ORDINANCE NO. 20111103-055

AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF AUSTIN, TEXAS SPECIAL ASSESSMENT REVENUE BONDS, SUBORDINATE SERIES 2011 (WHISPER VALLEY PUBLIC IMPROVEMENT DISTRICT); APPROVING AND AUTHORIZING AN INDENTURE OF TRUST, A BOND PURCHASE AGREEMENT; AN OFFICIAL STATEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION THEREWITH; MAKING FINDINGS WITH RESPECT TO THE ISSUANCE OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Austin, Texas (the "City"), pursuant to and in accordance with the terms, provisions and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code (the "PID Act"), has previously established the "Whisper Valley Public Improvement District" (the "District"), pursuant to Resolution No. 20100826-026 adopted by the City Council of the City (the "City Council") on August 26, 2010; and

WHEREAS, pursuant to the PID Act, the City Council published notice and held a public hearing on August 4, 2011 regarding the levy of special assessments within the District and on November 3, 2011 adopted Ordinance No. 20111103-012 (the "Assessment Ordinance"); and

WHEREAS, in the Assessment Ordinance, the City Council approved and accepted the "Service and Assessment Plan" (as defined and described in the Assessment Ordinance, the "Service and Assessment Plan") relating to the District and levied the "Assessments" (as defined in the Assessment Ordinance, the "Assessments") against the "Assessment Roll" (as defined and described in the Assessment Ordinance, the "Assessment Roll"). Capitalized terms used in this preamble and not otherwise defined shall have the meaning assigned thereto in the Service and Assessment Plan; and

WHEREAS, the City is authorized by the PID Act to issue its revenue bonds payable from the Assessments and other revenues received for the purposes of (i)

paying the costs of the Master PID Bond Authorized Improvements identified in the Service and Assessment Plan, (ii) paying interest on bonds during and after the period of acquisition and construction of the improvement projects, and (iii) establishing such other funds and accounts as described in the Indenture (defined below) or as may be required in connection with the issuance of such bonds; and

WHEREAS, the City Council has found and determined that it is in the best interests of the City to issue its bonds to be designated "City of Austin, Texas, Special Assessment Revenue Bonds, Subordinate Series 2011 (Whisper Valley Public Improvement District)" (the "Bonds"), such series to be payable from and secured by the Pledged Revenues, as defined in the Indenture; and

WHEREAS, the City Council has found and determined to (i) approve the issuance of the Bonds to finance the Authorized Improvements identified in the Service and Assessment Plan, (ii) approve the form, terms and provisions of an indenture of trust securing the City's bonds authorized hereby, (iii) approve the form, terms and provisions of a Bond Purchase Agreement (defined below) between the City and the purchasers of the Bonds, (iv) approve the form, terms and provisions of a Financing Agreement (defined below), (v) approve the form, terms and provisions of a Landowner Agreement (defined below), (vi) approve the form, terms and provisions of a Security, Assignment and Pledge Agreement (defined below), (vii) approve the form, terms and provisions of a First Amendment (defined below) to the Restated Cost Reimbursement Agreement (Water) and Second Amendment to the Cost Reimbursement Agreement (Wastewater) – Indian Hills and Whisper Valley Subdivisions, and (viii) approve the form, terms and provisions of a Third Amendment (defined below) to the Cost Reimbursement Agreement, (ix) approve an Official Statement (defined below), and (x) approve a Continuing Disclosure Agreement (defined below) relating to the Bonds and the Assessments between the City and Club Deal 120 Whisper Valley L.P., a Delaware limited partnership (the "Developer"); and

WHEREAS, 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 said meeting was given as required by Chapter 551, Texas Government Code, as amended;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, THAT:

Section 1. Findings. The findings and determinations set forth in the preamble hereof are hereby incorporated by reference for all purposes as if set forth in full herein.

Section 2. Approval of Issuance of Bonds and Indenture of Trust.

(a) The issuance of the Bonds in the principal amount of $18,485,168.10 for the purpose of providing funds for (i) paying the costs of the Master PID Bond Authorized Improvements identified in the Service and Assessment Plan, (ii) paying interest on the Bonds during and after the period of acquisition and construction of the Master PID Bond Authorized Improvements, and (iii) establishing such other funds and accounts as described in the Indenture (defined below) or as may be required in connection with the issuance of such Bonds, is hereby authorized and approved.

(b) The Bonds shall be issued and secured under that certain Indenture of Trust (the "Indenture") dated as of November 1, 2011, between the City and Deutsche Bank National Trust Company, as trustee (the "Trustee"), with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the Mayor or Mayor Pro Tem of the City, such approval to be evidenced by the execution and delivery of the Indenture which Indenture is hereby approved in the substantially final form attached hereto as Exhibit A and incorporated herein as a part hereof for all purposes. The Mayor or Mayor Pro Tem of the City is hereby authorized and directed to execute the Indenture and the City Clerk or Deputy City Clerk is hereby authorized and directed to attest such signature of the Mayor or Mayor Pro Tem.

(c) The Bonds shall be dated, shall mature on the date or dates and in the principal or maturity amounts, shall bear interest, shall be subject to redemption and shall have such other terms and provisions as set forth in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture with such insertions, omissions and modifications as may be required to conform the form of bond to the actual terms of the Bonds. The Bonds shall be payable from and secured by the Pledged Revenues (as defined in the Indenture) and other assets of the "Trust Estate" (as defined in the Indenture) pledged to such series, and shall never be payable from ad valorem taxes.

Section 3. Sale of Bonds; Approval of Bond Purchase Agreement. The Bonds shall be sold to Piper Jaffray (the "Underwriter") at the price and on the terms and provisions set forth in that certain Bond Purchase Agreement (the "Bond Purchase Agreement"), dated the date hereof, between the City and the Underwriter, attached hereto as Exhibit B and incorporated herein as a part hereof for all purposes, which terms of sale are declared to be in the best interests of the City.. The form, terms and provisions of the Bond Purchase Agreement are hereby authorized and approved and the Mayor or Mayor Pro Tem of the City is hereby authorized and directed to execute and deliver the Bond Purchase Agreement. The Mayor's or Mayor Pro Tem's signature on the Bond Purchase Agreement may be attested by the City Clerk or Deputy City Clerk.

Section 4. Approval of Financing Agreement. That certain Whisper Valley Public Improvement District Financing Agreement (the "Financing Agreement"), between the City and the Developer is hereby authorized and approved in the substantially final form attached hereto as Exhibit C and incorporated herein as a part hereof for all purposes and the City Manager or an Assistant City Manager of the City is hereby authorized and directed to execute and deliver such Financing Agreement with such changes as may be required to carry out the purposes of this Ordinance and approved by the City Manager or Assistant City Manager, such approval to be evidenced by the execution thereof.

Section 5. Approval of Landowner Agreement. That certain Landowner Agreement (the "Landowner Agreement"), between the City and the Developer is hereby authorized and approved in the substantially final form attached hereto as Exhibit D and incorporated herein as a part hereof for all purposes and the City Manager or an Assistant City Manager of the City is hereby authorized and directed to execute and deliver such Landowner Agreement with such changes as may be required to carry out the purposes of this Ordinance and approved by the City Manager or an Assistant City Manager, such approval to be evidenced by the execution thereof.

Section 6. Approval of Security, Assignment and Pledge Agreement. That certain Security, Assignment and Pledge Agreement (the "Security Agreement"), between the City, and the Developer is hereby authorized and approved in the substantially final form attached hereto as Exhibit E and incorporated herein as a part hereof for all purposes and the City Manager or an Assistant City Manager of the City is hereby authorized and directed to execute and deliver such Security Agreement with such changes as may be required to carry out the purposes of this Ordinance and approved by the City Manager or Assistant City Manager, such approval to be evidenced by the execution thereof.

Section 7. Approval of First Amendment. That certain First Amendment to the Restated Cost Reimbursement Agreement (Water) and Second Amendment to the Cost Reimbursement Agreement (Wastewater) – Indian Hills and Whisper Valley Subdivisions (the "First Amendment"), between the City and the Developer, together with any document attached to the First Amendment as an exhibit, are hereby authorized and approved in the substantially final form attached hereto as Exhibit F and incorporated herein as a part hereof for all purposes and the City Manager and an Assistant City Manager of the City is hereby authorized and directed to execute and deliver such First Amendment as well as any document which is an exhibit to the First Amendment with such changes as may be required to carry out the purposes of this Ordinance and approved by the City Manager of an Assistant City Manager, such approval to be evidenced by the execution thereof.

Section 8. Approval of Third Amendment. That certain Third Amendment to the Cost Reimbursement Agreement (the "Third Amendment"), between the City and the Developer is hereby authorized and approved in the substantially final form attached hereto as Exhibit G and incorporated herein as a part hereof for all purposes and the City Manager or an Assistant City Manager of the City is hereby authorized and directed to execute and deliver such Third Amendment with such changes as may be required to carry out the purposes of this Ordinance and approved by the City Manager or an Assistant City Manager, such approval to be evidenced by the execution thereof.

Section 9. Official Statement. The form and substance of the Preliminary Official Statement for the Bonds and any addenda, supplement or amendment thereto and the final Official Statement (the "Official Statement") presented to and considered at the meeting at which this Ordinance is considered are hereby in all respects approved and adopted. The Mayor or Mayor Pro Tem is hereby authorized and directed to execute such Official Statement with such changes and alterations therein as the Mayor or Mayor Pro Tem may approve, such approval to be conclusively evidenced by such execution thereof. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor or Mayor Pro Tem of the City and the Underwriter, may be used by the Underwriter in the offering and sale of the Bonds. The City Clerk or Deputy City Clerk is hereby authorized and directed to include and maintain a copy of the Preliminary Official Statement and Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement in the offering of the Bonds is hereby ratified, approved and confirmed. Notwithstanding the execution, approval and delivery of such Preliminary Official Statement and

Official Statement by the Mayor or Mayor Pro Tem, the Mayor or Mayor Pro Tem and this City Council are not responsible for and proclaim no specific knowledge of the information contained in the Preliminary Official Statement and Official Statement pertaining to the Whisper Valley Project, the Developer or its financial ability, any builders, any landowners, or the appraisal of the property in the District.

Section 10. Continuing Disclosure Agreement. That certain Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") between the City, Deutsche Bank National Trust Company, and the Developer is hereby authorized and approved in substantially final form attached hereto as Exhibit H and incorporated herein as a part hereof for all purposes and the City Manager or an Assistant City Manager of the City is hereby authorized and directed to execute and deliver such Continuing Disclosure Agreement with such changes as may be required to carry out the purpose of this Ordinance and approved by the City Manager or an Assistant City Manager, such approval to be evidenced by the execution thereof.

Section 11. Additional Actions. The Mayor, the Mayor Pro Tem, the City Manager, Assistant City Manager, the Chief Financial Officer, the City Treasurer, the City Clerk and the Deputy City Clerk are hereby authorized and directed to take any and all actions on behalf of the City necessary or desirable to carry out the intent and purposes of this Ordinance and to issue the Bonds in accordance with the terms of this Ordinance. The Mayor, the Mayor Pro Tem, the City Manager, Assistant City Manager, the Chief Financial Officer, the City Treasurer, the City Clerk and the Deputy City Clerk are hereby authorized and directed to execute and deliver any and all certificates, agreements, notices, instruction letters, requisitions, and other documents which may be necessary or advisable in connection with the sale, issuance and delivery of the Bonds and the carrying out of the purposes and intent of this Ordinance.

Section 12. Effective Date. This Ordinance is passed on one reading as authorized by Texas Government Code, Section 1201.028, and shall be effective immediately upon its passage and adoption.

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PASSED AND APPROVED §
§
§

November 3, 2011

Lee Leffingwell
Mayor

APPROVED:

ATTEST:

Karen M. Kennard
City Attorney

Shirley A. Gentry
City Clerk

EXHIBIT A

INDENTURE OF TRUST

INDENTURE OF TRUST

By and Between

CITY OF AUSTIN, TEXAS

and

DEUTSCHE BANK NATIONAL TRUST COMPANY,
as Trustee

DATED AS OF NOVEMBER 1, 2011

SECURING

$18,485,168.10

CITY OF AUSTIN, TEXAS,
SPECIAL ASSESSMENT REVENUE BONDS, SUBORDINATE
SERIES 2011
(WHISPER VALLEY PUBLIC IMPROVEMENT DISTRICT)

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INDENTURE OF TRUST

THIS INDENTURE, dated as of November 1, 2011, is by and between the CITY OF AUSTIN, TEXAS (the "City"), and Deutsche Bank National Trust Company, as trustee (together with its successors, the "Trustee"). Capitalized terms used in the preambles, recitals and granting clauses and not otherwise defined shall have the meanings assigned thereto in Article I.

WHEREAS, a petition was submitted by the Developer and filed with the City Clerk of the City (the "City Clerk") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code (the "PID Act"), requesting the creation of a public improvement district located in the extraterritorial jurisdiction of the City to be known as Whisper Valley Public Improvement District (the "District"); and

WHEREAS, the petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of the Travis Central Appraisal District, and the signatures of property owners who own taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the District; and

WHEREAS, on August 5, 2010, after due notice, the City Council of the City (the "City Council") held the public hearing in the manner required by law on the advisability of the improvement projects and services described in the petition as required by Sec. 372.009 of the PID Act and on August 26, 2010, the City Council made the findings required by Sec. 372.009(b) of the PID Act and, by Resolution No. 20100826-026, adopted by a majority of the members of the City Council, authorized the District in accordance with its finding as to the advisability of the improvement projects and services; and

WHEREAS, on September 7, 2010, the City published notice of its authorization of the District in the Austin American Statesman, a newspaper of general circulation in the City; and

WHEREAS, no written protests of the District from any owners of record of property within the District were filed with the City Clerk within 20 days after September 7, 2010; and

WHEREAS, the City Council, pursuant to Section 372.016(b) of the PID Act, published notice of a public hearing in a newspaper of general circulation in the City to consider the proposed "Assessment Roll" and the "Service and Assessment Plan" and the levy of the "Assessments" on property in the District; and

WHEREAS, the City Council, pursuant to Section 372.016(c) of the PID Act, mailed notice of the public hearing to consider the proposed Assessment Roll and the Service and Assessment Plan and the levy of Assessments on property in the District to the last known address of the owners of the property liable for the Assessments; and

WHEREAS, the City Council convened the hearing on August 4, 2011, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Service and Assessment Plan, the Assessment Roll, and the Assessments, and to offer testimony pertinent to any issue presented on the amount of the

Assessment, the allocation of Costs, the purposes of the Assessment, the special benefits of the Assessment, and the penalties and interest on annual installments and on delinquent annual installments of the Assessment; and

WHEREAS, at the August 4, 2011 public hearing referenced above, there were no written objections or evidence submitted to the City Clerk in opposition to the Service and Assessment Plan, the allocation of Costs, the Assessment Roll, and the levy of the Assessments; and

WHEREAS, the City Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, approved and accepted the Service and Assessment Plan in conformity with the requirements of the PID Act and adopted the Assessment Ordinance and therein levied the Assessments; and

WHEREAS, the City Council hereby finds and determines that the Assessment Roll and the Service and Assessment Plan should be approved and that the Assessments should be levied as provided in the Service and Assessment Plan and the Assessment Roll; and

WHEREAS, the City Council is authorized by the PID Act to issue its revenue bonds payable from the Assessments and from other revenue to be received from the Developer for the purpose of (i) paying the Costs of the Improvement Projects, (ii) paying interest on the Bonds during and after the period of acquisition and construction of the Improvement Projects, and (iii) funding a reserve fund for payment of principal and interest on Bonds and for funding other funds as provided in Section 6.2; and

WHEREAS, the City Council now desires to issue its revenue bonds, in accordance with the PID Act, such bonds to be entitled "City of Austin, Texas, Special Assessment Revenue Bonds, Subordinate Series 2011 (Whisper Valley Public Improvement District)," (the "Bonds"), such Bonds being payable solely from the Assessments and other funds pledged under this Indenture to the payment of the Bonds and for the purposes set forth in this preamble, provided, however, that the use of the Assessments to pay the Bonds is subject and subordinate to the use of the Assessments to pay the City's outstanding Special Assessment Revenue Bonds, Senior Series 2011 (Whisper Valley Public Improvement District) (the "Senior Bonds"), which are being issued concurrently with the issuance of the Bonds and to fund the funds and accounts associated with the Senior Bonds being issued concurrently with the issuance of the Bonds; and

WHEREAS, the Trustee has agreed to accept the trusts herein created upon the terms set forth in this Indenture;

NOW, THEREFORE, the City, in consideration of the foregoing premises and acceptance by the Trustee of the trusts herein created, of the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, CONVEY, PLEDGE, TRANSFER, ASSIGN, and DELIVER to the Trustee for the benefit of the Owners, a security interest in all of the moneys, rights and properties described in the Granting Clauses hereof, as follows (collectively, the "Trust Estate"):

FIRST GRANTING CLAUSE

The Pledged Revenues, as herein defined, and all moneys and investments held in the Pledged Funds, including any contract or any evidence of indebtedness related thereto or other rights of the City to receive any of such moneys or investments, whether now existing or hereafter coming into existence, and whether now or hereafter acquired; and

SECOND GRANTING CLAUSE

Any and all other property or money of every name and nature which is, from time to time hereafter by delivery or by writing of any kind, conveyed, pledged, assigned or transferred, to the Trustee as additional security hereunder by the City or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to receive any and all such property or money at any and all times and to hold and apply the same subject to the terms thereof;

TO HAVE AND TO HOLD the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its successors or assigns;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the benefit of all present and future Owners of the Bonds from time to time issued under and secured by this Indenture, and for enforcement of the payment of the Bonds in accordance with their terms, and for the performance of and compliance with the obligations, covenants, and conditions of this Indenture;

PROVIDED, HOWEVER, that if and to the extent Assessments have been prepaid, the real property associated with such Assessment prepayment shall be released from the Trust Estate and shall no longer constitute a part of the Trust Estate;

PROVIDED, FURTHER, HOWEVER, if the City or its assigns shall well and truly pay, or cause to be paid, the Accreted Value of the Bonds at the times and in the manner stated in the Bonds, according to the true intent and meaning thereof, then this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture is to be and remain in full force and effect;

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated, and delivered and the Trust Estate hereby created, assigned, and pledged is to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the City has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners from time to time of the Bonds as follows:

ARTICLE I

DEFINITIONS, FINDINGS AND INTERPRETATION

Section 1.1. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Indenture, the following terms shall have the meanings specified below:

"Account" means any of the accounts established pursuant to Section 6.1 of this Indenture.

"Accreted Value", as used herein with respect the Bonds, shall mean the original principal amount of a Bond plus the initial premium, if any, paid therefor with interest thereon compounded semiannually to June 1 and December 1, as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on June 1 or December 1), at the respective stated yield(s) stated above therefor and, with respect to each $5,000 Accreted Value at maturity, as set forth in the Accreted Value table attached hereto as Schedule I and incorporated herein by reference as a part hereof for all purposes. For any day other than a June 1 and December 1, the Accreted Value of a Bond shall be determined by a straight-line interpolation between the values for the applicable semiannual compounding dates (based on 30-day months).

"Administrative Fund" means that Fund established by Section 6.1 and administered pursuant to Section 6.9 hereof.

"Administrator" means an employee or designee of the City who shall have the responsibilities provided in the Service and Assessment Plan, this Indenture, or any other agreement or document approved by the City related to the duties and responsibilities of the administration of the District.

"Annual Collection Costs" mean the following actual or budgeted costs, as applicable, related to the annual collection costs of outstanding Assessments paid in installments, including the costs or anticipated costs of: (i) issuing, refunding or refinancing bonds, (ii) computing, levying, collecting and transmitting the Assessments (whether by the City, the Administrator or otherwise), (iii) remitting the Assessments to the Trustee, (iv) the City, the Administrator and Trustee (including legal counsel) in the discharge of their duties, (v) complying with arbitrage rebate requirements, (vi) complying with securities disclosure requirements, and (vii) the City in any way related to the collection of the Assessments in installments, including, without limitation, the administration of the District, maintaining the record of installments, payments and reallocations and/or cancellations of Assessments, and the repayment of the Bonds, including, without limitation, any associated legal expenses, the reasonable costs of other consultants and advisors and contingencies and reserves for such costs as deemed appropriate by the City Council. Annual Collection Costs collected and not expended for actual Annual Collection Costs shall be carried forward and applied to reduce Annual Collection Costs in subsequent years to avoid the over-collection of Annual Collection Costs.

"Annual Debt Service" means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds due in such Bond Year.

"Annual Installment" means, with respect to each Assessed Parcel, each annual payment of the Assessment as shown on the Assessment Roll attached to the Service and Assessment Plan as Exhibit A and related to the Bonds and the Senior Bonds or as shown on an Annual Service Plan Update as defined in the Service and Assessment Plan related to the Bonds and the Senior Bonds.

"Applicable Laws" means the PID Act, and all other laws or statutes, rules, or regulations, and any amendments thereto, of the State of Texas or of the United States, by which the City and its powers, securities, operations, and procedures are, or may be, governed or from which its powers may be derived.

"Assessed Parcel" means each respective parcel of land located within the District against which an Assessment is levied by the Assessment Ordinance in accordance with the Service and Assessment Plan.

"Assessment Ordinance" means Ordinance No. 20111103-012 adopted by the City Council on November 3, 2011, that levied the Assessments on the Assessed Parcels.

"Assessment Roll" means the document attached as Appendix A to the Service and Assessment Plan, showing the total amount of the Assessment against each Assessed Parcel, as updated, modified, or amended from time to time in accordance with the terms of the Service and Assessment Plan and the PID Act.

"Assessments" means the aggregate assessments shown on the Assessment Roll. The singular of such term means the assessment levied against an Assessed Parcel as shown on the Assessment Roll.

"Assessments Sub-Account" means the Sub-Account by that name established and held in the Prepayment Reserve Account.

"Authorized Denomination" means the Maturity Amounts (the Accreted Value at maturity) of $5,000, or any integral multiple thereof within a Stated Maturity.

"Bond" means any of the Bonds.

"Bond Counsel" means Fulbright & Jaworski L.L.P. or any other attorney or firm of attorneys designated by the City that are nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

"Bond Date" means the date designated as the initial date of the Bonds by Section 3.2(a) of this Indenture.

"Bond Fund" means the Fund established pursuant to Section 6.1 and administered as provided in Section 6.4.

"Bond Ordinance" means Ordinance No. 20111103-055 adopted by the City Council on November 3, 2011 authorizing the issuance of the Bonds pursuant to this Indenture.

"Bonds" means the City's bonds authorized to be issued by Section 3.1 of this Indenture entitled "City of Austin, Texas, Special Assessment Revenue Bonds, Subordinate Series 2011 (Whisper Valley Public Improvement District)."

"Bond Year" means the one-year period beginning on January 1 in each year and ending on the day prior to January 1 in the following year.

"Business Day" means any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the City or the Trustee.

"Certification for Payment" means a certificate executed by an engineer, construction manager or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, specifying the amount of work performed and the cost thereof, presented to the Trustee to request funding for Costs from money on deposit in the Project Fund.

"City Certificate" means a certificate signed by the City Representative and delivered to the Trustee.

"City Order" means written instructions by the City, executed by a City Representative.

"City Representative" means that official or agent of the City authorized by the City Council to undertake the action referenced herein.

"Closing Date" means the date of the initial delivery of and payment for the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

"Costs" means the costs of the Improvement Projects.

"Defeasance Securities" means Investment Securities then authorized by applicable law for the investment of funds to defease public securities.

"Delinquent Collection Costs" mean the costs related to the foreclosure on an Assessed Parcel and the costs of collection of a delinquent Assessment, including penalties and reasonable attorney's fees actually paid, but excluding amounts representing interest and penalty interest

"Designated Payment/Transfer Office" means (i) with respect to the initial Paying Agent/Registrar named in this Indenture, the transfer/payment office located in Jacksonville, Florida, or such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

"Developer" means Club Deal 120 Whisper Valley, L.P., a Delaware limited partnership.

"DTC" shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" shall mean brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"Financing Agreement" means the Whisper Valley Public Improvement District Financing Agreement between the City and the Developer dated as of November 1, 2011, which provides for the appointment, levying and collection of Assessments, the construction of the Improvement Projects, the maintenance of the Improvement Projects, the issuance of bonds and other matters related thereto.

"Foreclosure Proceeds" means the proceeds, including interest and penalty interest, received by the City from the enforcement of the Assessments against any Assessed Parcel or Assessed Parcels, whether by foreclosure of lien or otherwise, but excluding and net of all Delinquent Collection Costs.

"Fund" means any of the funds established pursuant to Section 6.1 of this Indenture.

"Improvement Projects" mean the public improvements and other related costs defined as Master PID Bond Authorized Improvements in the Service and Assessment Plan.

"Indenture" means this Indenture of Trust as originally executed or as it may be from time to time supplemented or amended by one or more indentures supplemental hereto and entered into pursuant to the applicable provisions hereof.

"Independent Financial Consultant" means any consultant or firm of such consultants appointed by the City who, or each of whom: (i) is judged by the City, as the case may be, to have experience in matters relating to the issuance and/or administration of the Bonds; (ii) is in fact independent and not under the domination of the City; (iii) does not have any substantial interest, direct or indirect, with or in the City, or any owner of real property in the District, or any real property in the District; and (iv) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

"Initial Bonds" means the Initial Bonds authorized by Section 5.2 of this Indenture.

"Interest Payment Date" means the Stated Maturity dates of the Bonds.

"Investment Securities" means those authorized investments described in the Public Funds Investment Act, Chapter 2256, Government Code, as amended; and provided further investments are, at the time made, included in and authorized by the City's official investment policy as approved by the City Council from time to time.

"Maturity Amount" means the Accreted Value at maturity of $5,000 or any integral multiple thereof within a Stated Maturity.

"Maximum Annual Debt Service" means the largest Annual Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

"Outstanding" means, as of any particular date when used with reference to Bonds, all Bonds authenticated and delivered under this Indenture except (i) any Bond that has been canceled by the Trustee (or has been delivered to the Trustee for cancellation) at or before such date, (ii) any Bond for which the payment of the Accreted Value of such Bond shall have been made as provided in Article IV, and (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to Section 3.10 herein.

"Owner" means the Person who is the registered owner of a Bond or Bonds, as shown in the Register, which shall be Cede & Co., as nominee for DTC, so long as the Bonds are in book-entry only form and held by DTC as securities depository in accordance with Section 3.11 herein.

"Paying Agent/Registrar" means initially the Trustee, or any successor thereto as provided in this Indenture.

"Person" or "Persons" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"PID Act" means Chapter 372, Improvement Districts in Municipalities and Counties, Subchapter A, Public Improvement Districts, Texas Local Government Code, as amended.

"Pledged Funds" means the Pledged Revenue Fund, the Bond Fund and the Project Fund.

"Pledged Revenue Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.3 herein.

"Pledged Revenues" means the sum of (i) the Annual Installments, less the Annual Collection Costs and less the Annual Installments used to pay the debt service and fund the funds and accounts related to the Senior Bonds, (ii) any Prepayments received by the City, (iii) any Foreclosure Proceeds received by the City, (iv) any funds received from the Developer or its designee or assignee from the Reimbursement Agreement, or otherwise, which the Developer has deposited or caused to be deposited with the Trustee for deposit to the Bond Fund, and (v) the moneys held in any of the Pledged Funds.

"Prepayment" means the payment of all or a portion of an Assessment before the due date thereof.

"Project Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.5 herein.

"Purchaser" means the initial purchaser of the Bonds.

"Rebatable Arbitrage" means rebatable arbitrage as defined in Section 1.148-3 of the Regulations (as defined in Section 7.5 hereof).

"Rebate Fund" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.8 herein.

"Record Date" means the close of business on the 15th calendar (whether or not a Business Day) day of the month next preceding an Interest Payment Date.

"Register" means the register specified in Article III of this Indenture.

"Reimbursement Agreement" means (a) the Cost Reimbursement Agreement, dated June 21, 2007 by and between the Developer and the City, as amended by that certain (i) First Amendment to the Cost Reimbursement Agreement, dated October 9, 2009, (ii) Restated Cost Reimbursement Agreement (Water) and Second Amendment to the Cost Reimbursement Agreement (Wastewater) – Indian Hills and Whisper Valley Subdivisions, dated November 1, 2010 and (iii) Third Amendment to the Cost Reimbursement Agreement, dated as of November 1, 2011, and (b) the Restated Cost Reimbursement Agreement (Water) and Second Amendment to the Cost Reimbursement Agreement (Wastewater) – Indian Hills and Whisper Valley Subdivisions by and between the City and the Developer, dated as of November 1, 2010, as amended by that certain First Amendment to the "Restated Cost Reimbursement Agreement (Water) and Second Amendment to the Cost Reimbursement Agreement (Wastewater) – Indian Hills and Whisper Valley Subdivisions", dated as of November 1, 2011.

"Senior Bonds" means the "City of Austin, Texas, Special Assessment Revenue Bonds, Senior Series 2011 (Whisper Valley Public Improvement District)."

"Service and Assessment Plan" means the document, including the Assessment Roll, as amended, which is attached as Exhibit A to the Assessment Ordinance.

"Stated Maturity" means the date the Bonds, or any portion of the Bonds, as applicable are scheduled to mature.

"Supplemental Indenture" means an indenture which has been duly executed by the City Representative pursuant to an ordinance adopted by the City Council and which indenture amends or supplements this Indenture, but only if and to the extent that such indenture is specifically authorized hereunder.

"Tax Certificate" means the Certificate as to Tax Exemption delivered by the City on the Closing Date for the Bonds setting forth the facts, estimates and circumstances in existence on the Closing Date which establish that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the interest on such Bonds to be included in the gross income of the Owners thereof for Federal income tax purposes.

"Trust Estate" means the Trust Estate described in the granting clauses of this Indenture.

"Trustee" means Deutsche Bank National Trust Company and its successors, and any other corporation or association that may at any time be substituted in its place, as provided in Article IX, such entity to serve as Trustee and Paying Agent/Registrar for the Bonds.

Section 1.2. Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Indenture are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.3. Table of Contents, Titles and Headings.

The table of contents, titles, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Indenture or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.4. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Words importing persons include any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof.

(c) Any reference to a particular Article or Section shall be to such Article or Section of this Indenture unless the context shall require otherwise.

(d) This Indenture and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Indenture.

ARTICLE II

THE BONDS

Section 2.1. Security for the Bonds.

The Bonds, as to both principal and interest, are and shall be equally and ratably secured by and payable from a first lien on and pledge of the Trust Estate; provided, however, that the use of the Assessments to pay the debt service on the Bonds is subject and subordinate to the use of the Assessments to pay the Senior Bonds and to fund the funds and accounts associated with the Senior Bonds.

The lien on and pledge of the Pledged Revenues shall be valid and binding and fully perfected from and after the Closing Date, which is the date of the delivery of this Indenture, without physical delivery or transfer of control of the Pledged Revenues, the filing of this Indenture or any other act; all as provided in Chapter 1208 of the Texas Government Code, as amended, which applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the City under this Indenture, and such pledge is therefore valid, effective and

perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Pledged Revenues granted by the City under this Indenture is to be subject to the filing requirements of Chapter 9, Business and Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said 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, Business and Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 2.2. Limited Obligations.

The Bonds are special and limited obligations of the City, payable solely from and secured solely by the Trust Estate, including the Pledged Revenues and the Pledged Funds; and the Bonds shall never be payable out of funds raised or to be raised by taxation or from any other revenues, properties or income of the City.

Section 2.3. Authorization for Indenture.

The terms and provisions of this Indenture and the execution and delivery hereof by the City to the Trustee have been duly authorized by official action of the City Council of the City. The City has ascertained and it is hereby determined and declared that the execution and delivery of this Indenture is necessary to carry out and effectuate the purposes set forth in the preambles of this Indenture and that each and every covenant or agreement herein contained and made is necessary, useful or convenient in order to better secure the Bonds and is a contract or agreement necessary, useful and convenient to carry out and effectuate the purposes herein described.

Section 2.4. Contract with Owners and Trustee.

(a) The purposes of this Indenture are to establish a lien and the security for, and to prescribe the minimum standards for the authorization, issuance, execution and delivery of, the Bonds and to prescribe the rights of the Owners, and the rights and duties of the City and the Trustee.

(b) In consideration of the purchase and acceptance of any or all of the Bonds by those who shall purchase and hold the same from time to time, the provisions of this Indenture shall be a part of the contract of the City with the Owner, and shall be deemed to be and shall constitute a contract among the City, the Owners, and the Trustee.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.1. Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including particularly the PID Act, as amended. The Bonds shall be issued in the original principal amount of $18,485,168.10 and in the Maturity Amount of $21,020,000 for the purpose of (i) paying the Costs of the Improvement Projects, (ii)

paying a portion of the costs incidental to the organization of the District and (iii) paying costs of issuance of the Bonds.

Section 3.2. Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall be dated the date of the initial delivery thereof (the "Bond Date") and shall be issued in Authorized Denominations. The Bonds shall be in fully registered form, without coupons, and shall be numbered separately from CAB-1 upward, except the Initial Bond, which shall be numbered CAB-T1.

(b) The Bonds shall accrue interest at the interest rate(s) stated in the table below, and shall become due and payable on December 1 in each of the years in the Maturity Amounts set forth in the following table:

Year of Maturity	Original Principal Amount	Maturity Amount	Stated Yield(s)*
2015	$ 5,508,161.40	$ 6,090,000	2.50%
2016	12,977,006.70	$14,930,000	2.80%

Interest on the Bonds shall accrue from the date of delivery of the Bonds to the initial purchasers (anticipated to be November 16, 2011), and shall be compounded semiannually on June 1 and December 1 in each year, commencing December 1, 2011, until the Stated Maturity thereof. The Accreted Value of the Bonds shall be payable only at maturity.

Section 3.3. Conditions Precedent to Delivery of Bonds.

The Bonds shall be executed by the City and delivered to the Trustee, whereupon the Trustee shall authenticate the Bonds and, upon payment of the purchase price of the Bonds, shall deliver the Bonds upon the order of the City, but only upon delivery to the Trustee of:

(a) a certified copy of the Assessment Ordinance;

(b) a certified copy of the Bond Ordinance;

(c) a copy of the executed Financing Agreement;

(d) a copy of the Reimbursement Agreement and the document evidencing the assignment by the Developer to the Trustee of the amounts required to be paid to the Developer pursuant to the Reimbursement Agreement;

(e) a copy of this Indenture executed by the Trustee and the City; and

(f) a City Certificate directing the authentication and delivery of the Bonds, describing the Bonds to be authenticated and delivered, designating the purchasers to whom the

Bonds are to be delivered, stating the purchase price of the Bonds and stating that all items required by this Section are therewith delivered to the Trustee in form and substance satisfactory to the City.

Section 3.4. Medium, Method and Place of Payment

(a) The Maturity Amount of the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.

(b) The Maturity Amount of the Bonds shall be paid to the Owner of such Bond on the due date thereof upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(c) If the date for the payment of the Maturity Amount of the Bonds or the principal shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in Section 3.2 of this Indenture.

(d) Unclaimed payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which such unclaimed payments pertain. Subject to any escheat, abandoned property, or similar law of the State of Texas, any such payments remaining unclaimed by the Owners entitled thereto for two (2) years after the applicable payment date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all Outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, none of the City, the Paying Agent/Registrar, or any other Person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to any applicable escheat law or similar law of the State of Texas.

Section 3.5. Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and City Clerk or the Deputy City Clerk, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Indenture unless and until there appears thereon the Certificate of Trustee substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Trustee. It shall not be required that the same officer or authorized signatory of the Trustee sign the Certificate of Trustee on all of the Bonds. In lieu of the executed Certificate of Trustee described above, the Initial Bonds delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by her duly authorized agent, which certificate shall be evidence that the Initial Bonds have been duly approved by the Attorney General of the State of Texas, is a valid and binding obligation of the City, and has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond representing the entire Maturity Amount of the Bonds, payable in stated installments to the Purchaser, or its designee, executed with the manual or facsimile signatures of the Mayor and the City Clerk or Deputy City Clerk, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bonds, the Trustee shall cancel the Initial Bonds and deliver to DTC on behalf of the Purchaser one registered definitive Bond for each year of maturity of the corresponding Bonds, in the aggregate Maturity Amount for such maturity, registered in the name of Cede & Co., as nominee of DTC.

Section 3.6. Ownership.

(a) The City, the Trustee the Paying Agent/Registrar and any other Person may treat the Person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the Person in whose name such Bond is registered on the Record Date) and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Trustee, nor the Paying Agent/Registrar, shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of any Bond shall be valid and effectual and shall discharge the liability of the City, the Trustee and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.7. Registration, Transfer and Exchange.

(a) So long as any Bond remains outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a Register in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Indenture. The Paying Agent/Registrar represents and warrants that it will file and maintain a copy of the Register with the City, and shall cause the Register to be current with all registration and transfer information as from time to time may be applicable.

(b) A Bond shall be transferable only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any Authorized Denomination and in an aggregate Maturity Amount of the Bond presented for exchange. The Trustee is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) The Trustee is hereby authorized to authenticate and deliver Bonds transferred or exchanged in accordance with this Section. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer Office, or sent by United States mail, first class, postage prepaid, to the Owner or his designee. Each transferred Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such transferred Bond is delivered.

(e) Each exchange Bond delivered in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(f) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Bond.

Section 3.8. Cancellation.

All Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Indenture, shall be cancelled, and proper records shall be made regarding such exchange or replacement. The Paying Agent/Registrar shall dispose of cancelled Bonds in accordance with the records retention requirements of the Trustee.

Section 3.9. Temporary Bonds.

(a) Following the delivery and registration of the Initial Bonds and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Trustee shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Indenture.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Trustee the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and the Trustee shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the Authorized Denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.10. Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Trustee shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Trustee, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount or Maturity Amount, as applicable, bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the Trustee to save them and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Trustee and the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Trustee.

(c) After the delivery of such replacement Bond, if a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the Person to whom it was delivered or any Person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the City, the Paying Agent/Registrar or the Trustee in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.11. Book-Entry Only System.

The Bonds shall initially be issued in book-entry-only form and shall be deposited with DTC, which is hereby appointed to act as the securities depository therefor, in accordance with the letter of representations from the City to DTC. On the Closing Date the definitive Bonds shall be issued in the form of a single typewritten certificate for each maturity thereof registered in the name of Cede & Co., as nominee for DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any Person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant will respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other Person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other Person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Indenture to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the Person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of the Accreted Value of Bonds, for the purpose of giving notices of matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay the Accreted Value of the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Indenture, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of the Accreted Value of the Bonds to the extent of the sum or sums so paid. No Person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Indenture. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

Section 3.12. Successor Securities Depository: Transfer Outside Book-Entry-Only System.

In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the letter of representations from the City to DTC, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Indenture.

Section 3.13. Payments to Cede & Co.

Notwithstanding any other provision of this Indenture to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to Maturity Amounts on such Capital Appreciation Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the blanket letter of representations from the City to DTC.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.1. Limitation on Redemption.

The Bonds shall not be subject to redemption before their scheduled maturity.

ARTICLE V

FORM OF THE BONDS

Section 5.1. Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Trustee, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Indenture, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently

herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 5.2. Form of the Bonds.

(a) Form of Bonds.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, THE CITY, OR ANY OTHER POLITICAL CORPORATION, SUBDIVISION OR AGENCY THEREOF, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND.

REGISTERED

REGISTERED
Maturity Amount

No. _____

$_____

United States of America
State of Texas

CITY OF AUSTIN, TEXAS
SPECIAL ASSESSMENT REVENUE BOND, SUBORDINATE SERIES 2011
(WHISPER VALLEY PUBLIC IMPROVEMENT DISTRICT)

STATED YIELD:	MATURITY DATE:	DATE OF DELIVERY	CUSIP NUMBER:
_____%	_____,____	_____, 2011	_____ ___

The City of Austin, Texas (the "City"), for value received, hereby promises to pay, solely from the Pledged Revenues, to

_____

or registered assigns, on the Maturity Date specified above, the Maturity Amount stated above (without right of prior redemption). The Maturity Amount of this Bond represents the accretion

of the original principal amount of this Bond (including the initial premium, if any, paid herefor) from the Date of Delivery specified above to the Stated Maturity and such accretion in value occurring at the Stated Yield specified above and compounding on December 1, 2011 and semiannually thereafter on June 1 and December 1 until maturity.

A table of the "Accreted Values" per $5,000 "Accreted Value" at maturity is printed on the reverse side of this Bond or attached hereto. The term "Accreted Value", as used herein, means the original principal amount of this Bond plus the initial premium, if any, paid herefor with interest thereon compounded semiannually to December 1 and June 1, as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on December 1 or June 1) at the Stated Yield for the Stated Maturity shown above and in the above referenced Table of Accreted Values. For any date other than December 1 or June 1, the Accreted Value of this Bond shall be determined by a straight line interpolation between the values for the applicable semiannual compounding dates (based on 30-day months).

The Accreted Value of this Bond is payable at its Stated Maturity to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of Deutsche Bank National Trust Company, as trustee and paying agent/registrar or, with respect to a successor trustee and paying agent/registrar at the Designated Payment/Transfer Office of such successor. Payments of principal of and accrued and compounded interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the Maturity Amount on this Bond (or the Accreted Value thereof) 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.

Capitalized terms appearing herein that are defined terms in the Indenture defined below, have the meanings assigned to them in the Indenture. Reference is made to the Indenture for such definitions and for all other purposes.

This Bond is one of a duly authorized issue of assessment revenue bonds of the City having the designation specified in its title (herein referred to as the "Bonds"), dated as of the date of delivery and issued in the original principal amount of $18,485,168.10 and issued, with the limitations described herein, pursuant to an Indenture of Trust, dated as of November 1, 2011 (the "Indenture"), by and between the City and Deutsche Bank National Trust Company, as trustee (the "Trustee," which term includes any successor trustee under the Indenture), to which Indenture reference is hereby made for a description of the amounts thereby pledged and assigned, the nature and extent of the lien and security, the respective rights thereunder to the holders of the Bonds, the Trustee, and the City, and the terms upon which the Bonds are, and are to be, authenticated and delivered and by this reference to the terms of which each holder of this Bond hereby consents. All Bonds issued under the Indenture are equally and ratably secured by the amounts thereby pledged and assigned. The Bonds are being issued for the purpose of (i)

paying the Costs of the Improvement Projects, (ii) paying a portion of the costs incidental to the organization of the District; and (iii) paying the costs of issuing the Bonds.

The Bonds are limited obligations of the City payable solely from the Pledged Revenues as defined in the Indenture provided, however, that use of Assessments to pay the Bonds is subject and subordinate to the use of the Assessments to pay the City's outstanding Special Assessment Revenue Bonds, Senior Series 2011 (Whisper Valley Public Improvement District), being issued concurrently with the issuance of the Bonds. Reference is hereby made to the Indenture, copies of which are on file with and available upon request from the Trustee, for the provisions, among others, with respect to the nature and extent of the duties and obligations of the City, the Trustee and the Owners. The Owner of this Bond, by the acceptance hereof, is deemed to have agreed and consented to the terms, conditions and provisions of the Indenture.

Notwithstanding any provision hereof, the Indenture may be released and the obligation of the City to make money available to pay this Bond may be defeased by the deposit of money and/or certain direct or indirect Defeasance Securities sufficient for such purpose as described in the Indenture.

The Bonds are issuable as fully registered bonds only in Authorized Denominations, subject to the provisions of the Indenture authorizing redemption in denominations of $5,000 or integral multiples thereof.

The Bond is not subject to redemption prior to maturity.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the City and the rights of the holders of the Bonds under the Indenture at any time Outstanding affected by such modification. The Indenture also contains provisions permitting the holders of specified percentages in aggregate of the Maturity Amount of the Bonds at the time Outstanding, on behalf of the holders of all the Bonds, to waive compliance by the City with certain past defaults under the Bond Ordinance or the Indenture and their consequences. Any such consent or waiver by the holder of this Bond or any predecessor Bond evidencing the same debt shall be conclusive and binding upon such holder and upon all future holders thereof and of any Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, whether or not notation of such consent or waiver is made upon this Bond.

As provided in the Indenture, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office, with such endorsement or other evidence of transfer as is acceptable to the Trustee, and upon delivery to the Trustee of such certifications and/or opinion of counsel as may be required under the Indenture for the transfer of this Bond. Upon satisfaction of such requirements, one or more new fully registered Bonds of the same Stated Maturity, of Authorized Denominations, bearing the same rate of interest, and for the same aggregate Maturity Amount will be issued to the designated transferee or transferees.

The City, the Trustee, and any other Person may treat the Person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the Person in whose name this Bond is registered on the Record

Date) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Trustee shall be affected by notice to the contrary.

NEITHER THE FULL FAITH AND CREDIT NOR THE GENERAL TAXING POWER OF THE CITY OF AUSTIN, TEXAS, TRAVIS COUNTY, TEXAS OR THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE BONDS.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that the total indebtedness of the City, including the Bonds, does not exceed any Constitutional or statutory limitation.

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

City Clerk, City of Austin, Texas	Mayor, City of Austin, Texas

[Seal]

NOTE: Print the "Table of Accreted Values" on the reverse side of the Bonds or attach said Table of Accreted Values to the Bonds.

(b) Form of Comptroller's Registration Certificate.

The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Bond:

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO._____
	§	
THE STATE OF TEXAS	§	

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Bond, and that this Bond has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this _____

_____
Comptroller of Public Accounts
of the State of Texas

[SEAL]

(c) Form of Certificate of Trustee.

CERTIFICATE OF TRUSTEE

It is hereby certified that this is one of the Bonds of the series of Bonds referred to in the within mentioned Indenture.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, as Trustee

DATED: _____

By:_____
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

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

_____

_____

_____

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

Date: _____

_____

Signature Guaranteed By:

_____

_____
Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Trustee.

(e) The Initial Bond shall be in the form set forth in paragraphs (a) through (d) of this section, except for the following alterations:

(i) immediately under the name of the Bond the heading "STATED YIELD" shall be completed with the expression "As Shown Below," and the reference to the "CUSIP NUMBER" shall be deleted;

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on December 1 in each of the years, in the Maturity Amount set forth in the following schedule:

Year of Maturity:	Maturity Amount:	Stated Yield:

(Information to be inserted from Section 3.2(b) hereof); and

(iii) the Initial Bond shall be numbered CAB-T1.

Section 5.3. CUSIP Registration.

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 5.4. Legal Opinion.

The approving legal opinion of Bond Counsel may be printed on or attached to each Bond over the certification of the City Clerk of the City, which may be executed in facsimile.

ARTICLE VI

FUNDS AND ACCOUNTS

Section 6.1. Establishment of Funds and Accounts.

(a) Creation of Funds. The following Funds are hereby created and established under this Indenture:

(i) Pledged Revenue Fund;

(ii) Bond Fund;

(iii) Project Fund;

(iv) Rebate Fund; and

(v) Administrative Fund.

(b) Creation of Accounts.

(i) A Principal and Interest Account is hereby created and established under the Bond Fund.

(ii) The following Accounts are hereby created and established under the Project Fund:

(A) Improvement Account; and

(B) Costs of Issuance Account

(c) Each Fund and Account created within such Fund shall be maintained by the Trustee separate and apart from all other funds and accounts of the City. The Pledged Funds shall constitute trust funds which shall be held in trust by the Trustee as part of the Trust Estate solely for the benefit of the Owners of the Bonds.

(d) Interest earnings and profit on each respective Fund and Account established by this Indenture shall be applied or withdrawn for the purposes of such Fund or Account as specified below.

Section 6.2. Initial Deposits to Funds and Accounts.

The proceeds from the sale of the Bonds shall be paid to the Trustee and deposited or transferred by the Trustee as follows:

(i) to the Improvement Account of the Project Fund: $17,677,771.22; and

(ii) to the Costs of Issuance Account of the Project Fund: $561,729.00.

Section 6.3. Pledged Revenue Fund.

(a) Immediately upon receipt thereof, the City shall deposit or cause to be deposited the Pledged Revenues into the Pledged Revenue Fund.

(b) From time to time as needed to pay the obligations relating to the Bonds, but no later than five (5) Business Days before each Interest Payment Date, the Trustee shall withdraw from the Pledged Revenue Fund and transfer to the Principal and Interest Account of the Bond Fund, an amount, taking into account any amounts then on deposit in such Principal and Interest Account, including any amounts received pursuant to the Reimbursement Agreement, and any expected transfers to the Principal and Interest Account, such that the amount on deposit in the Principal and Interest Account equals the Accreted Value due on the Bonds on the next Interest Payment Date.

(c) The Trustee shall transfer Prepayments to an escrow fund or account promptly after deposit of such amounts into the Pledged Revenue Fund and such escrowed funds will be applied to the discharge of the Bonds in accordance with Article XIV hereof or otherwise to the payment of the Bonds in a manner permitted by this Indenture and applicable law.

(d) The Trustee shall transfer Foreclosure Proceeds to an escrow fund or account promptly after deposit of such amounts into the Pledged Revenue Fund and such escrowed funds will be applied to the discharge of the Bonds in accordance with Article XIV hereof or otherwise to the payment of the Bonds in a manner permitted by this Indenture and applicable law.

Section 6.4. Bond Fund.

On each Interest Payment Date, the Trustee shall withdraw from the Principal and Interest Account and transfer to the Paying Agent/Registrar the Accreted Value then due and payable on the Bonds.

Section 6.5. Project Fund.

(a) Money on deposit in the Project Fund shall be used for the purposes specified in Section 3.1 hereof.

(b) Any funds received at Closing pursuant to the Financing Agreement shall be applied as provided therein. Such provisions and procedures are herein incorporated by reference and deemed set forth herein in full.

(c) Disbursements from the Project Fund to pay Costs shall be made by the Trustee upon receipt by the Trustee of a properly executed and completed Certification for Payment. The disbursement of funds in the Project Fund pursuant to a Certification for Payment shall be pursuant to and accordance with the disbursement procedures described in the Financing Agreement. Such provisions and procedures are herein incorporated by reference and deemed set forth herein in full.

(d) If the City Representative determines in his or her sole discretion that amounts then on deposit in the Project Fund are not expected to be expended for purposes of the Project Fund due to the abandonment, or constructive abandonment, of the Improvement Projects such that, in the opinion of the City Representative, it is unlikely that the amounts in the Project Fund will ever be expended for the purposes of the Project Fund, the City Representative shall file a City Certificate with the Trustee which identifies the amounts then on deposit in the Project Fund that are not expected to be used for purposes of the Project Fund. If such a City Certificate is so filed, the amounts on deposit in the Improvement Account shall be transferred to the Principal and Interest Account and used to pay the Accreted Value of the Bonds on the next Interest Payment Date.

(e) In making any determination pursuant to this Section, the City Representative may conclusively rely upon a certificate of an Independent Financial Consultant.

(f) Upon the filing of a City Certificate stating that all Improvement Projects have been completed and that all Costs of the Improvement Projects have been paid, or that any such Costs are not required to be paid from the Project Fund pursuant to a Certification for Payment, the Trustee shall transfer the amount, if any, remaining within the Improvement Account to the Principal and Interest Account.

Section 6.6. Reserved.

Section 6.7. Rebate Fund: Rebatable Arbitrage.

(a) There is hereby established a special fund of the City to be designated "City of Austin, Texas, Rebate Fund" (the "Rebate Fund") to be held by the Trustee in accordance with the terms and provisions of this Indenture. Amounts on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts due the United States Government in accordance with the Code.

(b) In order to assure that Rebatable Arbitrage is paid to the United States rather than to a third party, investments of funds on deposit in the Rebate Fund shall be made in accordance with the Code and the Tax Certificate.

(c) The Trustee conclusively shall be deemed to have complied with the provisions of this Section and Section 7.5(h) and shall not be liable or responsible if it follows the

instructions of the City and shall not be required to take any action under this Section and Section 7.5(h) in the absence of instructions from the City.

(d) If, on the date of each annual calculation, the amount on deposit in the Rebate Fund exceeds the amount of the Rebatable Arbitrage, the City may direct the Trustee, pursuant to a City Order, to transfer the amount in excess of the Rebatable Arbitrage to the Bond Fund.

Section 6.8. Administrative Fund.

(a) Immediately upon receipt thereof, the City shall deposit or cause to be deposited to the Administrative Fund the Annual Collection Costs.

(b) Moneys in the Administrative Fund shall be held by the Trustee separate and apart from the other Funds created and administered hereunder and used as directed by a City Order solely for the purposes set forth in the Service and Assessment Plan.

Section 6.9. Investment of Funds.

(a) Money in any Fund established pursuant to this Indenture shall be invested by the Trustee as directed by the City pursuant to a City Order filed with the Trustee at least two (2) days in advance of the making of such investment in time deposits or certificates of deposit secured in the manner required by law for public funds, or be invested in direct obligations of, including obligations the principal and interest on which are unconditionally guaranteed by, the United States of America, in obligations of any agencies or instrumentalities thereof, or in such other investments as are permitted under the Public Funds Investment Act of 1987, Chapter 2256 Texas Government Code, as amended, or any successor law, as in effect from time to time; provided that all such deposits and investments shall be made in such manner (which may include repurchase agreements for such investment with any primary dealer of such agreements) that the money required to be expended from any Fund will be available at the proper time or times. Such investments shall be valued each year in terms of current market value as of December 31. For purposes of maximizing investment returns, to the extent permitted by law, money in such Funds may be invested in common investments of the kind described above, or in a common pool of such investment which shall be kept and held at an official depository bank, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such Fund are held by or on behalf of each such Fund. If necessary, such investments shall be promptly sold to prevent any default

(b) Obligations purchased as an investment of moneys in any Fund shall be deemed to be part of such Fund or Account, subject, however, to the requirements of this Indenture for transfer of interest earnings and profits resulting from investment of amounts in Funds and Accounts. Whenever in this Indenture any moneys are required to be transferred by the City to the Trustee, such transfer may be accomplished by transferring a like amount of Permitted Investments.

(c) The Trustee and its affiliates may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. The Trustee shall not incur any

liability for losses arising from any investments made pursuant to this Section. The Trustee shall not be required to determine the legality of any investments.

(d) Investments in any and all Funds and Accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular Funds or Accounts of amounts received or held by the Trustee hereunder, provided that the Trustee shall at all times account for such investments strictly in accordance with the Funds and Accounts to which they are credited and otherwise as provided in this Indenture.

(e) The Trustee will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

Section 6.10. Security of Funds.

All Funds heretofore created or reaffirmed, to the extent not invested as herein permitted, shall be secured in the manner and to the fullest extent required by law for the security of public funds, and such Funds shall be used only for the purposes and in the manner permitted or required by this Indenture.

ARTICLE VII

COVENANTS

Section 7.1. Confirmation of Assessments.

The City hereby confirms, covenants, and agrees that, in the Assessment Ordinance, it has levied the Assessments against the respective Assessed Parcels from which the Pledged Revenues will be collected and received.

Section 7.2. Collection and Enforcement of Assessments.

(a) For so long as any Bonds are Outstanding, the City covenants, agrees and warrants that it will take and pursue all actions permissible under Applicable Laws to cause the Assessments to be collected and the liens thereof enforced continuously, in the manner and to the maximum extent permitted by Applicable Laws, and to cause no reduction, abatement or exemption in the Assessments.

(b) The City will determine or cause to be determined, no later than March 1 of each year, whether or not any Annual Installment is delinquent and, if such delinquencies exist, the City will order and cause to be commenced as soon as practicable any and all appropriate and legally permissible actions to obtain such Annual Installment, and any delinquent charges and interest thereon, including diligently prosecuting an action in district court to foreclose the currently delinquent Annual Installment. Notwithstanding the foregoing, the City shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessment or the corresponding Assessed Parcel.

Section 7.3. Against Encumbrances.

(a) The City shall not create and, to the extent Pledged Revenues are received, shall not suffer to remain, any lien, encumbrance or charge upon the Pledged Revenues or upon any other property pledged under this Indenture, except the pledge created for the security of the Bonds and the Senior Bonds, which are being issued concurrently with the issuance of the Bonds.

(b) So long as Bonds are Outstanding hereunder, the City shall not issue any bonds, notes or other evidences of indebtedness other than the Bonds secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under this Indenture.

Section 7.4. Records, Accounts, Accounting Reports.

The City hereby covenants and agrees that so long as any of the Bonds or Outstanding Bonds or any interest thereon remain outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the Assessments. The Trustee and holder or holders of any Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all such records, accounts, and data relating thereto, upon written request to the City by the Trustee or duly authorized representative, as applicable. The City shall provide the Trustee or duly authorized representative, as applicable, an opportunity to inspect such books and records relating to the Bonds during the City's regular business hours and on a mutually agreeable date not later than thirty days after the City receives such request.

Section 7.5. Covenants to Maintain Tax-Exempt Status.

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

> "*Closing Date*" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.
>
> *"Code"* means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.
>
> *"Computation Date"* has the meaning set forth in section 1.148-1(b) of the Regulations.
>
> *"Gross Proceeds"* means any proceeds as defined in section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in section 1.148-1(c) of the Regulations, of the Bonds.
>
> *"Investment"* has the meaning set forth in section 1.148-1(b) of the Regulations.

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

"Rebate Amount" has the meaning set forth in section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in section 1.148-5 of the Regulations; and (2) the Bonds has the meaning set forth in section 1.148-4 of the Regulations.

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

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

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

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced

directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan.

(i) Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(ii) The City covenants and agrees that the levied Assessments will meet the requirements of the "tax assessment loan exception" within the meaning of section 1.141-5(d) of the Regulations on the date the Bonds are delivered and will ensure that the Assessments continue to meet such requirements for so long as the Bonds are outstanding hereunder.

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

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

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

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

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding

Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

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

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall, pursuant to a City Order, direct the Trustee to transfer to the Rebate Fund from the funds or subaccounts designated in such City Order and direct the Trustee to pay to the United States from the Rebate Fund the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

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

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

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Assistant City Manager, Chief Financial Officer, City Treasurer, City Clerk, or Deputy City Clerk, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in

connection with the Bonds, in the Tax Certificate or similar or other appropriate certificate, form or document.

ARTICLE VIII

LIABILITY OF CITY

The City shall not incur any responsibility in respect of the Bonds or this Indenture other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The City shall not be liable in connection with the performance of its duties hereunder, except for its own willful default or act of bad faith. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions covenants or agreements of the Trustee herein or of any of the documents executed by the Trustee in connection with the Bonds, or as to the existence of a default or event of default thereunder.

In the absence of bad faith, the City may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City and conforming to the requirements of this Indenture. The City shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts.

No provision of this Indenture, the Bonds, the Assessment Ordinance, or any agreement, document, instrument, or certificate executed, delivered or approved in connection with the issuance, sale, delivery, or administration of the Bonds (the "Bond Documents"), shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Pledged Revenues and the Annual Collection Costs) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if in the judgment of the City there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it.

Neither the Owners nor any other Person shall have any claim against the City or any of its officers, officials, agents, or employees for damages suffered as a result of the City's failure to perform in any respect any covenant, undertaking, or obligation under any Bond Documents or as a result of the incorrectness of any representation in, or omission from, any of the Bond Documents, except to the extent that any such claim relates to an obligation, undertaking, representation, or covenant of the City, in accordance with the Bond Documents and the PID Act. Any such claim shall be payable only from Pledged Revenues or the Annual Collection Costs. Nothing contained in any of the Bond Documents shall be construed to preclude any action or proceeding in any court or before any governmental body, agency, or instrumentality against the City or any of its officers, officials, agents, or employees to enforce the provisions of any of the Bond Documents or to enforce all rights of the Owners of the Bonds by mandamus or other proceeding at law or in equity.

The City may rely on and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party

or proper parties. The City may consult with counsel with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Indenture the City shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the City, be deemed to be conclusively proved and established by a certificate of the Trustee, an Independent Financial Consultant, an independent inspector or City Manager or other person designated by the City Council to so act on behalf of the City, and such certificate shall be full warrant to the City for any action taken or suffered under the provisions of this Indenture upon the faith thereof, but in its discretion the City may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations, and directions of such persons or entities.

ARTICLE IX

THE TRUSTEE

Section 9.1. Trustee as Registrar and Paying Agent

The Trustee is hereby designated and agrees to act as Registrar and Paying Agent for and in respect to the Bonds.

Section 9.2. Trustee Entitled to Indemnity

The Trustee shall be under no obligation to institute any suit, or to undertake any proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays, and counsel fees and other reasonable disbursements, and against all liability except as a consequence of its own negligence or willful misconduct. Nevertheless, the Trustee may begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as the Trustee, without indemnity, and in such case the Trustee may make transfers from the Pledged Revenue Fund to pay all costs and expenses, outlays, and counsel fees and other reasonable disbursements properly incurred in connection therewith and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

Section 9.3. Responsibilities of the Trustee.

The recitals contained in this Indenture and in the Bonds shall be taken as the statements of the City and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or the Bonds or with respect to the security afforded by this Indenture, and the Trustee shall incur no liability with respect thereto. Except as otherwise expressly provided in this Indenture, the Trustee shall have no responsibility or duty with respect to: (i) the issuance of Bonds for value; (ii) the application of the proceeds thereof, except to the extent that such proceeds are received by it in its capacity as Trustee; (iii) the application of any moneys paid to the City or others in accordance with this Indenture, except as to the application of any moneys paid to it in its capacity as Trustee; or (iv) any calculation of arbitrage or rebate under the Code.

The duties and obligations of the Trustee shall be determined by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture.

The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties under this Indenture, except for its own gross negligence or willful misconduct.

Section 9.4. Property Held in Trust.

All moneys and securities held by the Trustee at any time pursuant to the terms of this Indenture shall be held by the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

Section 9.5. Trustee Protected in Relying on Certain Documents.

The Trustee may rely upon any order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond, or other document provided to the Trustee in accordance with the terms of this Indenture that it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or Person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any counsel, architect, engineer, insurance consultant, management consultant, or accountant believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry into any statements contained or matters referred to in any such instrument The Trustee may consult with counsel, who may or may not be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it in good faith and in accordance therewith.

Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Indenture, such matter may be deemed to be conclusively proved and established by a City Certificate, unless other evidence in respect thereof be hereby specifically prescribed. Such City Certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly

provided herein, any request, order, notice, or other direction required or permitted to be furnished pursuant to any provision hereof by the City to the Trustee shall be sufficiently executed if executed in the name of the City by the City Representative.

The Trustee shall not be under any obligation to see to the recording or filing of this Indenture, or otherwise to the giving to any Person of notice of the provisions hereof except as expressly required in Section 9.13 herein.

Section 9.6. Compensation.

Unless otherwise provided by contract with the Trustee, the Trustee shall transfer from the Administrative Fund, from time to time, reasonable compensation for all services rendered by it hereunder, including its services as Registrar and Paying Agent, together with all its reasonable expenses, charges, and other disbursements and those of its counsel, agents and employees, incurred in and about the administration and execution of the trusts hereby created and the exercise of its powers and the performance of its duties hereunder, subject to any limit on the amount of such compensation or recovery of expenses or other charges as shall be prescribed by specific agreement, and the Trustee shall have a lien therefor on any and all funds at any time held by it hereunder prior to any Bonds Outstanding. None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if in the judgment of the Trustee there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it. If the City shall fail to make any payment required by this Section, the Trustee may make such payment from any moneys in its possession under the provisions of this Indenture and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

Section 9.7. Permitted Acts.

The Trustee and its directors, officers, employees, or agents may become the owner of or may in good faith buy, sell, own, hold and deal in Bonds and may join in any action that any Owner of Bonds may be entitled to take as fully and with the same rights as if it were not the Trustee. The Trustee may act as depository, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the City or any committee formed to protect the rights of holders of Bonds or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not such committee shall represent the holders of a majority of the Bonds.

Section 9.8. Resignation of Trustee.

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving not fewer than 30 days' notice, specifying the date when such resignation shall take effect, to the City and each Owner of any Outstanding Bond. Such resignation shall take effect upon the appointment of a successor as provided in Section 9.10 and the acceptance of such appointment by such successor.

Section 9.9. Removal of Trustee.

The Trustee may be removed at any time by (i) the Owners of at least a majority of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such Owners or by their attorneys-in-fact, duly authorized and delivered to the City, or (ii) so long as the City is not in default under this Indenture, the City. Copies of each such instrument shall be delivered by the City to the Trustee and any successor thereof. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the City or the Owners of not less than 10% of the Bonds.

Section 9.10. Successor Trustee.

If the Trustee shall resign, be removed, be dissolved, or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator, or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of the Trustee hereunder shall thereupon become vacant

If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, a successor Trustee may be appointed within one year after any such vacancy shall have occurred by the Owners of at least twenty-five percent (25%) of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such Owners or their attorneys-in-fact, duly authorized and delivered to such successor Trustee, with notification thereof being given to the predecessor Trustee and the City.

Until such successor Trustee shall have been appointed by the Owners of the Bonds, the City shall forthwith appoint a Trustee to act hereunder. Copies of any instrument of the City providing for any such appointment shall be delivered by the City to the Trustee so appointed. The City shall mail notice of any such appointment to each Owner of any Outstanding Bonds within 30 days after such appointment. Any appointment of a successor Trustee made by the City immediately and without further act shall be superseded and revoked by an appointment subsequently made by the Owners of Bonds.

If in a proper case no appointment of a successor Trustee shall be made within 45 days after the giving by any Trustee of any notice of resignation in accordance with Section 9.8 herein or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Owner of Bonds may apply to any court of competent jurisdiction for the appointment of such a successor, and the court may thereupon, after such notice, if any, as the court may deem proper, appoint such successor and the City shall be responsible for the costs of such appointment process.

Any successor Trustee appointed under the provisions of this Section shall be a commercial bank or trust company or national banking association (i) having a capital and surplus and undivided profits aggregating at least $50,000,000, if there be such a commercial bank or trust company or national banking association willing and able to accept the appointment

on reasonable and customary terms, and (ii) authorized by law to perform all the duties of the Trustee required by this Indenture.

Each successor Trustee shall mail, in accordance with the provisions of the Bonds, notice of its appointment to the Trustee, any rating agency which, at the time of such appointment, is providing a rating on the Bonds and each of the Owners of the Bonds.

Section 9.11. Transfer of Rights and Property to Successor Trustee.

Any successor Trustee appointed under the provisions of Section 9.10 shall execute, acknowledge, and deliver to its predecessor and the City an instrument in writing accepting such appointment, and thereupon such successor, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations, and trusts of its predecessor hereunder, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request of the City or of such successor, execute, acknowledge, and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers, and trusts of such Trustee and all the right, title, and interest of such Trustee in and to the Trust Estate, and shall pay over, assign, and deliver to such successor any moneys or other properties subject to the trusts and conditions herein set forth. Should any deed, conveyance, or instrument in writing from the City be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties, or obligations, any and all such deeds, conveyances, and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged, and delivered by the City.

Section 9.12. Merger, Conversion or Consolidation of Trustee.

Any corporation or association into which the Trustee may be merged or with which it may be consolidated or any corporation or association resulting from any merger, conversion or consolidation to which it shall be a party or any corporation or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee hereunder, without any further act, deed or conveyance, provided that such corporation or association shall be a commercial bank or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 9.10, or a trust company that is a wholly-owned subsidiary of any of the foregoing.

Section 9.13. Trustee To File Continuation Statements.

If necessary, the Trustee shall file or cause to be filed, such continuation statements as may be required by the Texas Uniform Commercial Code, as from time to time in effect (the "UCC"), in order to continue perfection of the security interest of the Trustee in such items of tangible or intangible personal property and any fixtures as may have been granted to the Trustee pursuant to this Indenture in the time, place and manner required by the UCC.

Section 9.14. Construction of Indenture.

The Trustee may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Owners of the Bonds.

ARTICLE X

MODIFICATION OR AMENDMENT OF THIS INDENTURE

Section 10.1. Amendments Permitted.

This Indenture and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture, except as provided below, pursuant to the affirmative vote at a meeting of Owners of the Bonds, or with the written consent without a meeting, of the Owners of the Bonds of at least sixty-six and two-thirds percent (66-2/3%) of the aggregate Maturity Amount of the Bonds then Outstanding. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the Maturity Amount of any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Pledged Revenues superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by Applicable Laws or this Indenture), or reduce the percentage of Bonds required for the amendment hereof. Any such amendment may not modify any of the rights or obligations of the Trustee without its written consent.

This Indenture and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect;

(iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in regard to questions arising under this Indenture, as the City and the Trustee may deem necessary or desirable and not inconsistent with this Indenture, and that shall not adversely affect the rights of the Owners of the Bonds; and

(iv) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

Section 10.2. Owners' Meetings.

The City may at any time call a meeting of the Owners of the Bonds. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof, and to fix and adopt rules and regulations for the conduct of said meeting.

Section 10.3. Procedure for Amendment with Written Consent of Owners.

The City and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of the Bonds or of this Indenture, to the extent that such amendment is permitted by Section 10.1 herein, to take effect when and as provided in this Section. A copy of such Supplemental Indenture, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Trustee to each Owner of Bonds from whom consent is required under this Indenture, but failure to mail copies of such Supplemental Indenture and request shall not affect the validity of the Supplemental Indenture when assented to as in this Section provided.

Such Supplemental Indenture shall not become effective unless there shall be filed with the Trustee the written consents of the Owners as required by this Indenture and a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 11.6 herein. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof), unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the City shall mail a notice to the Owners in the manner hereinbefore provided in this Section for the mailing of the Supplemental Indenture, stating in substance that the Supplemental Indenture has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of the Supplemental Indenture or consents thereto). Proof of the mailing of such notice shall be filed with the Trustee. A record, consisting of the papers required by this Section 10.3 to be filed with the Trustee, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Indenture shall become effective upon the filing with the Trustee of the proof of mailing of such notice, and the Supplemental Indenture shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty-day period.

Section 10.4. Effect of Supplemental Indenture.

From and after the time any Supplemental Indenture becomes effective pursuant to this Article X, this Indenture shall be deemed to be modified and amended in accordance therewith,

the respective rights, duties, and obligations under this Indenture of the City and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 10.5. Endorsement or Replacement of Bonds Issued After Amendments.

The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the designated office of the Trustee or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed, and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the designated office of the Trustee without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 10.6. Amendatory Endorsement of Bonds.

The provisions of this Article X shall not prevent any Owner from accepting any amendment as to the particular Bonds held by such Owner, provided that due notation thereof is made on such Bonds.

Section 10.7. Waiver of Default

With the written consent of the Owners of at least sixty-six and two-thirds percent (66-2/3%) of the Maturity Amount of the Bonds then Outstanding, the Owners may waive compliance by the City with certain past defaults under the Indenture and their consequences. Any such consent shall be conclusive and binding upon the Owners and upon all future Owners.

ARTICLE XI

DEFAULT AND REMEDIES

Section 11.1. Events of Default.

Each of the following occurrences or events shall be and is hereby declared to be an "Event of Default," to wit:

(i) The failure of the City to deposit the Pledged Revenues to the Pledged Revenue Fund;

(ii) The failure of the City to enforce the collection of the Assessments including the prosecution of foreclosure proceedings; and

(iii) Default in the performance or observance of any covenant, agreement or obligation of the City under this Indenture and the continuation thereof for a period of 60 days after written notice specifying such default by the Owners of at least 25% of the Maturity Amount of the Bonds at the time Outstanding requesting that the failure be remedied.

Section 11.2. Immediate Remedies for Default.

(a) Subject to Article VIII, upon the happening and continuance of any of the Events of Default described in Section 11.1, the Owners of at least 25% of the Maturity Amount of the Bonds then Outstanding, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Indenture, by action seeking mandamus or by other suit, action, or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief to the extent permitted by Applicable Laws, including, but not limited to, the specific performance of any covenant or agreement contained herein, or injunction; provided, however, that no action for money damages against the City may be sought or shall be permitted.

(b) THE PRINCIPAL OF THE BONDS SHALL NOT BE SUBJECT TO ACCELERATION UNDER ANY CIRCUMSTANCES.

(c) If the assets of the Trust Estate are sufficient to pay all amounts due with respect to Outstanding Bonds, in the selection of Trust Estate assets to be used in the payment of Bonds due under this Article, the City shall determine, in its absolute discretion, and shall instruct the Trustee by City Order, which Trust Estate assets shall be applied to such payment and shall not be liable to any Owner or other Person by reason of such selection and application. In the event that the City shall fail to deliver to the Trustee such City Order, the Trustee shall select and liquidate or sell Trust Estate assets as provided in the following paragraph, and shall not be liable to any Owner, or other Person, or the City by reason of such selection, liquidation or sale.

(d) Whenever moneys are to be applied pursuant to this Article XI, irrespective of and whether other remedies authorized under this Indenture shall have been pursued in whole or in part, the Trustee may cause any or all of the assets of the Trust Estate, including Investment Securities, to be sold. The Trustee may so sell the assets of the Trust Estate and all right, title, interest, claim and demand thereto, in one or more parts, at any such place or places, and at such time or times and upon such notice and terms as the Trustee may deem appropriate and as may be required by law and apply the proceeds thereof in accordance with the provisions of this Section. Upon such sale, the Trustee may make and deliver to the purchaser or purchasers a good and sufficient assignment or conveyance for the same, which sale shall be a perpetual bar both at law and in equity against the City, and all other Persons claiming such properties. No purchaser at any sale shall be bound to see to the application of the purchase money proceeds thereof or to inquire as to the authorization, necessity, expediency, or regularity of any such sale. Nevertheless, if so requested by the Trustee, the City shall ratify and confirm any sale or sales by executing and delivering to the Trustee or to such purchaser or purchasers all such instruments as may be necessary or, in the judgment of the Trustee, proper for the purpose which may be designated in such request.

Section 11.3. Restriction on Owner's Action.

(a) No Owner shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust thereof or any other remedy hereunder, unless (i) a default has occurred and is continuing of which the Trustee has been notified in writing as provided in Section 11.1, or of which by such Section it is deemed to have notice, (ii) such default has become an Event of Default and the Owners of 25% of the Maturity Amount of the Bonds then Outstanding have made written request to the Trustee and offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, (iii) the Owners have furnished to the Trustee indemnity as provided in Section 9.2 herein, (iv) the Trustee has for 60 days after such notice failed or refused to exercise the powers hereinbefore granted, or to institute such action, suit, or proceeding in its own name, (v) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Owners of a majority of the Maturity Amount of the Bonds then Outstanding, and (vi) notice of such action, suit, or proceeding is given to the Trustee; however, no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner provided herein, and that all proceedings at law or in equity shall be instituted and maintained in the manner provided herein and for the equal benefit of the Owners of all Bonds then Outstanding. The notification, request and furnishing of indemnity set forth above shall, at the option of the Trustee, be conditions precedent to the execution of the powers and trusts of this Indenture and to any action or cause of action for the enforcement of this Indenture or for any other remedy hereunder.

(b) Subject to Article VIII, nothing in this Indenture shall affect or impair the right of any Owner to enforce, by action at law, payment of any Bond at and after the maturity thereof, or the obligation of the City to pay each Bond issued hereunder to the respective Owners thereof at the time and place, from the source and in the manner expressed herein and in the Bonds.

(c) In case the Trustee or any Owners shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Owners, then and in every such case the City, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 11.4. Application of Revenues and Other Moneys After Default.

(a) All moneys, securities, funds and Pledged Revenues and the income therefrom received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such amounts, the expenses (including its counsel), liabilities, and advances incurred or made by the Trustee and the fees of the Trustee in carrying out this Indenture, during the continuance of an Event of Default, the Trustee, on behalf of the City,

notwithstanding Section 11.2 hereof, be applied by the Trustee to the payment of the Accreted Value then due on Bonds, as follows:

> To the payment to the Owners entitled thereto of the unpaid Maturity Amount of Outstanding Bonds in the direct order of their due dates and, if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal due and to the Owners entitled thereto, without any discrimination or preference.

Within ten (10) days of receipt of such good and available funds, the Trustee may fix a record and payment date for any payment to be made to Owners pursuant to this Section 11.4.

(b) In the event funds are not adequate to cure any of the Events of Default described in Section 11.1, the available funds shall be allocated to the Bonds that are Outstanding in proportion to the quantity of Bonds that are currently due and in default under the terms of this Indenture.

(c) The restoration of the City to its prior position after any and all defaults have been cured, as provided in Section 11.3, shall not extend to or affect any subsequent default under this Indenture or impair any right consequent thereon.

Section 11.5. Effect of Waiver.

(a) No delay or omission of the Trustee, or any Owner, to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 11.6. Evidence of Ownership of Bonds.

(a) Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Indenture (except as otherwise herein expressly provided) if made in the following manner:

> (i) The fact and date of the execution of such instruments by any Owner of Bonds or the duly appointed attorney authorized to act on behalf of such Owner may be provided by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the Person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation,

association or partnership, such signature guarantee, certificate, or affidavit shall also constitute sufficient proof of his authority.

(ii) The ownership of Bonds and the amount, numbers and other identification and date of holding the same shall be proved by the Register.

(b) Except as otherwise provided in this Indenture with respect to revocation of a consent, any request or consent by an Owner of Bonds shall bind all future Owners of the same Bond in respect of anything done or suffered to be done by the City or the Trustee in accordance therewith.

Section 11.7. No Acceleration.

In the event of the occurrence of an Event of Default under Section 11.1 hereof, the right of acceleration of any Stated Maturity is not granted as a remedy hereunder and the right of acceleration under this Indenture is expressly denied.

Section 11.8. Mailing of Notice.

Any provision in this Article for the mailing of a notice or other document to Owners shall be fully complied with if it is mailed, first class postage prepaid, only to each Owner at the address appearing upon the Register.

Section 11.9. Exclusion of Bonds.

Bonds owned or held by or for the account of the City will not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Indenture, and the City shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Indenture.

ARTICLE XII

GENERAL COVENANTS AND REPRESENTATIONS

Section 12.1. Representations as to Pledged Revenues.

(a) The City represents and warrants that it is authorized by Applicable Laws to authorize and issue the Bonds, to execute and deliver this Indenture and to pledge the Pledged Revenues in the manner and to the extent provided in this Indenture, and that the Pledged Revenues are and will be and remain free and clear of any pledge, lien, charge, or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created in or authorized by this Indenture except as expressly provided herein.

(b) The City shall at all times, to the extent permitted by Applicable Laws, defend, preserve and protect the pledge of the Pledged Revenues and all the rights of the Owners and the Trustee, under this Indenture against all claims and demands of all Persons whomsoever.

(c) The City will take all steps reasonably necessary and appropriate, and will direct the Trustee to take all steps reasonably necessary and appropriate, to collect all delinquencies in the collection of the Assessments and any other amounts pledged to the payment of the Bonds to the fullest extent permitted by the Act and other Applicable Laws.

(d) To the extent permitted by law, notice of the Annual Installments shall be sent by, or on behalf of the City, to the affected property owners on the same statement or such other mechanism that is used by the City, so that such Annual Installments are collected simultaneously with ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City.

Section 12.2. Accounts, Periodic Reports and Certificates.

The Trustee shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Funds and Accounts established by this Indenture and which shall at all times be subject to inspection by the City, and the Owner or Owners of not less than 10% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

Section 12.3. General.

The City shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the City under the provisions of this Indenture.

ARTICLE XIII

SPECIAL COVENANTS

Section 13.1. Further Assurances; Due Performance.

(a) At any and all times the City will duly execute, acknowledge and deliver, or will cause to be done, executed and delivered, all and every such further acts, conveyances, transfers, and assurances in a manner as the Trustee shall reasonably require for better conveying, transferring, pledging, and confirming unto the Trustee, all and singular, the revenues, Funds, Accounts and properties constituting the Pledged Revenues, and the Trust Estate hereby transferred and pledged, or intended so to be transferred and pledged.

(b) The City will duly and punctually keep, observe and perform each and every term, covenant and condition on its part to be kept, observed and performed, contained in this Indenture.

Section 13.2. Other Obligations or Other Liens.

(a) The City reserves the right to issue obligations under other indentures, assessment ordinances, or similar agreements or other obligations which do not constitute or create a lien on the Trust Estate and are not payable from Pledged Revenues.

(b) The City will not create or voluntarily permit to be created any debt, lien or charge on the Trust Estate other than any debt, lien or charge on the Trust Estate associated with the Senior Bonds, which is hereby acknowledged and permitted, and will not do or omit to do or suffer to be or omitted to be done any matter or things whatsoever whereby the lien of this Indenture or the priority hereof or thereof might or could be lost or impaired; and further covenants that it will pay or cause to be paid or will make adequate provisions for the satisfaction and discharge of all lawful claims and demands which if unpaid might by law be given precedence over or any equality with this Indenture as a lien or charge upon the Pledged Revenues or Pledged Funds; provided, however, that nothing in this Section shall require the City to apply, discharge, or make provision for any such lien, charge, claim, or demand so long as the validity thereof shall be contested by it in good faith, unless thereby, in the opinion of Bond Counsel or counsel to the Trustee, the same would endanger the security for the Bonds.

Section 13.3. Books of Record.

(a) The City shall cause to be kept full and proper books of record and accounts, in which full, true and proper entries will be made of all dealing, business and affairs of the City, which relate to the Pledged Revenues, the Pledged Funds, and the Bonds.

(b) The Trustee shall have no responsibility with respect to the financial and other information received by it pursuant to this Section 13.3 except to receive and retain same, subject to the Trustee's document retention policies, and to distribute the same in accordance with the provisions of this Indenture.

ARTICLE XIV

PAYMENT AND CANCELLATION OF THE BONDS AND SATISFACTION OF THE INDENTURE

Section 14.1. Trust Irrevocable.

The trust created by the terms and provisions of this Indenture is irrevocable until the Bonds secured hereby are fully paid or provision is made for their payment as provided in this Article.

Section 14.2. Satisfaction of Indenture.

If the City shall pay or cause to be paid, or there shall otherwise be paid to the Owners, the Accreted Value applicable to the Bonds, at the times and in the manner stipulated in this Indenture, and all amounts due and owing with respect to the Bonds have been paid or provided for, then the pledge of the Trust Estate and all covenants, agreements, and other obligations of the City to the Owners of such Bonds, shall thereupon cease, terminate, and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the City copies of all such documents as it may have evidencing that the Accreted Value applicable to the Bonds has been paid so that the City may determine if the Indenture is satisfied; if so, the Trustee shall pay over or deliver all moneys held by it in the in Funds and Accounts held hereunder to the Person entitled to receive such amounts, or, if no Person is entitled to receive such amounts, then to the City.

Section 14.3. Bonds Deemed Paid.

All Outstanding Bonds shall prior to the Stated Maturity thereof be deemed to have been paid and to no longer be deemed Outstanding if (i) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Securities the principal of and the interest on which when due will provide moneys which, together with any moneys deposited with the Trustee at the same time, shall be sufficient to pay when due the Accreted Value of the Bonds to become due on such Bonds on and prior to the maturity date thereof, (ii) the Trustee shall have received a report by an independent certified public accountant selected by the City verifying the sufficiency of the moneys or Defeasance Securities deposited with the Trustee to pay when due the Accreted Value of the Bonds to become due on such Bonds on and prior to the maturity date thereof, and (iii) if the Bonds are then rated, the Trustee shall have received written confirmation from each rating agency that such deposit will not result in the reduction or withdrawal of the rating on the Bonds. Neither Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Accreted Value of the Bonds. Any cash received from such principal of and interest on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, be reinvested in Defeasance Securities as directed by the City maturing at times and in amounts sufficient to pay when due the Accreted Value of the Bonds on and prior to such maturity date thereof. Any payment for Defeasance Securities purchased for the purpose of reinvesting cash as aforesaid shall be made only against delivery of such Defeasance Securities.

ARTICLE XV

MISCELLANEOUS

Section 15.1. Benefits of Indenture Limited to Parties.

Nothing in this Indenture, expressed or implied, is intended to give to any Person other than the City, the Trustee and the Owners, any right, remedy, or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Trustee.

Section 15.2. Successor is Deemed Included in All References to Predecessor.

Whenever in this Indenture or any Supplemental Indenture either the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 15.3. Execution of Documents and Proof of Ownership by Owners.

Any request, declaration, or other instrument which this Indenture may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys duly appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the Person signing such request, declaration, or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number, and date of holding the same shall be proved by the Register.

Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Trustee in good faith and in accordance therewith.

Section 15.4. Waiver of Personal Liability.

No member, officer, agent, or employee of the City shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such member, officer, agent, or employee from the performance of any official duty provided by law.

Section 15.5. Notices to and Demands on City and Trustee.

(a) Except as otherwise expressly provided in this Indenture, all notices or other instruments required or permitted under this Indenture shall be in writing and shall be telexed, cabled, delivered by hand, or mailed by first class mail, postage prepaid, and addressed as follows:

If to the City:	City of Austin, Texas P.O. Box 1088 Austin, Texas 78767 Attn: City Manager
If to the Trustee or the Paying Agent/Registrar:	Deutsche Bank National Trust Company Trust & Securities Services 101 California Street, 47th Floor San Francisco, CA 92111 Attn: US Global Debt Services

Any such notice, demand, or request may also be transmitted to the appropriate party by telegram or telephone and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

Any of such addresses may be changed at any time upon written notice of such change given to the other party by the party effecting the change. Notices and consents given by mail in accordance with this Section shall be deemed to have been given five Business Days after the date of dispatch; notices and consents given by any other means shall be deemed to have been given when received.

(b) The Trustee shall mail to each Owner of a Bond notice of (i) any substitution of the Trustee; or (ii) the defeasance of all Bonds Outstanding.

Section 15.6. Partial Invalidity.

If any Section, paragraph, sentence, clause, or phrase of this Indenture shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The City hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause, or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid, or unenforceable.

Section 15.7. Applicable Laws.

This Indenture shall be governed by and enforced in accordance with the laws of the State of Texas applicable to contracts made and performed in the State of Texas.

Section 15.8. Payment on Business Day.

In any case where the date of the payment of the Accreted Value of the Bonds is scheduled to be paid or the date any action is to be taken pursuant to this Indenture is other than a Business Day, the payment of the Accreted Value or the action need not be made on such date but may be made on the next succeeding day that is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

Section 15.9. Counterparts.

This Indenture may be executed in counterparts, each of which shall be deemed an original.

[signature page follows]

IN WITNESS WHEREOF, the City and the Trustee have caused this Indenture of Trust to be executed all as of the date hereof.

CITY OF AUSTIN, TEXAS

By: _____
LEE LEFFINGWELL, Mayor

[SEAL]

Attest:

_____
SHIRLEY A. GENTRY
City Clerk

DEUTSCHE BANK NATIONAL TRUST COMPANY,
as Trustee

By: _____
Authorized Officer

By: _____
Authorized Officer

Signature Page to Indenture of Trust

SCHEDULE 1
TABLE OF ACCRETED VALUES