

ORDINANCE NO. 200908__ - __

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF
\$12,500,000 CITY OF AUSTIN, TEXAS CERTIFICATES OF OBLIGATION,
SERIES 2009; AND APPROVING RELATED DOCUMENTS**

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

PART 1. AUTHORIZATION OF CERTIFICATES OF OBLIGATION. The Issuer's Certificates of Obligation, to be called the "City of Austin, Texas Certificates of Obligation, Series 2009" (**Certificates**), are to be issued and delivered in the principal amount of \$12,500,000, for the purpose of providing part of the funds for paying contractual obligations to be incurred by the Issuer, as further described in Schedule I, and the payment of fiscal, engineering and legal fees incurred in connection with the Certificates. The term "Certificates" as used in this Ordinance means the Certificates of Obligation initially issued and delivered pursuant to this Ordinance, all substitute Certificates of Obligation exchanged for the Certificates, and any other substitute Certificates of Obligation and replacement Certificates of Obligation issued pursuant to this Ordinance.

PART 2. DATE, DENOMINATIONS, NUMBERS AND MATURITIES. The Certificates shall initially be issued, sold and delivered as fully registered certificates, without interest coupons, dated their date of initial delivery, in denominations of \$5,000 each, or any integral multiple of \$5,000 (**Authorized Denomination**). The Certificates shall be numbered consecutively from R-1 upward, payable to the initial registered owners, or to the registered assignee or assignees of the Certificates or any portion or portions of the Certificates (in each case, the "Registered Owner"), and the Certificates shall mature and be payable on September 1 in each of the years and in the principal amounts as follows:

MATURITY DATE: SEPTEMBER 1

<u>YEARS</u>		<u>AMOUNTS (\$)</u>	
	2019		420,000
	2020		340,000
2010	2021	\$565,000	355,000
2011		605,000	
2012		635,000	
2013		670,000	
2014		705,000	
2015		345,000	
2016		365,000	
2017		385,000	
2018		400,000	

<u>YEARS</u>	<u>AMOUNTS (\$)</u>		
2025	\$440,000		
2026	465,000		
2027	485,000		
2028	515,000		
2029	540,000		
2030	240,000		
2031	255,000		
2032	265,000		
2033	280,000		
2034	295,000		
2035	310,000		
2036	330,000		
2022	380,000	2037	345,000
2023	400,000	2038	365,000
2024	420,000	2039	380,000

PART 3. REDEMPTION. (a) *Optional Redemption.* The City reserves the right to redeem the Certificates maturing on or after September 1, 2020, in whole or in part in Authorized Denominations, on September 1, 2019, or on any date after this date, for the principal amount, without premium, plus accrued interest to the date fixed for redemption. The City shall select the years of maturity of the Certificates called for redemption at the City's option before stated maturity. The Certificates, or any portion, redeemed within a maturity shall be selected by lot or other method by the Paying Agent/Registrar (defined below); if during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, and if fewer than all of the Certificates of the same maturity and bearing the same interest rate are to be redeemed, the particular Certificates of this maturity and bearing this interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

(b) *Mandatory Redemption.* The Certificates are subject to mandatory sinking fund redemption prior to their scheduled maturities, in the manner provided in the FORM OF CERTIFICATE.

(c) *Notice.* At least 30 days before the date fixed for any redemption the City shall cause a written notice of the redemption to be deposited in the United States mail, first-class postage prepaid, addressed to each registered owner at his address shown on the Registration Books (defined below) of the Paying Agent/Registrar. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or the portions of the Certificates which are to be so redeemed, plus accrued interest to the date fixed for redemption. If the notice of redemption is given, and if due provision for payment is made, all as provided above, the Certificates, or the portion of the Certificates, which are to be redeemed, automatically shall be redeemed before their scheduled maturities, and shall not

bear interest after the date fixed for their redemption, and shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price plus accrued interest to the date fixed for redemption from the Paying Agent/Registrar out of the funds provided for payment. The Paying Agent/Registrar shall record in the Registration Books all such redemptions of principal of the Certificates or any portion of the principal. If a portion of any Certificate shall be redeemed a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any Authorized Denomination, at the written request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion of the Certificate, will be issued to the registered owner upon the surrender for cancellation, at the expense of the City, all as provided in this Ordinance. In addition to the foregoing, the City shall cause the Paying Agent/Registrar to give notice of any redemption in the manner set forth in PART 5(h) of this Ordinance. The failure to cause such notice to be given, or any defect in the notice, shall not affect the validity or effectiveness of the redemption.

PART 4. INTEREST. The Certificates scheduled to mature during the years, respectively, set forth below shall bear interest at the following rates per annum:

maturities 2010, _____%	maturities 2025, _____%
maturities 2011, _____%	maturities 2026, _____%
maturities 2012, _____%	maturities 2027, _____%
maturities 2013, _____%	maturities 2028, _____%
maturities 2014, _____%	maturities 2029, _____%
maturities 2015, _____%	maturities 2030, _____%
maturities 2016, _____%	maturities 2031, _____%
maturities 2017, _____%	maturities 2032, _____%
maturities 2018, _____%	maturities 2033, _____%
maturities 2019, _____%	maturities 2034, _____%
maturities 2020, _____%	maturities 2035, _____%
maturities 2021, _____%	maturities 2036, _____%
maturities 2022, _____%	maturities 2037, _____%
maturities 2023, _____%	maturities 2038, _____%
maturities 2024, _____%	maturities 2039, _____%

The interest shall be payable to the registered owner of any Certificate in the manner provided and on the dates stated in the FORM OF CERTIFICATE. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

PART 5. CHARACTERISTICS OF THE CERTIFICATES. The City shall keep or cause to be kept at the designated corporate trust office in Dallas, Texas (**Designated Payment/Transfer Office**) of Wells Fargo Bank, N.A. (**Paying Agent/Registrar**), or other bank, trust company, financial institution, or other agency named in accordance with the provisions of (g) below, books or records of the registration and transfer of the Certificates (**Registration Books**), and the City

appoints the Paying Agent/Registrar as its registrar and transfer agent to keep the books or records and make the transfers and registrations under the reasonable regulations as the City and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such transfers and registrations as provided in this Ordinance. It shall be the duty of the Paying Agent/Registrar to obtain from the registered owner and record in the Registration Books the address of the registered owner of each Certificate to which payments with respect to the Certificates shall be mailed. The City, or its designee, shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. Registration of each Certificate may be transferred in the Registration Books only upon presentation and surrender of the Certificate to the Paying Agent/Registrar for transfer of registration and cancellation, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing the assignment of the Certificate, or any portion of the Certificate, in any Authorized Denomination, to the assignee or assignees, and the right of the assignee or assignees to have such Certificate or any portion of the Certificate registered in the name of such assignee or assignees. Upon the assignment and transfer of any Certificate or any portion of the Certificate, a new substitute Certificate or Certificates shall be issued in exchange in the manner provided in this Ordinance.

(b) The entity in whose name any Certificate shall be registered in the Registration Books at any time shall be treated as the absolute owner of the Certificate for all purposes of this Ordinance, whether or not the Certificate shall be overdue, and the City and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any Certificate shall be made only to the registered owner. All payments shall be valid and effectual to satisfy and discharge the liability on the Certificate to the extent of the sum or sums so paid.

(c) The City further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of, and interest on, the Certificates, and to act as its agent to exchange or replace Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all exchanges, and all replacements, as provided in this Ordinance.

(d) Each Certificate may be exchanged for fully registered bonds as set forth in this Ordinance. Each Certificate issued and delivered pursuant to this Ordinance, to the extent of the unredeemed principal amount, may, upon surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, together with a written request duly executed by the registered owner or the assignee or assignees, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, at the option of the registered owner or the assignee or assignees, as appropriate, be exchanged for fully registered bonds, without interest coupons, in the form prescribed in the FORM OF CERTIFICATE, in an Authorized Denomination (subject to the requirement stated below that each substitute Certificate shall have a single stated maturity date), as requested in writing by the registered owner or such assignee or assignees, in an

aggregate principal amount equal to the unredeemed principal amount of any Certificate or Certificates so surrendered, and payable to the appropriate registered owner, assignee, or assignees, as the case may be. If a portion of any Certificate is redeemed before its scheduled maturity as provided in this Ordinance, a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in an Authorized Denomination at the request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion, will be issued to the registered owner upon surrender for cancellation. If any Certificate or portion is assigned and transferred, each Certificate issued in exchange shall have the same principal maturity date and bear interest at the same rate as the Certificate for which it is being exchanged. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate. The Paying Agent/Registrar shall exchange or replace Certificates as provided in this Ordinance, and each fully registered Certificate or Certificates delivered in exchange for or replacement of any Certificate or portion as permitted or required by any provision of this Ordinance shall constitute one of the Certificates for all purposes of this Ordinance, and may again be exchanged or replaced. Any Certificate delivered in exchange for or replacement of another Certificate before the first scheduled interest payment date on the Certificates (as stated on the face of the Certificate) shall be dated the same date as the Certificate, but each substitute Certificate delivered on or after the first scheduled interest payment date shall be dated as of the interest payment date preceding the date on which the substitute Certificate is delivered, unless the substitute Certificate is delivered on an interest payment date, in which case it shall be dated as of the date of delivery; however, if at the time of delivery of any substitute Certificate the interest on the Certificate for which it is being exchanged has not been paid, then the substitute Certificate shall be dated as of the date to which the interest has been paid in full. On each substitute Certificate issued in exchange for or replacement of any Certificate or Certificates issued under this Ordinance there shall be printed on the Certificate a Paying Agent/Registrar's Authentication Certificate, in the form identified in this Ordinance as the FORM OF CERTIFICATE (**Authentication Certificate**). An authorized representative of the Paying Agent/Registrar shall, before the delivery of any substitute Certificate, date the substitute Certificate in the manner set forth above, and manually sign and date the Authentication Certificate, and no substitute Certificate shall be considered to be issued or outstanding unless the Authentication Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all Certificates surrendered for exchange or replacement. No additional ordinances, orders, or resolutions need be passed or adopted by the City Council or any other body or person to accomplish the exchange or replacement of any Certificate or portion, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed in this Ordinance. Pursuant to Chapter 1206, Texas Government Code, the duty of exchange or replacement of any Certificate is imposed on the Paying Agent/Registrar, and, upon the execution of the Authentication Certificate, the exchanged or replaced Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which originally were delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts. Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Certificate selected for redemption, in whole or in part, within 45

calendar days of the date fixed for redemption; however, the limitation of transfer shall not be applicable to an exchange by the registered owner of the uncalled principal of a Certificate.

(e) All Certificates issued in exchange or replacement of any other Certificate or portion of a Certificate, (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on the Certificates to be payable only to the registered owners, (ii) may be redeemed before their scheduled maturities, (iii) may be transferred and assigned, (iv) may be exchanged for other Certificates, (v) shall have the characteristics, (vi) shall be signed and sealed, and (vii) the principal of and interest on the Certificates shall be payable, all as provided, and in the manner required or indicated, in the FORM OF CERTIFICATE.

(f) The City shall pay the Paying Agent/Registrar's reasonable and customary fees and charges for making transfers of Certificates, but the registered owner of any Certificate requesting the transfer shall pay any taxes or other governmental charges required for the transfer. The registered owner of any Certificate requesting any exchange shall pay the Paying Agent/Registrar's reasonable and standard or customary fees and charges for exchanging any the Certificate or a portion of the Certificate, together with any required taxes or governmental charges, all as a condition precedent to the exercise of the privilege of exchange, except, in the case of the exchange of an assigned and transferred Certificate or Certificates or any portion or portions in any Authorized Denomination, and in the case of the exchange of the unredeemed portion of a Certificate which has been redeemed in part before maturity, as provided in this Ordinance, the fees and charges will be paid by the City. In addition, the City covenants with the registered owners of the Certificates that it will (i) pay the reasonable and standard or customary fees and charges of the Paying Agent/Registrar for its services with respect to the payment of the principal of and interest on the Certificates, when due, and (ii) pay the fees and charges of the Paying Agent/Registrar for services with respect to the transfer or registration of Certificates and with respect to the exchange of Certificates solely to the extent stated above.

(g) The City covenants with the registered owners of the Certificates that at all times while the Certificates are outstanding the City will provide a competent and legally qualified bank, trust company, or other entity duly qualified and legally authorized to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/-Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 60 days written notice to the Paying Agent/Registrar. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that it will promptly appoint a competent and legally qualified national or state banking institution organized and doing business under the laws of the United States of America or of any state, authorized under the laws to exercise trust powers, subject to supervision or examination by federal or state authority, and whose qualifications substantially are similar to the previous Paying Agent/Registrar to act as Paying Agent/Registrar under this Ordinance. Upon any change in the

Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy of these Books), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the City.

Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice to be sent by the new Paying Agent/Registrar to each registered owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be considered to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(h) (i) In addition to providing notice of redemption of Certificates as set forth in this Ordinance, the Paying Agent/Registrar shall give notice of redemption of Certificates by United States mail, first-class postage prepaid, at least 30 days before a redemption date to each NRMSIR (as defined in PART 18 of this Ordinance) and the SID (as defined in PART 18 of this Ordinance). In addition, in the event of a redemption caused by an advance refunding of the Certificates, the Paying Agent/Registrar shall send a second notice of redemption to the persons named in the immediately preceding sentence at least 30 days but not more than 90 days before the actual redemption date. Any notice sent to each NRMSIR or SID shall be sent so that the notice is received at least two days prior to the general mailing or publication date of such notice. The Paying Agent/Registrar shall also send a notice of prepayment or redemption to the owner of any Certificate who has not sent the Certificates in for redemption 60 days after the redemption date.

(ii) Each redemption notice, whether required in the FORM OF CERTIFICATE or otherwise by this Ordinance, shall contain a description of the Certificates to be redeemed, including the complete name of the Certificates, the series, the date of issue, the interest rate, the maturity date, the CUSIP number, if any, the amounts called of each certificate, the publication and mailing date for the notice (in the manner as provided in the FORM OF CERTIFICATE), the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Certificate may be redeemed, including a contact person and telephone number.

(iii) All redemption payments made by the Paying Agent/Registrar to the registered owners of the Certificates shall include CUSIP numbers relating to each amount paid to the registered owner.

PART 6. FORM OF CERTIFICATES. The Certificates shall be signed with the manual or facsimile signatures of the Mayor and the City Clerk, and the seal of the City shall be affixed or impressed on the Certificates. The form of the Certificates, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificates initially issued and delivered pursuant to this Ordinance, shall be in substantially the form as set forth in Exhibit A to this Ordinance, with appropriate variations, omissions, or insertions

as are permitted or required by this Ordinance. The printer of the Certificates may print on the Certificates (i) the form of bond counsel's opinion relating to the Certificates, and (ii) an appropriate statement of insurance furnished by a municipal bond insurance company providing municipal bond insurance, if any, covering all or any part of the Certificates.

PART 7. DEFINITIONS. The terms "Certificates" and "Certificates of Obligation" shall mean the City of Austin, Texas Certificates of Obligation, Series 2009, authorized to be issued and delivered by this Ordinance; and the term "Surplus Revenues" shall mean those revenues from the operation of the City's solid waste disposal system remaining after payment of all operation and maintenance expenses of the system and other obligations incurred to which the revenues have been or shall be encumbered by a lien on and pledge of such revenues superior to the lien on and pledge of the revenues to the Certificates.

PART 8. INTEREST AND SINKING FUND. A special fund or account, to be designated the "City of Austin, Texas Series 2009 Certificate of Obligation Interest and Sinking Fund" (the "Interest and Sinking Fund") is authorized to be created and it shall be established and maintained at an official depository of the Issuer. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the Issuer, and shall be used only for paying the interest on and principal of the Certificates. All ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Certificates are outstanding and unpaid, the governing body of the Issuer shall compute and ascertain the rate and amount of ad valorem tax, based on the latest approved tax rolls of the Issuer, with full allowances being made for tax delinquencies and the cost of tax collections, which will be sufficient to raise and produce the money required to pay the interest on the Certificates as the interest comes due, and to provide a sinking fund to pay the principal (including mandatory sinking fund redemption payments, if any) of the Certificates as the principal matures, but never less than 2% of the original amount of the Certificates as a sinking fund each year. The rate and amount of ad valorem tax needed to fund this obligation is ordered to be levied against all taxable property in the Issuer for each year while any Certificate is outstanding and unpaid, and this ad valorem tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes necessary to pay the interest on and principal of the Certificates, as the interest comes due and the principal matures or comes due through operation of the mandatory sinking fund redemption, if any, as provided in the FORM OF CERTIFICATE, are pledged for this payment, within the limit set by law. The Issuer appropriates from current funds on hand, and directs the transfer to the Interest and Sinking Fund for the Certificates of, an amount of money sufficient when added to the accrued interest received from the sale of the Certificates, to pay the principal and interest scheduled to come due on the Certificates on March 1, 2010.

PART 9. REVENUES. The Certificates of Obligation are additionally secured by and shall be payable from the Surplus Revenues. The Surplus Revenues are pledged by the City pursuant to

authority of Chapter 363, Texas Health and Safety Code, specifically Section 363.135. The City shall promptly deposit the Surplus Revenues on their receipt to the credit of the Interest and Sinking Fund created pursuant to PART 8, to pay the principal and interest on the Certificates of Obligation. The amount of Surplus Revenues pledged to the payment of the Certificates of Obligation shall not exceed \$1,000.

Chapter 1208, Texas Government Code, applies to the issuance of the Certificates and the pledge of ad valorem taxes and the Surplus Revenues granted by the City under PARTS 8 and 9 of this Ordinance, and the pledge is valid, effective, and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid so that the pledge of the ad valorem taxes and Surplus Revenues granted by the City is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then to preserve to the registered owners of the Certificates the perfection of the security interest in the pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code and enable a filing to perfect the security interest in the pledge.

PART 10. TRANSFER. The Issuer shall do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay the principal of, and interest on, the Certificates when due.

PART 11. SECURITY FOR FUNDS. The Interest and Sinking Fund created by this Ordinance shall be secured in the manner and to the fullest extent permitted or required by law for the security of public funds, and the Interest and Sinking Fund shall be used only for the purposes and in the manner permitted or required by this Ordinance.

PART 12. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES. (a) *Replacement Certificates*. In the event any outstanding Certificate is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new certificate of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Certificate, in replacement for the Certificate in the manner provided in this Ordinance.

(b) *Application for Replacement Certificates*. An application for replacement of damaged, mutilated, lost, stolen, or destroyed Certificates shall be made by the registered owner to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Certificate, the registered owner applying for a replacement certificate shall furnish to the Issuer and to the Paying Agent/Registrar security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect to the Certificates. Also, in every case of loss, theft, or destruction of a Certificate, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar

evidence to their satisfaction of the loss, theft, or destruction of the Certificate. In every case of damage or mutilation of a Certificate, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the damaged or mutilated Certificate.

(c) *No Default Occurred.* Notwithstanding provisions 12 (a) and (b), in the event any Certificate shall have matured, and there is no continuing default in the payment of the principal of, premium, if any, or interest on the Certificate, the Issuer may authorize the payment of the same (without surrender except in the case of a damaged or mutilated Certificate) instead of issuing a replacement certificate, provided security or indemnity is furnished as above provided in this PART.

(d) *Charge for Issuing Replacement Certificates.* Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the registered owner of the Certificate with all legal, printing, and other expenses in connection with the replacement. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is damaged, mutilated, lost, stolen, or destroyed shall constitute a contractual obligation of the Issuer whether or not the damaged, mutilated, lost, stolen, or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) *Authority for Issuing Replacement Certificates.* In accordance with Chapter 1206, Texas Government Code, this PART of this Ordinance shall constitute authority for the issuance of any replacement certificate without necessity of further action by the Issuer or any other body or person, and the duty of the replacement of the certificates is authorized and imposed on the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver the Certificates in the form and manner and with the effect, as provided in PART 5(a) of this Ordinance for Certificates issued in conversion and exchange of other Certificates.

PART 13. FEDERAL INCOME TAX MATTERS. The Issuer covenants to take any action to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in Section 103 of the Internal Revenue Code of 1986 (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. The Issuer covenants as follows:

(a) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed with the Certificates (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds are so used, that amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of Section 141(b)(2) of the Code;

(b) to take any action to assure that in the event that the "private business use" described in subsection (a) above exceeds 5 percent of the proceeds of the Certificates or the projects financed with the Certificates (less amount deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate", within the meaning of Section 141(b)(3) of the Code, to the governmental use;

(c) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or five percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of Section 141(c) of the Code;

(d) to refrain from taking any action which would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of Section 141(b) of the Code;

(e) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of Section 149(b) of the Code;

(f) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in Section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates, other than investment property acquired with B

(1) proceeds of the Certificates invested for a reasonable temporary period of three years or less until such proceeds are needed for the purpose for which the Certificates are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of Section 1.148-1(b) of the Treasury Regulations, and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(g) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of Section 148 of the Code (relating to arbitrage) and, to the extent applicable, Section 149(d) of the Code (relating to advance refundings); and

(h) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of Section 148(f) of the Code and to

pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under Section 148(f) of the Code.

For purposes of clauses (a) and (b) above, the Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended before the date of issuance of the Certificates. It is the understanding of the Issuer that the covenants contained in this Ordinance are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant to the Code. In the event that regulations or ruling are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the Issuer will not be required to comply with any covenant contained in this Ordinance to the extent that the failure to comply, in the opinion of nationally-recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under Section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally-recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under Section 103 of the Code. In furtherance of the foregoing, the Mayor, the City Manager, any Assistant City Manager, the Chief Financial Officer of the City and the Deputy Chief Financial Officer of the City may execute any documents, certificates or reports required by the Code, and to make such elections on behalf of the Issuer which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

In order to facilitate compliance with clause (h) above, a "Rebate Fund" is established and held by the Issuer for the sole benefit of the United States of America, and the Rebate Fund shall not be subject to the claim of any other person, including without limitation the holders of the Certificates. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

PART 14. ALLOCATION OF, AND LIMITATION ON, EXPENDITURES FOR THE PROJECT. The Issuer covenants to account for the expenditure of proceeds from the sale of the Certificates and any investment earnings thereon to be used for the purposes described in Schedule I (each such purpose shall be referred to in this PART and PART 15 of this Ordinance as a "Project") on its books and records in accordance with the requirements of the Code. The Issuer recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (a) the expenditure on a Project is made or (b) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The Issuer recognizes that in order for the proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the later of (a) the fifth anniversary of the date of delivery of the Certificates or (b)

the date the Certificates are retired. The Issuer agrees to obtain the advise of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes of this PART, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion from nationally-recognized bond counsel to the effect that the failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

PART 15. DISPOSITION OF PROJECT. The Issuer covenants that the property constituting a Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless the Issuer obtains an opinion of nationally-recognized bond counsel substantially to the effect that the sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of this PART, the portion of the property comprising personal property and disposed of in the ordinary course of business shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this PART, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion of a nationally-recognized bond counsel to the effect that the failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

PART 16. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES. The Mayor, or his designee, is authorized to have control of the Certificates and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificates, the Comptroller of Public Accounts (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate accompanying the Certificates, and the seal of the Comptroller shall be impressed, or placed in facsimile, on each certificate. After registration by the Comptroller, delivery of the Certificates shall be made to the Underwriters, as defined in PART 19 below, under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

PART 17. DTC REGISTRATION. The Certificates initially shall be issued and delivered in the manner that no physical distribution of the Certificates will be made to the public, and The Depository Trust Company ("DTC"), New York, New York, initially will act as depository for the Certificates. DTC has represented that it is a limited purpose trust company incorporated under the laws of the State of New York, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered under Section 17A of the Securities Exchange Act of 1934, as amended, and the Issuer accepts, but in no way verifies, the representations. The Certificates initially authorized by this Ordinance shall be delivered to and registered in the name of CEDE & CO., the nominee of DTC. It is expected that DTC will hold the Certificates on behalf of the Purchaser and its participants. So long as each Certificate is registered in the name of CEDE & CO., the Paying Agent/Registrar shall treat and deal

with DTC the same in all respects as if it were the actual and beneficial owner. It is expected that DTC will maintain a book-entry system which will identify ownership of the Certificates in integral amounts of \$5,000, with transfers of ownership being effected on the records of DTC and its participants pursuant to rules and regulations established by them, and that the Certificates initially deposited with DTC shall be immobilized and not be further exchanged for substitute Certificates except as set forth in this Ordinance. The Issuer and the Paying Agent/Registrar are not responsible or liable for any functions of DTC, will not be responsible for paying any fees or charges with respect to its services, will not be responsible or liable for maintaining, supervising, or reviewing the records of DTC or its participants, or protecting any interests or rights of the beneficial owners of the Certificates. It shall be the duty of the DTC Participants, as defined in the Official Statement herein approved, to make all arrangements with DTC to establish this book-entry system, the beneficial ownership of the Certificates, and the method of paying the fees and charges of DTC. The Issuer does not represent, nor does it in any way covenant that the initial book-entry system established with DTC will be maintained in the future. Notwithstanding the initial establishment of the book-entry system with DTC, if for any reason any of the originally delivered Certificates is duly filed with the Paying Agent/Registrar with proper request for transfer and substitution, as provided for in this Ordinance, substitute Certificates will be duly delivered as provided in this Ordinance, and there will be no assurance or representation that any book-entry system will be maintained for the Certificates. In connection with the initial establishment of the foregoing book-entry system with DTC, the Issuer has executed a "Blanket Letter of Representations" prepared by DTC to implement the book-entry system described above.

PART 18. CONTINUING DISCLOSURE OBLIGATION. (a) *Definitions.* As used in this Ordinance, the following terms have the meanings ascribed to the terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

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

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

(b) *Annual Reports.* (i) The Issuer shall provide annually to the MSRB, within six months after the end of each fiscal year ending in or after 2009, financial information and operating data with respect to the Issuer of the general type included in the final Official Statement authorized by PART 19 of this Ordinance, being the information described in Exhibit B. The financial statements shall be (1) prepared in accordance with the accounting principles described in Exhibit B, or other accounting principles as the Issuer may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Issuer commissions an audit of the statements and the audit is completed within the period during which they must be provided. If the audit of the financial statements is not complete within this period, then the Issuer shall provide unaudited financial

statements by the required time, and shall provide audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

(ii) If the Issuer changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) before the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this PART. The financial information and operating data to be provided pursuant to this PART may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that has been provided to the MSRB or filed with the SEC. Filings shall be made electronically, in the format as is prescribed by the MSRB.

(c) *Material Event Notices.* The Issuer shall notify the MSRB, in a timely manner, of any of the following events with respect to the Certificates of Obligation, if the event is material within the meaning of the federal securities laws:

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

The Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (b) of this PART by the time required by subsection (b).

(d) *Limitations, Disclaimers, and Amendments.* (i) The Issuer shall be obligated to observe and perform the covenants named in this PART for only so long as the Issuer remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the Issuer will give written notice of any deposit made in accordance with this Ordinance, or applicable law, that causes Certificates no longer to be outstanding.

(ii) The provisions of this PART are for the sole benefit of the registered owners and beneficial owners of the Certificates, and nothing in this PART, express or implied, shall give any

benefit or any legal or equitable right, remedy, or claim stated in this Ordinance to any other person.

The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this PART and does not undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer's financial results, condition, or prospects or undertake to update any information provided in accordance with this PART or otherwise, except as stated in this Ordinance.

The Issuer does not make any representation or warranty concerning the information or its usefulness to a decision to invest in or sell Certificates at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS PART, BUT EVERY RIGHT AND REMEDY OF ANY PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Issuer in observing or performing its obligations under this PART shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance. Nothing in this PART is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City agrees to undertake the obligation in accordance with the Rule as amended.

(vi) The provisions of this PART may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this PART, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since the offering as well as the changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes an amendment) of the outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that the amendment will not materially impair the interest of the registered owners and beneficial owners of the Certificates. If the Issuer amends the provisions of this PART, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this PART an

explanation, in narrative form, of the reason for the amendment and the effect of any change in the amended financial information or operating data. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that the provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

PART 19. SALE OF CERTIFICATES; EXECUTION OF PURCHASE AGREEMENT.

(a) The sale of the Certificates to J.P. Morgan Securities Inc., as representative for the underwriters named in the bond purchase agreement (**Underwriters**) between the City and the underwriters named therein (**Purchase Agreement**), at the purchase price described in the Purchase Agreement, is hereby authorized, ratified and confirmed. One Certificate in the principal amount maturing on each maturity date as set forth in PART 2 hereof shall be delivered to the Underwriters, and the Underwriters shall have the right to exchange such certificates as provided in PART 5 hereof without cost.

(b) The Purchase Agreement setting forth the terms of the sale of the Certificates to the Underwriters, in substantially the form attached to this Ordinance, is hereby accepted, approved and authorized to be delivered in executed form to the Underwriters. The Mayor or the City Manager and the City Clerk are hereby authorized, for and on behalf of the City, to execute the Purchase Agreement to effect the sale of the Certificates. Any accrued interest received in connection with the sale of the Certificates shall be deposited to the Interest and Sinking Fund. Any premium received by the Issuer from the sale of the Certificates shall be used in a manner consistent with the provisions of Section 1201.042(d), Texas Government Code, provided, that no premium shall be used to pay for projects described in Schedule I if this results in the total amount of proceeds expended on projects to exceed the maximum amount of Certificates described in the notice of intention published in connection with the sale of the Certificates.

(c) The "Official Statement" prepared in connection with the sale of the Bonds, in substantially the form attached to this Ordinance, is accepted, approved and authorized to be delivered in executed form to the Underwriters. The "Preliminary Official Statement" prepared in connection with the sale of the Certificates is considered final for purposes of the Rule (as defined in PART 18 of this Ordinance) and the use of the Preliminary Official Statement in connection with the sale of the Certificates is ratified. The City Manager and the Chief Financial Officer of the City are each authorized to cause the Official Statement to be completed in conformity with the terms of the Purchase Agreement.

PART 20. INTEREST EARNINGS. The interest earnings derived from the investment of proceeds from the sale of the Certificates may be used along with other proceeds for the purposes set

forth in Schedule I for which the Certificates are issued; provided that after completion of the projects, if any interest earnings remain on hand, the interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on proceeds which are required to be rebated to the United States of America pursuant to this Ordinance in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this PART.

PART 21. DEFEASANCE. (a) *Defeased Certificates.* Any Certificate and the interest on the Certificate shall be considered to be paid, retired and no longer outstanding (**Defeased Certificate**) within the meaning of this Ordinance, except to the extent provided in subsection (d) of this PART, when payment of the principal of the Certificate, plus interest to the due date (whether the due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms of this Ordinance, or (ii) shall have been provided for on or before the due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (**Future Escrow Agreement**) for the payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for the payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. There shall be delivered to the Paying Agent/Registrar a certificate from a firm of certified public accountants certifying the sufficiency of the deposit made pursuant to clause (ii) above. The Paying Agent/Registrar shall also receive an opinion of bond counsel acceptable to the Issuer that reflects this payment does not adversely affect the exclusion under the Code of interest on the Defeased Certificates from the gross income of the holders for federal income taxation purposes.

At the time as a Certificate shall be considered to be a Defeased Certificate, the Certificate and the interest on that Certificate shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues levied and pledged as provided in this Ordinance, and the principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements described in subsection 21(a)(i) or (ii) shall not be irrevocable, if: (1) in the proceedings providing for the payment arrangements, the Issuer expressly reserves the right to call the Defeased Certificates for redemption; (2) the Issuer gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) the Issuer directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) *Investment in Defeasance Securities.* Any funds deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as set forth in this Ordinance, and all income from the

Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates and interest on the Certificates, with respect to which money has been deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates may contain provisions permitting the investment or reinvestment of the funds in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements described in subsection 21(a)(i) or (ii). All income from the Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates, with respect to which the money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer. The Paying Agent/Registrar shall not be liable for any loss pertaining to an investment executed in accordance with written instructions from the Issuer.

(c) *Defeasance Securities Defined.* The term "Defeasance Securities" means (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of their purchase are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the Issuer adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

(d) *Paying Agent/Registrar Services.* Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for the Defeased Certificates the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for the services as required by this Ordinance.

(e) *Selection of Certificates for Defeasance.* In the event the Issuer elects to defease less than all of the principal amount of Certificates of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, the amount of Certificates by the random method as it considers fair and appropriate.

PART 22. DEFAULT AND REMEDIES.

(a) *Events of Default.* Each of the following occurrences or events is an Event of Default:

(i) the failure to pay the principal of or interest on any of the Certificates when it becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Certificates, including their prospect or ability to be repaid in accordance with this Ordinance, and the continuation for a period of 60 days after notice of the default is given by any Registered Owner to the City.

(b) *Remedies for Default.*

(i) When any Event of Default occurs, any Registered Owner or the Registered Owner's authorized representative, including a trustee or trustees, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained in this Ordinance, or to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners or any combination of remedies only as authorized by law.

(ii) All default proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of outstanding Certificates.

(c) *Remedies Not Exclusive.*

(i) No remedy in this Ordinance is exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given in this Ordinance or under the Certificates; however, there is no right to accelerate the debt evidenced by the Certificates.

(ii) The exercise of any remedy in this Ordinance shall not be considered a waiver of any other available remedy.

(iii) By accepting the delivery of a Certificate authorized under this Ordinance, the Registered Owner agrees that the certifications required to effect any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with

any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

PART 23. OFFICIALS AUTHORIZED TO ACT ON BEHALF OF THE CITY. The Mayor, the City Clerk, the City Manager, any Assistant City Manager, the Chief Financial Officer of the City or the Deputy Chief Financial Officer of the City, and all other officers, employees, and agents of the City, and each of them, shall be and are authorized, empowered, and directed from time to time and at any time to do and perform all acts and things and to execute, acknowledge, and deliver in the name and under the seal and on behalf of the City all instruments as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the offering documents prepared in connection with the sale of the Certificates, or the Paying Agent/Registrar Agreement. In case any officer whose signature appears on any Certificate shall stop being the officer before the delivery of the Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until the delivery.

PART 24. FINDINGS.

On July 23, 2009, the City Council of the City of Austin (**City** or **Issuer**) authorized and directed that a notice of its intention to issue the Certificates of Obligation be published in a newspaper as required by Section 271.049 of the Texas Local Government Code; and

The notice was published in the *Austin American-Statesman*, as required by Section 271.049 of the Texas Local Government Code, on July 24, 2009 and July 31, 2009; and

No petition, signed by 5% of the qualified electors of the Issuer as permitted by Section 271.049 of the Texas Local Government Code protesting the issuance of the Certificates of Obligation, has been filed; and

The Certificates of Obligation to be issued and delivered under this Ordinance are issued pursuant to Subchapter C of Chapter 271 of the Texas Local Government Code; and

The meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of the meeting was given as required by Chapter 551, Texas Government Code.

PART 25. RULES OF CONSTRUCTION. For all purposes of this Ordinance, unless the context requires otherwise, all references to designated PARTS and other subdivisions are to the PARTS and other subdivisions of this Ordinance. Except where the context otherwise requires, terms defined in this Ordinance to impart the singular number shall be considered to include the plural number and vice versa. References to any named person means that party and his successors

and assigns. References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Ordinance is adopted by the City. Any reference to the payment of principal in this Ordinance shall be considered to include the payment of any mandatory sinking fund redemption payments as described in this Ordinance. Any reference to "FORM OF CERTIFICATE" refers to the form of the Certificates in Exhibit A to this Ordinance. The titles and headings of the PARTS and subsections of this Ordinance have been inserted for convenience of reference only and are not a part of this Ordinance and shall not in any way modify or restrict any of the Ordinance terms or provisions.

PART 26. CONFLICTING ORDINANCES REPEALED. All ordinances and resolutions or parts in conflict with this Ordinance are repealed.

PART 27. IMMEDIATE EFFECT. In accordance with the provisions of V.T.C.A., Government Code, Section 1201.028, this Ordinance is effective immediately on its adoption by the City Council.

PASSED AND APPROVED AND EFFECTIVE August 27, 2009.

Lee Leffingwell, Mayor, City of Austin, Texas

ATTEST:

Shirley A. Gentry, City Clerk,
City of Austin, Texas

(SEAL)

APPROVED:

David Allan Smith, City Attorney,
City of Austin, Texas

SCHEDULE I

The following projects are to be funded with the proceeds of the Certificates:

Zilker Park improvements;

Landfill closurs; and

the costs of construction improvements to the City-owned convention center

together with the payment of fiscal, engineering and legal fees incurred in connection with the issuance of the Certificates and the projects funded with the proceeds of the Certificates.

solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Certificate (the "Certificate Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class, postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the fifteenth day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. Any accrued interest due at maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The Issuer covenants with the registered owner of this Certificate that on or before each principal and interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Certificate Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of, premium, if any, and interest on the Certificates, when due. All Certificates of this Series are issuable solely as fully registered certificates, without interest coupons, in any integral multiple of \$5,000 (an "Authorized Denomination").

IN THE EVENT OF NON-PAYMENT of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest ("Special Payment Date", which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each registered owner of a Certificate appearing on the Registration Books kept by the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

IF THE DATE for the payment of the principal of, premium, if any, or interest on this Certificate shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a Series of Certificates dated as of the Original Issue Date stated above, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$12,500,000, FOR THE PURPOSE OF PROVIDING PART OF THE FUNDS FOR PAYING CONTRACTUAL OBLIGATIONS TO BE INCURRED BY THE CITY, TO-WIT, MAKING AND ACQUIRING VARIOUS PUBLIC IMPROVEMENTS FOR THE CITY, AS DESCRIBED IN THE CERTIFICATE ORDINANCE, AND THE PAYMENT OF FISCAL, ENGINEERING AND LEGAL FEES INCURRED IN CONNECTION THEREWITH.

ON SEPTEMBER 1, 2019, or on any date thereafter, the Certificates of this Series maturing on September 1, 2020 and thereafter may be redeemed prior to their scheduled maturities, at the option of the Issuer, in whole, or in part, at par and accrued interest to the date fixed for redemption. The years of maturity of the Certificates called for redemption at the option of the City prior to stated maturity shall be selected by the City. The Certificates or portions thereof redeemed within a maturity shall be selected by lot or other method by the Paying Agent/Registrar; *provided*, that during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, if fewer than all of the Certificates of the same maturity and bearing the same interest rate are to be redeemed, the particular Certificates of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the Issuer and the securities depository.

THE CERTIFICATES are also subject to mandatory redemption in part by lot pursuant to the terms of the Certificate Ordinance, on September 1 in each of the years 20__ and 20__, with respect to Certificates maturing September 1, 202__, in the following years and in the following amounts, at a price equal to the principal amount thereof and accrued and unpaid interest to the date of redemption, without premium:

Year

Principal Amount (\$)

*Final Maturity

To the extent, however, that Certificates subject to sinking fund redemption have been previously purchased or called for redemption in part and otherwise than from a sinking fund redemption payment, each annual sinking fund payment for such Certificate shall be reduced by the amount obtained by multiplying the principal amount of Certificates so purchased or redeemed by the ratio which each remaining sinking fund redemption payment for such Certificates bears to the total remaining sinking fund payments, and by rounding each such payment to the nearest \$5,000 integral; *provided*, that during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, the particular Certificates to be called for mandatory redemption shall be selected in accordance with the arrangements between the Issuer and the securities depository.

AT LEAST 30 days prior to the date fixed for any such redemption a written notice of such redemption shall be given to the registered owner of each Certificate or a portion thereof being called for redemption by depositing such notice in the United States mail, first-class postage prepaid, addressed to each such registered owner at his address shown on the Registration Books of the Paying Agent/Registrar, and to major securities depositories, national bond rating agencies and bond

information services. By the date fixed for any such redemption due provision shall be made by the Issuer with the Paying Agent/Registrar for the payment of the required redemption price for this Certificate or the portion hereof which is to be so redeemed, plus accrued interest thereon to the date fixed for redemption. If such notice of redemption is given, and if due provision for such payment is made, all as provided above, this Certificate, or the portion hereof which is to be so redeemed, thereby automatically shall be redeemed prior to its scheduled maturity, and shall not bear interest after the date fixed for its redemption, and shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price plus accrued interest to the date fixed for redemption from the Paying Agent/Registrar out of the funds provided for such payment. The Paying Agent/Registrar shall record in the Registration Books all such redemptions of principal of this Certificate or any portion hereof. If a portion of any Certificate shall be redeemed a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any Authorized Denomination, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Ordinance.

AS PROVIDED IN THE CERTIFICATE ORDINANCE, this Certificate may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate registered owner, assignee, or assignees, as the case may be, having the same maturity date, and bearing interest at the same rate, in any Authorized Denomination as requested in writing by the appropriate registered owner, assignee, or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar at its Designated Payment/Transfer Office for cancellation, all in accordance with the form and procedures set forth in the Certificate Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar at its Designated Payment/Transfer Office, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any Authorized Denomination to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be transferred and registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the registered owner. The foregoing notwithstanding, in the case of the exchange of an assigned and transferred Certificate or Certificates or any portion or portions thereof, such fees and charges of the Paying Agent/Registrar will be paid by the Issuer. The one requesting such exchange shall pay the Paying Agent/Registrar's reasonable standard or customary fees and charges for exchanging any Certificate or portion thereof. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, or exchange as a condition precedent to the exercise of such privilege. In any circumstance, neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Certificate so selected for redemption, in whole or in part, within 45 calendar days of the date fixed for redemption; provided,

however, such limitation of transfer shall not be applicable to an exchange by the registered owner of the uncalled principal of a Certificate.

WHENEVER the beneficial ownership of this Certificate is determined by a book entry at a securities depository for the Certificates, the foregoing requirements of holding, delivering or transferring this Certificate shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and promptly will cause written notice thereof to be mailed to the registered owners of the Certificates.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Certificate have been performed, existed, and been done in accordance with law; that this Certificate is a direct obligation of said Issuer, issued on the full faith and credit thereof, that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limits prescribed by law, and that a limited pledge (not to exceed \$1,000) of the surplus revenues from the operation of the City's solid waste disposal system remaining after payment of all operation and maintenance expenses thereof and any other obligations heretofore or hereafter incurred to which such revenues have been or shall be encumbered by a lien on and pledge of such revenues superior to the lien on and pledge of such revenues to the Certificates, have been pledged as additional security for the Certificates.

BY BECOMING the registered owner of this Certificate, the registered owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the Issuer, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each registered owner hereof and the Issuer.

IN WITNESS WHEREOF, this Certificate has been duly executed on behalf of the City, under its official seal, in accordance with law.

City Clerk
City of Austin, Texas

Mayor
City of Austin, Texas

(SEAL)

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

It is hereby certified that this Certificate of Obligation has been issued under the provisions of the proceedings adopted by the Issuer as described in the text of this Certificate of Obligation; and that this Certificate of Obligation has been issued in exchange for or replacement of a certificate of obligation, certificates of obligation, or a portion of a certificate of obligation or certificates of obligation of an issue which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated _____

_____,
Paying Agent/Registrar

By _____
Authorized Representative

***FORM OF COMPTROLLER'S CERTIFICATE ATTACHED TO
THE CERTIFICATES UPON INITIAL DELIVERY THEREOF**

OFFICE OF COMPTROLLER :

REGISTER NO. _____

STATE OF TEXAS :

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Certificate has been examined by him as required by law, and that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Austin, Texas, payable in the manner provided by and in the ordinance authorizing same, and said Certificate has this day been registered by me.

WITNESS MY HAND and seal of office at Austin, Texas this _____.

(SEAL)

Comptroller of Public Accounts of
the State of Texas

NOTE:

*& to accompany initial certificates only

FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Please insert Social Security or Taxpayer Identification Number of Transferee)

/_____/

(Please print or typewrite name and address, including zip code of Transferee)

the within Certificate of Obligation and all rights thereunder, and hereby irrevocably constitutes
and appoints _____ attorney to
register the transfer of the within Certificate of Obligation on books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by
a member firm of the New York Stock
Exchange or a commercial bank or trust
company.

NOTICE: The signature above must
correspond with the name of the Registered
Owner as it appears upon the front of this
Certificate in every particular, without
alteration or enlargement or any change
whatsoever.

The printer of the Certificates is hereby authorized to print on the Certificates (i) the form of bond
counsel's opinion relating to the Certificates, and (ii) an appropriate statement of insurance furnished

by a municipal bond insurance company providing municipal bond insurance, if any, covering all or any part of the Certificates.

**Exhibit B
to
Ordinance**

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in PART 18 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

The quantitative financial information and operating data with respect to the City of the general type included in the main text of the Official Statement under the subcaptions: "Tax Valuation" with respect to the appraised value as of January 1 during the fiscal year as to which such annual report relates; "Current Investments"; "Valuation and Funded Debt History"; "Tax Rates, Levy and Collection History"; "Ten Largest Taxpayers"; "Property Tax Rate Distribution"; "General Fund Revenues and Expenditures and Changes in Fund Balance"; "Municipal Sales Tax"; and "Transfers from Utility Fund".

The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.

Accounting Principles

The accounting principles referred to in PART 18 are the accounting principles described in the notes to the financial statements referred to in the third paragraph under the heading "Annual Financial Statements and Operating Data" above.