12 received by the Bank for Taxes that were paid by the City pursuant to this Section 7.12 and to contest, with the cooperation and at the expense of the City, any such Taxes which the Bank or the City reasonably believes not to have been properly assessed.

(c) Within thirty (30) days after the date of any payment of Taxes by the City, the City shall furnish to the Bank, the original or a certified copy of a receipt evidencing payment thereof.

(d) The obligations of the City under this Section 7.12 shall survive the termination of this Agreement.

### **Section 7.13. Successors and Assigns; Benefit of Agreement.**

(a) This Agreement shall be binding upon each party hereto, its successors and permitted assigns without further action by any party hereto, *provided, however*, that (i) the City may not transfer or assign any or all of its rights or obligations hereunder without the prior written consent of the Bank and (ii) the Bank shall not transfer or assign any or all of its obligations hereunder (A) without the prior written consent of the City (which consent shall not be unreasonably withheld), *provided* that no such consent shall be required if an Event of Default shall have occurred and is continuing, and (B) unless there shall have been delivered to the City and the Paying Agent/Registrar written evidence from Moody's, if the Notes then shall be rated by Moody's, and S&P, if the Notes then shall be rated by S&P, in each case to the effect that such transfer or

assignment will not, by itself, result in a reduction or withdrawal of the ratings of the Notes from those which then prevail.

(b) This Agreement is made and entered into solely for the protection and benefit of the Bank, and the City and both of their respective successors and assigns and no other person shall have any right of action under this Agreement. Any and all claims asserted hereunder or under any Bank Notes may be asserted and only asserted by the City or the Bank, and both of their respective successors and permitted assigns.

**Section 7.14. Term of Agreement; Continuing Obligations.** This Agreement is a continuing obligation of the City and shall, until the later of the Expiration Date and the date on which all amounts due and owing to the Bank hereunder and under the Bank Notes shall have been paid in full, (i) be binding upon the City, its successors and assigns, and (ii) inure to the benefit of and be enforceable by the Bank and its successors, transferees and assigns, under all circumstances whatsoever, including, without limitation, the following circumstances:

(a) any lack of validity or enforceability of all or any of the Financing Documents;

(b) any amendment or waiver of or any consent to or departure from the terms of all or any of the Financing Documents;

(c) any exchange, release or non-perfection of any collateral or any release or amendment or waiver of or consent to departure from any guaranty and insurance documents;

(d) the existence of any claim, right of set-off or recoupment, defense, or other right which the City may have at any time against the Paying Agent/Registrar, the Remarketing Agent, the Bank (other than the defense of the payment to the Bank in accordance with the terms of this Agreement) or any other person or entity, whether in connection with this Agreement, the Financing Documents or any unrelated transactions;

(e) any certificate, notice or any other document presented other than by the Bank under this Agreement or any of the Financing Documents proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever; or

(f) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing.

**Section 7.15. Nature of Bank's Duties.**

(a) The Bank may, under this Agreement, receive, accept and pay any drafts, demands or other documents and instruments (otherwise in order) signed by, or issued to, the receiver, trustee in bankruptcy, custodian, executor, administrator, guardian or conservator of anyone named in this Agreement or the Ordinance as the person by whom drafts, demands and other documents and instruments are to be made or issued. The City hereby waives any right to object to any payment made under this Agreement against a

draft and accompanying documents as provided in the Letter of Credit varying in punctuation, capitalization, spelling or similar matters of form.

(b) Neither the Bank nor any of its officers or directors shall be liable or responsible for (i) the use which may be made of the Letter of Credit or for any acts or omissions of the Paying Agent/Registrar or the Remarketing Agent or the agents of either, (ii) the general and particular conditions stipulated in the Letter of Credit, (iii) the validity or genuineness of any documents presented under the Letter of Credit (or any endorsement thereon), even if such documents should in fact prove to be in any or all respects forged, fraudulent, invalid, unenforceable or insufficient or any statement therein being inaccurate in any respect whatsoever, (iv) payment by the Bank under the Letter of Credit against presentation of documents which do not comply with the terms of the Letter of Credit, including failure of any documents to bear any reference or adequate reference to the Letter of Credit, (v) the existence, form, sufficiency and breach of contracts of any nature whatsoever, including the Financing Documents and the Letter of Credit, (vi) the solvency, standing and responsibility of any person whomsoever, (vii) any delay by any person other than the Bank in giving or failure to give any notice, demand or protest, (viii) failure of any person (other than the Bank) to comply with the terms of the Letter of Credit, (ix) errors, omissions, delays in or non-delivery of any message, however sent, (x) any act or failure to act by the Paying Agent/Registrar which results in the failure of the Paying Agent/Registrar to effect any purchase of Notes with funds provided by the Bank under the Letter of Credit or to comply with applicable provisions of the Ordinance, or (xi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, in making or failing to make payment under the Letter of Credit. Notwithstanding the foregoing, the Bank shall be liable to the City to the extent, but only to the extent, of any direct, actual damages, and excluding any consequential, special, indirect or exemplary damages or lost profits suffered by the City, which direct, actual damages the City proves in a final, non-appealable judgment were caused by the Bank's willful failure to honor draws when required under the terms and conditions thereof or caused by the negligence of the Bank.

(c) Without in any way limiting the terms of Section 7.15(a)-(b) hereof, the Bank may accept documents under the Letter of Credit that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

**Section 7.16. USA PATRIOT Act.** The Bank, to the extent that it is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "*Patriot Act*"), hereby notifies the City that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Patriot Act.

[remainder of page intentionally left blank]

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

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name:  
Title:

STATE STREET BANK AND TRUST  
COMPANY

By \_\_\_\_\_  
Name: Timothy L. Batler  
Title Senior Vice President

## EXHIBIT A

### FORM OF IRREVOCABLE LETTER OF CREDIT

FEBRUARY \_\_, 2009

**BENEFICIARY:**

The Bank of New York Mellon Trust  
Company, N.A., as Paying  
Agent/Registrar  
919 Congress Avenue, Floor 5  
Austin, Texas 78701  
Attention: Corporate Trust Department

**FOR THE ACCOUNT OF:**

City of Austin, Texas  
Municipal Building  
124 West Eighth Street  
Austin, Texas 78701

Ladies and Gentlemen:

1. We hereby establish, at the request and for the account of the City of Austin, Texas (the "*City*"), in your favor, as Paying Agent/Registrar, for the benefit of the holders of the Notes (as hereinafter defined), under the Ordinance No. 950817-B on August 17, 1995 (as amended by the Ordinance No. 98-0205-A adopted on February 5, 1998, the "*Ordinance*"), pursuant to which \$28,000,000 principal amount of City of Austin, Texas Airport System Variable Rate Revenue Notes, Series A (the "*Notes*") are being issued, our Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*"), in the amount of \$\_\_\_\_\_ (as more fully described below), effective immediately and expiring on the earliest to occur of any of the following (the "*Expiration Date*"): (i) the close of business on February \_\_, 2012 or if such date is extended pursuant to the terms hereof, the date as so extended (the "*Stated Expiration Date*"), (ii) the date on which the principal amount of and interest on the Notes shall have been paid in full, (iii) the close of business on the second Business Day following conversion of the interest rate on all of the Notes to a Bond Interest Term Rate (as defined in the Ordinance), (iv) the date which is the earlier of (A) the date on which we honor a draft drawn hereunder to purchase the Notes following your receipt of written notice from us that an Event of Default under the Letter of Credit and Reimbursement Agreement dated as of February 1, 2009 between the City and us (the "*Reimbursement Agreement*") has occurred and is continuing, directing you to cause a mandatory tender of all of the Notes, and stating that this Letter of Credit will terminate on the tenth (10th) calendar day following the date of your receipt of such notice (substantially in the form of Exhibit 9) or (B) the tenth (10th) calendar day following the date of the Paying Agent/Registrar's receipt of the notice described in the preceding clause (A), (v) the date this Letter of Credit is surrendered to us by you for cancellation following acceptance by you of a Alternate Letter of Credit (as defined in the Reimbursement Agreement), or (vi) the date we honor the final drawing available hereunder.



2. We hereby irrevocably authorize you to draw on us in accordance with the terms and conditions, and subject to reductions in amount and reinstatement, as hereinafter set forth, by your drafts, an aggregate amount not exceeding \$\_\_\_\_\_ (the "*Letter of Credit Amount*"), of which an aggregate amount not exceeding \$28,000,000 may be drawn upon with respect to payment of principal of the Notes or that portion of the purchase price of Notes tendered for purchase ("*Purchase Price*") corresponding to principal (the "*Letter of Credit Amount-Principal Component*"), and of which an aggregate amount not exceeding \$\_\_\_\_\_ (but no more than an amount equal to accrued interest on the Notes for the immediately preceding [61] days, computed as though the Notes bore interest at the rate of 15% per annum notwithstanding the actual rate borne by the Notes from time to time, based on a 365-day year) may be drawn upon with respect to payment of interest on the Notes or that portion of the Purchase Price of Notes corresponding to interest (the "*Letter of Credit Amount-Interest Component*"). The foregoing Letter of Credit amounts comprising the Letter of Credit Amount-Principal Component and the Letter of Credit Amount-Interest Component will be reduced upon redemption of any Notes as provided in the Ordinance or upon payment of Notes at maturity of any Notes pursuant to the Ordinance, and in such circumstances you shall deliver to us a certificate in the form of Exhibit 5 attached hereto.

3. Only you, as Paying Agent/Registrar, or any successor Paying Agent/Registrar under the Ordinance, may make drawings under this Letter of Credit. Upon the payment to you or your account of the amount specified in a draft drawn hereunder, we shall be fully discharged of our obligation under this Letter of Credit with respect to such draft, and we shall not thereafter be obligated to make any further payments under this Letter of Credit in respect of such draft to you or to any other person who may have made to you or who makes to you a demand for purchase of, or payment of principal of or interest on any Note. Notes that bear interest at the Bond Interest Term Rate or that are registered in the name of the City or are held or required to be held for our benefit pursuant to Section 3.21 of the Ordinance (collectively, the foregoing Notes shall be referred to as "*Ineligible Notes*") shall not be entitled to any benefit of this Letter of Credit.

4. The Letter of Credit Amount-Principal Component and the Letter of Credit Amount-Interest Component, as the case may be, shall be reduced immediately following our honoring any draft drawn hereunder to pay principal of, or interest on, the Notes, to pay the interest portion of the Purchase Price of the Notes, or to pay the principal portion of the Purchase Price of the Notes (a "*Liquidity Drawing*"), in each case by an amount equal to the amount of such draft.

5. Following each drawing hereunder to pay interest on the Notes (excluding interest constituting a portion of the Purchase Price of Notes), the amount so drawn shall be automatically reinstated to the Letter of Credit Amount Interest Component immediately upon payment by us of such drawing. Following each drawing hereunder to pay interest constituting a portion of the Purchase Price of Notes, the amount so drawn shall be automatically reinstated to the Letter of Credit Amount-Interest Component, concurrent with either (i) our receipt of reimbursement of such Purchase Price amount, or (ii) an election by us to retain Bank Notes pursuant to Section 2.06(b) of the Reimbursement Agreement (regardless of the Purchase Price received for such Bank Notes).

6. Following each drawing hereunder to pay the Purchase Price of Notes corresponding to the Letter of Credit Amount-Principal Component, the amount so drawn shall be automatically reinstated to the Letter of Credit Amount-Principal Component, concurrent with our receipt of reimbursement of such Purchase Price amount.

7. Demands for payment hereunder honored by us shall not at the time of such drawing exceed the Letter of Credit Amount, as such Letter of Credit Amount may have been reduced or reinstated by us.

8. Funds under this Letter of Credit are available to you against (a) your sight draft payable on the date such draft is drawn on us, stating on its face: "Drawn under State Street Bank and Trust Company Irrevocable Letter of Credit No. \_\_\_\_\_"; (b) if the drawing is being made with respect to payment of principal of the Notes, a certificate signed by you in the form of Exhibit 1 attached hereto appropriately completed; (c) if the drawing is being made with respect to payment of interest on the Notes, a certificate signed by you in the form of Exhibit 2 attached hereto appropriately completed; (d) if the drawing is a Liquidity Drawing, a certificate signed by you in the form of Exhibit 3 attached hereto appropriately completed; and (e) simultaneously with any Liquidity Drawing being made hereunder, a certificate signed by you in the form of Exhibit 4 attached hereto appropriately completed regarding the portion of the Purchase Price of the Notes corresponding to interest. Such draft(s) and certificate(s) shall be dated the date of presentation, which shall be made to State Street Bank and Trust Company, for Courier Mail to: State Street Bank and Trust Company, Loan Operations Department, Attention: Standby Letter of Credit Unit, Mailstop: CPH0426, 100 Huntington Ave., Tower 2, 4th Floor, Boston, Massachusetts 02116, Facsimile Transmission No. (617) 937-8866 (with transmission confirmed by call to Telephone No. (617) 937-8798) (or any other office which may be designated by us by written notice delivered to you). If we receive your draft(s) and certificate(s) in the forms of Exhibit 3 or Exhibit 4 at such office, all in strict conformity with the terms and conditions of this Letter of Credit, at or prior to 1:00 p.m., New York, New York time, on a Business Day on or prior to the Expiration Date, we will honor the same no later than 3:00 p.m., New York, New York time, on the same Business Day in accordance with your payment instructions. If we receive draft(s) and certificate(s) in the forms of Exhibit 3 or Exhibit 4 at such office, all in strict conformity with the terms and conditions of this Letter of Credit, after 1:00 p.m., New York, New York time, on a Business Day on or prior to the Expiration Date, we will honor the same no later than 12:00 p.m., noon, New York, New York time, on the next succeeding Business Day in accordance with your payment instructions. Presentation of drawings to pay the Purchase Price of Notes also may be made by a telecopy transmission of the documents described in the applicable subparagraphs (a), (d) and (e) above to State Street Bank and Trust Company, Loan Operations Department, Attention: Standby Letter of Credit Unit, Mailstop: CPH0426, 100 Huntington Ave., Tower 2, 4th Floor, Boston, Massachusetts 02116, Facsimile Transmission No. (617) 937-8866 (with transmission confirmed by call to Telephone No. (617) 937-8798), or such other telecopier and telephone numbers that we hereafter designate by written notice delivered to you. If we receive your draft(s) and certificate(s) in the forms of Exhibit 1 or Exhibit 2 at or prior 9:30 a.m., New York, New York time, on a Business Day, on or prior to the Expiration Date, we will honor the same no later than 3:00 p.m., New York, New York time, on the same Business Day. If we receive your drafts and certificates in the forms of Exhibit 1 or Exhibit 2 after 9:30 a.m., New York, New York time, on a Business Day, on or prior to the Expiration Date, we will honor the same no later than 12:00 p.m., noon, New York, New

York time, on the next succeeding Business Day. Presentation of drawings to pay the principal of and interest on Notes also may be made by a telecopy transmission of the documents described in the applicable subparagraphs (a) through (c) above to State Street Bank and Trust Company, Loan Operations Department, Attention: Standby Letter of Credit Unit, Mailstop: CPH0426, 100 Huntington Ave., Tower 2, 4th Floor, Boston, Massachusetts 02116, Facsimile Transmission No. (617) 937-8866 (with transmission confirmed by call to Telephone No. (617) 937-8798), or such other telecopier and telephone numbers that we hereafter designate by written notice delivered to you. Payment under this Letter of Credit will be made out of our funds by wire transfer of immediately available funds to the Paying Agent/Registrar, \_\_\_\_\_, ABA: \_\_\_\_\_, GLA: \_\_\_\_\_, f/f/c: \_\_\_\_\_, Ref: City of Austin, Texas Airport System Variable Rate Revenue Notes, Series A, Attention: \_\_\_\_\_. Such account may be changed only by presentation to the Bank of a letter in form satisfactory to the Bank specifying a different account with the Paying Agent/Registrar and executed by the Paying Agent/Registrar. We agree that any and all payments under this Letter of Credit will be made with the Bank's own funds.

9. Unless this Letter of Credit has otherwise terminated in accordance with its terms, the Expiration Date may be extended by written notice of our election to extend (substantially in the form of Exhibit 8). Such notice shall be given to you at your address shown on the first page of this Letter of Credit or, if you have designated a different address by written notice delivered to us as provided in Paragraph 11 below, such designated address.

10. As used herein, the term "*Business Day*" shall mean any day other than a Saturday or a Sunday or a day on which our office at which drawings on this Letter of Credit are made and the offices of the Paying Agent/Registrar and the Remarketing Agent (as each term is defined in the Ordinance) are each open for business and on which the New York Stock Exchange is not closed.

11. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at our office address set forth in or designated pursuant to Paragraph 8 above and shall specifically refer to the number of this Letter of Credit.

12. This Letter of Credit is transferable in its entirety (but not in part) to any transferee who has succeeded you as Paying Agent/Registrar under the Ordinance and may be successively so transferred. Transfer of the available balance under this Letter of Credit to such transferee shall be effected by the presentation to us of this Letter of Credit (and any amendments thereto) accompanied by a certificate substantially in the form of Exhibit 6 attached hereto and payment of our transfer fee.

13. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except the forms of the certificates and the drafts referred to herein, and any such reference (except as aforesaid) shall not be deemed to incorporate herein, any document, instrument or agreement except for such certificates or drafts.

14. To the extent not inconsistent with the express terms hereof, this Letter of Credit shall be governed by, and construed in accordance with, the provisions of the International Standby Practices 1998, International Chamber of Commerce Publication No. 590, and any

subsequent revisions thereof ("*ISP 98*"). As to matters not covered by the *ISP 98*, this Letter of Credit shall be governed by, and construed in accordance with, the internal laws of the State of New York, including, without limitation, Article 5 of the Uniform Commercial Code as in effect in the State of New York.

15. Upon the Expiration Date this Letter of Credit shall automatically terminate. Upon the termination of this Letter of Credit we shall be fully discharged of our obligation hereunder. This Letter of Credit (and any amendments thereto) shall be promptly surrendered to us by you upon such termination. Upon termination of the Letter of Credit in accordance with clauses (ii), (iii) or (vi) of Paragraph 1. above, you shall deliver to us a certificate substantially in the form of Exhibit 7 attached hereto.

16. Communications with respect to this Letter of Credit shall be in writing and shall, unless otherwise indicated herein, be addressed to us at State Street Bank and Trust Company, for Courier Mail to: State Street Bank and Trust Company, Loan Operations Department, Attention: Standby Letter of Credit Unit, Mailstop: CPH0426, 100 Huntington Ave., Tower 2, 4th Floor, Boston, Massachusetts 02116, with a copy to State Street Bank and Trust Company, State Street Financial Center, One Lincoln Street, Boston, Massachusetts 02111, Attention: Thomas Henderson (or to such other address or addresses as we may specify to you in writing), specifically referring to the number of this Letter of Credit.

Very truly yours,

**STATE STREET BANK AND TRUST COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT 1

### **CERTIFICATE FOR THE PAYMENT OF PRINCIPAL AT MATURITY OR REDEMPTION OF CITY OF AUSTIN, TEXAS AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES, SERIES A**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

The undersigned, a duly authorized officer of «Paying Agent/Registrar» (the "*Paying Agent/Registrar*"), hereby certifies as follows to State Street Bank and Trust Company (the "*Bank*") with reference to Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*") issued by the Bank in favor of the Paying Agent/Registrar. Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit.

- (1) The Paying Agent/Registrar is the Paying Agent/Registrar under the Ordinance.
- (2) The Paying Agent/Registrar is making a drawing under the Letter of Credit with respect to the payment of principal of the Notes at maturity or redemption in accordance with the Ordinance.
- (3) The amount of principal of the Notes which is due and payable (or which has been declared to be due and payable) is \$\_\_\_\_\_, and the amount of the draft accompanying this Certificate does not exceed such amount of principal.
- (4) The amount of the draft accompanying this Certificate does not include any amount in respect of the principal amount of any Ineligible Notes, does not exceed the amount available to be drawn under the Letter of Credit in respect of payment of principal of the Notes and was computed in accordance with the terms and conditions of the Notes and the Ordinance.
- (5) [The draft accompanying this Certificate is the final draft to be drawn under the Letter of Credit with respect to principal and, upon the honoring of such draft, the Letter of Credit will expire in accordance with its terms (i.e. clause [ii] [vi] of Paragraph 1. thereof) and the Paying Agent/Registrar will surrender the Letter of Credit to the Bank.]<sup>\*</sup>

---

<sup>\*</sup> To be used only upon stated maturity or optional or mandatory redemption of the Notes as a whole.

**IN WITNESS WHEREOF**, the Paying Agent/Registrar has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**«PAYING AGENT/REGISTRAR»**,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

## EXHIBIT 2

### CERTIFICATE FOR THE PAYMENT OF INTEREST ON CITY OF AUSTIN, TEXAS AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES, SERIES A

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

The undersigned, a duly authorized officer of «Paying Agent/Registrar» (the "*Paying Agent/Registrar*"), hereby certifies as follows to State Street Bank and Trust Company (the "*Bank*") with reference to Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*") issued by the Bank in favor of the Paying Agent/Registrar. Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit.

- (1) The Paying Agent/Registrar is the Paying Agent/Registrar under the Ordinance.
- (2) The Paying Agent/Registrar is making a drawing under the Letter of Credit with respect to the payment of interest accrued on the Notes in accordance with the Ordinance.
- (3) The amount of interest on the Notes which is due and payable is \$\_\_\_\_\_, and the amount of the draft accompanying this Certificate does not exceed such amount of interest.
- (4) The amount of the draft accompanying this Certificate does not include any amount in respect of the interest on any Ineligible Notes, does not exceed the amount available to be drawn under the Letter of Credit in respect of payment of interest accrued on the Notes, and was computed in accordance with the terms and conditions of the Notes and the Ordinance.
- (5) [The draft accompanying this Certificate is the final draft to be drawn under the Letter of Credit with respect to interest and, upon the honoring of such draft, the Letter of Credit will expire in accordance with its terms (i.e. clause [ii] [vi] of Paragraph 1. thereof) and the Paying Agent/Registrar will surrender the Letter of Credit to the Bank.]\*

---

\* To be used only upon stated maturity or optional or mandatory redemption of the Notes as a whole.

**IN WITNESS WHEREOF**, the Paying Agent/Registrar has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_.

**«PAYING AGENT/REGISTRAR»**,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]



### EXHIBIT 3 (LIQUIDITY DRAWING)

#### **CERTIFICATE FOR THE PAYMENT OF THAT PORTION OF THE PURCHASE PRICE OF NOTES CORRESPONDING TO PRINCIPAL OF CITY OF AUSTIN, TEXAS AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES, SERIES A**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

The undersigned, a duly authorized officer of «Paying Agent/Registrar» (the "*Paying Agent/Registrar*"), hereby certifies as follows to State Street Bank and Trust Company (the "*Bank*") with reference to Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*") issued by the Bank in favor of the Paying Agent/Registrar. Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit.

- (1) The Paying Agent/Registrar is the Paying Agent/Registrar under the Ordinance.
- (2) The Paying Agent/Registrar is making a Liquidity Drawing under the Letter of Credit pursuant to Section 13.06 of the Ordinance with respect to the purchase of Notes corresponding to the principal of Notes tendered or deemed tendered pursuant to Section [3.15][3.17][3.18]\* of the Ordinance and not remarketed by the Remarketing Agent on or before the date such Notes are to be purchased.
- (3) The amount of Purchase Price corresponding to principal of such Notes less the remarketing proceeds available for the purchase of such Notes as contemplated in Section 13.06 of the Ordinance is \$\_\_\_\_\_ and the amount of the draft accompanying this Certificate does not exceed such amount of principal.
- (4) The amount of the draft accompanying this Certificate does not exceed the amount available to be drawn under the Letter of Credit in respect of the Purchase Price corresponding to principal of such Notes and was computed in accordance with the terms and conditions of the Notes and the Ordinance.

---

\* Insert appropriate clause.

**IN WITNESS WHEREOF**, the Paying Agent/Registrar has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_.

**«PAYING AGENT/REGISTRAR»**,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

## EXHIBIT 4 (LIQUIDITY DRAWING)

### **CERTIFICATE FOR THE PAYMENT OF THAT PORTION OF THE PURCHASE PRICE OF NOTES CORRESPONDING TO INTEREST OF CITY OF AUSTIN, TEXAS AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES, SERIES A**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

The undersigned, a duly authorized officer of «Paying Agent/Registrar» (the "*Paying Agent/Registrar*"), hereby certifies as follows to State Street Bank and Trust Company (the "*Bank*") with reference to Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*") issued by the Bank in favor of the Paying Agent/Registrar. Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit.

- (1) The Paying Agent/Registrar is the Paying Agent/Registrar under the Ordinance.
- (2) The Paying Agent/Registrar is making a Liquidity Drawing under the Letter of Credit pursuant to Section 13.06 of the Ordinance simultaneously herewith with respect to the purchase of Notes corresponding to principal on Notes tendered or deemed tendered pursuant to Section [3.15][3.17][3.18]\* of the Ordinance and not remarketed by the Remarketing Agent on or before the date such Notes are to be purchased.
- (3) A portion of the Purchase Price of Notes corresponding to interest on such Notes less the amount of monies on deposit in the Note Purchase Fund and available for the purchase of such Notes as contemplated in Section 13.06 of the Ordinance is \$\_\_\_\_\_ and the amount of the draft accompanying this Certificate does not exceed such amount of interest.
- (4) The amount of the draft accompanying this Certificate does not exceed the amount available to be drawn under the Letter of Credit in respect of the Purchase Price corresponding to interest on such Notes and was computed in accordance with the terms and conditions of the Notes and the Ordinance.

---

\* Insert appropriate clause.

**IN WITNESS WHEREOF**, the Paying Agent/Registrar has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**«PAYING AGENT/REGISTRAR»**,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

## EXHIBIT 5

### **CERTIFICATE FOR THE PERMANENT REDUCTION OF LETTER OF CREDIT AMOUNT**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

The undersigned, a duly authorized officer of «Paying Agent/Registrar» (the "*Paying Agent/Registrar*"), hereby certifies as follows to State Street Bank and Trust Company (the "*Bank*") with reference to Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*") issued by the Bank in favor of the Paying Agent/Registrar. Any capitalized term used herein and not defined shall have its respective meaning as set forth in the Letter of Credit.

- (1) The Paying Agent/Registrar is the Paying Agent/Registrar under the Ordinance.
- (2) The aggregate principal amount of the Notes Outstanding (as defined in the Ordinance) has been reduced to \$\_\_\_\_\_.
- (3) The Letter of Credit Amount-Principal Component is hereby correspondingly reduced to \$\_\_\_\_\_.
- (4) The Letter of Credit Amount-Interest Component is hereby reduced to \$\_\_\_\_\_ [calculated by multiplying the amount of the principal amount in the last line of paragraph (2) hereof by 15% and multiplying the product thereof by the quotient of [61] divided by 365] to reflect the amount of interest allocable to the reduced amount of principal set forth in paragraph (3) hereof.

IN WITNESS WHEREOF, the Paying Agent/Registrar has executed this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**«PAYING AGENT/REGISTRAR»,**  
as Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

**EXHIBIT 6**

**INSTRUCTION TO TRANSFER**

\_\_\_\_\_, \_\_\_\_\_  
State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

Re: Irrevocable Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

For value received, the undersigned beneficiary (the "*Former Paying Agent/Registrar*") hereby irrevocably transfers to:

\_\_\_\_\_  
(Name of Transferee)

\_\_\_\_\_  
(Address)

(the "*Transferee*"), as successor Paying Agent/Registrar under the Ordinance (as defined in the Letter of Credit) all rights of the former Paying Agent/Registrar under said Letter of Credit. The Transferee has succeeded the Paying Agent/Registrar under the Ordinance.

By this transfer all rights of the former Paying Agent/Registrar in the Letter of Credit are transferred to the above named Transferee and the Transferee shall have the sole rights as beneficiary thereof, including sole rights relating to amendments, whether increases or extensions or other amendments, and whether now existing or thereafter made. All amendments are to be advised directly to the Transferee without necessity of any consent of or notice to the former Paying Agent/Registrar. By its signature below, the Transferee acknowledges that it has duly succeeded the former Paying Agent/Registrar under the Ordinance and that it agrees to be bound by the terms of the Ordinance.

The original Letter of Credit (including any amendments thereto) is being returned herewith, and we ask you to endorse the transfer on the reverse thereof, and forward it directly to the Transferee with your customary notice of Transfer.

**IN WITNESS WHEREOF**, the Paying Agent/Registrar has executed and delivered this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
«**PAYING AGENT/REGISTRAR**», as  
predecessor Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

\_\_\_\_\_  
«**PAYING AGENT/REGISTRAR**», as  
successor Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

Signature Authenticated:

\_\_\_\_\_  
(Bank)

\_\_\_\_\_  
(Authorized Signature)

Signature Authenticated:

\_\_\_\_\_  
(Bank)

\_\_\_\_\_  
(Authorized Signature)

**EXHIBIT 7**

**NOTICE OF TERMINATION**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0426  
100 Huntington Ave., Tower 2, 4th Floor  
Boston, Massachusetts 02116

Re: Irrevocable Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

The undersigned, a duly authorized officer of the undersigned Paying Agent/Registrar (the "*Paying Agent/Registrar*"), hereby certifies to State Street Bank and Trust Company (the "*Bank*"), with reference to Irrevocable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*;" the terms defined therein and not otherwise defined herein being used herein as therein defined) issued by the Bank in favor of the Paying Agent/Registrar, that [the principal amount of and interest on the Notes shall have been paid in full] [the interest rate on all of the Notes has been converted to [a Bond Interest Term Rate]] [we have accepted an alternate letter of credit in substitution of the Letter of Credit in accordance with the Ordinance]\* and, accordingly, the Letter of Credit shall terminate in accordance with its terms.

IN WITNESS WHEREOF, the Paying Agent/Registrar has executed and delivered this Certificate this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**«PAYING AGENT/REGISTRAR»**, as  
Paying Agent/Registrar

By: \_\_\_\_\_  
[Name and Title]

---

\* Insert appropriate clause.



**EXHIBIT 8**

**NOTICE OF EXTENSION**

\_\_\_\_\_, \_\_\_\_\_  
[Name and Address of Paying Agent/Registrar]

Re: Irrevocable Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*;" the terms defined therein and not otherwise defined herein being used herein as therein defined) established by us in your favor as Paying Agent/Registrar under the Ordinance. We hereby notify you that, in accordance with the terms of the Reimbursement Agreement, the Stated Expiration Date of the Letter of Credit has been extended to \_\_\_\_\_, which shall be the new Stated Expiration Date.

All capitalized terms used herein and not otherwise defined herein shall have the same meanings herein as in the Letter of Credit.

This letter should be attached to the Letter of Credit and made a part thereof.

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT 9**

**NOTICE OF EVENT OF DEFAULT**

\_\_\_\_\_, \_\_\_\_\_  
[Name and Address of Paying Agent/Registrar]

Re: Irrevocable Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. \_\_\_\_\_ (the "*Letter of Credit*;" the terms defined therein and not otherwise defined herein being used herein as therein defined) established by us in your favor as Paying Agent/Registrar under the Ordinance. We hereby notify you that, in accordance with the terms of the Reimbursement Agreement, an Event of Default under the terms of the Reimbursement Agreement has occurred and that, in accordance with its terms, we shall terminate the Letter of Credit ten (10) days after your receipt of this notice.

We hereby direct you to cause pursuant to Section 3.18 of the Ordinance the mandatory tender of all Notes (other than Ineligible Notes) currently outstanding.

All capitalized terms used herein and not otherwise defined herein shall have the same meanings herein as in the Letter of Credit.

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_