

**ORDINANCE NO. 20120412-016**

**AN ORDINANCE AUTHORIZING DELIVERY OF CREDIT AGREEMENTS RELATING TO THE CITY'S AIRPORT SYSTEM REFUNDING REVENUE BONDS, SERIES 2005; AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED AGREEMENTS AND A SECONDARY MARKET INFORMATION CIRCULAR.**

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

**PART 1. FINDINGS:**

(A) Pursuant to Ordinance No. 20050804-039, as amended by Ordinance No. 20110526-068 (Authorizing Ordinance), the City of Austin (City) previously issued and has outstanding its Airport System Refunding Revenue Bonds, Series 2005, issued in four subseries designated "Subseries 2005-1," "Subseries 2005-2," "Subseries 2005-3" and "Subseries 2005-4" (Bonds). The scheduled payment of the principal of and interest on the Bonds is insured by a municipal bond insurance policy (Bond Insurance Policy) issued by Assured Guaranty Municipal Corp., formerly known as Financial Security Assurance Inc. (Assured Guaranty).

(B) The Authorizing Ordinance contains some capitalized terms that are used in this ordinance. Those terms have the same meaning in this ordinance as they do in the Authorizing Ordinance.

(C) The City previously entered into (1) a Letter of Credit and Reimbursement Agreement, dated June 1, 2011 (JPM Reimbursement Agreement), between the City and JPMorgan Chase Bank, National Association (JPM), pursuant to which a direct-pay letter of credit was issued by JPM for the Subseries 2005-1 Bonds (JPM LOC-1) and a direct-pay letter of credit was issued by JPM for the Subseries 2005-2 Bonds (JPM LOC-2), (2) a Letter of Credit and Reimbursement Agreement, dated June 1, 2011, between the City and KBC Bank, N.V., acting through its New York Branch (KBC), pursuant to which a direct-pay letter of credit was issued by KBC for the Subseries 2005-3 Bonds (KBC LOC), and (3) a Letter of Credit and Reimbursement Agreement, dated June 1, 2011 (Royal Bank Reimbursement Agreement), between the City and Royal Bank of Canada (Royal Bank), acting through its WFC, New York, Branch, pursuant to which a direct-pay letter of credit was issued by Royal Bank, acting through its WFC, New York, Branch, for the Subseries 2005-4 Bonds (Royal Bank LOC).

(D) Council finds that it is necessary to replace the KBC LOC with a direct-pay letter of credit in accordance with the terms of the Authorizing Ordinance to be issued by State Street Bank and Trust Company for the Subseries 2005-3 Bonds (State Street LOC).

(E) Council finds that the State Street LOC constitutes a Credit Agreement, a Direct-Pay Credit Facility and a Liquidity Facility for purposes of the Authorizing Ordinance.

(F) In connection with the delivery of the State Street LOC, council finds it necessary to authorize the execution and delivery of: (1) a Letter of Credit and Reimbursement Agreement, dated May 1, 2012 (State Street Reimbursement Agreement), between the City and State Street

Bank and Trust Company (State Street), and (2) a Bank Fee Agreement, dated May 1, 2012 (Fee Agreement), between the City and State Street.

(G) In connection with the delivery of the State Street LOC, council finds it necessary to authorize the execution and delivery of an Amended and Restated Insurance Policy Cancellation Agreement, dated May 1, 2012 (Cancellation Agreement), by and among the City, Wells Fargo Bank, N.A., as paying agent/registrar (Paying Agent/Registrar) and as tender agent (Tender Agent), JPM, Royal Bank, acting through its WFC, New York, Branch, State Street, and Assured Guaranty, relating to the Bond Insurance Policy and the Debt Service Reserve Fund Surety Policy.

(H) In connection with the delivery of the State Street LOC, council finds it necessary to authorize the execution and delivery of an Amended and Restated Agreement Regarding Insured Swap Transaction, dated May 1, 2012 (Swap Agreement), between the City and Assured Guaranty, relating to the Series 2005 Swap Agreement.

(I) In connection with the delivery of the State Street LOC, council finds it necessary to authorize the execution and delivery of a Second Amended and Restated Tender Agency Agreement, dated May 1, 2012, between the City and the Tender Agent (Amended Tender Agency Agreement).

(J) In connection with the delivery of the State Street LOC, council finds it necessary to authorize the amendment of the JPM Reimbursement Agreement and the Royal Bank Reimbursement Agreement, to be effected by the execution and delivery of: (1) a First Amendment to Reimbursement Agreement, dated May 1, 2012 (JPM Amendment to Reimbursement Agreement), between the City and JPM, and (2) a First Amendment to Reimbursement Agreement, dated May 1, 2012 (Royal Bank Amendment to Reimbursement Agreement), between the City and Royal Bank, acting through its WFC, New York, Branch, pursuant to which each of JPM and Royal Bank will execute and deliver amendments to the JPM LOC-1 and JPM LOC-2, and Royal Bank LOC, respectively.

(K) The Authorizing Ordinance requires the mandatory tender for purchase of the Subseries 2005-3 Bonds upon the replacement of the KBC LOC.

(L) In connection with the mandatory tender of the Subseries 2005-3 Bonds, council finds it necessary to approve and authorize the use of a Secondary Market Information Circular for the remarketing of the Subseries 2005-3 Bonds.

(M) The City is authorized (1) to cause the delivery of (a) the State Street LOC and, (b) amendments to the JPM LOC-1, JPM LOC-2 and Royal Bank LOC, and (2) to authorize, execute, and deliver the State Street Reimbursement Agreement, the JPM Amendment to Reimbursement Agreement, and the Royal Bank Amendment to Reimbursement Agreement, all pursuant to Chapter 1371, Texas Government Code.

## **PART 2. AUTHORIZATION.**

(A) Council authorizes, ratifies, and approves the replacement of the KBC LOC with the State Street LOC. The mayor, any designee of the mayor, the City manager, any designee of

the city manager, the acting chief financial officer of the City, the city clerk, the Aviation Director and the city treasurer (each, an Authorized Officer, and collectively, Authorized Officers) are authorized and directed to take all actions necessary or desirable to effect the delivery of the State Street LOC for the Subseries 2005-3 Bonds and the delivery of amendments to the JPM LOC-1, JPM LOC-2 and Royal Bank LOC, all in accordance with the provisions of the Authorizing Ordinance and this ordinance at the times and in the manner as they decide are appropriate.

(B) Council authorizes the negotiation, execution, and delivery of (1) the State Street Reimbursement Agreement in substantially the form attached as Exhibit A and (2) the Fee Agreement in substantially the form attached as Exhibit B. Each Authorized Officer is authorized to execute and deliver the State Street Reimbursement Agreement and the Fee Agreement, with any changes as may be approved by an Authorized Officer. The execution of the State Street Reimbursement Agreement and the Fee Agreement will be conclusive evidence the City approved each of these agreements.

(C) Council authorizes the negotiation, execution, and delivery of the Cancellation Agreement in substantially the form attached as Exhibit C. Each Authorized Officer is authorized to execute and deliver the Cancellation Agreement with any changes as may be approved by an Authorized Officer. The execution of the Cancellation Agreement will be conclusive evidence the City approved such agreement.

(D) Council authorizes the negotiation, execution, and delivery of the Swap Agreement in substantially the form attached as Exhibit D. Each Authorized Officer is authorized to execute and deliver the Swap Agreement with any changes as may be approved by an Authorized Officer. The execution of the Swap Agreement will be conclusive evidence the City approved such agreement.

(E) Council authorizes the negotiation, execution, and delivery of the Amended Tender Agency Agreement in substantially the form attached as Exhibit E. Each Authorized Officer is authorized to execute and deliver the Amended Tender Agency Agreement, with such changes as may be approved by an Authorized Officer. The execution of the Amended Tender Agency Agreement is conclusive evidence the City approved such agreement.

(F) Council authorizes the negotiation, execution, and delivery of (1) the JPM Amendment to Reimbursement Agreement, in substantially the form attached as Exhibit F-1, and (2) the Royal Bank Amendment to Reimbursement Agreement in substantially the form attached as Exhibit F-2. Each Authorized Officer is authorized to execute and deliver the JPM Amendment to Reimbursement Agreement and the Royal Bank Amendment to Reimbursement Agreement, with such changes as may be approved by an Authorized Officer. The execution of the JPM Amendment to Reimbursement Agreement and the Royal Bank Amendment to Reimbursement Agreement is conclusive evidence the City approved each of these agreements.

(G) Council authorizes, ratifies, and approves the preparation, distribution, and use of the Secondary Market Information Circular in substantially the form attached as Exhibit G. To the extent required, the Secondary Market Information Circular is "final" as of its date for purposes of compliance with Rule 15c2-12 of the Securities and Exchange Commission.

(H) The Paying Agent/Registrar and the Tender Agent are authorized and directed to take all actions and give all notices as may be necessary or desirable to effect the delivery of the State Street LOC and the amendments to the JPM LOC-1, JPM LOC-2 and Royal Bank LOC and all other actions authorized by this ordinance.

**PART 3. FURTHER PROCEDURES.** Each Authorized Officer is authorized and directed to do any and all things necessary or convenient to carry out the terms of this ordinance.

**PART 4. SEVERABILITY.** The provisions of this ordinance are severable. If any provision of this ordinance or its applications to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance.

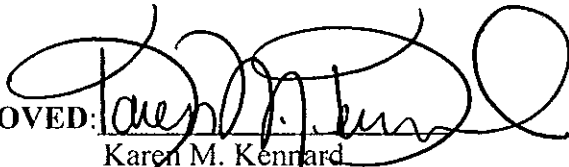
**PART 5. OPEN MEETING.** The City posted sufficient written notice of the date, hour, place, and subject of the meeting of the city council at which this ordinance was adopted at a place convenient and readily accessible at all times to the general public at the Austin City Hall for the time required by the Open Meetings Law, Chapter 551, Texas Government Code. This meeting has been open to the public as required by law at all times during which this ordinance and its subject matter were discussed, considered, and formally acted upon. The city council ratifies, approves, and confirms such written notice, its contents and its posting.

**PART 6. REPEALER.** All orders, resolutions, and ordinances (other than the Authorizing Ordinance), or their parts that are inconsistent with this ordinance are repealed only to the extent needed to eliminate the inconsistency.


**PART 7. EFFECTIVE IMMEDIATELY.** This ordinance takes effect immediately on its passage pursuant to Section 1201.028, Texas Government Code.

PASSED AND APPROVED

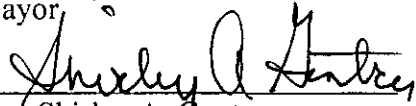
APPROVED:

  
Karen M. Kennard  
City Attorney

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§  
§  
§

  
Lee Leffingwell  
Mayor

ATTEST:

  
Shirley A. Gentry  
City Clerk

**Exhibit A**

[State Street Reimbursement Agreement]

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LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT

Dated as of May 1, 2012

by and between

CITY OF AUSTIN, TEXAS,

and

STATE STREET BANK AND TRUST COMPANY

Relating to

City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005 (AMT)  
Subseries 2005-3

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## LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT

This Letter of Credit and Reimbursement Agreement dated as of May 1, 2012 (this "*Agreement*"), is by and between the City of Austin, Texas (the "*City*") and State Street Bank and Trust Company (together with its successors and assigns, the "*Bank*").

### WITNESSETH

**WHEREAS**, the City has previously issued the Series 2005 Bonds (defined herein) pursuant to the terms of Ordinance No. 20050804-039, and all appendices and exhibits thereto (the "*Original Ordinance*");

**WHEREAS**, the Original Ordinance was amended on May 26, 2011 by Ordinance No. 20110526-068 (the "*Amendment*" and together with the Original Ordinance, the "*Ordinance*");

**WHEREAS**, the Ordinance provides that the Series 2005 Bonds may bear interest at certain variable rates set forth in the Ordinance;

**WHEREAS**, pursuant to the terms of the Ordinance and subject to the conditions described therein, the Series 2005 Bonds bearing interest at a Weekly Rate are subject to tender for purchase by the holders thereof at various times before the maturity thereof;

**WHEREAS**, the Subseries 2005-3 Bonds (as defined herein) were previously supported by an irrevocable transferable direct-pay letter of credit (the "*Prior Letter of Credit*") issued by KBC Bank, N.V., acting through its New York Branch (the "*Prior Bank*") for the payment, when and as due, of the principal and purchase price of and interest on the Subseries 2005-3 Bonds;

**WHEREAS**, in substitution of the Prior Letter of Credit, the City has requested that the Bank issue an irrevocable transferable direct-pay letter of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-3 Bonds, and to provide a liquidity facility in respect of certain drawings under the Letter of Credit (defined herein);

**WHEREAS**, JPMorgan Chase Bank, National Association ("*JPMorgan*") has previously issued two separate irrevocable transferable direct-pay letters of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-1 Bonds and the Subseries 2005-2 Bonds (defined herein) and provide a liquidity facility in respect of certain drawings under the Subseries 2005-1 Letter of Credit and the Subseries 2005-2 Letter of Credit (each as defined herein);

**WHEREAS**, Royal Bank of Canada ("*Royal Bank*"), acting through its WFC, New York, Branch, has previously issued an irrevocable transferable direct-pay letter of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-4 Bonds (defined herein) and to provide a liquidity facility in respect of certain drawings under the Subseries 2005-4 Letter of Credit (defined herein); and

**WHEREAS**, the City has caused the Series 2005 Bonds (including Bank Bonds (defined herein)), to be insured as to the scheduled payments of principal and interest as such become due pursuant to a municipal bond insurance policy bearing Policy No. 205494-N (together with any and all riders and endorsements thereto, the "*Insurance Policy*") issued by the Insurer (defined herein);

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Bank hereby agree as follows:

## **ARTICLE 1**

### **DEFINITIONS; INTERPRETATION**

The following capitalized terms when used in this Agreement have the meanings indicated below unless the context shall clearly indicate otherwise. Other capitalized terms used in this Agreement and not defined herein shall have the respective meanings given to such terms in the Ordinance. All the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof and of this Agreement. When used in this Agreement (1) the singular includes the plural and the plural includes the singular; (2) "or" is not exclusive; (3) a reference to a law includes any amendment or modification to such law; (4) a reference to a Person includes its permitted successors and permitted assigns; and (5) a reference to an agreement, instrument, or document shall include such agreement, instrument, or document as the same may be amended, modified, or supplemented from time to time in accordance with its terms and as permitted hereby.

"*Affiliate*" of a specified Person means any other Person which "controls," or is "controlled" by, or is under common "control" with, such specified Person. For purposes of this definition, a Person "controls" another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

"*Agreement*" has the meaning set forth in the first paragraph hereof.

"*Airport System*" has the meaning set forth in the Ordinance.

"*Amendment*" has the meaning set forth in the recitals hereof.

"*Amortization Commencement Date*" means, with respect to each Bank Bond, the earlier to occur of (a) 90 days after the date of the related Liquidity Advance and (b) the Termination Date.

"*Amortization End Date*" means (a) if the Insurance Policy has been terminated prior to the related Amortization Commencement Date, the earliest to occur of (i) the fifth (5th) anniversary of the date the related Liquidity Advance was made, (ii) the Conversion Date, and

(iii) the Substitution Date, or (b) if the Insurance Policy is in effect on the related Amortization Commencement Date, the earliest to occur of (i) the seventh (7th) anniversary of the date the related Liquidity Advance was made, (ii) the Conversion Date, and (iii) the Substitution Date; *provided, however*, that if the Insurance Policy is terminated after the related Amortization Commencement Date, "Amortization End Date" shall mean the earliest to occur of (i) the seventh (7th) anniversary of the date of the related Liquidity Advance, (ii) the fifth (5th) anniversary of the effective date of the termination of the Insurance Policy, (iii) the Conversion Date, and (iv) the Substitution Date.

"*Amortization Payment Date*" means (a) the first Business Day of the sixth calendar month immediately succeeding date of the related Liquidity Advance, (b) the first Business Day of each sixth calendar month occurring thereafter prior to the Amortization End Date and (c) the Amortization End Date.

"*Available Amount*" has the meaning set forth in the Letter of Credit.

"*Bank*" has the meaning set forth in the first paragraph hereof.

"*Bank Agreement*" has the meaning set forth in Section 5.1(x) hereof.

"*Bank Bond*" means each Bond purchased for the account of the Bank with the proceeds of a Liquidity Drawing under the Letter of Credit.

"*Banks*" means, collectively, the Bank, JPMorgan and Royal Bank.

"*Bank Bond Endorsement*" means an endorsement to the Insurance Policy issued by the Insurer, so that the Insurance Policy as endorsed insures the payment when due of regularly scheduled principal of and interest on the Bonds, including any Subrogated Bonds and any Bank Bonds, up to the Bank Rate for the first sixty days following the date of a related Liquidity Advance and at the Insured Rate at all times thereafter, in form and substance satisfactory to the Bank.

"*Bank Fee Agreement*" means the Bank Fee Agreement dated as of May 1, 2012, between the City and the Bank.

"*Bank Rate*" means, with respect to any Liquidity Advance, the rate of interest per annum (i) for any day commencing on the date such Liquidity Advance is made, to and including the ninetieth (90th) day next succeeding the date such Liquidity Advance is made, equal to the Base Rate from time to time in effect, (ii) for any day commencing on the ninety-first (91st) day next succeeding the date such Liquidity Advance is made and thereafter, equal to the Base Rate from time to time in effect *plus* one percent (1.0%); *provided, however*, that immediately and automatically upon the occurrence of an Insurer Event of Default or a City Event of Default (and without any notice given with respect thereto) and during the continuance of such Insurer Event of Default or City Event of Default, "Bank Rate" shall mean the Default Rate; *provided* that the Bank Rate shall never exceed the Maximum Rate.

"*Bankruptcy Law*" means Title 11, U.S. Code, as amended or supplemented, any successor statute thereto, or any similar Federal, state, or foreign law for the relief of debtors.

*“Base Rate”* means, for any day, the highest of (i) the Prime Rate plus one and one-half percent (1.5%), (ii) the Federal Funds Rate plus two percent (2.0%), and (iii) eight percent (8.0%).

*“Bonds”* means the Subseries 2005-3 Bonds.

*“Business Day”* has the meaning set forth in the Letter of Credit.

*“Cancellation Agreement”* means the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent and Tender Agent, the Bank, JPMorgan, Royal Bank and the Insurer, as the same may be amended, modified or supplemented in accordance with its terms.

*“Cap Interest Rate”* has the meaning set forth in the Letter of Credit.

*“Change in Law”* has the meaning set forth in Section 2.14 hereof.

*“City”* has the meaning set forth in the first paragraph hereof.

*“City Event of Default”* has the meaning set forth in Section 6.2 hereof.

*“Closing Date”* means May \_\_\_, 2012, subject to the satisfaction of the conditions precedent set forth in Section 4.1 hereof.

*“Code”* means the Internal Revenue Code of 1986, as amended from time to time.

*“Commitment”* means \$63,182,072 (representing the sum of the Interest Commitment and the Principal Commitment).

*“Conditions Precedent”* has the meaning set forth in Section 4.2 hereof.

*“Conversion Date”* means the date on which the interest rate on any series of Bonds has been converted to an interest rate other than a Weekly Rate.

*“Custodian”* means Wells Fargo Bank, National Association, and its successors and assigns.

*“Custody Agreement”* means the Custody Agreement for the Bank Bonds between the Bank and the Paying Agent dated as of May 1, 2012, as the same may be amended, modified or supplemented in accordance with its terms.

*“Debt Service Reserve Fund”* has the meaning set forth in the Ordinance.

*“Debt Service Reserve Fund Requirement”* has the meaning set forth in the Ordinance.

*“Default”* means any circumstance, condition or event which, with the giving of notice or lapse of time, or both, could reasonably be expected to, unless cured or waived, become a City Event of Default.

*“Default Rate”* means the Base Rate from time to time in effect plus three percent (3.0%); *provided* that the Default Rate shall never exceed the Maximum Rate.

*“Dodd-Frank Act”* means the Dodd-Frank Wall Street Reform and Consumer Protection Act, as enacted by the United States Congress, and signed into law on July 21, 2010, and all rules, guidelines or directives promulgated thereunder.

*“Drawing”* means any drawing honored under the Letter of Credit.

*“DTC”* means The Depository Trust Company, New York, New York, and its successors and assigns.

*“ERISA”* means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto and any rule or regulation issued thereunder.

*“Excess Interest”* has the meaning set forth in Section 2.16 hereof.

*“Existing Agreement”* means the Letter of Credit and Reimbursement Agreement, dated as of June 1, 2011, by and among the City, Wells Fargo Bank, National Association, as Tender Agent, and the Prior Bank.

*“Federal Funds Rate”* means, for any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, *provided* that (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the preceding Business Day as so published on the next succeeding Business Day and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Bank on such day on such transactions as determined by the Bank. Each determination of the Federal Funds Rate by the Bank shall be conclusive and binding on the City except in the case of manifest error.

*“Financing Documents”* means the Ordinance, the Bonds, the Insurance Policy, the Remarketing Agreement, this Agreement, the Letter of Credit, the Custody Agreement, the Bank Fee Agreement, any Swap Contract related to the Bonds and payable from Net Revenues and the ordinance of the City authorizing such Swap Contracts, the Tender Agent Agreement and the Surety Policy.

*“GAAP”* means generally accepted accounting principles for governmental entities in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to governmental entities and the circumstances as of the date of determination, consistently applied.

*“Governmental Authority”* means any nation or government, any state, department, agency or other political subdivision thereof, and any entity exercising executive, legislative,

judicial, regulatory or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled (through ownership of common stock or capital) by any of the foregoing.

*"Guarantee"* by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Payment Obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Payment Obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise), (ii) entered into for the purpose of assuring in any other manner the obligee of such Payment Obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (iii) with respect to any letter of credit issued for the account of such other Person or as to which such other Person is otherwise liable for reimbursement of drawings, *provided* that the term *Guarantee* shall not include (i) endorsements for collection or deposit in the ordinary course of business or (ii) performance or completion guarantees. The terms *"Guarantee"* and *"Guaranteed"* used as a verb have a corresponding meaning.

*"Ineligible Bonds"* means Bank Bonds, Bonds owned by or on behalf of the City and Bonds bearing interest at an interest rate other than a Weekly Rate.

*"Insurance Policy"* has the meaning set forth in the recitals hereof.

*"Insured Rate"* means the Bank Rate; *provided, however*, that immediately and automatically upon the occurrence of an Insurer Event of Default (and without any notice given with respect thereto) and during the continuance of such Insurer Event of Default, *"Insured Rate"* shall mean the Default Rate; and *provided further*, that the Insured Rate shall never exceed the least of (i) the Prime Rate plus 3.00%, (ii) the Maximum Rate, and (iii) 25%.

*"Insurer"* means Assured Guaranty Municipal Corp. (formerly known as Financial Security Assurance Inc.), a stock insurance company organized under the laws of the State of New York, or any successor thereto or assignee thereof.

*"Insurer Downgrade Event"* means the financial strength or claims-paying rating of the Insurer shall be (i) reduced below "Aa3" (or its equivalent) or suspended or withdrawn by Moody's and (ii) reduced below "AA-" (or its equivalent) or suspended or withdrawn by S&P.

*"Insurer Event of Default"* means the occurrence of one or more of the following events:

- (i) any principal or interest evidenced by the Bonds (including Bank Bonds) is not paid by the Insurer when, as, and in the amounts required to be paid pursuant to the terms of the Insurance Policy; or

- (ii) (a) any material provision of the Insurance Policy relating to the obligation of the Insurer to make payments of principal and interest thereunder at any time for any reason ceases to be valid and binding on the Insurer in accordance with the terms of the Insurance Policy or the New York Department

of Insurance or a court or other Governmental Authority of appropriate jurisdiction finds or rules or enters an order, judgment or decree that the Insurance Policy is not valid and binding on the Insurer or (b) the Insurer (1) claims in writing that the Insurance Policy is not valid and binding on the Insurer, (2) repudiates the Insurer's obligations under the Insurance Policy or (3) initiates legal proceedings seeking an adjudication that the Insurance Policy or any material provision thereof regarding the payment of principal or interest on Bonds (including Bank Bonds) is not valid and binding on the Insurer; or

(iii) a proceeding is instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect to the Insurer or for any substantial part of its property under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee or sequestrator (or other similar official) and such proceeding has not been dismissed within ninety (90) days or such court enters an order granting the relief sought in such proceeding; or the New York Department of Insurance declares a moratorium on the payment of the Insurer's debts, or the Insurer commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, consents to the entry of an order for relief in an involuntary case under any such law or consents to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of the Insurer or for any substantial part of its property, or makes a general assignment for the benefit of creditors, or fails generally to pay its Payment Obligations (*provided* that for purposes of this definition, "Payment Obligation" shall not include any obligation of the Insurer under any insurance policy or surety bond) as they become due, or an order for rehabilitation, liquidation or dissolution of the Insurer is issued; or

(iv) the Insurer fails to make any payment related to principal or interest when due under any insurance policy (other than the Insurance Policy) or surety bond issued by it insuring or supporting the payment of municipal obligations rated by any Rating Agency, and such failure continues for a period of thirty (30) days (it being understood by the Bank that default for purposes of this clause (iv) shall not mean a situation wherein the Insurer contests in good faith its liability under any such policy or policies in light of the claims made thereunder).

*"Interest Commitment"* means \$1,082,072 (representing 53 days of interest at the Cap Interest Rate calculated on the basis of a 365 day year).

*"Interest Component"* means, with respect to any Liquidity Advance, the portion, if any, of such Liquidity Advance which corresponds to accrued interest on the Bonds purchased with the proceeds of such Liquidity Advance.

*"Interest Payment Date"*, with respect to any Bond which is not a Bank Bond, has the meaning set forth in the Ordinance and, with respect to Bank Bonds and Liquidity Advances, means the first Business Day of each calendar month.



*“Letter of Credit”* means the irrevocable transferable direct-pay letter of credit issued by the Bank for the Subseries 2005-3 Bonds.

*“Letter of Credit Fee”* has the meaning set forth in the Bank Fee Agreement.

*“Liquidity Advance”* has the meaning set forth in Section 2.3(a)(i) hereof.

*“Liquidity Drawing”* means a drawing under the Letter of Credit resulting from the presentation of a certificate in the form of Exhibit E to the Letter of Credit.

*“Maximum Rate”* means the highest “net effective interest rate” as defined in and authorized under Chapter 1204, Texas Government Code, as amended.

*“MFN Clause”* has the meaning set forth in Section 5.1(dd) hereof.

*“Moody’s”* means Moody’s Investors Service, Inc. and any successor thereto.

*“Net Revenues”* has the meaning set forth in the Ordinance.

*“Obligations”* means all obligations of the City to pay or reimburse the Bank arising under or in relation to this Agreement or the Bank Fee Agreement, including, without limitation, the Reimbursement Obligations, the Letter of Credit Fees and the obligations of the City set forth in Sections 2.13, 2.14, and 7.2 hereof and including, in each instance, accrued interest thereon.

*“Ordinance”* has the meaning set forth in the recitals hereof.

*“Owner”* has the meaning set forth in the Ordinance.

*“Participant”* has the meaning set forth in Section 7.4 hereof.

*“Paying Agent”* means Wells Fargo Bank, National Association, or any other association or corporation which may at any time be substituted in its place as Paying Agent/Registrar with respect to the Bonds as provided in the Ordinance.

*“Payment Account”* means the account set forth beneath the name of the Bank on the signature pages hereof as its Payment Account or such other account as may be specified by the Bank to the City, the Tender Agent and the Paying Agent in writing.

*“Payment Obligation”* of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money and reimbursement obligations which are not contingent, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services which purchase price is due twelve (12) months or more from the date of incurrence of the obligation in respect thereof, (iv) all obligations of such Person as lessee under capital leases, (v) all Payment Obligations of others Guaranteed by such Person, and (vi) all payment obligations of such Person, in addition to any obligations set forth in clauses (i) through (v) above, arising under any Swap Contract; *provided* that it is understood that any Payment Obligation does not include contingent obligations of such Person to reimburse any other Person

in respect of surety bonds or letters of credit to the extent that such surety bonds or letters of credit support any Payment Obligation of such Person.

*"Person"* means any individual, partnership, firm, corporation, association, joint venture, trust or other entity, or any government (or political subdivision or agency, department or instrumentality thereof).

*"Prime Rate"* means, for any day, the rate of interest per annum determined by the Bank from time to time as its prime commercial lending rate for U.S. Dollar loans made in the United States. Such prime commercial lending rate is a rate set by the Bank based upon various factors including the Bank's costs and desired return, general economic conditions and other factors and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by the Bank shall take effect at the opening of business on the day specified in the public announcement of such change..

*"Principal Commitment"* means \$62,100,000.

*"Principal Component"* means, with respect to any Liquidity Advance, the portion, if any, of such Liquidity Advance which corresponds to the principal amount of the Bonds purchased with the proceeds of such Liquidity Advance.

*"Principal Office"* means, with respect to the Bank, the office at which Drawings are to be presented to the Bank under the Letter of Credit or the office at which payment is to be made to the Bank, in each case, as set forth beneath the name of the Bank on the signature pages hereof as its Principal Office, or such other office as may be designated by such Bank as its Principal Office in a written notice to the City, the Paying Agent and the Tender Agent in accordance with Section 2.6 hereof.

*"Prior Bank"* has the meaning set forth in the recitals hereof.

*"Prior Letter of Credit"* has the meaning set forth in the recitals hereof.

*"Prior Lien Bonds"* has the meaning set forth in the Ordinance.

*"Rating Agency"* means Moody's, Fitch or S&P, and *"Rating Agencies"* means, collectively, Moody's, Fitch and S&P.

*"Reimbursement Obligations"* means, without duplication, any and all obligations of the City to reimburse the Bank for any Drawings under the Letter of Credit, including, without limitation, any outstanding Liquidity Drawing and outstanding Bank Bonds.

*"Remarketing Agent"* means Morgan Stanley & Co. Incorporated and its successors and assigns.

*"Remarketing Agreement"* means the remarketing agreement dated as of May 1, 2008, as amended on June 9, 2009 between the City and the Remarketing Agent with respect to the Bonds.

*"Remarketing Memorandum"* means the Secondary Market Information Circular dated May \_\_\_, 2012, relating to the Bonds, including any supplement or amendment thereto, and any other offering document from time to time hereafter distributed relating to the Bonds.

*"Required Banks"* means any two of the Bank, JPMorgan and Royal Bank.

*"S&P"* means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, and any successor thereto.

*"Series 2005 Bonds"* means the City of Austin, Texas, Airport System Refunding Revenue Bonds, Series 2005 (AMT), consisting of the Subseries 2005-1 Bonds, the Subseries 2005-2 Bonds, the Subseries 2005-3 Bonds and the Subseries 2005-4 Bonds.

*"State"* means the State of Texas.

*"Stated Expiration Date"* means June 21, 2014 as such Stated Expiration Date may be extended in accordance with the terms of the Letter of Credit.

*"Subrogated Bond"* means any Bond with respect to which the Bank shall be subrogated to the rights of the Paying Agent and the Owners under the Insurance Policy in an amount and to the extent that the Bank pays the principal of or interest on the Bond from one or more Drawings (other than a Liquidity Drawing) under the Letter of Credit.

*"Subseries 2005-1 Bonds"* means the \$62,075,000 Subseries 2005-1 Bonds.

*"Subseries 2005-2 Bonds"* means the \$62,050,000 Subseries 2005-2 Bonds

*"Subseries 2005-3 Bonds"* means the \$62,100,000 original principal amount Subseries 2005-3 Bonds, of which \$59,100,000 principal amount is outstanding as of the date of this Agreement.

*"Subseries 2005-4 Bonds"* means the \$62,125,000 Subseries 2005-4 Bonds

*"Subseries 2005-1 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by JPMorgan for the Subseries 2005-1 Bonds.

*"Subseries 2005-2 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by JPMorgan for the Subseries 2005-2 Bonds.

*"Subseries 2005-4 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by Royal Bank for the Subseries 2005-4 Bonds.

*"Surety Policy"* means the Municipal Bond Debt Service Reserve Insurance Policy No. 205494-R, effective August 17, 2005, together with any and all riders and endorsement thereto, provided by the Insurer for the Debt Service Reserve Fund Requirement for the Series 2005 Bonds.

*"Substitute Credit Facility"* means any credit facility or liquidity facility supporting the Bonds issued in substitution for the Letter of Credit in accordance with the terms of Section A-501 of the Ordinance.

*"Substitution Date"* means the effective date of a Substitute Credit Facility in accordance with the terms of the Ordinance.

*"Swap Contract"* means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a *"Master Agreement"*), including any such obligations or liabilities under any Master Agreement.

*"Tender Agent"* means Wells Fargo Bank, N.A., in its capacity as tender agent under the Ordinance, and any permitted successors as Tender Agent under the Ordinance.

*"Tender Agent Agreement"* means the Second Amended and Restated Tender Agency Agreement between the Tender Agent and the City dated as of May 1, 2012, relating to the Bonds.

*"Termination Date"* means the Stated Expiration Date of the Letter of Credit or such earlier date on which the Letter of Credit expires or terminates in accordance with its terms.

## **ARTICLE 2**

### **AMOUNT AND TERMS OF LETTER OF CREDIT**

#### **Section 2.1 Letter of Credit.**

Upon the terms, subject to the conditions and relying upon the representations and warranties set forth in this Agreement or incorporated herein by reference, the Bank agrees to issue the Letter of Credit (substantially in the form of Appendix A hereto). The Letter of Credit shall be issued in the original stated amount of \$63,182,072, which is the sum of (i) the principal amount of the Bonds outstanding on the Closing Date, plus (ii) interest thereon at the Cap Interest Rate for a period of fifty-three (53) days.

## **Section 2.2    Letter of Credit Drawings.**

The Paying Agent is authorized to make Drawings under the Letter of Credit in accordance with the terms thereof. No Drawing shall be made under the Letter of Credit for the payment of principal or purchase price of, or interest on, Ineligible Bonds. The City hereby irrevocably approves reductions and reinstatements of the Available Amount of the Letter of Credit as provided in the Letter of Credit.

## **Section 2.3    Reimbursement of Certain Drawings under the Letter of Credit; Mandatory Prepayment; Interest.**

(a)    (i)    Each Liquidity Drawing made under the Letter of Credit shall constitute an advance (a "*Liquidity Advance*") to the City; *provided, however*, that if at the time of payment by the Bank of any Liquidity Drawing the Insurance Policy is no longer in effect and the Conditions Precedent are not satisfied, then such Liquidity Drawing shall not constitute a Liquidity Advance and shall be due and payable pursuant to Section 2.3(a)(iv) hereof.

(ii)    The City shall reimburse the Bank for the Interest Component of a Liquidity Advance on the earliest to occur of (A) the next succeeding Interest Payment Date, (B) the date on which the Letter of Credit is replaced by a Substitute Credit Facility pursuant to the terms of the Ordinance, (C) the date on which any Bonds purchased with funds disbursed under the Letter of Credit in connection with such Liquidity Drawing are redeemed, prepaid or canceled pursuant to the Ordinance, (D) the date on which any Bonds purchased with funds disbursed under the Letter of Credit in connection with such Liquidity Drawing are remarketed or deemed remarketed pursuant to the Ordinance, (E) the Conversion Date with respect to all of the Bonds supported by the Letter of Credit, and (F) the termination of the Letter of Credit pursuant to Section 2.7 hereof. The City's obligations to repay the Interest Component of each Liquidity Advance as hereinafter provided shall be evidenced and secured by Bank Bonds.

(iii)    The City promises to reimburse Bank for the Principal Component of each Liquidity Advance on the earliest to occur of (A) the date on which the Letter of Credit is replaced by a Substitute Credit Facility pursuant to the terms of the Ordinance, (B) the date on which any Bonds purchased with funds disbursed under the Letter of Credit in connection with such Liquidity Advance are redeemed, prepaid or canceled pursuant to the Ordinance, (C) the date on which any Bonds purchased with funds disbursed under the Letter of Credit in connection with such Liquidity Advance are remarketed or deemed remarketed pursuant to the Ordinance, (D) the date which is one (1) Business Day following the Conversion Date with respect to all of the Bonds supported by the Letter of Credit, and (E) if on the Amortization Commencement Date the Insurance Policy is no longer in effect and the Conditions Precedent are not satisfied, the Amortization Commencement Date. The City's obligations to repay the Principal Component of each Liquidity Advance and to pay interest thereon as hereinafter provided shall be evidenced and secured by the Bank Bonds. Unless otherwise

paid in full on one of the dates provided above, the Principal Component of each Liquidity Advance shall be payable by the City in semiannual installments ("*Semiannual Principal Payments*") on each Amortization Payment Date, with the final installment in an amount equal to the entire then outstanding principal amount of such Liquidity Advance due and payable on the Amortization End Date (the period commencing on the Amortization Commencement Date and ending on the Amortization End Date is herein referred to as the "*Amortization Period*"). Each Semiannual Principal Payment shall be that amount of principal which will result in equal (as nearly as possible) Semiannual Principal Payments over the applicable Amortization Period. Notwithstanding the foregoing, if an Amortization End Date is changed in accordance with the proviso to clause (b) of the definition of "Amortization End Date" in Article 1 hereof (as a result of the Insurance Policy being terminated after the related Amortization Commencement Date), the Amortization Period shall be adjusted to reflect the new Amortization End Date and each Semiannual Principal Payment due over the remaining term of the adjusted Amortization Period shall be that amount of principal which will result in equal (as nearly as possible) Semiannual Principal Payments over the remaining term of the adjusted Amortization Period.

(iv) If at the time of payment by the Bank of any Liquidity Drawing the Insurance Policy is no longer in effect and the Conditions Precedent are not satisfied, all amounts of such Liquidity Drawing for which the Bank has not been reimbursed at the close of business on the day of the Bank's payment of such Liquidity Drawing shall be immediately due and payable and shall accrue interest at the Default Rate.

(v) The City promises to pay to the Bank interest on each Liquidity Advance from the date such Liquidity Advance is made until it is paid in full as provided herein, at a rate per annum equal to the Bank Rate from time to time in effect, which interest shall be payable monthly in arrears on the first Business Day of each calendar month for the immediately preceding calendar month (commencing on the first such date to occur after making such Liquidity Advance), and on the date that the final installment of such Liquidity Advance is payable as herein provided. Notwithstanding anything set forth herein to the contrary, the Bank hereby acknowledges and agrees that the Insurance Policy will not insure interest on Bank Bonds in excess of the Insured Rate or principal of Bank Bonds payable over an amortization period of less than seven (7) years.

(b) Any Liquidity Advance may be prepaid in whole or in part (without premium or penalty): (i) on the day such Liquidity Advance is made; or (ii) on any other Business Day upon one Business Day's prior written notice if not paid in connection with remarketing of the Bonds.

(c) Upon receipt by the Bank of any payment or prepayment of any Liquidity Advance, the amount of such Liquidity Advance shall be reduced by the amount of such payment or prepayment. Any payment or prepayment of Liquidity Advances hereunder

shall be applied to the payment or prepayment of Liquidity Advances in chronological order of their issuance hereunder.

(d) Upon the Bank honoring a Liquidity Drawing under the Letter of Credit, the Bank shall be deemed to have purchased the Bank Bonds in respect of which such Liquidity Drawing is made, and the City shall cause the Custodian to hold such Bank Bonds for the benefit of the Bank and register such Bank Bonds in the name of the Bank, or its nominee, or otherwise deliver such Bank Bonds as directed by the Bank, pursuant to the terms of the Custody Agreement. During such time as the Bank is the owner of any Bank Bonds, the Bank shall have all the rights granted to an Owner under the Ordinance and such additional rights as may be granted to the Bank hereunder. To the extent that the Bank actually receives payment in respect of principal of or interest on any Bank Bonds owned by the Bank, the Liquidity Drawing (or Liquidity Advance if such Liquidity Drawing has been converted to a Liquidity Advance) made in connection with the purchase of such Bank Bonds shall be deemed to have been reduced to such extent, with the Bank crediting any payment received by it, first to the payment of any outstanding accrued interest and second to the payment of principal. Following the occurrence of (i) an Insurer Event of Default if the Insurance Policy is still in effect or (ii) a City Event of Default if the Insurance Policy is no longer in effect, any payments received by the Bank hereunder shall be applied by the Bank to the payment of the Obligations owed to the Bank in such order as the Bank shall in its sole discretion determine; *provided, however*, that amounts received pursuant to the Insurance Policy shall be applied solely to the payment of the principal of and interest on the Subrogated Bonds and the Bank Bonds in accordance with the terms of the Insurance Policy.

(e) For the avoidance of doubt, (i) the City shall pay to the Bank when due the amount of interest due to the Bank, calculated at the applicable Bank Rate, and (ii) payment by the Insurer pursuant to the Insurance Policy of any interest due to the Bank under this Agreement shall not relieve the City of its obligation to ensure that the Bank is paid in full on the date any such interest is due and payable to the Bank hereunder. Any overdue interest amounts shall accrue interest at the Default Rate.

#### **Section 2.4 Reimbursement of Drawings Other than Liquidity Drawings Creating Liquidity Advances.**

The City agrees to reimburse the Bank for the full amount of all Drawings (other than Liquidity Drawings) made under the Letter of Credit immediately upon payment by the Bank of each such Drawing. If the City fails to make such reimbursement on such date and the Insurer fails to make any payment it is required to make in respect thereof within five (5) Business Days after the date on which such reimbursement by the Insurer is due as more fully described in Section 7.19 hereof, such Reimbursement Obligation shall automatically and without further action bear interest at the Default Rate.

**Section 2.5 Fees** The City agrees to pay to the Bank the fees set forth in the Bank Fee Agreement.

**Section 2.6 Method of Payment; Etc.**All payments to be made to the Bank under this Agreement or the Bank Fee Agreement shall be made to the Bank by wire transfer by the City in lawful currency of the United States and in immediately available funds to the Payment Account, or at such other place as the Bank may designate in writing, without any withholding, deduction or set-off, not later than 3:00 p.m., New York time, on the date when due. All payments received by the Bank after 3:00 p.m., New York time, shall be deemed to have been received on the next succeeding Business Day, and any applicable interest or fee shall continue to accrue.

**Section 2.7 Voluntary Termination or Reduction of the Available Amount of the Letter of Credit.**Notwithstanding any provisions of this Agreement, the Letter of Credit or any other Financing Document (other than the Bank Fee Agreement) to the contrary, the City agrees not to terminate the Letter of Credit or permanently reduce the Available Amount of the Letter of Credit unless such termination or permanent reduction is made in accordance with the terms of the Bank Fee Agreement. The City agrees that it will provide thirty (30) days prior written notice to the Bank in connection with the termination of the Letter of Credit and pay to the Bank, in connection with the termination of the Letter of Credit, pursuant to the terms hereof, all fees, expenses and other Obligations payable hereunder and under the Bank Fee Agreement, including, without limitation, the Make-Whole Fee (as defined in the Bank Fee Agreement) (if required pursuant to the terms of the Bank Fee Agreement) and all principal and accrued interest owing the Bank with respect to any related outstanding Liquidity Advance or Bank Bonds. The City agrees that it will provide thirty (30) days' prior written notice to the Bank in connection with each permanent reduction of the Available Amount of the Letter of Credit and pay to the Bank in connection with each permanent reduction of the Available Amount of the Letter of Credit the Make-Whole Fee (if required) pursuant to the terms of the Bank Fee Agreement.

**Section 2.8 Computation of Interest and Fees.**All computations of interest payable by the City hereunder shall be made on the basis of a 365- or 366-, as applicable, day year and calculated based upon the actual number of days elapsed. Interest shall accrue during each period during which interest is computed from and including the first day thereof to but excluding the last day thereof. All computations of fees payable by the City hereunder and under the Bank Fee Agreement shall be made on the basis of a 360-day year and calculated based upon the actual number of days elapsed.

**Section 2.9 Payment Due on Non Business Day to Be Made on Next Business Day.**

If any sum becomes payable pursuant to this Agreement or the Bank Fee Agreement on a day which is not a Business Day, the date for payment thereof shall be extended, without penalty, to the next succeeding Business Day, and such extended time shall be included in the computation of interest and fees.

**Section 2.10 Late Payments.**If any Obligation is not paid when due in accordance with the terms hereof, such Obligation shall bear interest until paid in full at the Default Rate, payable on demand.

**Section 2.11 Source of Funds.**All payments made by the Bank pursuant to the Letter of Credit shall be made from funds of the Bank and not from the funds of any other Person.



**Section 2.12 Extension of Stated Expiration Date.**(a) The City may, by written notice to the Bank not earlier than 120 days prior to nor later than 60 days prior to the then current Stated Expiration Date of the Letter of Credit in effect (the "*Existing Expiration Date*"), request that the Bank consent to the extension of the Existing Expiration Date to a date agreed to by the Bank and the City. The date of receipt of any such notice from the City is hereinafter referred to as the "*Notice Date*."

(b) The Bank, acting in its sole and absolute discretion (and after such due diligence (if any) as the Bank shall undertake), shall, by notice to the City no later than the date 45 days after the Notice Date (or, if such date is not a Business Day, the next preceding Business Day), advise the City whether or not the Bank agrees to such extension, and if the Bank that does not so advise the City by such date, it shall be deemed to have declined to extend the Existing Expiration Date.

(c) As a condition precedent to the effectiveness of such consent to the extension of the Existing Expiration Date, the City shall deliver to the Bank a certificate of the City dated the Existing Expiration Date signed by an authorized officer of the City (A) certifying and attaching the resolution or ordinance adopted by the City approving or consenting to such extension and (B) certifying that, before and after giving effect to such extension, (1) the representations and warranties contained in Article 3 hereof and the other Financing Documents are true and correct in all material respects, in each case on and as of the Existing Expiration Date, except, in each case, to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and (2) no Default or City Event of Default exists.

(d) Any such extension of the Existing Expiration Date shall be subject to such additional terms, including payment of extension fees to the Bank, as shall be agreed between the Bank and the City.

(e) Upon the effectiveness of any such consent to the extension of any Existing Expiration Date, the Bank shall deliver to the City, the Paying Agent and the Tender Agent a notice of extension (a "*Notice of Extension*") designating the date to which the Existing Expiration Date is being extended. Such extension of the Existing Expiration Date shall be effective immediately, and thereafter all references in this Agreement to the Existing Expiration Date shall be deemed to be references to the date designated as such in the most recent Notice of Extension delivered to the Paying Agent and the Tender Agent.

**Section 2.13 Net of Taxes, Etc.**

(a) *Taxes.* Any and all payments to the Bank by the City hereunder and under the Bank Fee Agreement shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges, withholdings or liabilities imposed thereon, excluding, however, taxes or franchise taxes or other charges imposed in lieu of such taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political subdivision (all

such non excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "*Taxes*"). If the City shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder or under the Bank Fee Agreement to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.13), the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the City shall make such deductions and (iii) the City shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the City shall make any payment under this Section 2.13 to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim a refund of such taxes or any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States, then the Bank shall pay to the City an amount equal to the amount of any refund actually received by the Bank or the amount by which such other taxes are actually reduced; *provided* that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the City with respect to such Taxes. Nothing herein shall interfere with the Bank's right to arrange its tax affairs in whatever manner it sees fit nor obligate it to claim any tax credit or to disclose any information relating to its tax affairs or any computations in respect thereof. In addition, the City agrees to pay any present or future stamp, recording or documentary taxes and any other excise or property taxes, charges or similar levies that arise under the law of the United States of America, the State of Texas, the State of New York or any other taxing jurisdiction from any payment made hereunder or under the Bank Fee Agreement to the Bank or from the execution or delivery or otherwise by the Bank with respect to this Agreement or under the Bank Fee Agreement (hereinafter referred to as "*Other Taxes*"). The Bank shall provide to the City within a reasonable time a copy of any written notification it receives with respect to Taxes or Other Taxes owing by the City to the Bank hereunder; *provided* that the Bank's failure to send such notice shall not relieve the City of its obligation to pay such amounts hereunder.

(b) *Reimbursement.* The City shall, to the fullest extent permitted by law and subject to the provisions hereof, reimburse the Bank for the full amount of Taxes and Other Taxes, including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.13, paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted; *provided* that the City shall not be obligated to reimburse the Bank for any penalties, interest or expenses relating to Taxes or Other Taxes arising from the Bank's negligence or willful misconduct. The Bank agrees to give notice to the City of the assertion of any claim against the Bank relating to such Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided* that the Bank's failure to notify the City promptly of such assertion shall not relieve the City of its obligation under this Section 2.13. Payments by the City pursuant to this Section 2.13 shall be made within thirty (30) days after the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank agrees to repay to the City any refund (including that portion of any interest that was included as part of

such refund) with respect to Taxes or Other Taxes paid by the City pursuant to this Section 2.13 received by the Bank for Taxes or Other Taxes that were paid by the City pursuant to this Section 2.13. The term "*refund*," solely as used in this Section 2.13(b) shall include any credit or deduction against other taxes payable by the Bank.

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

(d) *Survival of Obligations.* The obligations of the City under this Section 2.13 shall survive the termination of this Agreement.

#### **Section 2.14    Increased Costs.**

(a) If on or after the date hereof, the adoption of any law, rule or regulation, or any change therein, or in the interpretation or administration thereof by any court, governmental authority, central bank or comparable agency charged with the interpretation or administration thereof (each a "*Change in Law*"), or compliance by the Bank or any of its affiliates or subsidiaries with any request or directive made on or after the date hereof (whether or not having the force of law) of any such authority, central bank or comparable agency:

(i) shall subject the Bank or any of its affiliates or subsidiaries to any tax, duty or other charge with respect to this Agreement, the Bank Fee Agreement, or the Letter of Credit or any Bank Bonds purchased by the Bank or such affiliate or subsidiary hereunder, or shall change the basis of taxation of payments to the Bank or any of its affiliates or subsidiaries of any amounts due under this Agreement, the Bank Fee Agreement, or its Letter of Credit or any Liquidity Advances made by the Bank or any of its affiliates or subsidiaries hereunder (except for changes in the rate of (A) tax on the overall net income of the Bank or such affiliate or subsidiary or (B) franchise taxes or other charges imposed in lieu of such taxes); or

(ii) shall impose, modify or deem applicable any reserve (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System), special deposit, or similar requirement against the assets of, deposits with or for the account of, or credit extended by, the Bank or any of its affiliates or subsidiaries or shall impose on the Bank or any of its affiliates or subsidiaries any other condition affecting its obligations under this Agreement, the Bank Fee Agreement, or the Letter of Credit;

and the result of any event referred to in subparagraphs (i) and (ii) above is to increase the cost to the Bank or an affiliate or subsidiary of the Bank of performing its obligations under this Agreement, the Bank Fee Agreement, or the Letter of Credit, or to reduce the amount of any sum received or receivable by the Bank or such affiliate or subsidiary under this Agreement or the Letter of Credit or any Bank Bonds purchased by the Bank or such affiliate or subsidiary hereunder, by an amount deemed by the Bank or such

affiliate or subsidiary to be material, then, within sixty (60) days after demand by the Bank or such affiliate or subsidiary (or, if such increased costs will continue to be incurred by the Bank or such affiliate or subsidiary, in arrears on a monthly basis as agreed between the City and the Bank or such affiliate or subsidiary), the City shall pay to the Bank or an affiliate or subsidiary of the Bank, such additional amount or amounts as will compensate the Bank or such affiliate or subsidiary for such increased cost or reduction.

(b) If the Bank or any of its affiliates or subsidiaries shall have determined that, after the date hereof, any Change in Law, or any request or directive regarding capital adequacy or liquidity (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on capital of the Bank or any of its affiliates or subsidiaries relating to the Bank's or its affiliate's or subsidiary's, as applicable, obligations hereunder, under the Bank Fee Agreement, or under the Letter of Credit, and such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy or liquidity) will reduce the Bank's or its affiliate's or subsidiary's, as applicable, rate of return on capital by a material amount, then from time to time, within sixty (60) days after written demand by the Bank or its affiliate or subsidiary, the City shall pay to the Bank or its affiliate or subsidiary, as applicable, such additional amount or amounts as will compensate the Bank or its affiliate or subsidiary, as applicable, for such additional costs.

(c) Notwithstanding the foregoing, for purposes of this Agreement (a) all requests, rules, guidelines or directives in connection with the Dodd-Frank Act shall be deemed to be a Change in Law, regardless of the date enacted, adopted or issued, and (b) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or any Governmental Authority shall be deemed a Change in Law regardless of the date enacted, adopted or issued.

(d) A certificate of the Bank or any of its affiliates or subsidiaries claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder and attaching such information in reasonable detail shall be conclusive in the absence of manifest error.

(e) No affiliate or subsidiary or other transferee of the Bank's rights shall be entitled to receive any greater payment under this Section 2.14 than the Bank would have been entitled to receive with respect to the rights transferred.

(f) The obligations of the City under this Section 2.14 shall survive the termination of this Agreement.

**Section 2.15 Obligations Absolute.** The obligations of the City to reimburse the Bank for amounts paid by the Bank under the Letter of Credit, together with interest thereon as provided herein and all other amounts due and owing the Bank, shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement and

the Bank Fee Agreement, under all circumstances whatsoever, including without limitation the following circumstances:

- (i) any lack of validity or enforceability of the Letter of Credit or any of the Financing Documents;
- (ii) any amendment to, waiver of or consent to departure from any provision of, the Letter of Credit or any Financing Document;
- (iii) the existence of any claim, set off, defense or other right which the City may have at any time against the Paying Agent, any beneficiary of the Letter of Credit (or any Persons for whom the Paying Agent, any such beneficiary or any such transferee may be acting), the Bank, a Participant or any other Person, whether in connection with the Letter of Credit, the Financing Documents or any unrelated transaction;
- (iv) any statement or any other document presented under the Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (v) payment by any Bank to the Paying Agent under the Letter of Credit against presentation of a draft or certificate which does not strictly comply with the terms of the Letter of Credit; or
- (vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

**Section 2.16 Maximum Rate.** If the rate of interest payable hereunder shall exceed the Maximum Rate for any period for which interest is payable, then (a) interest at the Maximum Rate shall be due and payable with respect to such interest period and (b) interest at the rate equal to the difference between (i) the rate of interest calculated in accordance with the terms hereof and (ii) the Maximum Rate (the "*Excess Interest*") shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the Maximum Rate, at which time the City shall pay to the Bank, with respect to amounts then payable to the Bank that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Bank to equal the Maximum Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until all deferred Excess Interest is fully paid to the Bank. Upon the earlier of (A) the date the related Liquidity Advance is repaid in full and (B) the date all related Reimbursement Obligations are payable hereunder following the termination of the Letter of Credit, in consideration for the limitation of the rate of interest otherwise payable hereunder, the City, to the extent permitted by law, shall pay to the Bank a fee equal to the amount of all unpaid deferred Excess Interest; *provided* that in no event shall any such payment result in interest paid hereunder exceeding the Maximum Rate.

**Section 2.17 Security.** Notwithstanding any provision set forth herein to the contrary, the Bank acknowledges and agrees that the obligations of the City hereunder for the payment of Obligations owed to the Bank hereunder, under the Bank Fee Agreement and with respect to the

Bank Bonds are secured by and payable solely from Net Revenues as provided in the Ordinance and are subject to all limitations on such sources and priorities with respect to payment therefrom as are set forth in the Ordinance. Funds raised or to be raised by taxation shall not be available for the payment of Obligations owed to the Bank hereunder.

### **ARTICLE 3**

#### **REPRESENTATIONS AND WARRANTIES**

**Section 3.1 Representations of City.** In order to induce the Bank to enter into this Agreement and the Bank to issue the Letter of Credit, the City hereby represents and warrants to the Bank as follows:

(a) *Organization and Authorization.* The City is a "Home Rule City", acting as such, under the Constitution and laws of the State, and has full legal right, power and authority to (i) charge and collect revenues related to the Airport System and (ii) pledge the Net Revenues to secure the Bonds (including Bank Bonds).

(b) *Authority to Adopt or Execute Documents.* The City had, as of the date of adoption thereof, full power and authority to adopt its ordinance or ordinances authorizing the execution and delivery of the Financing Documents to which the City is a party and the transactions contemplated hereby and thereby, has, or had as of the date of execution and delivery, full power and authority to execute and deliver this Agreement, the Bank Fee Agreement, and the Financing Documents to which the City is a party, and has full power and authority to perform its obligations under each of the foregoing.

(c) *Obligations Legal, Valid and Binding.* (i) The Financing Documents to which the City is a party have been duly and validly authorized, executed and delivered and constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except insofar as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights generally and by equitable principles, whether considered at law or in equity, by the exercise by the State and its governmental bodies of the police power inherent in the sovereignty of the State or by the exercise by the United States of America of the power delegated to it by the Constitution of the United States of America.

(ii) No Default or City Event of Default has occurred and is continuing under this Agreement, and no event of default or condition, event or act which with notice or lapse of time or both would become or constitute a default or event of default under, or as such term is defined in, any other Financing Document to which it is a party or under any other material mortgage, indenture, contract, agreement or undertaking to which the City is a party or which purports to be binding on the City or on any of its assets which default would materially adversely affect the ability of City to perform its obligations hereunder or under any of the other Financing Documents to which it is a party.

(d) *No Legal Bar.* (i) The City is not in violation of any law of the State in any manner which would adversely affect the City' existence or its powers and authority referred to in Section 3.1(b) hereof.

(ii) The execution, delivery and performance by the City of this Agreement, the Bank Fee Agreement, and the other Financing Documents to which it is a party, and all other agreements and instruments relating to this Agreement or the other Financing Documents executed and delivered by the City in connection herewith and therewith (i) do not violate any provision of the Constitution of the State or the laws of the State or any other applicable law, regulation, order, writ, judgment or decree of any court, arbitrator (to the extent that any ruling, finding or decision of any arbitrator is enforceable by a court of law) or governmental authority, and (ii) do not violate any provision of, constitute a default under, or result in the creation or imposition of any lien on any of the assets of the City pursuant to the provisions of, any mortgage, ordinance, resolution, indenture, contract, agreement or other undertaking to which the City is a party or which purports to be binding on the City or on any of its assets other than the liens created hereby or by the other Financing Documents, which violation would materially adversely affect the ability of the City to perform its obligations hereunder or under any of the other Financing Documents to which it is a party.

(iii) The City is not a party to, or otherwise subject to, any provision contained in any instrument evidencing any Payment Obligation of the City or any other contract or agreement which limits the amount of, or otherwise imposes restrictions on the incurring of, obligations of the City that would materially adversely affect the ability of City to perform its obligations hereunder or under any of the other Financing Documents to which it is a party.

(e) *Consents.* The City has obtained, or will obtain on or before the Closing Date, all consents, permits, licenses and approvals of, and has made, or will have made on or before the Closing Date, all filings, registrations and declarations with, governmental authorities required under law, to authorize the remarketing of the Bonds, the execution, delivery and performance of this Agreement, the Bank Fee Agreement, and the other Financing Documents to which it is a party and all other agreements delivered or to be delivered in connection with any thereof, and all such consents, permits, licenses, approvals, filings, registrations and declarations remain in full force and effect.

(f) *Litigation.* There is no action, suit, investigation or proceeding, inquiry or investigation before or by any court, public board or body pending or, to the knowledge of the City, threatened against or affecting the City in which an adverse determination could have a material adverse effect on the Airport System or the business, operations or condition (financial or otherwise) of the Airport System or its ability to perform its obligations hereunder or under the other Financing Documents to which it is a party.

(g) *Disclosure.* The representations and statements made by the City herein or in any other Financing Document, or in any other document furnished to the Bank by the City in connection herewith or therewith are accurate as of the date of this Agreement. All financial statements of the City furnished to the Bank were prepared in accordance with GAAP. Since the date of the audited financial statements of the City included in the Remarketing Memorandum, no material adverse change has occurred in the business, operations or condition (financial or otherwise) of the City. The Remarketing Memorandum does not, as of its date, contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that no representation is made as to information with respect to the Insurer, the Bank, Royal Bank or JPMorgan.

(h) *Insurance.* The City currently maintains insurance for the Airport System of such types and in such amounts or in excess of such amounts as are customarily carried by, and insures against such risks as are customarily insured against by, Texas home-rule cities operating properties of like type, size and character to the Airport System or provides self-insurance for the same.

(i) *No Proposed Legal Changes.* To the knowledge of the City, as of the date of execution of this Agreement, there is no amendment or proposed amendment to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law (including, without limitation, any opinion of the attorney general of the State interpreting the Constitution of the State or any State law), or any legislation that has passed either house of the State legislature, or any published judicial decision by a court of competent jurisdiction interpreting any of the foregoing, the effect of which is (i) to materially adversely affect the Bonds or any holder thereof in its capacity as such or (ii) to materially adversely affect the ability of the City to perform its obligations under this Agreement or any other Financing Document to which it is a party.

(j) *No Immunity.* To the extent authorized by Texas Government Code Section 1371.059(c), the City has, in this Agreement, waived sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce this Agreement and the Bank Fee Agreement or for damages for breach of this Agreement or the Bank Fee Agreement. The City further represents that to the extent its obligations hereunder, under the Bank Fee Agreement and under the other Financing Documents to which it is a party represent the legal obligations of the City, it believes its non-discretionary duties are subject to enforcement in Texas courts by writ of mandamus, and that it is not immune to an equitable mandamus action.

(k) *Other MFN Clause.* The City does not currently have outstanding any Bank Agreement in which it has given to any Person or Persons that have made a loan or extended credit or liquidity to the City for the benefit of the Airport System an MFN Clause that provides such Person or Persons the benefit of any events of default contained in a separate Bank Agreement (entered into by the City on a future date with a different



Person or Persons) that are in addition to or different from the events of default provided for in the Bank Agreement containing the subject MFN Clause.

(l) *Regulations U and X.* The City is not engaged in the business of extending purpose credit, secured directly or indirectly, by margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and the City will not use, or cause any other Person to use, the proceeds of the Bonds to extend purpose credit, secured directly or indirectly by margin stock, to any other Person.

(m) *Environmental Matters.* The City has not received any notice to the effect that the City is not in compliance with any requirement of law or is the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non compliance or remedial action could have a material adverse effect on the assets, financial condition, properties, business or operations of the Airport System or the ability of the City to perform its obligations hereunder and under the other Financing Documents to which the City is a party.

(n) *ERISA.* The City is not subject to ERISA.

(o) *Compliance with Laws.* Except as disclosed in the Remarketing Memorandum or otherwise disclosed in writing to the Bank prior to the date hereof, the City is in compliance in all material respects with the requirements of all laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the assets, financial condition, properties, business or operations of the Airport System or the ability of the City to perform its obligations hereunder and under the other Financing Documents to which the City is a party.

(p) *Taxes.* The City has filed all Federal, state and other material tax returns and reports required to be filed and has paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon it or its properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the City that would, if made, have a material adverse effect on the assets, financial condition, properties, business or operations of the City or the ability of the City to perform its obligations hereunder and under the other Financing Documents to which the City is a party.

(q) *Interest.* None of the Financing Documents (including the Bonds and Bank Bonds) provide for any payments that would violate any applicable law regarding permissible maximum rates of interest under the laws of the State; *provided, however,*

that the City makes no representation with respect to the last sentence of Section 2.16 hereof.

(r) *Prior Lien Bonds.* Other than the Prior Lien Bonds the City has no obligations secured by a lien on the Net Revenues that is superior to the lien on the Net Revenues securing the Series 2005 Bonds. The City has covenanted in the Ordinance not to issue Additional Prior Lien Bonds (as defined in the ordinances authorizing the Prior Lien Bonds).

(s) *Bank Bonds.* The Bank Bonds purchased pursuant to this Agreement will be transferred to or held for the benefit of the Bank, free and clear of all liens, security interests or claims of any Person other than the Bank, except for such consensual liens or other security interests as may be created by the Bank.

(t) *The Paying Agent and Remarketing Agent.* The Paying Agent is the duly appointed and acting paying agent/registrar under the Ordinance. The Remarketing Agent is the duly appointed and acting remarketing agent for the Bonds.

(u) *Swap Termination Payments.* There is no lien on the Net Revenues securing any swap termination payments payable pursuant to any Swap Contract entered into by the City that is superior in priority to or on a parity with the lien securing the Bonds, the Bank Bonds and any other Obligations owed to the Bank hereunder or under the Bank Fee Agreement.

(v) *Incorporation of Representations and Warranties.* The City hereby makes to the Bank the same representations and warranties as were made by it in each Financing Document (other than this Agreement) to which it is a party, which representations and warranties, together with the related definitions of terms contained therein, are hereby incorporated by reference in this Section 3.1(v) with the same effect as if each and every such representation and warranty and definition were set forth in this Section 3.1(v) in its entirety. No amendment to or waiver of such representations and warranties or definitions made pursuant to such Financing Documents shall be effective to amend such representations and warranties and definitions as incorporated by reference in this Section 3.1(v) without the prior written consent of the Bank in accordance with Section 5.2(a).

(w) *Security.* Pursuant to the Ordinance the City has pledged the Net Revenues to the payment and security of the Bonds (including the Bank Bonds). The Ordinance validly grants the pledge which it purports to create to secure the Bonds (including the Bank Bonds) and the City's obligations hereunder as and to the extent provided herein and in the Ordinance and is a perfected lien in the manner provided by Chapter 1208, Texas Government Code.

## ARTICLE 4

### CONDITIONS PRECEDENT

**Section 4.1 Conditions to Issuance and Delivery of the Letter of Credit.** The obligation of the Bank to issue the Letter of Credit has been undertaken in reliance upon the due performance by the City of its obligations and agreements to be performed hereunder and under the other Financing Documents to which it is a party and the accuracy of and compliance with the representations, warranties, covenants, agreements and duties of the City contained herein on and as of the Closing Date. The obligation of the Bank to issue the Letter of Credit is also subject to the fulfillment of the following conditions precedent by the City on or before the Closing Date, in a manner satisfactory to the Bank and its counsel:

(a) The Bank shall have received (i) an executed original of each of this Agreement, the Bank Fee Agreement, the Custody Agreement and copies of the other Financing Documents, (ii) a specimen copy of each of the Bonds, and (iii) a certified copy of the Ordinance;

(b) The Bank shall have received a signed legal opinion of counsel to the City as to such matters as the Bank may reasonably request, such opinion shall be addressed to the Bank, dated the Closing Date and in form and substance satisfactory to the Bank and its counsel;

(c) The Bank shall have received a signed opinion of Bracewell & Giuliani LLP, bond counsel, dated the Closing Date, addressed to the Bank and in form and substance satisfactory to the Bank and its counsel;

(d) The Bank shall have received evidence satisfactory to the Bank that the Bonds have been assigned an underlying long term rating of "A-" from S&P and that such rating is in full force and effect on the Closing Date;

(e) The Bank shall have received a certificate of the City signed by a duly authorized officer, dated the Closing Date, certifying the names and true signatures of the officers of the City authorized to execute, on behalf of the City, this Agreement and each other Financing Document required to be executed and delivered by the City as of the Closing Date;

(f) The Bank shall have received a certificate of the City, dated the Closing Date and signed by a duly authorized officer, stating that (i) the representations and warranties set forth in Article 3 hereof and in all other Financing Documents to which it is a party are true and correct in all material respects as of the Closing Date, (ii) no Default or City Event of Default has occurred and is continuing; and (iii) no material adverse change has occurred in the financial position or results of operation of the City since the date of the audited financial statements of the City included in the Remarketing Memorandum;

(g) All other legal matters pertaining to the execution and delivery of this Agreement, the other Financing Documents and the remarketing of the Bonds shall be reasonably satisfactory to the Bank and its counsel;

(h) The City shall have paid the fees and expenses and all other amounts (including, without limitation, attorneys' fees and expenses) payable on the Closing Date pursuant to the Bank Fee Agreement and Section 7.12 hereof for which the City shall have received an invoice prior to the Closing Date from the Bank; *provided, however*, that the failure by the Bank to provide an invoice with respect to any fees, expenses or other amounts payable by the City pursuant to the Bank Fee Agreement and Section 7.12 hereof shall not relieve the City from its liability to make such payments to the Bank;

(i) The Bank shall have received an executed Bank Bond Endorsement from the Insurer;

(j) The Bank shall have received a signed opinion of counsel to the Insurer, dated the Closing Date, addressed to the Bank and in form and substance satisfactory to the Bank;

(k) The Bank shall have received written evidence of the Insurer's consent to the terms and provisions of this Agreement and the Letter of Credit;

(l) The Bank shall have received such other documents, certificates, opinions, approvals and filings with respect to this Agreement and the other Financing Documents as its counsel may reasonably request;

(m) The Bank shall have received the approval of the Texas Attorney General related to the proceedings related to this Agreement; and

(n) The Bank shall have received a CUSIP number specifically assigned to the Bank Bonds.

The issuance of its Letter of Credit to Wells Fargo Bank, N.A., in its capacities as Paying Agent and as Tender Agent (as Beneficiary as defined in the Letter of Credit), shall constitute an acknowledgement by the Bank that the conditions precedent set forth above have been satisfied or waived.

**Section 4.2 Conditions Precedent to a Liquidity Advance.** If at the time of payment by the Bank of any Liquidity Drawing under the Letter of Credit the Insurance Policy is no longer in effect, a Liquidity Advance shall be made available to the City only if on the date of payment of such Liquidity Drawing by the Bank (a) the representations and warranties contained in Article 3 of this Agreement are true and correct in all material respects as of such date (except to the extent that such representations and warranties specifically refer to an earlier date, in which case, they are true and correct as of such earlier date); and (b) no event has occurred and is continuing, or would result from the making of such Liquidity Advance, which constitutes a Default or a City Event of Default hereunder. The conditions described in this Section 4.2 shall be referred to herein as the "*Conditions Precedent*". Notwithstanding any other provision of this Agreement to the contrary and for the avoidance of doubt, so long as the Insurance Policy is in effect the

payment or making by the Bank of any Liquidity Drawing or Liquidity Advance shall not be subject to or otherwise dependent upon the satisfaction of the Conditions Precedent.

Unless the City shall have previously advised the Bank in writing that the above statements are no longer true, the City shall be deemed to have represented and warranted on the date of such payment that the above statements are true and correct.

## **ARTICLE 5**

### **COVENANTS**

**Section 5.1 Affirmative Covenants of the City.** As long as this Agreement is in effect, and until all amounts payable hereunder, under the Bank Fee Agreement and under any Bank Bonds are fully paid or defeased in accordance with the Ordinance, the City will, as applicable, perform and observe the covenants set forth below:

(a) *Financial Records.* The City shall at all times maintain financial records and furnish to the Bank, as soon as available, but in any event within one hundred eighty (180) days after the end of each fiscal year, audited financial statements (including balance sheet and income statement) prepared in accordance with GAAP consistently applied and certified by an independent certified public accounting firm except to the extent State law requires otherwise.

(b) *Notice of Default.* The City shall notify the Bank in writing of the occurrence of (i) any Default or City Event of Default, (ii) any default under any Financing Document to which the City is a party, or (iii) any filing by the City of a petition in bankruptcy under the Bankruptcy Law. The City shall also notify the Bank of the occurrence of any default or other event under any ordinance, contract or instrument providing for the creation of any Payment Obligation (payable from Net Revenues) of the City where the effect thereof is to accelerate, or permit the acceleration of, the maturity of such Payment Obligation (payable from Net Revenues).

(c) *Budgets.* The City shall deliver to the Bank a copy of its annual budget for the next fiscal year promptly upon adoption of such budget.

(d) *Reports.* The City shall deliver to the Bank, as soon as available and in any event not later than forty-five (45) days after the end of each fiscal quarter, (i) quarterly unaudited financial statements of the Airport System prepared in accordance with GAAP consistently applied, except to the extent State law requires otherwise, and accompanied by comparative figures of the expected year-end balances and the budgeted amount for such fiscal period including relevant footnotes, (ii) quarterly mark-to-market valuations on Swap Contracts in place with respect to the Bonds and payable from Net Revenues, (iv) written notice of any change in insurance carriers or amount of any insurance coverage and (vii) all other information concerning the City which the City submits to or receives from any other party which is reasonably likely to have a material effect on the Bank's rights hereunder or under the Bank Fee Agreement or the City's obligations under any Financing Document to which it is a party.

(e) *Other Information.* The City shall furnish to the Bank promptly, as the Bank may reasonably request, such additional information concerning the Airport System or the City in order to enable the Bank to determine whether the covenants, terms and provisions of this Agreement and the other Financing Documents have been complied with by the City, and for that purpose all pertinent books, documents and vouchers relating to the City's business, affairs and properties shall at all reasonable times during regular business hours and upon reasonable notice be open to the inspection of such accountants or other agents (who may make copies of all or any part thereof at their own cost and expense) as shall from time to time be designated by the Bank. Without limiting the foregoing, the City will permit the Bank to visit and inspect any of the properties of the City during regular business hours and to discuss the affairs, finances and accounts of the City with its respective officials and any accounting firm performing services for the City, as often as the Bank may reasonably request.

(f) *Compliance with Obligations.* The City shall observe and comply with all of its obligations arising in connection with the Airport System and all laws applicable to the Airport System, including, without limitation, all budgeting requirements of the Airport System, so as not to materially adversely affect the ability of the City to perform its obligations hereunder. The City shall observe and comply with all of its obligations arising in connection with the Financing Documents and all laws applicable to the City so as not to materially adversely affect the ability of the City to perform its obligations hereunder or under any other Financing Documents to which it is a party.

(g) *Litigation.* The City shall promptly, and in any event within ten (10) Business Days, notify the Bank in writing with respect to any pending or, to the extent of its actual knowledge, threatened litigation with respect to the City or the Airport System, the existence of which causes the representation set forth in Section 3.1(f) hereof to be untrue or inaccurate in any material respect.

(h) *Licenses, Permits, Etc.* The City will take all necessary and appropriate action to ensure the continuance in force of all material consents, licenses, permits, orders, decrees, approvals, authorizations, registrations and filings obtained or made in connection with the Airport System, this Agreement, or the other Financing Documents to which the City is a party, or which are necessary to authorize the execution, delivery and performance the City of this Agreement and the other Financing Documents to which the City is a party and all other agreements to be delivered in connection with any thereof.

(i) *Books and Records.* The City shall keep or cause to be kept adequate and proper records and books of account with respect the City and the Airport System in which complete and correct entries shall be made.

(j) *Reserved.*

(k) *Maintenance of Existence.* Except as may be required by law, or unless it has obtained the prior written consent of the Bank (which consent shall not be unreasonably withheld), the City shall preserve and maintain its existence, and its rights,

franchises and privileges material to the conduct of its business and shall not reorganize, merge or consolidate with or into any Person, wind up, liquidate or dissolve its affairs (or suffer any liquidation or dissolution) or convert, sell, assign, transfer, lease or otherwise dispose of (or agree to do any of the foregoing at any future time), whether in one transaction or a series of transactions, all or substantially all of its property or assets.

(l) *Notice of Adverse Change.* The City shall notify the Bank, as soon as possible, and in any event within ten (10) Business Days, after acquiring knowledge of the occurrence of (i) the filing of any action in a court of competent jurisdiction for an initiative or referendum which is reasonably likely to lead to the material diminution or reallocation of Net Revenues or the funds received by the City under any Swap Contract relating to the Bonds and payable from Net Revenues or (ii) any other event which is likely to have a material adverse effect on the financial condition or operations of the Airport System or materially adversely affect the ability of the City to perform its obligations under this Agreement or under any other Financing Document to which the City is a party.

(m) *Paying Agent and Other Agents.* The City shall immediately notify the Bank of any resignation of the Paying Agent, the Tender Agent or the Remarketing Agent. The City shall obtain the prior written consent of the Bank prior to the appointment of any successor Paying Agent, Tender Agent or Remarketing Agent. The City shall use reasonable efforts to cause the Remarketing Agent to at all times comply with the terms of the Financing Documents to which it is a party.

(n) *Other Matters.* The City shall execute and deliver to the Bank all such documents and instruments, and do all such acts and things, as may be necessary or reasonably required by the Bank to enable the Bank to exercise and enforce its rights under this Agreement and the Bank Fee Agreement and to realize thereon, and record and file and rerecord and refile all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or reasonably required by the Bank to validate, preserve and protect the lien of the Bank on the Net Revenues under the Ordinance.

(o) *Payment of Obligations; Removal of Liens.* The City shall pay all indebtedness and obligations of the City in accordance with the terms thereof, including as the same respectively become due, all taxes, charges, assessments (general or special) and governmental charges of any kind whatsoever, that may be at any time lawfully assessed or levied against or with respect to the Net Revenues and promptly discharge or cause to be discharged all liens, encumbrances and charges on Net Revenues.

(p) *Maintenance of Insurance.* The City covenants that it will maintain insurance or self insurance on the Airport System. The City shall maintain insurance of such type and in such amounts or in excess of such amounts as are customarily carried by, and insure against such risks as are customarily insured against by, Texas home-rule cities of like type, size and character to the City or provide self-insurance for the same.

(q) *Reserved.*

(r) *Liquidity.*

(i) The City shall use its best efforts to (A) obtain a Substitute Credit Facility to replace the Letter of Credit (to the extent replacement is commercially reasonable), (B) convert the interest rate on the related subseries of Bonds to an interest rate other than the Weekly Rate or (C) refund or refinance the related subseries of Bonds, in the event the Bank shall notify the City that it will not extend the Stated Expiration Date pursuant to Section 2.12 hereof.

(ii) The City agrees that any Substitute Credit Facility will require, as a condition to the effectiveness of the Substitute Credit Facility, that the issuer of the Substitute Credit Facility will provide funds to the extent necessary, in addition to other funds available, on the date the Substitute Credit Facility becomes effective, for the purchase of all Bank Bonds at par plus all accrued interest thereon through the date such Substitute Credit Facility becomes effective. On such date, any and all amounts due hereunder to the Bank shall be payable in full to the Bank.

(iii) The City shall not permit a Substitute Credit Facility to become effective with respect to less than all of the Bonds without the prior written consent of the Bank.

(s) *Conversion.*

(i) (A) The City shall promptly furnish, or cause to be furnished, to the Bank, not later than furnishing the same to the Paying Agent, a copy of any notice of conversion of the interest rate on any subseries of Bonds furnished by the City to the Paying Agent pursuant to the Ordinance indicating a proposed conversion of the interest rate on any subseries of the Bonds to a rate other than a Weekly Rate and (B) the City shall not permit, consent to, or request a conversion of the Bonds to an interest rate other than a Weekly Rate without the prior written consent of the Bank if, after giving effect to such conversion, there would be any other amounts payable to the Bank or in respect of Bank Bonds held by the Bank or any other Obligations owed to the Bank would not have been paid in full; and

(ii) In the event of a tender and a failed remarketing of the Bonds and the resulting Liquidity Drawing under the Letter of Credit remains outstanding for a period of thirty (30) consecutive calendar days, the City shall use its best efforts to (A) replace the Letter of Credit with a Substitute Credit Facility (to the extent replacement is commercially reasonable), (B) convert the interest rate on the Bonds to a rate other than a Weekly Rate or (C) refund or refinance the Bonds, in any case not later than ninety (90) days immediately succeeding the thirtieth (30th) calendar day succeeding the date of the related Liquidity Drawing.

(t) *Selection of Bank Bonds for Redemption.* The City shall select, or cause to be selected, for optional redemption any and all Bank Bonds subject to optional



redemption prior to selecting, or causing to be selected, for optional redemption any of the Bonds that are not Bank Bonds.

(u) *Incorporated by Reference.* The City agrees that it will, for the benefit of the Bank, comply with, abide by and be restricted by all of the agreements, covenants, obligations and undertakings of the City in the Financing Documents to which it is a party, which agreements, covenants, obligations and undertakings, together with the related definitions and ancillary provisions, are incorporated in this Section 5.1(u) by reference and made a part of this Section 5.1(u) to the same extent and with the same force and effect as if the same had been set forth in this Section 5.1(u) in their entirety, and they will be deemed to continue in effect for the benefit of the Bank, without regard or giving effect to any amendment or modification of such provisions or any waiver of compliance therewith, unless such amendment, modification or waiver is consented to in writing by the Bank in accordance with Section 5.2(a).

(v) *Maintenance of Ratings.* The City shall, at all times during the term of this Agreement, maintain a long-term unenhanced credit rating with respect to the Bonds with at least one of the Rating Agencies.

(w) *Paying Agent and Remarketing Agent.* The City shall at all times maintain a Paying Agent and a Tender Agent under the Ordinance reasonably acceptable to the Bank. The City shall cause the Remarketing Agent to use its best efforts to remarket the Bonds, including Bank Bonds, up to the maximum rate permitted under the Ordinance. If the Remarketing Agent fails to remarket the Bonds for thirty (30) consecutive days or at any time fails to perform its duties under the Remarketing Agreement and the Ordinance to the satisfaction of the Bank, the City will, at the direction of the Bank, replace such Remarketing Agent and, appoint a successor Remarketing Agent reasonably acceptable to the Bank and the Insurer. The City will not, without the prior written consent of the Bank, which consent shall not be unreasonably withheld, remove the then existing Remarketing Agent. Any remarketing agreement with a successor Remarketing Agent shall provide that (a) such successor Remarketing Agent may resign upon at least sixty (60) days prior written notice to the Paying Agent, the Bank, and the City, (b) such successor Remarketing Agent shall use its best efforts to remarket the Bonds without regard to the Bank Rate (i.e., whether or not the rate to be borne by the Bonds is less than the Bank Rate) and (c) such successor Remarketing Agent shall offer the Bonds for remarketing at the maximum rate permitted under the Ordinance prior to such Bonds being tendered for purchase pursuant to a Liquidity Drawing.

(x) *Credit Facilities.* In the event that the City shall hereafter enter into or otherwise consent to any credit agreement, bond purchase agreement, liquidity agreement, direct securities purchase agreement or other agreement or instrument in connection with the Airport System (or any amendment, supplement or modification thereto) (each such agreement or amendment, supplement or modification thereto shall be referred to herein as a "*Bank Agreement*") under which any Person (other than the federal government or any agency thereof) undertakes to make loans or extend credit or liquidity to the City for the benefit of the Airport System, which Bank Agreement (or amendment thereto) provides such Person with additional or more restrictive covenants

and/or greater rights and remedies than are provided to the Bank in this Agreement, the City shall provide the Bank with a copy of such Bank Agreement and such additional or more restrictive covenants and/or greater rights and remedies shall automatically be deemed to be incorporated into this Section 5.1(x) and the Bank shall have the benefits of such additional or more restrictive covenants and/or such greater rights and remedies as if specifically set forth in this Section 5.1(x). No amendment or waiver to any such Bank Agreement shall be effective as against the Bank without the written consent of the Bank. Upon the request of the Bank, the City shall promptly enter into an amendment to this Agreement to include such additional or more restrictive covenants, and/or greater rights or remedies, *provided* that the Bank shall maintain the benefit of such additional or more restrictive covenants and/or greater rights and remedies even if the City fails to provide such amendment.

(y) *Waiver of Sovereign Immunity.* To the extent authorized by Texas Government Code Section 1371.059(c), the City hereby waives sovereign immunity from suit and liability for the purposes of adjudicating a claim to enforce this Agreement or the Bank Fee Agreement or for damages for breach of this Agreement or the Bank Fee Agreement.

(z) *Maintenance of Property.* The City shall maintain, preserve and keep the Airport System in good repair, working order and condition (ordinary wear and tear excepted).

(aa) *Taxes and Assessments.* The City shall pay or cause to be paid all taxes, assessments and governmental charges imposed upon it or its respective interest in the Airport System before the same become delinquent, unless and to the extent that the same are being contested in good faith and by appropriate proceedings and reserves are provided therefor that in the opinion of the City are adequate.

(bb) *Debt Service Reserve Fund.* In the event that the financial strength rating of the Bond Insurer is reduced below "A3" or is withdrawn or suspended for credit related reasons by Moody's and is reduced below "A-" or is withdrawn or suspended for credit related reasons by S&P, the City shall, within sixty (60) days of such rating action, (i) replace the surety provider with a provider acceptable to the Bank or (ii) cash fund the Debt Service Reserve Fund in an amount equal to the Debt Service Reserve Fund Requirement (over a period of eighteen (18) months in monthly installments as required by the Ordinance).

(cc) *Bank Bond Rating.* At any time Bank Bonds are outstanding, upon request of the Bank or any other financial institution that owns Bank Bonds or a beneficial interest therein, the City, at its expense, (i) shall obtain promptly from at least one rating agency then rating the Bonds, a rating specifically assigned to such Bank Bonds and (ii) shall ensure that the CUSIP number and the rating assigned to such Bank Bonds are available electronically from a third-party provider of such information.

(dd) *Future Agreements.* In the event that the City shall hereafter enter into or otherwise consent to any Bank Agreement with any Person for a loan or to extend credit

or liquidity to the City for the benefit of the Airport System and such Bank Agreement contains a "most favored nations" or "most favored lender" provision (each an "*MFN Clause*") that provides such Person the benefit of any additional or different events of default (contained in a separate Bank Agreement that is entered into by the City on a future date with a different Person) than are provided to such Person in such Bank Agreement, then within 5 Business Days after the effective date of such Bank Agreement, the City shall provide to the Bank a copy of such MFN Clause and, at the discretion of the Bank, the portion of such MFN Clause referencing such additional or different events of default (the "*Incorporated Portion*") shall be deemed to be incorporated into Section 5.1(x) hereof and the Bank shall have the benefit of the Incorporated Portion. Upon the request of the Bank, the City shall promptly enter into an amendment to this Agreement to include the Incorporated Portion, *provided* that the Bank shall have the benefit of such Incorporated Portion of such MFN Clause even if the City fails to provide such amendment.

**Section 5.2 Negative Covenants of the City.** As long as this Agreement is in effect, and until all amounts payable hereunder or under the Bank Fee Agreement, and under any Bank Bonds, are indefeasibly paid in full, the City shall not, unless the Bank shall otherwise consent in writing:

- (a) agree to amend, supplement, extend, modify, waive, revise or otherwise alter or terminate, or permit any party to amend, supplement, extend, modify, waive, revise or otherwise alter or terminate, any term of the Bonds or any other Financing Document to which the City is a party;
- (b) violate any law, rule, regulation, or governmental order to which it is subject, which violation involves a reasonable likelihood of adversely affecting the use or value of the Airport System, the financial condition, business or results of operations of the Airport System or the ability of the City to perform its obligations under this Agreement or any other Financing Document;
- (c) invest any amounts on deposit in any of the funds or accounts held or maintained by the Paying Agent pursuant to the Ordinance in any investments other than investments permitted pursuant to the terms of the Ordinance or deviate from the investment policies of the City approved by the City Council of the City or from the applicable provisions of the State statutes with respect to the City's investments;
- (d) take any action, or cause the Paying Agent or the Tender Agent to take any action under the Ordinance that would cause a Default or a City Event of Default under this Agreement;
- (e) take any action which would result in the City's obligations to the Bank under this Agreement and the Bank Fee Agreement not having the priority set forth in the Ordinance;

(f) terminate this Agreement, the Bank Fee Agreement or the Ordinance (except as otherwise permitted herein or therein) or replace the Letter of Credit with a Substitute Credit Facility (except as otherwise permitted herein or in the Ordinance);

(g) except as permitted by the Ordinance, encumber, transfer, sell, lease, convey or otherwise dispose of, any interest in, or create, suffer or assume any lien to be created on, the Airport System; or

(h) other than in the Remarketing Memorandum and its audited financial statements, refer to the Bank in any official statement or any similar offering document or make any changes in reference to the Bank in any official statement or any similar offering document; provided, however, that the City may include the name of the Bank in the Remarketing Memorandum or its audited financial statements without the consent of the Bank; or

(i) permit a lien on the Net Revenues securing any swap termination payments payable pursuant to any Swap Contract entered into by the City that is superior in priority to or on a parity with the lien on the Net Revenues securing the Bonds, the Bank Bonds or any other Reimbursement Obligations owed to the Bank hereunder.

(j) *Liens and Additional Debt.*

(i) Parity Liens. Except as permitted by the Ordinance, the City shall not grant any lien, pledge or security interest in the Net Revenues which is on parity with the lien on Net Revenues that secures the payment of the City's Obligations.

(ii) Additional Senior Debt. The City shall not issue any obligations after the Closing Date which are secured by a lien on Net Revenues that is senior to that securing the Bonds.

## **ARTICLE 6**

### **TERM AND TERMINATION OF AGREEMENT; EVENTS OF DEFAULT.**

**Section 6.1 Term of Agreement.** This Agreement shall become effective upon execution by the Bank and the City and shall continue in full force and effect until the Letter of Credit has terminated or expired in accordance with its terms and all Obligations have been paid in full.

**Section 6.2 City Events of Default.** It shall be a "City Event of Default" hereunder if any of the following events shall occur and be continuing:

(a) (i) any principal or interest evidenced by the Bonds or the Bank Bonds is not paid when due or (ii) any Drawing or any Liquidity Advance is not paid when due; or

(b) any representation or warranty made by the City in this Agreement or any other Financing Document shall prove to be untrue in any material respect on the date as of which it was made; or

(c) nonpayment of any amounts payable under this Agreement or the Bank Fee Agreement when due (other than amounts referred to in Section 6.2(a) hereof), if such failure to pay when due shall continue for six (6) Business Days; or

(d) default in the due observance or performance by the City of any covenant set forth in Sections 5.1(b), 5.1(g), 5.1(k), 5.1(l), 5.1(o), 5.1(p), 5.1(s), 5.1(t), 5.1(v), 5.1(w), 5.1(y), 5.1(bb), or 5.2 hereof; or

(e) default in the due observance or performance by the City of any other term, covenant or agreement (not covered by clause (a), (c) or (d)) set forth in this Agreement and the continuance of such default for thirty (30) days after the earlier to occur of (i) the City obtaining actual knowledge thereof and (ii) receipt by the City of notice thereof from the Bank; or

(f) the Ordinance shall terminate or cease to be in full force and effect, other than as a result of any prepayment in full of all of the Bonds or provision for such prepayment in full in accordance with the Ordinance; or any provision of the Ordinance relating to the security for the Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations hereunder or the rights and remedies of the Bank, or any other material provision of the Ordinance or of any other Financing Document to which the City is a party shall cease to be in full force or effect, or the City or any Person acting on behalf of the City shall deny or disaffirm the City's obligations under the Ordinance or any other Financing Document to which the City is a party; or

(g) (i) the City shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate the City as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to the City or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets, or the City shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the City any case, proceeding or other action of a nature referred to in clause (i) above which (x) results in an order for such relief or in the appointment of a receiver or similar official or (y) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against the City any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof, or (iv) the City shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the City shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts; or

(h) the City or a governmental authority of competent jurisdiction shall have declared or announced a moratorium (whether or not in writing) with respect to any debt or Payment Obligation of the City payable from Net Revenues; or

(i) any final, non-appealable judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes in an aggregate amount of \$5,000,000 or more, payable from Net Revenues, shall be entered or filed against the City and shall remain unvacated, unbonded or unstayed for a period of sixty (60) days; or

(j) any "event of default" shall occur under the Ordinance or under any other Financing Document; or

(k) the long-term unenhanced rating assigned to any of the City's debt payable from Net Revenues is reduced below "Baa2" by Moody's or below "BBB" by S&P or is suspended or withdrawn by Moody's or S&P; or

(l) except pursuant to Section 6.3 or Section 6.4 hereof, the Insurance Policy is canceled or terminated or the Insurer is replaced with another insurer or the terms of the Insurance Policy are amended or modified in any respect which, in the sole discretion of the Bank, would have an adverse effect on the rights or security of the Bank, in any case which was (i) not at the direction of the Bank or (ii) without the prior written consent of the Bank; or

(m) the City shall (i) default in any payment of any principal or premium of or interest on any of the City's long-term indebtedness in the amount of \$5,000,000 or more payable from Net Revenues (other than the Bonds, the Liquidity Drawings and the Liquidity Advances) beyond the period of grace, if any, provided in the instrument or agreement under which such long-term indebtedness was created; or (ii) default in the observance or performance of any agreement or condition relating to any such long-term indebtedness payable from Net Revenues or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such long-term indebtedness (or a trustee or agent on behalf of such holder or holders) to cause (determined without regard to whether any notice is required), any such long-term indebtedness to become due prior to its stated maturity; or

(n) (i) a court or other governmental authority with jurisdiction to rule on the validity of this Agreement, the Ordinance or any other Financing Document to which the City is a party shall find, announce or rule that any material provision of this Agreement or any other Financing Document to which the City is a party, or any provision of the Ordinance relating to the security for the Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations hereunder or the rights and remedies of the Bank under this Agreement or any other Financing Document, is not a valid and binding agreement of the City; or (ii) the City shall contest the validity or enforceability of this Agreement, any other Financing Document to which the City is a party or any provision of the Ordinance relating to the security for the Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations hereunder or the rights and

remedies of the Bank under this Agreement or any other Financing Document; or (iii) the City or any other Person acting on behalf of the City shall seek an adjudication that this Agreement, any other Financing Document to which the City is a party or any provision of the Ordinance relating to the security for the Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations hereunder or the rights and remedies of the Bank under this Agreement or any other Financing Document to which the City is a party, is not valid and binding on the City.

**Section 6.3 Remedies.** If a City Event of Default shall have occurred, the Bank may exercise any one or more of the following rights and remedies in addition to any other remedies herein or by law provided:

(a) give written notice of the occurrence of any City Event of Default hereunder to the Paying Agent, with a copy to the City and the Tender Agent, and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all the Bonds pursuant to Section A-403 of the Ordinance, thereby causing the Letter of Credit to terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent's receipt of such notice, and the Insurance Policy to terminate in accordance with the terms of the Cancellation Agreement, in which case the City and the Bank shall take such action as shall be necessary to effect such termination pursuant to the Cancellation Agreement; *provided, however*, that if an Insurer Event of Default has also occurred and is continuing, the Bank may direct the City and the Paying Agent that the Insurance Policy shall not be terminated;

(b) pursue any rights and remedies it may have under the Financing Documents subject to the terms thereof, including instituting suit, actions or proceedings to enforce its rights under the Ordinance;

(c) pursue any other action available at law or in equity for specific performance of any covenant or agreement contained herein, in aid of execution of any power herein granted or for the enforcement of any proper legal remedy; or

(d) declare all Obligations to be immediately due and payable, whereupon the same shall be immediately due and payable without any further notice of any kind, which notice is hereby waived by the City (unless such automatic acceleration is waived by the Bank in writing);

*provided, however*, that in the case of the foregoing clauses (b), (c) and (d), the Bank shall not exercise any such rights and remedies or pursue such other actions, including directions or remedies under the Ordinance, without the consent of the Insurer unless the following conditions are met: (i) the Insurance Policy is no longer in effect and (ii) unless an Insurer Event of Default has occurred and is continuing, the Insurer has been paid all amounts due and payable to it, and if such conditions are met, then the Insurer's rights derived through subrogation or assignment shall nonetheless continue in full force and effect; *provided further*, that, notwithstanding the condition set forth in clause (i) of the foregoing proviso, if an Insurer Event of Default has occurred, the Bank may, while the Insurance Policy is in effect, exercise any such rights and remedies and pursue such other actions, including directions or remedies under the Ordinance. If

the Bank, with the consent of the Required Banks, has directed the Paying Agent to cause a mandatory tender of all of the Bonds pursuant to Section 6.3(a) or Section 6.4(a) hereof, the Bank shall, and hereby covenants with the Insurer that it will (unless, with respect to Section 6.3(a) hereof, an Insurer Event of Default has occurred and the Bank has directed the City and the Paying Agent that the Insurance Policy shall not be terminated) satisfy at the earliest time practicable all applicable conditions to the effectiveness of termination of the Insurance Policy pursuant to the Cancellation Agreement and direct the Paying Agent not to draw on the Insurance Policy during the period between the Bank directing the Paying Agent to cause a mandatory tender of all of the Bonds and the effectiveness of termination of the Insurance Policy. Notwithstanding anything to the contrary herein, the Insurer's right to enforce the Bank's covenants set forth in this paragraph shall survive any termination of other rights of the Insurer.

**Section 6.4     Mandatory Tender Events** If an Insurer Event of Default or an Insurer Downgrade Event shall have occurred, the Bank may give written notice to the Paying Agent, with a copy to the City and the Tender Agent, of the occurrence of such Insurer Event of Default or Insurer Downgrade Event and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, thereby causing the Insurance Policy to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16<sup>th</sup>) day following the Paying Agent's receipt of such notice. The City and the Bank shall take such action as may be necessary or required to effect such termination pursuant to the Cancellation Agreement. So long as no City Event of Default shall have occurred and be continuing, upon the termination of the Insurance Policy the City shall cause the Remarketing Agent to use its best efforts to remarket all tendered Bonds at the earliest date possible pursuant to the terms of the Ordinance; *provided* that, if after the Bonds have been called for mandatory tender by the Paying Agent but prior to the remarketing of such Bonds a City Event of Default shall have occurred and be continuing, such tendered Bonds shall only be remarketed with the written consent of the Bank and the Bank may at its sole discretion pursue any of its rights or remedies pursuant to this Agreement.

(b) If the City fails to pay the Letter of Credit Fee, the Bank may give written notice of such failure to pay to the Paying Agent, with a copy to the City and the Tender Agent, and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all the Bonds in accordance with Section A-403 of the Ordinance, thereby causing the Letter of Credit to terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent's receipt of such notice.

(c) If an Insurer Event of Default or an Insurer Downgrade Event shall have occurred and be continuing, and, in either case, a City Event of Default shall also have occurred and be continuing, the Bank may give written notice to the Paying Agent, with a copy to the City and the Tender Agent, of the occurrence of such Insurer Event of Default or Insurer Downgrade Event, as applicable, and such City Event of Default and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, thereby causing the



Letter of Credit to terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent's receipt of such notice.

## **ARTICLE 7**

### **MISCELLANEOUS.**

#### **Section 7.1 Cancellation Agreement.**

The City and the Bank hereby acknowledge and agree that (i) pursuant to the terms of the Cancellation Agreement, if the Banks direct the Paying Agent to cause a mandatory tender of the Bonds pursuant to Section 6.3 or Section 6.4 hereof, the Paying Agent shall cause all other Series 2005 Bonds to be tendered for purchase and (ii) the Insurance Policy shall not be terminated prior to the mandatory tender date of all the Series 2005 Bonds established in accordance with the terms of the Ordinance. If the Bank in its sole and absolute discretion shall pay any amounts owed to the Insurer in connection with the cancellation of the Insurance Policy pursuant to the terms of the Cancellation Agreement, the City shall reimburse the Bank for such payments to the Insurer within five (5) Business Days after the City's receipt of written notice from the Bank as to such amount due to the Bank and amounts not paid when due shall accrue interest at the Default Rate. Any payments to the Insurer made by the Bank that are in respect of principal of or interest on the Bonds shall be deemed to be Reimbursement Obligations hereunder.

**Section 7.2 Reimbursement.** To the extent permitted by the law of the State, the City agrees to reimburse and hold the Bank and its officers, directors and employees (each a "*Reimbursed Party*") harmless from and against, and to pay on demand, any and all claims, damages, losses, liabilities, costs and expenses whatsoever which such Reimbursed Party may incur or suffer by reason of or in connection with the execution and delivery of this Agreement, the Bank Fee Agreement or the Letter of Credit, or any other documents which may be delivered in connection with this Agreement, the Bank Fee Agreement or the Letter of Credit or in connection with the remarketing of the Bonds, or in connection with any payment under the Letter of Credit, including, but not limited to, the fees and expenses of counsel for such Reimbursed Party with respect thereto and with respect to advising such Reimbursed Party as to its rights and responsibilities under this Agreement, the Bank Fee Agreement and the Letter of Credit and all fees and expenses, if any, in connection with the enforcement or defense of the rights of such Reimbursed Party in connection with this Agreement, the Bank Fee Agreement, the Letter of Credit or any of the other Financing Documents, or the collection of any monies due under this Agreement, the Bank Fee Agreement or such other documents which may be delivered in connection with this Agreement, the Bank Fee Agreement, the Letter of Credit or any of the other Financing Documents, except to the extent that any such claim, damage, loss, liability, cost or expense shall have resulted directly from or been caused by such Reimbursed Party's negligence or willful misconduct in connection with the Letter of Credit. Promptly after receipt by any Reimbursed Party of notice of the commencement, or threatened commencement, of any action subject to the reimbursement obligation contained in this Section 7.2, such Reimbursed Party shall promptly notify the City thereof, *provided* that failure to give such notice shall not relieve the City from any liability to such Reimbursed Party hereunder. The obligations of the City under this Section 7.2 shall survive payment of all Obligations owed under this Agreement

and the expiration of the Letter of Credit. Net Revenues shall constitute the sole source of funds available to the City for the payments, if any, owing to a Reimbursed Party.

**Section 7.3    Liability of the Bank.**

The City assumes all risks of the acts or omissions of the Tender Agent and the Paying Agent, or any agents thereof, and any transferee beneficiary of the Letter of Credit with respect to its use of the Letter of Credit. Neither the Bank nor any of its officers or directors shall be liable or responsible for: (a) the use which may be made of the Letter of Credit or for any acts or omissions of the Tender Agent or the Paying Agent, any agent thereof or any transferee beneficiary in connection therewith; (b) the validity or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, fraudulent or forged; (c) payment by the Bank against presentation of documents which do not comply with the terms of the Letter of Credit, including failure of any documents to bear any reference or adequate reference to the Letter of Credit; or (d) any other circumstances whatsoever in making or failing to make payment under the Letter of Credit; *provided, however*, that the City shall have a claim against the Bank to the extent of any direct compensatory, as opposed to consequential, damages suffered by the City which the City proves were caused by the Bank's negligence or willful misconduct in connection with the Letter of Credit (it being understood that the Bank assumes no liability or responsibility for the genuineness, falsification or effect of any document which appears to be regular on its face). The Bank is hereby expressly authorized and directed to honor any demand for payment which is made under the Letter of Credit without regard to, and without any duty on its part to inquire into the existence of, any disputes or controversies between or among the City, the Tender Agent and the Paying Agent, any transferee beneficiary of the Letter of Credit or any other Person or the respective rights, duties or liabilities of any of them, or whether any facts or occurrences represented in any of the documents presented under the Letter of Credit are true and correct.

**Section 7.4    Participations.** The Bank may at any time, without the consent of, or notice to, the City, sell participations to any Person (other than a natural person or the City) (each, a "*Participant*") in all or a portion of the Bank's rights and obligations under this Agreement and the Bank Fee Agreement and its obligations under the Letter of Credit (including all or a portion of the applicable Commitment and of any Drawings or Liquidity Advances due and owing hereunder); *provided* that (i) the Bank's obligations under the Letter of Credit shall remain unchanged, (ii) the Bank shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the City shall continue to deal solely and directly with the Bank in connection with the Bank's rights under this Agreement, the Bank Fee Agreement, and its obligations under the Letter of Credit.

Any agreement or instrument pursuant to which the Bank sells such a participation shall provide that the Bank shall retain the sole right to enforce this Agreement and the Bank Fee Agreement and to approve any amendment, modification or waiver of any provision hereof or thereof; *provided* that such agreement or instrument may provide that the Bank will not, without the consent of the Participant, agree to any amendment or waiver described in Section 7.6(a), 7.6(b), 7.6(c) or 7.6(d) hereof that affects such Participant.

**Section 7.5 Survival of this Agreement.**All covenants, agreements, representations and warranties made in this Agreement shall survive the issuance of the Letter of Credit and shall continue in full force and effect so long as the Letter of Credit shall be unexpired or any Obligations shall be outstanding and unpaid. The obligation of the City to reimburse the Bank pursuant to Sections 2.13, 2.14, 7.2, 7.3 and 7.12 hereof shall survive the payment of the Bonds and termination of this Agreement.

**Section 7.6 Modification of this Agreement.**No amendment, modification or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by the Bank and the City and consented to in writing by the Insurer, *provided, however*, that if an Insurer Event of Default shall have occurred and be continuing, then the Bank and the City may amend this Agreement without the consent of the Insurer unless such amendment would be adverse to the Insurer or would change its obligations in connection with any Bank Bonds; *provided, further*, that no consent of the Insurer shall ever be required in connection with the extension of the Stated Expiration Date of the Letter of Credit or any amendment to the Bank Fee Agreement or in the event the Insurance Policy is no longer in effect. No amendment, modification or waiver of any provision of the Letter of Credit shall in any event be effective unless the same shall be in writing and signed by the Bank (in its sole discretion). Any such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the City in any case shall entitle the City to any other or further notice or demand in the same, similar or other circumstances.

**Section 7.7 Waiver of Rights by the Bank.**No course of dealing or failure or delay on the part of the Bank in exercising any right, power or privilege hereunder or under the Letter of Credit or the Bank Fee Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right or privilege. The rights of the Bank under the Letter of Credit, this Agreement and the Bank Fee Agreement are cumulative and not exclusive of any rights or remedies which the Bank would otherwise have.

**Section 7.8 Severability.** In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic and legal effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

**Section 7.9 Governing Law.** This Agreement and the Bank Fee Agreement shall be deemed to be contracts under, and for all purposes shall be governed by, and construed and interpreted in accordance with, the law of the State of Texas. Each party hereto irrevocably waives, if and to the extent permitted by applicable law, any and all, to the extent permitted by law, right to a trial by jury in any action, suit or legal proceedings arising out of or relating to this Agreement or any other Financing Document or the transactions contemplated hereby or thereby.

**Section 7.10 Notices; Effectiveness; Electronic Communications.**

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier to, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to, the address, telecopier number, electronic mail address or telephone number specified for the recipient on its respective signature page hereto.

Notices and other communications sent by hand or overnight courier service or mailed by certified or registered mail shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not sent during normal business hours for the recipient, such communications shall be deemed to have been given at the opening of business on the next business day for the recipient).

(b) *Electronic Communications.* Notices and other communications to the Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Bank, *provided* that the foregoing shall not apply to notices to the Bank pursuant to Article II. The City may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communication pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

If the Bank has agreed to receive communications by e-mail and unless the Bank otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for

the recipient and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) *Change of Address, Etc.* Each of the City and the Bank may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other party hereto. In addition, the Bank agrees to notify the City from time to time to ensure that the City has on record (i) an effective address, contact name, telephone number, telecopier number and, if applicable, e-mail address to which notices and other communications may be sent and (ii) accurate wire instructions for the Bank.

(d) *Reliance by the Bank.* The Bank shall be entitled to rely and act upon any notices (including telephonic notices with respect to any Drawing) purportedly given by or on behalf of the City even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein or (ii) the terms thereof, as understood by the Bank, varied from any confirmation thereof. The City shall reimburse the Bank for all losses, costs, expenses and liabilities resulting from the reliance by the Bank on each notice purportedly given by or on behalf of the City. All telephonic notices to and other telephonic communications with the Bank may be recorded by the Bank, and the City hereby consents to such recording.

#### **Section 7.11 Successors and Assigns.**

(a) *Successors and Assigns Generally.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the City may not assign or otherwise transfer any of its respective rights or obligations hereunder or under any other Financing Document without the prior written consent of the Bank (and the Insurer if the Insurance Policy is still in effect), and the Bank may not assign or otherwise transfer any of its rights or obligations hereunder or under the Letter of Credit without the prior written consent of the City (and the Insurer if the Insurance Policy is still in effect); *provided, however,* that the obligations of the Bank under the Letter of Credit may be assigned or otherwise transferred with (A) the prior written consent of the City and (B) confirmation from each Rating Agency then rating the related subseries of Bonds that the long and short-term ratings on such subseries of Bonds will not be withdrawn or reduced as a result of such assignment or transfer. Notwithstanding the foregoing, the Bank may assign its right to receive payment of any Obligation of the City hereunder or under the Bank Fee Agreement without the prior written consent of the City or any other party. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and Participants to the extent provided in Section 7.4 hereof) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Certain Pledges.* Notwithstanding anything to the contrary set forth in this Agreement, the Bank may at any time pledge or assign a security interest in all or any

portion of its rights under this Agreement and the Bank Fee Agreement to secure obligations of the Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release the Bank from any of its obligations hereunder or substitute any such pledgee or assignee for the Bank as a party hereto.

(c) *Electronic Execution of Assignments.* The words "execution," "signed," "signature," and words of like import in any assignment and assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the Texas State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

#### **Section 7.12 Taxes and Expenses.**

The City will promptly pay (i) the reasonable fees and expenses of counsel to the Bank incurred in connection with the preparation, negotiation, execution and delivery of this Agreement and the other Financing Documents as set forth in the Bank Fee Agreement, (ii) the reasonable fees and disbursements of counsel to the Bank with respect to advising the Bank as to its rights and responsibilities under this Agreement and the other Financing Documents after the occurrence of a City Event of Default, and (iii) all reasonable costs and expenses, if any, in connection with any amendment to this Agreement, the Bank Fee Agreement or any other Financing Document which requires the consent of the Bank or the waiver of such provision by the Bank or the enforcement of this Agreement, the Bank Fee Agreement and any other documents which may be delivered in connection herewith or therewith, including in each case the reasonable fees and disbursements of counsel to the Bank. In addition, the City shall pay any and all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement or the Bank Fee Agreement and the security contemplated by the Financing Documents and agrees, to the extent permitted by the law of the State, to hold the Bank harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees; provided, however, that the City may reasonably contest any such taxes or fees with the prior written consent of the Bank, which consent, if a City Event of Default does not then exist, shall not be unreasonably withheld. In addition, the City agrees to pay, after the occurrence of a City Event of Default, all costs and expenses (including attorneys' fees and costs of settlement) incurred by the Bank in enforcing any obligations or in collecting any payments due from the City hereunder by reason of such City Event of Default or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "workout" or of any insolvency or bankruptcy proceedings. The obligations of the City under this Section 7.12 shall survive the termination of this Agreement.

#### **Section 7.13 Reserved.**

**Section 7.14 Payment Obligations of the City hereunder and under the Bank Fee Agreement.**

Notwithstanding anything set forth to the contrary herein, any provision of this Agreement or the Bank Fee Agreement which provides that the City will make payments to the Bank in respect of any Obligations hereunder or under the Bank Fee Agreement shall be an obligation of the City to make such payment to the Bank subject to the limitations contained in this Agreement as to the sources of funds available to the City for such purpose.

**Section 7.15 Headings.** The captions in this Agreement are for convenience of reference only and shall not define or limit the provisions hereof.

**Section 7.16 Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original but all taken together to constitute one instrument. This Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by e-mail with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

**Section 7.17 Entire Agreement.** This Agreement and the Bank Fee Agreement constitute the entire understanding of the parties with respect to the subject matter hereof and thereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby and thereby.

**Section 7.18 USA Patriot Act.** The Bank hereby notifies the City that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107 56 (signed into law October 26, 2001)) (the "*Patriot Act*"), it is required to obtain, verify and record information that identifies the City, which information includes the name and address of the City and other information that will allow the Bank to identify the City in accordance with the Patriot Act, and the City hereby agrees to take any action necessary to enable the Bank to comply with the requirements of the Patriot Act. The City shall comply with all applicable Bank Secrecy Act laws and regulations, as amended.

**Section 7.19 Insurance Policy Claims.** Following payment by the Bank of any Drawing under the Letter of Credit, the Bank shall have sixty (60) Business Days from the date of such payment to direct the Insurer to reimburse the Bank for the amount of the Drawing that was not reimbursed by the City, the Tender Agent or the Paying Agent from amounts in the funds and accounts under the Ordinance. In the event the Bank fails to direct the Insurer to reimburse the Bank within the sixty (60) Business Day period, the Bank shall be deemed to have elected not to receive reimbursement from the Insurer with respect to such payment under the Letter of Credit and to have waived its right to present such a claim to the Insurer for failure of the City to make such reimbursement. In no event shall the Bank be deemed to have waived its right to direct a mandatory tender of the Bonds with respect to any such reimbursement default as a result of the Bank waiving its right to present a claim of reimbursement to the Insurer.

**Section 7.20 Insurer's Rights.**

Except as otherwise provided herein or in the Cancellation Agreement, the existence of all rights given to the Insurer hereunder with respect to the giving of consents, approvals or notices, or the direction of proceedings and its rights pursuant to Section 7.21 hereof is expressly conditioned upon (i) the Insurance Policy being in full force and effect or (ii) no Insurer Event of Default having occurred and being continuing. If either or both of such conditions is not satisfied, then only the Insurer's rights derived through subrogation or assignment shall continue in full force and effect except as expressly provided herein or in the Cancellation Agreement. Any such rights shall not be exercisable by the Insurer (but shall be exercisable by the Bank in accordance with the terms of the Ordinance) if at any time (i) the Insurance Policy is no longer in full force and effect as a result of a termination of the Insurance Policy and the Insurer has been paid all amounts due and payable to it or (ii) an Insurer Event of Default has occurred and is continuing; *provided* that this Section 7.20 shall not in any way limit or affect the rights of the Insurer as subrogee of the Bank or Owner of a Bond or as assignee of the Bank or Owner of a Bond or to otherwise be reimbursed and indemnified for its costs and expenses and other payments on or in connection with the Reimbursement Obligations or the Insurance Policy either by operation of law or at equity or by contract.

**Section 7.21 Third Party Beneficiary.** The Bank and the City acknowledge that, unless (i) the Insurance Policy has been terminated pursuant to Section 6.3(a) or 6.4(a) hereof and the Insurer has been paid all amounts due and payable to it (if applicable in accordance with Section 6.3(a) or Section 6.4(a) hereof) or (ii) an Insurer Event of Default has occurred and is continuing, the Insurer shall be an express third party beneficiary of the provisions of this Agreement relating to the Insurer with the power to enforce the same.

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

**CITY OF AUSTIN, TEXAS**

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

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, Texas 78701  
Attention: City Treasurer  
512 974-7882 phone  
512 370-3838 fax  
Art. Alfaro@ci.austin.tx.us

**STATE STREET BANK AND TRUST  
COMPANY**

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

**Principal Office:**

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

**With a copy to:**

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

**Wire instructions with respect to Letter of Credit  
Fees and other fees:**

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

Wire instructions with respect to reimbursement of  
Letter of Credit drawings:

State Street Bank and Trust Company

Boston, MA

ABA Number: 011-000-028

Account Number: 4867-933-6

Account Name: Municipal Finance Draw Clearing  
Account

Attention: Adam Kennedy (Operations Contact)

Telephone: (617) 664-3818

Facsimile: (617) 310-5757

## **APPENDIX A**

### **FORM OF LETTER OF CREDIT**

APPENDIX A TO REIMBURSEMENT AGREEMENT FOR SUBSERIES 2005-3 BONDS

FORM OF IRREVOCABLE TRANSFERABLE DIRECT PAY LETTER OF CREDIT

No. \_\_\_\_\_

May \_\_\_\_, 2012

Letter of Credit No. \_\_\_\_\_

Beneficiary:

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Paying Agent/Registrar and Tender Agent (the  
"Beneficiary")  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, Texas 75201  
Phone: 214-756-7417  
Fax: 214-756-7401  
Email: kristel.d.richards@wellsfargo.com

Ladies and Gentlemen:

We (the "Bank") hereby establish in your favor as beneficiary (the "Beneficiary"), for the benefit of the holders of the Bonds (as hereinafter defined), our Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_ for the account of the City of Austin, Texas (the "Applicant"), whereby we hereby irrevocably authorize you to draw on us from time to time, from and after the date hereof to and including the earliest to occur of our close of business on: (i) June 21, 2014 (as extended from time to time, the "*Stated Expiration Date*"), (ii) the date which is one (1) Business Day following the date on which all of the Bonds (as hereinafter defined) are converted to bear interest at a rate other than a Weekly Rate as defined in Ordinance No. 20050804-039 of the City of Austin, Texas, as amended by Ordinance No. 20110526-068 (together, the "*Ordinance*"), as such date is specified in a certificate in the form of Exhibit A hereto (the "*Conversion Date*"), (iii) the date which is one (1) Business Day following receipt by the Bank of a certificate in the form set forth as Exhibit B hereto, (iv) the date on which a Stated Maturity Drawing (as hereinafter defined) in the form set forth as Exhibit F hereto is honored by us, (v) the date which is sixteen (16) days following receipt by you of a written notice from us in the form of Exhibit A-1 or Exhibit A-2 attached to the Cancellation Agreement (as defined herein) (for convenience copies of such exhibits are also attached hereto as Exhibit L) specifying the occurrence of a City Event of Default, including the City's failure to pay the Letter of Credit Fee, as each such term is defined in the Letter of Credit and Reimbursement Agreement dated As of May 1, 2012 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "*Reimbursement Agreement*"), by and between the Applicant and the Bank, and directing you to cause a mandatory tender of the Bonds in accordance with Section A-403 of the Ordinance (the earliest of such dates to occur referred to herein as the

"*Termination Date*"), in each such case a maximum aggregate amount not exceeding Sixty-Three Million One Hundred Eighty-Two Thousand Seventy-Two Dollars (\$63,182,072; the "*Original Stated Amount*") to pay the unpaid principal amount of, or the portion of the purchase price corresponding to the principal of, and accrued interest on, or the portion of the purchase price corresponding to accrued interest on, the City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005 (AMT), Subseries 2005-3 (the "*Bonds*") (said \$63,182,072 having been calculated to be equal to \$62,100,000 the outstanding principal amount of the Bonds, plus \$1,082,072, which is at least 53 days accrued interest on said principal amount of the Bonds at the rate of twelve percent (12%) per annum (the "*Cap Interest Rate*") calculated on the basis of a 365 day year). This Letter of Credit is available to you against presentation of the following documents (the "*Payment Documents*") presented to the Bank as described below:

A certificate (with all blanks appropriately completed) (i) in the form attached as Exhibit C hereto to pay accrued interest on the Bonds as provided for in the Ordinance (an "*Interest Drawing*"), (ii) in the form attached as Exhibit D hereto to pay the principal amount of and accrued interest on the Bonds in respect of any redemption of the Bonds as provided for in Sections A-301 and A-302 of the Ordinance (a "*Redemption Drawing*"), (iii) in the form attached as Exhibit E hereto, to allow the Beneficiary to pay the purchase price of Bonds tendered for purchase as provided for in Article A-IV of the Ordinance and any Bonds constituting "Bank Bonds" pursuant to the terms of the Existing Agreement (as such term is defined in the Reimbursement Agreement), in each case, which have not been successfully remarketed or for which the purchase price has not been received by the Beneficiary by 12:00 noon, New York time, on the purchase date (a "*Liquidity Drawing*") or (iv) in the form attached as Exhibit F hereto to pay the principal amount of Bonds maturing on November 15, 2025, (a "*Stated Maturity Drawing*" and together with Interest Drawings, Redemption Drawings and Liquidity Drawings collectively referred to herein as "*Drawings*" and individually as a "*Drawing*"), each certificate to state therein that it is given by your duly authorized officer and to be dated the date such certificate is presented hereunder. No Drawings shall be made under this Letter of Credit for Ineligible Bonds (as defined in the Reimbursement Agreement).

The term "*Cancellation Agreement*" shall mean the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent/Register and Tender Agent, the Bank, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch and the Insurer.

All Drawings shall be made by presentation of each Payment Document at the Bank's office of State Street Bank and Trust Company, for Courier Mail to: State Street Bank and Trust

Company, Loan Operations Department, Attention: Standby Letter of Credit Unit, Mailstop: CPH0453, 100 Huntington Ave., Tower 1, 4th Floor, Boston, Massachusetts 02116, Facsimile Transmission No. (617) 988-6674 (with transmission confirmed by call to Telephone No. (617) 662-8588) (or any other office which may be designated by us by written notice delivered to you, or at such other facsimile number as we may specify to you in writing) without need of further documentation, including the original of this Letter of Credit, it being understood that each Payment Document so submitted is to be the sole operative instrument of drawing.

The Bank agrees to honor and pay the amount of any Interest Drawing, Redemption Drawing, Liquidity Drawing or Stated Maturity Drawing if presented in compliance with all of the terms of this Letter of Credit. If such drawing, other than a Liquidity Drawing, is presented prior to 2:00 P.M., New York time, on a Business Day, payment shall be made in immediately available funds, by 11:00 A.M., New York time, on the following Business Day. If any such drawing, other than a Liquidity Drawing, is presented at or after 2:00 P.M., New York time, on a Business Day, payment shall be made in immediately available funds, by 11:00 A.M., New York time, on the second following Business Day. If a Liquidity Drawing in the form set forth as Exhibit E hereto is presented to the Bank prior to 12:25 P.M., New York time, on a Business Day, payment shall be made in immediately available funds, by 2:30 P.M., New York time, on the same Business Day. If a Liquidity Drawing is presented at or after 12:25 p.m., New York time, payment shall be made in immediately available funds, by 3:00 P.M., New York time, on the following Business Day. Payments made hereunder shall be made by wire transfer to you in accordance with the instructions specified by the Beneficiary in the drawing certificate relating to a particular drawing hereunder. "*Business Day*" means any day which is not (i) a Saturday, a Sunday or legal holiday, or (ii) a day on which the payment office of the Bank for Drawings (initially, Boston, Massachusetts) is located, is required or authorized by law to remain closed.

The Available Amount (as hereinafter defined) will be reduced automatically by the amount of any Drawing hereunder; *provided, however*, that the amount of any Interest Drawing hereunder, shall be automatically reinstated on the fifth (5th) calendar day following the date any Interest Drawing is honored if you shall not have received notice from us in the form of Exhibit A-1 or Exhibit A-2 attached to the Cancellation Agreement (for convenience copies of such exhibits are also attached hereto as Exhibit L) prior to such time that a City Event of Default, including the City's failure to pay the Letter of Credit Fee, has occurred under the Reimbursement Agreement directing the Beneficiary to cause a mandatory tender of the Bonds, whereby this Letter of Credit will terminate. After payment by the Bank of a Liquidity Drawing, the obligation of the Bank to honor Drawings under this Letter of Credit will be automatically reduced by an amount equal to the amount of said Drawing. In addition, prior to the Conversion Date, in the event of the remarketing of the Bonds (or portions thereof) previously purchased with the proceeds of a Liquidity Drawing, the Bank's obligations to honor Drawings hereunder will be automatically reinstated concurrently with receipt by the Bank of a certificate in the form of Exhibit H attached hereto and receipt by the Bank or the Beneficiary for the account of the Bank of the amount stated on such Exhibit H.

Upon receipt by the Bank of a certificate of the Beneficiary in the form of Exhibit G hereto, the Available Amount will automatically and permanently be reduced by the amount

specified in such certificate. Such reduction shall be effective as of the next Business Day following the date of delivery of such certificate.

Upon any permanent reduction of the Available Amount to be drawn under this Letter of Credit, as provided herein, we will deliver to you an amendment to this Letter of Credit substantially in the form of Exhibit K attached hereto to reflect any such reduction. The "*Available Amount*" shall mean the Original Stated Amount (i) less the amount of all permanent prior reductions pursuant to Interest Drawings, Redemption Drawings or Liquidity Drawings, (ii) less the amount of any previous reduction thereof pursuant to a reduction certificate in the form of Exhibit G (to the extent such reduction is not already accounted for by a reduction in the Available Amount pursuant to clause (i) above), and (iii) plus the amount of all reinstatements as above provided.

Prior to the Termination Date, we may extend the Stated Expiration Date from time to time at the request of the Applicant by delivering to you an amendment to this Letter of Credit in the form of Exhibit J hereto designating the date to which the Stated Expiration Date is being extended. All references in this Letter of Credit to the Stated Expiration Date shall be deemed to be references to the date designated as such in the most recent of such notices. Any date to which the Stated Expiration Date has been extended as herein provided may be extended in a like manner.

Upon the Termination Date, this Letter of Credit shall automatically terminate.

This Letter of Credit is transferable only in whole to your successor as Paying Agent/Registrar and Tender Agent under the Ordinance. Any such transfer (including any successive transfer) shall be subject to the Bank's receipt of a transfer request signed by the transferor and by the transferee in the form of Exhibit I hereto and payment of our transfer fee. Upon our endorsement of such transfer, the transferee instead of the transferor shall be entitled to all the benefits of and rights under this Letter of Credit in the transferor's place; *provided* that, in such case, any certificate of the Beneficiary to be provided hereunder shall be signed by one who states therein that he is a duly authorized officer of the transferee.

Communications with respect to this Letter of Credit shall be addressed to us at State Street Bank and Trust Company, for Courier Mail to: State Street Bank and Trust Company, Loan Operations Department, Attention: Standby Letter of Credit Unit, Mailstop: CPH0453, 100 Huntington Ave., Tower 1, 4th Floor, Boston, Massachusetts 02116, with a copy to State Street Bank and Trust Company, State Street Financial Center, One Lincoln Street, Boston, Massachusetts 02111, Attention: Thomas Henderson (or to such other address or addresses as we may specify to you in writing), specifically referring to the number of this Letter of Credit. For telephone assistance, please call (617) 662-8588 (or any other number which may be designated by us by written notice delivered to you), and have this Letter of Credit number available.

To the extent not inconsistent with the express terms hereof, this Letter of Credit shall be governed by, and construed in accordance with, the terms of the International Standby



Practice 98 ("*ISP98*"). As to matters not governed by the *ISP98*, this Letter of Credit shall be governed by and construed in accordance with Article 5 of the Uniform Commercial Code as in effect in the State of New York.

All payments made by us hereunder shall be made from our own funds and not with the funds of any other person.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified or amended by reference to any other document whatsoever.

**STATE STREET BANK AND TRUST  
COMPANY**

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT A  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

NOTICE OF CONVERSION DATE

[Date]

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_\_, 2012 (the "*Letter of Credit*"), which has been established by the Bank for the account of the Applicant, in favor of the Beneficiary.

The undersigned hereby certifies and confirms that the Conversion Date of all of the Bonds to bear interest at a rate other than a Weekly Rate (as defined in the Ordinance) has occurred on [insert date], and, accordingly, the Letter of Credit shall terminate on \_\_\_\_\_, which is one (1) Business Day after such Conversion Date, in accordance with its terms.

The Letter of Credit (including any amendments thereto) is hereby surrendered for cancellation

All defined terms used herein which are not otherwise defined herein shall have the same meaning as in the Letter of Credit.

\_\_\_\_\_,  
as Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

EXHIBIT B  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

NOTICE OF TERMINATION

[Date]

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_, 2012 (the "*Letter of Credit*"), which has been established by the Bank for the account of the Applicant, in favor of the Beneficiary.

The undersigned hereby certifies and confirms that (i) no Bonds remain Outstanding within the meaning of the Ordinance, (ii) all drawings required to be made under the Ordinance and available under the Letter of Credit have been made and honored and the Available Amount under the Letter of Credit has been reduced to zero and may not be reinstated, or (iii) a substitute credit facility has been issued to replace the Letter of Credit pursuant to the Ordinance and the Letter of Credit and Reimbursement Agreement dated as of May 1, 2012, by and between the Applicant and the Bank, and, accordingly, the Letter of Credit shall terminate in accordance with its terms on the date that is one (1) Business Day after the date of your receipt of this Notice of Termination.

The Letter of Credit (including any amendments thereto) is hereby surrendered for cancellation

All defined terms used herein which are not otherwise defined herein shall have the same meaning as in the Letter of Credit.

\_\_\_\_\_  
as Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

EXHIBIT C  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**INTEREST DRAWING CERTIFICATE**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

The undersigned individual, a duly authorized officer of \_\_\_\_\_ (the "*Beneficiary*"), hereby CERTIFIES on behalf of the Beneficiary as follows with respect to (i) that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_\_, 2012 (the "*Letter of Credit*"), issued by State Street Bank and Trust Company in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Ordinance (as defined in the Letter of Credit):

1. The Beneficiary is the Paying Agent/Registrar under the Ordinance.
2. The Beneficiary is entitled to make this Drawing in the amount of \$ \_\_\_\_\_ under the Letter of Credit pursuant to the Ordinance with respect to the payment of interest due on all Bonds outstanding on the Interest Payment Date (as defined in the Ordinance) occurring on [insert applicable date], other than Ineligible Bonds (as defined in the Reimbursement Agreement).
3. The amount of this Drawing is equal to the amount required to be drawn by the Paying Agent/Registrar pursuant to the Ordinance.
4. The amount of the drawing made by this Certificate was computed in compliance with the terms of the Ordinance and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

Exhibit C  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

5. Payment by the Bank pursuant to this drawing shall be made to  
\_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number  
\_\_\_\_\_, Attention: \_\_\_\_\_,  
Re: \_\_\_\_\_.

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_, as Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

EXHIBIT D  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**REDEMPTION DRAWING**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

The undersigned individual, a duly authorized officer of \_\_\_\_\_ (the "*Beneficiary*"), hereby CERTIFIES on behalf of the Beneficiary as follows with respect to (i) that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_, 2012 (the "*Letter of Credit*"), issued by State Street Bank and Trust Company in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Ordinance (as defined in the Letter of Credit):

1. The Beneficiary is the Paying Agent/Registrar under the Ordinance.
2. The Beneficiary is entitled to make this Drawing in the amount of \$ \_\_\_\_\_ under the Letter of Credit pursuant to Section [\_\_\_\_\_] **(with respect to Bonds that bear interest at the Weekly Rate)** of the Ordinance.

3. (a) The amount of this Drawing is equal to (i) the principal amount of Bonds to be redeemed by the Applicant (as defined in the Letter of Credit) pursuant to Section \_\_\_\_\_ **(with respect to Bonds that bear interest at the Weekly Rate)** of the Ordinance on [insert applicable date] (the "*Redemption Date*") other than Ineligible Bonds (as defined in the Reimbursement Agreement (as defined in the Letter of Credit), plus (ii) interest on such Bonds accrued from the immediately preceding Interest Payment Date (as defined in the Ordinance) to the Redemption Date, provided that in the event the Redemption Date coincides with an Interest Payment Date this Drawing does not include any accrued interest on such Bonds.

(b) Of the amount stated in paragraph 2 above:

- (i) \$ \_\_\_\_\_ is demanded in respect of the principal amount of the Bonds referred to in subparagraph (a) above; and
- (ii) \$ \_\_\_\_\_ is demanded in respect of accrued interest on such Bonds.

4. Payment by the Bank pursuant to this drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.

5. The amount of the Drawing made by this Certificate was computed in compliance with the terms and conditions of the Ordinance and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

6. Upon payment of the amount drawn hereunder, the Bank is hereby directed to permanently reduce the Available Amount by \$[insert amount of reduction] and the Available Amount shall thereupon equal \$[insert new Available Amount]. The Available Amount has been reduced by an amount equal to the principal of Bonds paid with this drawing and an amount equal to \_\_\_ days' interest thereon at the Cap Interest Rate (as defined in the Letter of Credit).

7. Of the amount of the reduction stated in paragraph 6 above:

(i) \$\_\_\_\_\_ is attributable to the principal amount of Bonds redeemed; and

(ii) \$\_\_\_\_\_ is attributable to interest on such Bonds (i.e., \_\_\_ days' interest thereon at the Cap Interest Rate).

8. The amount of the reduction in the Available Amount has been computed in accordance with the provisions of the Letter of Credit.

9. Following the reduction, the Available Amount shall be at least equal to the aggregate principal amount of the Bonds outstanding, to the extent such Bonds are not Bonds that bear interest at a rate other than a Weekly Rate, plus \_\_\_ days' interest thereon at the Cap Interest Rate.



Exhibit D  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, as  
Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

EXHIBIT E  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**LIQUIDITY DRAWING CERTIFICATE**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

The undersigned individual, a duly authorized officer of \_\_\_\_\_ (the "*Beneficiary*") hereby CERTIFIES as follows with respect to (i) that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_\_, 2012 (the "*Letter of Credit*"), issued by State Street Bank and Trust Company in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Ordinance (as defined in the Letter of Credit):

1. The Beneficiary is the Tender Agent under the Ordinance.
2. The Beneficiary is entitled to make this Drawing under the Letter of Credit in the amount of \$ \_\_\_\_\_ with respect to the payment of [the purchase price of Bonds tendered for purchase in accordance with Section \_\_\_\_\_ **(with respect to Bonds that bear interest at the Weekly Rate)** of the Ordinance] [Bonds constituting "Bank Bonds" pursuant to the terms of the Letter of Credit and Reimbursement Agreement, dated as of June 1, 2011, by and among the City of Austin, Texas, Wells Fargo Bank, National Association, as Tender Agent, and KBC Bank, N.V., acting through its New York Branch] and to be purchased on [insert applicable date] (the "*Purchase Date*") which Bonds have not been remarketed as provided in the Ordinance or the purchase price of which has not been received by the Beneficiary by 12:00 noon., New York time, on said Purchase Date.
3. (a) The amount of this drawing is equal to (i) the principal amount of Bonds to be purchased pursuant to the Ordinance on the Purchase Date other than Ineligible Bonds (as defined in the Reimbursement Agreement (as defined in the Letter of Credit)) plus (ii) interest on such Bonds accrued from the immediately preceding Interest Payment Date (as defined in the Ordinance) (or, if none, the date of issuance of the Bonds) to the Purchase Date, provided that in the event the Purchase Date coincides with an Interest Payment Date this drawing does not include any accrued interest on such Bonds.

(b) Of the amount stated in subparagraph (2) above:

(i) \$\_\_\_\_\_ is demanded in respect of the principal portion of the purchase price of the Bonds referred to in subparagraph (2) above; and

(ii) \$\_\_\_\_\_ is demanded in respect of payment of the interest portion of the purchase price of such Bonds.

4. The amount of the Drawing made by this Certificate was computed in compliance with the terms and conditions of the Ordinance and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).

5. The Beneficiary will register or cause to be registered in the name of the Bank upon payment of the amount drawn hereunder, Bonds in the principal amount of the Bonds being purchased with the amounts drawn hereunder, and such Bonds will be held in accordance with the Ordinance.

6. Payment by the Bank pursuant to this Drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, as  
Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

EXHIBIT F  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. 20255

**STATED MATURITY DRAWING CERTIFICATE**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

The undersigned individual, a duly authorized officer of \_\_\_\_\_ (the "*Beneficiary*"), hereby CERTIFIES on behalf of the Beneficiary as follows with respect to (i) that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_\_, 2012 (the "*Letter of Credit*"), issued by State Street Bank and Trust Company in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Ordinance (as defined in the Letter of Credit):

1. The Beneficiary is the Paying Agent/Registrar under the Ordinance.
2. The Beneficiary is entitled to make this drawing in the amount of \$ \_\_\_\_\_ under the Letter of Credit pursuant to the Ordinance.
3. The amount of this Drawing is equal to the principal amount of Bonds maturing on \_\_\_\_\_, \_\_\_\_\_, as specified in the Ordinance, other than Ineligible Bonds (as defined in the Reimbursement Agreement (as defined in the Letter of Credit)).
4. The amount of this Drawing made by this Certificate was computed in compliance with the terms and conditions of the Ordinance and, when added to the amount of any other drawing under the Letter of Credit made simultaneously herewith, does not exceed the Available Amount (as defined in the Letter of Credit).
5. Payment by the Bank pursuant to this Drawing shall be made to \_\_\_\_\_, ABA Number \_\_\_\_\_, Account Number \_\_\_\_\_, Attention: \_\_\_\_\_, Re: \_\_\_\_\_.

Exhibit F  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, as  
Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

EXHIBIT G  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**REDUCTION CERTIFICATE**

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

The undersigned hereby CERTIFIES as follows with respect to (i) that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_, 2012 (the "*Letter of Credit*"), issued by State Street Bank and Trust Company in favor of the Beneficiary; (ii) those certain Bonds (as defined in the Letter of Credit); and (iii) that certain Ordinance (as defined in the Letter of Credit):

1. The Beneficiary is the Paying Agent/Registrar under the Ordinance.
2. The Beneficiary shall deliver this Certificate to the Bank at the direction of the Applicant pursuant to the terms of the Ordinance.
3. Upon receipt by the Bank of this Certificate, the Available Amount (as defined in the Letter of Credit) shall be reduced by \$\_\_\_\_\_, and the Available Amount shall thereupon equal \$\_\_\_\_\_. \$\_\_\_\_\_ of the new Available Amount is attributable to interest.
4. The interest amount of the reduction in the Available Amount has been computed in accordance with the provisions of the Letter of Credit.
5. Following the reduction, the Available Amount shall be at least equal to the aggregate principal amount of the Bonds outstanding plus \_\_ days' interest thereon at the Cap Interest Rate (as defined in the Letter of Credit).

Exhibit G  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

IN WITNESS WHEREOF, this Certificate has been executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_,  
as Beneficiary

By \_\_\_\_\_  
[Title of Authorized Officer]

CC: CITY OF AUSTIN, TEXAS  
700 Lavaca, Suite 940  
Austin, Texas 78701  
Attention: City Treasurer

EXHIBIT H  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

REINSTATEMENT CERTIFICATE

[Date]

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

The undersigned, a duly authorized officer of \_\_\_\_\_ (the "*Beneficiary*"), hereby notifies State Street Bank and Trust Company with reference to Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_, 2012 (the "*Letter of Credit*"; terms defined therein and not otherwise defined herein shall have the meanings set forth in the Letter of Credit) issued by the Bank in favor of the Beneficiary as follows:

1. \_\_\_\_\_ is the Remarketing Agent under the Ordinance.
2. The Beneficiary has been advised by the Applicant or the Remarketing Agent that the amount of \$\_\_\_\_\_ has been paid to the Bank on the date hereof by the Applicant or the Remarketing Agent on behalf of the Applicant as a payment made to reimburse the Bank, pursuant to the Reimbursement Agreement for amounts drawn under the Letter of Credit pursuant to a Liquidity Drawing.
3. Of the amount referred to in paragraph 2, \$\_\_\_\_\_ represents the aggregate principal amount of Bonds resold or to be resold on behalf of the Applicant.
4. Of the amount referred to in paragraph 2, \$\_\_\_\_\_ represents accrued and unpaid interest on such Bonds.



Exhibit H  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

IN WITNESS WHEREOF, the Beneficiary has executed and delivered this Certificate as of  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, Beneficiary

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

EXHIBIT I  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**TRANSFER REQUEST**

Date:

State Street Bank and Trust Company  
Loan Operations Department  
Attention: Standby Letter of Credit Unit  
Mailstop: CPH0453  
100 Huntington Ave., Tower 1, 4th Floor  
Boston, Massachusetts 02116

Re: Irrevocable Transferable Direct-Pay Letter of Credit No. \_\_\_\_\_,  
dated May \_\_, 2012

We, the undersigned "Transferor", hereby irrevocably transfer all of our rights to draw under the above referenced Letter of Credit (the "*Letter of Credit*") in its entirety to:

NAME OF TRANSFEREE

\_\_\_\_\_  
(Print Name and complete address of the Transferee) "Transferee"

ADDRESS OF TRANSFEREE

\_\_\_\_\_  
CITY, STATE/COUNTRY ZIP

\_\_\_\_\_  
In accordance with ISP98 (as defined in the Letter of Credit), Rule 6, regarding transfer of drawing rights, all rights of the undersigned Transferor in the Letter of Credit are transferred to the Transferee, who shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the Transferee without necessity of any consent of or notice to the undersigned Transferor.

The original Letter of Credit, including amendments to this date, is attached and the undersigned Transferor requests that you endorse an acknowledgment of this transfer on the reverse thereof. The undersigned Transferor requests that you notify the Transferee of the

Exhibit I  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

transfer of this Letter of Credit in such form and manner as you deem appropriate and of the terms and conditions of the Letter of Credit as transferred.

If you agree to these instructions, please advise the Transferee of the terms and conditions of the transferred Letter of Credit and these instructions.

Payment of your transfer fee of \$\_\_\_\_\_ is for the account of the Applicant (as defined in the Letter of Credit) which, agrees to pay you on demand any expense or cost you may incur in connection with this transfer. Receipt of such transfer fee shall not constitute consent by you to effect the transfer.

The undersigned Transferor represents and warrants that (a) the Transferee is the Transferor's successor Beneficiary as Paying Agent/Registrar and Tender Agent under the Ordinance, (b) the enclosed Letter of Credit is original and complete, and (c) there is no outstanding or pending demand or request for payment, reinstatement or reduction of the Available Amount or transfer under the Letter of Credit affecting the rights to be transferred.

The effective date of the transfer of the Letter of Credit shall be the date hereafter on which you effect the requested transfer by acknowledging this request and giving notice thereof to Transferee.

WE WAIVE ANY RIGHT TO TRIAL BY JURY THAT WE MAY HAVE IN ANY ACTION OR PROCEEDING RELATING TO OR ARISING OUT OF THIS TRANSFER.

This Transfer Request is made subject to ISP98 and is subject to and shall be governed by the law of the State of New York, without regard to principles of conflict of laws that might require the application of a different governing law.

(Signature Page Follows)

Exhibit I  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

Sincerely yours,

\_\_\_\_\_  
(Print Name of Transferor)

\_\_\_\_\_  
(Transferor's Authorized Signature)

\_\_\_\_\_  
(Print Authorized Signers Name and Title)

\_\_\_\_\_  
(Telephone Number/Fax Number)

Acknowledged:

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

\_\_\_\_\_  
(Transferee's Authorized Signature)

\_\_\_\_\_  
(Print Authorized Signers Name and Title)

\_\_\_\_\_  
(Telephone Number/Fax Number)

Acknowledged as of \_\_\_\_\_, 20\_\_:

STATE STREET BANK AND TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Authorized Signatory

SIGNATURE GUARANTEED

Signature(s) with title(s) conform(s) with that/those on file with us for this individual, entity or company and signer(s) is/are authorized to execute this agreement.

\_\_\_\_\_  
(Print Name of Bank)

\_\_\_\_\_  
(Address of Bank)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Print Name and Title of Authorized Signer)

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

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Date)

EXHIBIT J  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

NOTICE OF EXTENSION AMENDMENT

\_\_\_\_\_, \_\_\_\_\_  
WELLS FARGO BANK, NATIONAL ASSOCIATION, as Beneficiary  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, Texas 75201  
Phone: 214-756-7417  
Fax: 214-756-7401  
Email: kristel.d.richards@wellsfargo.com

CITY OF AUSTIN, TEXAS  
700 Lavaca, Suite 940  
Austin, Texas 78701  
Attention: City Treasurer

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Direct Pay Letter of Credit No. \_\_\_\_\_, dated May \_\_, 2012 (the "*Letter of Credit*"), established by us in your favor as Beneficiary. We hereby notify you that the Stated Expiration Date (as defined in the Letter of Credit) has been extended to \_\_\_\_\_, \_\_\_\_\_.

All other terms and conditions of the Letter of Credit remain unchanged.

[signature page immediately follows]

Exhibit I  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

This Notice of Extension Amendment shall be attached to the Letter of Credit and made a part thereof.

STATE STREET BANK AND TRUST COMPANY

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

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

EXHIBIT K  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**NOTICE OF REDUCTION AMENDMENT**

[Date]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Beneficiary  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, Texas 75201  
Phone: 214-756-7417  
Fax: 214-756-7401  
Email: kristel.d.richards@wellsfargo.com

CITY OF AUSTIN, TEXAS  
700 Lavaca, Suite 940  
Austin, Texas 78701  
Attention: City Treasurer

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Direct Pay Transferable Letter of Credit No. \_\_\_\_\_, dated May \_\_\_, 2012 (the "*Letter of Credit*"), established by us in your favor as Beneficiary. We hereby notify you that, in accordance with the terms of the Letter of Credit, the Available Amount (as defined in the Letter of Credit) has been reduced to U.S. \$\_\_\_\_\_, of which U.S. \$\_\_\_\_\_ is attributable to principal and U.S. \$\_\_\_\_\_ is attributable to interest.

*All other terms and conditions of the Letter of Credit remain unchanged.*

This Notice of Reduction Amendment shall be attached to the Letter of Credit and made a part thereof.

Exhibit I  
To  
State Street Bank and Trust Company  
Letter of Credit No. \_\_\_\_\_  
(Continued)

STATE STREET BANK AND TRUST COMPANY

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

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



EXHIBIT L  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_

**Exhibit A-1 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N**

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, Texas 75201  
Phone: 214-756-7417  
Fax: 214-756-7401  
Email: kristel.d.richards@wellsfargo.com

CITY OF AUSTIN, TEXAS  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

ASSURED GUARANTY MUNICIPAL CORP.  
31 West 52nd Street  
New York, NY 10019  
Attention: Director, Municipal Surveillance

Re: Municipal Bond Insurance Policy No. 205494-N; City of Austin, Texas Airport  
System Refunding Revenue Bonds, Series 2005 (AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements  
(as hereinafter defined), hereby advise you that

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default has occurred and pursuant to Section 6.3(a) of the  
Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to  
cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance,  
whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying  
Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance

EXHIBIT L  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT No. \_\_\_\_\_  
(CONTINUED)

Policy No. 205494-N (this "Notice"), and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement.]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and pursuant to Section 6.4(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit A-2 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Termination of the Letters of Credit  
(Insurance Policy Not Cancelled)**

[Date]

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, Texas 75201  
Phone: 214-756-7417  
Fax: 214-756-7401  
Email: kristel.d.richards@wellsfargo.com

CITY OF AUSTIN, TEXAS  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Re: City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005  
(AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that:

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default and an Insurer Event of Default have occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[the City has failed to pay the Letter of Credit Fee and pursuant to Section 6.4(b) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to

EXHIBIT L  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_  
(CONTINUED)

cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and is continuing, and a City Event of Default has also occurred and is continuing and pursuant to Section 6.4(c) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT L  
TO  
STATE STREET BANK AND TRUST COMPANY  
LETTER OF CREDIT NO. \_\_\_\_\_  
(CONTINUED)

cc: Assured Guaranty Municipal Corp.

**EXHIBIT B**

[Fee Agreement]

## BANK FEE AGREEMENT

This Bank Fee Agreement dated May 1, 2012, is between the City of Austin, Texas (the "City") and State Street Bank and Trust Company (the "Bank"). Reference is hereby made to the Letter of Credit and Reimbursement Agreement dated May 1, 2012 (the "Reimbursement Agreement") by and between the City and the Bank relating to the City's Airport System Refunding Revenue Bonds, Series 2005 (AMT), Subseries 2005-3 (the "Bonds"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Reimbursement Agreement.

The purpose of this Bank Fee Agreement is to set forth the agreement between the Bank and the City with respect to fees payable to the Bank pursuant to the Reimbursement Agreement. This Bank Fee Agreement constitutes the "Bank Fee Agreement" as such term is defined in the Reimbursement Agreement.

### Article I. Fees

*Section 1.1 Letter of Credit Fee.* The City shall pay to the Bank a Letter of Credit fee ("Letter of Credit Fee") on the Commitment during the term of the Letter of Credit at the Letter of Credit Fee Rate described in the chart below based on the long term underlying rating (without giving effect to credit enhancement or bond insurance) (the "Rating") assigned to the Bonds or other bonds issued by the City that are secured by and payable from the Net Revenues on a parity basis with the Bonds. The Letter of Credit Fee will be calculated on the basis of the actual number of days elapsed in a 360-day year and payable quarterly in arrears on first Business Day of each January, April, July and October commencing July 2012.

<u>LEVEL</u>	<u>S&amp;P RATING</u>	<u>LETTER OF CREDIT FEE RATE</u>
1	A- or above	1.00 % per annum
2	BBB+	1.15 % per annum
3	BBB	1.40 % per annum
4	BBB- or below	1.60 % per annum

Any change in the Letter of Credit Fee Rate resulting from a change in the Rating shall be and become effective as of and on the date of the announcement of the change in such Rating. References to Ratings above are references to rating categories as determined by S&P at the date hereof, and in the event of the adoption by S&P of any new or changed rating system, including, without limitation, any recalibration or realignment of the long-term unenhanced rating assigned

to any other bonds issued by the City that are secured by and payable from Net Revenues on a parity basis with the Bonds in connection with the adoption of a "global" rating scale, the Rating in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as in effect at the date hereof.

In the event the Rating assigned by S&P is withdrawn or suspended, the Letter of Credit Fee Rate shall be increased immediately, without notice to the City, by an additional 100 basis points per annum over the Letter of Credit Fee Rate otherwise in effect. At any time an Event of Default shall have occurred and be continuing under the Reimbursement Agreement, the Letter of Credit Fee Rate shall be increased immediately, without notice to the City, by an additional 100 basis points per annum above the Letter of Credit Fee Rate in effect prior to the occurrence of such Event of Default for so long as such Event of Default is continuing.

*Section 1.2 Drawing Fee.* In connection with each Drawing under the Letter of Credit, the City shall pay to the Bank a drawing fee in the amount of \$250 as payment for the Bank's transactional costs related to such Drawing. The drawing fee shall be payable on the same day as the related Drawing.

*Section 1.3 Amendment and Transfer Fee.* The City agrees to pay, or cause to be paid, to the Bank, on the date of each amendment, supplement or modification to the Reimbursement Agreement, the Letter of Credit or this Bank Fee Agreement, transfer of the Letter of Credit to a successor beneficiary, or execution of any standard waiver or consent, a non-refundable fee equal to \$2,500, plus, in each case, the reasonable fees and expenses of outside counsel to the Bank. Extensions to the term of the Letter of Credit alone will not require the payment of such fee, but will require the payment of related reasonable fees and expenses of outside legal counsel to the Bank.

*Section 1.4 Termination/Reduction.* The City may voluntarily terminate the Letter of Credit at any time with 30 days prior written notice to the Bank; *provided, however*, that in the event the City elects to terminate or permanently reduce (excluding in connection with mandatory sinking fund redemptions) the Available Amount of the Letter of Credit prior to its Stated Expiration Date, the City shall pay to the Bank the Letter of Credit Fees that would be due and payable to the Bank through the Stated Expiration Date based on the Available Amount in effect on date of such termination or reduction less the Letter of Credit Fees already paid (the "Make-Whole Fee") up to and including the termination or reduction date. The City will not be required to pay the Make-Whole Fee to the Bank if: (a) the Letter of Credit is terminated due to a downgrade of the short-term rating of the Bank below "P-1" by Moody's, "A-1" by S&P, or "F1" by Fitch; or (b) the Bonds are refunded from a source of funds that does not require a credit facility or analogous facility from a bank or financial institution, or the rate of interest on the Bonds is converted to a fixed rate or another interest rate mode that does not require a credit facility, a bank direct purchase facility, or an analogous facility from a bank or financial institution.



*Section 1.5. Legal Fees.* The City shall pay, or caused to be paid, on the Closing Date the legal fees of Winston & Strawn LLP for preparation of the Reimbursement Agreement and this Bank Fee Agreement. The amount payable by the City with respect to the legal fees of Winston & Strawn LLP incurred in connection with the preparation of the Reimbursement Agreement and this Bank Fee Agreement shall not exceed in the aggregate \$25,000.

*Section 1.6. Default Rate.* Any amounts due to the Bank hereunder that are past due shall accrue interest at the Default Rate from the date due to but excluding the date of payment in full.

## Article II. Miscellaneous.

*Section 2.1 Amendments.* No amendment to this Bank Fee Agreement shall become effective without the prior written consent of the Bank and the City.

*Section 2.2. Governing Law.* This Bank Fee Agreement shall be deemed to be a contract under, and for all purposes shall be governed by, and construed and interpreted in accordance with, the law of the State of Texas.

*Section 2.3. Counterparts.* This Bank Fee Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Bank Fee Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

*Section 2.4. Severability.* Any provision of this Bank Fee Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**

[Cancellation Agreement]

## AMENDED AND RESTATED INSURANCE POLICY CANCELLATION AGREEMENT

This **AMENDED AND RESTATED INSURANCE POLICY CANCELLATION AGREEMENT** (this "*Agreement*") dated as of May 1, 2012 is entered into by and among **CITY OF AUSTIN, TEXAS** (the "*Issuer*"), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as paying agent and tender agent (the "*Agent*"), **JPMORGAN CHASE BANK, N.A. ("JPMC")**, **STATE STREET BANK AND TRUST COMPANY ("State Street")**, **ROYAL BANK OF CANADA ("Royal Bank")**, acting through its WFC, New York, Branch (JPMC, State Street and Royal Bank, each a "*Bank*" and collectively the "*Banks*"), and **ASSURED GUARANTY MUNICIPAL CORP.** (formerly known as Financial Security Assurance Inc.), a New York stock insurance company ("*AGM*"), and amends and restates that certain Insurance Policy Cancellation Agreement, dated as of June 1, 2011, by and among the Issuer, the Agent, AGM and the "*Banks*" named therein.

### RECITALS

WHEREAS, the Issuer issued, in four subseries, its \$281,300,000 Airport System Refunding Revenue Bonds, Series 2005 (AMT) (the "*Bonds*") pursuant to Ordinance No. 20050804-039, as supplemented on May 26, 2011 by Ordinance No. 20110526-068 (collectively, the "*Ordinance*"); and

WHEREAS, the Bonds are insured by Municipal Bond Insurance Policy No. 205494-N (the "*Bond Policy*") issued by AGM; and

WHEREAS, AGM has also issued Municipal Bond Debt Service Reserve Fund Insurance Policy No. 205494-R (the "*Reserve Policy*") for the debt service reserve fund requirement for the Bonds and Financial Guaranty Insurance Policy No. 205494-SWP with respect to the swap transaction relating to the Bonds (the "*Swap Policy*"); and

WHEREAS, the City has arranged for the delivery of Letters of Credit ("*Letters of Credit*"), one for each subseries of Bonds, issued by the Banks, which Letters of Credit will provide liquidity for the payment of the purchase price of the Bonds of a subseries upon a tender thereof and also provide for payment of principal of and interest on the Bonds of a subseries; and

WHEREAS, pursuant to the reimbursement agreements under which the Letters of Credit are being or have been issued (the "*Reimbursement Agreements*") and the Ordinance, the Banks have the right under certain circumstances to give direction to the Issuer and the Agent that the Bond Policy is to be terminated and thereby cause the Bonds to become subject to mandatory tender; and

WHEREAS, AGM the Issuer and the Agent have agreed to cancellation of the Bond Policy at the request of the Banks pursuant to the Reimbursement Agreements, subject to the terms of this Agreement; and

WHEREAS, the parties hereto have agreed that the Swap Policy and Reserve Policy shall be terminated as provided in Sections 15 and 16 hereof.

**NOW, THEREFORE**, in consideration of the premises and the mutual promises set forth below, the parties hereto agree as follows:

## **AGREEMENT**

**Section 1.** The Banks hereby request that, effective upon the occurrence of the conditions set forth herein, AGM cancel the Bond Policy, and AGM hereby agrees to comply with such request, subject to the terms of this Agreement.

**Section 2.** The Banks acknowledge and agree that, pursuant to the Reimbursement Agreements, the exercise by the Banks of certain rights and remedies, and the pursuit of other actions, referred to in Sections 6.3 and 6.4 of the Reimbursement Agreements, without the consent of AGM are subject to satisfaction of the conditions specified in Sections 6.3 and 6.4 of the Reimbursement Agreements, which (except in certain specified circumstances) contemplate termination of the Bond Policy and AGM being paid all amounts due and payable to it.

**Section 3.** The Banks will provide a written notice in the form attached hereto as Exhibit A-1 signed by at least two of the Banks (the "*Notice*") of the exercise by the Banks of their right to request the cancellation of the Bond Policy pursuant to the terms of Sections 6.3 and 6.4 of the Reimbursement Agreements to the Issuer, the Agent and AGM specifying that the date of cancellation of the Bond Policy (the "*Cancellation Date*") shall be the sixteenth (16th) day following the Agent's receipt of the Notice, and the Agent shall take the steps required pursuant to Section A-405 of the Ordinance to effect the mandatory tender of all of the Bonds. The Banks agree that they shall not direct the Agent to draw on the Bond Policy, and the Agent agrees that it shall not draw on the Bond Policy, after the Banks have delivered the Notice. Upon delivery of the Notice and the Agent's receipt thereof, the Issuer, the Banks and the Agent hereby irrevocably consent to the cancellation of the Bond Policy in accordance with the terms of this Agreement. The Banks, as Owners of the Bonds, shall confirm such consent in writing to AGM when they own the Bonds following the mandatory tender thereof and prior to the remarketing thereof. The cancellation of the Bond Policy will be effective upon the Cancellation Date specified in the Notice subject to the terms of this Agreement; *provided* that in no event shall the Cancellation Date occur prior to the Mandatory Purchase Date (as such term is defined in the Ordinance). The Agent agrees to deliver to AGM the original executed Bond Policy for cancellation, *provided, however*, that if the original Bond Policy cannot be located after diligent search, the Agent shall deliver a copy of the Bond Policy, together with a lost policy affidavit in form and substance satisfactory to AGM stating that the original cannot be located. Notwithstanding anything to the contrary herein, the failure to deliver the original Bond Policy or any such affidavit shall not invalidate the cancellation of the Bond Policy pursuant to this Agreement.

**Section 4.** The parties hereto acknowledge and agree that until the Bond Policy is cancelled pursuant hereto, AGM shall be deemed to be the sole holder of all of the Bonds entitled to control remedies under the Ordinance (subject to the provisions of the Ordinance). Furthermore the Banks agree to cooperate with AGM in the event of a draw on the Bond Policy for the purpose of reimbursing the Banks, including assigning any rights the Banks may have with respect to the related Bonds paid with a draw on a Letter of Credit.

**Section 5.** The parties hereto agree that as of the Cancellation Date no amounts will be due or payable by AGM with respect to the Bonds pursuant to the Bond Policy, and none of the parties hereto or their successors or assigns will submit any claims for payment relating to the Bonds pursuant to the Bond Policy.

**Section 6.** On or prior to the Cancellation Date, the Issuer shall deliver or cause to be delivered to the Agent for authentication new Bonds that (a) do not contain the AGM statement of insurance and (b) have new CUSIPs assigned reflecting the absence of insurance, with a list of such new CUSIPs to be provided to AGM.

**Section 7.** Notwithstanding any provision to the contrary in this Agreement, the Ordinance, the Reimbursement Agreements or the Bonds, the parties hereto acknowledge that to the extent AGM has made any payments under the Bond Policy prior to the Cancellation Date:

(a) each recognizes that, to the extent AGM has made payments, directly or indirectly (as by paying through the Agent), on account of principal of or interest on the Bonds to any holder of the Bonds (a "*Holder*"), AGM will be (i) subrogated to the rights of such Holder to receive the amount of such payment from the Issuer, as provided and from the sources stated in the Ordinance and the Bonds, and (ii) deemed to be the Holder of such Bond or Bonds for all purposes under the Ordinance, including, without limitation, the direction of remedies, the voting or giving of consent with respect to remedies and other actions or inactions of the Agent or the Issuer that may require such voting or consent, and the filing of proofs of claim and other indicia of ownership in any insolvency proceeding; and

(b) AGM is entitled to receive the amount of such principal and interest as provided in the Ordinance and the Bonds, and the parties hereto will otherwise treat AGM as the owner of such rights to the amount of such payment.

**Section 8.** The Issuer agrees that there will be no refund or return of the insurance premium for the Bond Policy or the Reserve Policy in connection with cancellation of the Bond Policy or the Reserve Policy. Furthermore the Issuer agrees to pay all reasonable out of pocket fees and expenses of AGM in connection with the cancellation of the Bond Policy and the Reserve Policy.

**Section 9.** The Issuer covenants that (a) in connection with any remarketing of the Bonds on or after the Cancellation Date, a disclosure document will be delivered to prospective Bondholders that states prominently that the Bond Policy is no longer in effect with respect to the Bonds and that the purchasers of the remarketed Bonds shall be deemed to have consented to the cancellation of the Bond Policy and (b) it will file with the Municipal Securities Rulemaking Board ("*MSRB*") (or any successor repository of disclosure of information relating to the Bonds) on or as of the Cancellation Date a filing that discloses that the Bond Policy is no longer in effect with respect to the Bonds. The Issuer shall make such disclosure documents and MSRB filings available to AGM reasonably in advance of the use and/or filing of such materials.

**Section 10.** [Reserved.]

**Section 11.** All notices shall be sent to the addresses and in the manner specified in Section A-702(c) of the Ordinance; *provided* that notices to the Issuer shall be sent to it at 700 Lavaca, Suite 940, Austin, Texas 78701, Attention: City Treasurer.

**Section 12.** This Agreement shall be binding upon and inure to the benefit of the Banks, subsequent beneficial owners of the Bonds, the Agent, the Issuer, and AGM and their respective successors and assigns.

**Section 13.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument. This Agreement may be delivered by the exchange of executed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as the originally signed version of such signature page.

**Section 14.** Notwithstanding any other provision hereof, all financial obligations of the Issuer under or as a consequence of actions required by this Agreement are limited to the sources provided therefor in the Ordinance and are subject to all limitations on such sources and priorities with respect to payment therefrom as are set forth in the Ordinance.

**Section 15.** The parties acknowledge and agree that upon the termination of the Bond Policy in accordance herewith, the Series 2005 Swap Agreement entered into in connection with the Bonds or the Swap Policy shall be terminated in accordance with, and to the extent required by, the terms of the Amended and Restated Agreement Regarding Insured Swap Transaction (City of Austin), dated the date hereof, between the Issuer and AGM.

**Section 16.** The parties hereto acknowledge and agree that upon the cancellation of the Bond Policy in accordance herewith (unless an Insurer Event of Default (as defined in the Reimbursement Agreements) has occurred and is continuing), the Reserve Policy shall be cancelled by a date that is not more than three years after the Cancellation Date, and the Issuer shall (i) beginning with the first full calendar month following the Cancellation Date, commence funding on a monthly basis an amount sufficient so that the Debt Service Reserve Fund Requirement is established (without giving effect to the Reserve Policy) by the date that is three years after the Cancellation Date and (ii) restore any draw on the Debt Service Reserve Fund from over a period of no more than 18 months as required by Section 5.07 of the Ordinance. The Issuer further agrees that, commencing on the date hereof, it shall not issue any Additional Revenue Bonds payable from the Reserve Policy. Following the date the Reserve Policy is cancelled pursuant to the terms hereof or otherwise terminates in accordance with its terms, the Agent agrees to return the original Reserve Policy to AGM.

**Section 17.** (a) Each Bank irrevocably agrees for the benefit of AGM, the Agent and the City that the only manner in which the Banks may direct the Agent to cause a mandatory tender of the Bonds (in connection with the cancellation of the Bond Policy, the termination of the Letters of Credit, or otherwise) is to provide a written notice in the form attached hereto as Exhibit A-1 or Exhibit A-2, as applicable, in accordance with the terms of this Agreement.

(b) Each Bank irrevocably agrees for the benefit of AGM, the Agent and the City that the Notice (and any confirmation of such Bank's consent to the cancellation of the Bond Policy



required hereby) may be delivered by any two of the Banks, and each Bank, upon delivery of the Notice by any two of the Banks (regardless of whether it signed the Notice), shall be deemed to have irrevocably consented to (i) the delivery of the Notice, (ii) the cancellation of the Bond Policy, (iii) the mandatory tender of each Bank's subseries of the Bonds, and (iv) if stated in the Notice, the cancellation of each Bank's Letter of Credit, all pursuant to the appropriate subsection of Section 6.3 or Section 6.4 of the Reimbursement Agreements.

(c) Each Bank irrevocably agrees for the benefit of the Agent and the City that the notice attached hereto as Exhibit A-2 may be delivered to the Agent by any two of the Banks, and each Bank, upon delivery of such notice by any two of the Banks (regardless of whether it signed such notice), shall be deemed to have irrevocably consented to (i) the delivery of the notice attached hereto as Exhibit A-2, (ii) the mandatory tender of each Bank's subseries of the Bonds, and (iii) the cancellation of each Bank's Letter of Credit, all pursuant to the appropriate subsection of Section 6.3 or Section 6.4 of the Reimbursement Agreements.

**Section 18.** This Agreement shall be governed by the law of the State of New York applicable to contracts executed and to be performed in the State of New York by parties domiciled in the State of New York, except that the law of the State of Texas shall govern all matters relating to the powers, authority and obligations of the Issuer. Defined terms used herein and not otherwise defined shall have the meanings assigned to them in the Ordinance.

[Signature Page Follows]

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed in its respective name by its duly authorized officer or representative, all as of the date first above written.

**CITY OF AUSTIN, TEXAS, as Issuer**

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

**WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Agent**

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

**JPMORGAN CHASE BANK, N.A.**

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

**ROYAL BANK OF CANADA**

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

**STATE STREET BANK AND TRUST  
COMPANY**

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

**ASSURED GUARANTY MUNICIPAL CORP.**

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

**Exhibit A-1 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N**

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Assured Guaranty Municipal Corp.  
31 West 52nd Street  
New York, NY 10019  
Attention: Director, Municipal Surveillance

Re: Municipal Bond Insurance Policy No. 205494-N; City of Austin, Texas Airport  
System Refunding Revenue Bonds, Series 2005 (AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements  
(as hereinafter defined), hereby advise you that

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default has occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice"), and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement.]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and pursuant to Section 6.4(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section

A-403 of the Ordinance and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit A-2 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Termination of the Letters of Credit  
(Insurance Policy Not Cancelled)**

[Date]

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Re: City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005  
(AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that:

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default and an Insurer Event of Default have occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[the City has failed to pay the Letter of Credit Fee and pursuant to Section 6.4(b) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and is continuing, and a City Event of Default has also occurred and is continuing and pursuant to Section 6.4(c) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

cc: Assured Guaranty Municipal Corp.

**EXHIBIT D**

[Swap Agreement]

**AMENDED AND RESTATED AGREEMENT REGARDING INSURED SWAP TRANSACTION  
(CITY OF AUSTIN)**

THIS AMENDED AND RESTATED AGREEMENT REGARDING INSURED SWAP TRANSACTION (this "Agreement") dated as of May 1, 2012, is entered into by and between ASSURED GUARANTY MUNICIPAL CORP. (formerly known as Financial Security Assurance Inc.), a New York stock insurance company ("AGM"), and the CITY OF AUSTIN, TEXAS (the "City"), and amends and restates that certain Agreement Regarding Insured Swap Transaction, dated as of June 1, 2011, by and between AGM and the City.

WHEREAS, AGM has previously issued a financial guaranty insurance policy number 205494-SWP (the "Swap Policy"), dated August 17, 2005, relating to a swap transaction (the "Swap Transaction") between the City and Morgan Stanley Capital Services Inc. (the "Counterparty"), evidenced by a Confirmation dated July 2, 2004 with reference number AUCGV (the "Confirmation"), and governed by an ISDA Master Agreement dated as of July 2, 2004, including the Schedule and Credit Support Annex thereto (the "Master Agreement," and together with the Confirmation, the "Swap Agreement"); and

WHEREAS, the Swap Transaction was entered into to hedge interest rate risk associated with the \$306,225,000 original principal amount of City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005 (the "Bonds"), which were insured by AGM under municipal bond insurance policy no. 205494-N (the "Bond Policy"); and

WHEREAS, the City has or is delivering one or more letters of credit (the "Letters of Credit") issued by the Banks (as defined below) to further secure the Bonds and in connection therewith certain events may result in the Banks electing at some future date to cause the cancellation of the Bond Policy, and in connection therewith AGM, the City, Wells Fargo Bank, National Association, as paying and tender agent, and each of JPMorgan Chase Bank, N.A., State Street Bank and Trust Company, and Royal Bank of Canada, acting through its New York Branch (each a "Bank" and collectively, the "Banks") have entered into an Amended and Restated Insurance Policy Cancellation Agreement, dated as of May 1, 2012 (as such agreement may be hereafter amended, supplemented or otherwise modified, the "Cancellation Agreement"); and

WHEREAS, the Letters of Credit are being or have been issued pursuant to respective Letter of Credit and Reimbursement Agreements entered into between each Bank and the City (the "Reimbursement Agreements"); and

WHEREAS, for purposes of this Agreement, (i) the term "Letters of Credit" shall also include any "Direct-Pay Credit Facility" (as defined in the Ordinance) delivered in substitution therefor, (ii) the term "Banks" shall also include the issuer of any such Direct-Pay Credit Facility that is a party to the Cancellation Agreement, and (iii) the term "Reimbursement Agreements" shall also include any agreement hereafter entered into between the City and a Bank pursuant to which a Direct-Pay Credit Facility is issued in substitution of a then-existing Letter of Credit; and

WHEREAS, the City wishes to have the option to keep the Swap Transaction outstanding and insured by the Swap Policy, notwithstanding a cancellation of the Bond Policy; and

NOW, THEREFORE, in consideration of the agreement by AGM not to terminate the Swap Policy following a termination of the Bond Policy pursuant to the Cancellation Agreement and the other agreements set forth herein, the City does hereby agree and covenant with AGM as follows:

Section 1. *Reporting.* Following a termination of the Bond Policy pursuant to the Cancellation Agreement, the City shall provide the following to AGM: (i) on a monthly basis, a statement of the estimated aggregate mark-to-market value of the Swap Transaction in the form currently being provided to the City by the Counterparty and (ii) notice at such time, if any, as the aggregate mark-to-market value of the Swap Transaction is negative \$100,000 or an amount more favorable to the City within two (2) business days of that being the case (it being understood that such notice, if any, shall be based upon the monthly statement delivered pursuant to clause (i) hereinabove).



Section 2. *Termination.* Subject to Section 5 hereof, unless AGM directs or agrees otherwise, not later than the earlier of (a) ten (10) business days after the first date on which the estimated aggregate mark-to-market value of the Swap Transaction payable by the City is zero or on which such estimated value aggregate mark-to-market value is positive to the City (in each case as set forth in the reports delivered pursuant to Section 1 above), and (b) three (3) years of the date of the cancellation of the Bond Policy pursuant to the Cancellation Agreement, the City shall do one of the following:

- (a) designate an Early Termination Date, or other optional termination, with respect to the Swap Transaction in accordance with the provisions of the Swap Agreement; or
- (b) deliver to AGM the original Swap Policy together with an instrument from the Counterparty satisfactory to AGM deeming the Swap Transaction to no longer be an Insured Transaction under the Swap Agreement and releasing AGM from all further liability under the Swap Policy.

Section 3. *Not an Insurer-Directed Termination.* Enforcement of this Agreement by AGM shall not be deemed to constitute designation of an Early Termination Date by AGM for purposes of the Swap Agreement or the Swap Policy. Nothing herein shall otherwise limit or impair the rights granted to AGM under the Swap Agreement (including any right to designate an Early Termination Date as provided therein).

Section 4. *Swap Agreement Modification; Notional Amount Adjustment.* Notwithstanding anything to the contrary in the Swap Agreement or the transaction documents relating to the Bonds, the City hereby agrees and covenants to AGM that the Notional Amount shall not exceed the outstanding principal amount of the Bonds. In accordance with the foregoing, the City agrees and covenants to AGM that it shall not redeem, defease, refund, prepay or repurchase (other than to satisfy any scheduled mandatory sinking fund requirements that correspond to scheduled reductions in the Notional Amount of the Swap Transaction) any portion of the Bonds unless prior to or at the time of such redemption, defeasance, refunding, prepayment or repurchase, the City terminates all or a portion of the Swap Transaction so that the Notional Amount does not exceed the principal amount of the Bonds immediately following any such redemption, defeasance, refunding, prepayment or repurchase, unless AGM otherwise consents in writing to the Notional Amount not being so reduced. In addition (subject to Section 5 hereof), the City agrees that in the event any reimbursement obligation in respect of the principal amount of any Bonds (including Bank Bonds) owed a Bank under a Reimbursement Agreement is payable within a term of less than five years, the City shall terminate a portion of the Swap Transaction in a like Notional Amount at the time any such payment is made by the City to the Bank.

Section 5. *Effectiveness.* This Agreement shall become effective when each party hereto has delivered executed counterparts of this Agreement to the other party. Notwithstanding any other provision of this Agreement to the contrary, the parties hereto acknowledge and agree that in the event the Bond Policy is canceled as a result of the occurrence of an Insurer Event of Default (as defined in the Reimbursement Agreements), the City shall not be obligated to perform its obligations set forth in Section 2 or the last sentence of Section 4 of this Agreement.

Section 6. *Miscellaneous.*

(a) *Notices.* All notices and other communications provided for under this Agreement shall be delivered to the address set forth below or to such other address as shall be designated by the recipient in a written notice to the other party or parties hereto.

If to AGM:

Assured Guaranty Municipal Corp.  
31 West 52<sup>nd</sup> Street  
New York, NY 10019  
Attention: Risk Management Department  
(with a copy to the attention of the General Counsel)  
Telecopy No.: 212-581-3268  
E-mail: munihealth@assuredguaranty.com

If to the City:

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, Texas 78701  
Attention: City Treasurer

(b) *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York, except that the laws of the State of Texas shall govern all matters relating to the power, authority and obligations of the City.

(c) *Definitions.* Capitalized terms not otherwise defined in this Agreement shall have the meanings given to them in the Swap Agreement or the Swap Policy.

(d) *Due Authorization, Etc..* Each party to this Agreement represents to the other party that such party has full power and authority to enter into and perform this Agreement, and that this Agreement has been duly authorized, executed and delivered by such party and constitutes the valid, binding and enforceable legal agreement of such party.

(e) *Assignments.* This Agreement may not be assigned by either party hereto without the express written consent of the other party hereto. Any assignment made in violation of this Agreement shall be null and void.

(f) *Amendments.* Amendments of this Agreement shall be in writing signed by each party hereto.

(g) *Counterparts.* This Agreement may be executed in counterparts by the parties hereto, and all such counterparts shall constitute one and the same instrument. This Agreement may be delivered by the exchange of executed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as the originally signed version of such signature page.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

ASSURED GUARANTY MUNICIPAL CORP.

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

CITY OF AUSTIN, TEXAS

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

**EXHIBIT E**

[Amended Tender Agency Agreement]

## **SECOND AMENDED AND RESTATED TENDER AGENCY AGREEMENT**

THIS SECOND AMENDED AND RESTATED TENDER AGENCY AGREEMENT (this "Agreement"), dated as of May 1, 2012, between the City of Austin, Texas (the "City") and Wells Fargo Bank, N.A., as Tender Agent (the "Tender Agent"), amends and restates that certain Amended and Restated Tender Agency Agreement, dated as of June 1, 2011, between the City and the Tender Agent.

WHEREAS, pursuant to Ordinance No. 20050804-039 adopted and approved on August 4, 2005, as amended and supplemented by Ordinance No. 20110526-068 (the "Ordinance"), the City has previously issued and has outstanding its Airport System Refunding Revenue Bonds, Series 2005, issued in four subseries designated "Subseries 2005-1," "Subseries 2005-2," "Subseries 2005-3" and "Subseries 2005-4" (collectively, the "Bonds"); and

WHEREAS, the Bonds and the Ordinance provide, among other things, that the registered owners (the "Owners") of the Bonds are required to tender their Bonds to the Tender Agent for purchase at various times and under various conditions, in each case in accordance with the provisions of the Bonds and the Ordinance; and

WHEREAS, pursuant to the terms of a Remarketing Agreement, dated as of May 1, 2008, as amended by the First Amendment to Remarketing Agreement, dated as of June 9, 2009 (the "Remarketing Agreement"), each between the City and Morgan Stanley & Co. Incorporated ("Morgan Stanley"), Morgan Stanley has agreed to use its best efforts to remarket any Bonds tendered for purchase to the Tender Agent by the Owners thereof pursuant to the Ordinance; and

WHEREAS, pursuant to the terms of: (1) a Letter of Credit issued by JPMorgan Chase Bank, National Association ("JPMorgan"), with respect to the Subseries 2005-1 Bonds (the "Subseries 2005-1 Letter of Credit"), (2) a Letter of Credit issued by JPMorgan, with respect to the Subseries 2005-2 Bonds (the "Subseries 2005-2 Letter of Credit"), (3) a Letter of Credit issued by State Street Bank and Trust Company ("State Street"), with respect to the Subseries 2005-3 Bonds (the "Subseries 2005-3 Letter of Credit"), and (4) a Letter of Credit issued by Royal Bank of Canada ("Royal Bank" and, together with JPMorgan and State Street, the "Banks"), acting through its WFC, New York, Branch, with respect to the Subseries 2005-4 Bonds (the "Subseries 2005-4 Letter of Credit" and, together with the Subseries 2005-1 Letter of Credit, the Subseries 2005-2 Letter of Credit and the Subseries 2005-3 Letter of Credit, the "Letters of Credit"), the Banks have agreed, subject to certain terms and conditions, to purchase Bonds which have been tendered to the Tender Agent pursuant to the Ordinance and which have not been remarketed by the Remarketing Agent; and

WHEREAS, each Bank constitutes a Liquidity Facility Issuer and each Letter of Credit constitutes a Liquidity Facility pursuant to the Ordinance, as each such term is defined therein;

NOW, THEREFORE, in consideration of the premises and to provide for the coordination of said arrangements, the parties hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used in this Agreement and not defined herein shall have the meanings assigned to them in the Ordinance, including Appendix A thereto.

SECTION 2. Appointment of Tender Agent. Subject to the terms and conditions contained herein and in the Ordinance, Wells Fargo Bank, N.A., is hereby designated and appointed Tender Agent in the performance of its duties and obligations hereunder and under the Ordinance. Wells Fargo Bank, N.A., hereby accepts such appointment and the City consents to such designation and appointment. Wells Fargo Bank, N.A., hereby certifies that it has the capacity to, and agrees to, perform the duties and responsibilities of the Tender Agent herein and under the Ordinance. By its execution and delivery of this Agreement, the Tender Agent hereby covenants and agrees to comply with the provisions of the Ordinance applicable to the Tender Agent. To the extent of any conflict between the provision of this Agreement and the Ordinance, the Ordinance shall control.

During the term hereof, the Tender Agent hereby covenants and agrees to maintain an office where Bonds no longer held in the Book-Entry System may be delivered and tendered for purchase to the Tender Agent. The initial designated office of the Tender Agent is: 608 2<sup>nd</sup> Ave S, Minneapolis, Minnesota 55479, Attention: REORG N9303-121.

Bonds tendered for purchase which are held in Book-Entry System shall be tendered pursuant to such Book-Entry System.

SECTION 3. Creation of Purchase Fund. There has been established in the Ordinance and currently is maintained with the Tender Agent, a separate fund known as the "Purchase Fund," which shall be held by the Tender Agent for the exclusive benefit of the Owners of Bonds who are entitled to be paid the Purchase Price of such Bonds from such Fund and, to the extent of any surplus, the Person who deposited the money into the applicable account of the Purchase Fund. The Tender Agent shall further establish and maintain separate accounts within the Purchase Fund known as the "Liquidity Facility Purchase Account" and the "Remarketing Proceeds Account."

Upon receipt from the Remarketing Agent of the proceeds of remarketing of Bonds of a Subseries on a Purchase Date or Mandatory Purchase Date, the Tender Agent shall deposit such proceeds in the Remarketing Proceeds Account for application to the Purchase Price of the remarketed Bond. Notwithstanding the foregoing, upon the receipt of the proceeds of remarketing of Bank Bonds, the Tender Agent shall immediately pay such proceeds to or for the account of the related Liquidity Facility Issuer to the extent of any amount owing to such Liquidity Facility Issuer.

Upon receipt by the Tender Agent of immediately available funds to pay the Purchase Price of Bonds pursuant to Section A-411 of the Ordinance, the Tender Agent shall deposit such money in the Liquidity Facility Purchase Account for application to the Purchase Price of the Bonds to the extent that the moneys on deposit in the Remarketing Proceeds Account shall not be sufficient. Any amounts deposited in the Liquidity Facility Purchase Account and not needed with respect to the Purchase Price for any Bonds of such subseries shall be immediately returned to the order of the applicable Liquidity Facility Issuer.

Amounts held in the Liquidity Facility Purchase Account and the Remarketing Proceeds Account by the Tender Agent shall be held uninvested and separate and apart from all other funds and accounts.

SECTION 4. Delivery of Bonds. The Bonds of a subseries shall be delivered in accordance with Section A-409 of the Ordinance.

SECTION 5. Tenders; Remarketing of the Bonds.

(a) Mandatory Tenders. At the times specified in Section A-405 of the Ordinance, notice of any mandatory tender of Bonds of a subseries shall state that such Bonds are to be purchased pursuant to Sections A-402, A-403 or A-404 of the Ordinance, and shall be provided by the Paying Agent/Registrar or caused to be provided by the Paying Agent/Registrar by mailing a copy of the notice of mandatory tender by first-class mail to each Owner of the Bonds of the subseries at the respective addresses shown on the registry books. Each notice of mandatory tender for purchase shall identify the reason for the mandatory tender for purchase, and specify the CUSIP number, Mandatory Purchase Date, the Purchase Price, the place and manner of payment, that the Owner has no right to retain such Bonds and that no further interest will accrue from and after the Mandatory Purchase Date to such Owner. Each notice of mandatory tender for purchase caused by a change in the Mode applicable to the Bonds of a subseries shall in addition specify the conditions that have to be satisfied pursuant to Section A-207 of the Ordinance in order for the New Mode to become effective and the consequences that the failure to satisfy any of such conditions would have. In the event a mandatory tender of Bonds of a subseries shall occur at or prior to the same date on which an optional tender for purchase is scheduled to occur, the terms and conditions of the applicable mandatory tender for purchase shall control. The Paying Agent/Registrar shall give a copy of any notice of mandatory tender given by it to the other Notice Parties. Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner of any Bond receives the notice, and the failure of such Owner to receive any such notice shall not affect the validity of the action described in such notice. Failure by the Paying Agent/Registrar to give a notice as provided in this Section shall not affect the obligation of the Tender Agent to purchase the Bonds of a subseries subject to mandatory tender for purchase on the Mandatory Purchase Date.

(b) Optional Tenders. Any Bond of a subseries (or portions thereof in Authorized Denominations) in the Daily Rate Mode that is not a Bank Bond is subject to purchase, on the demand of the Owner thereof, at a price equal to the Purchase Price on any Business Day (such purchase to be made on the Business Day upon which such demand is made), upon irrevocable notice submitted by Electronic Means to the Tender Agent and the Remarketing Agent (promptly confirmed in writing by such Owner), delivered to the Tender Agent and the Remarketing Agent by telecopier by 11:00 a.m., New York City time, at their respective Principal Offices, which states the number and principal amount of such Bond being tendered and the Purchase Date. Such tender notice, once transmitted to the Tender Agent, shall be irrevocable with respect to the tender for which such tender notice was delivered and such tender shall occur on the Business Day specified in such Tender Notice. The Tender Agent shall, as soon as practicable, notify the City of the principal amount of Bonds of the Series being tendered. The contents of any such irrevocable telephonic tender notice shall be conclusive and binding on all parties.

The Owners of Bonds of a subseries in a Weekly Rate Mode that are not Bank Bonds may elect to have such Bonds (or portions thereof in Authorized Denominations) purchased at a price equal to the Purchase Price upon delivery of an irrevocable written notice of tender to the

Tender Agent and Remarketing Agent, at their respective Principal Offices, not later than 5:00 p.m., New York City time, on a Business Day not less than seven (7) days before the Purchase Date specified by the Owner. Such notice shall (i) state the number and the principal amount of such Bond being tendered and (ii) state that such Bond shall be purchased on the Purchase Date so specified by the Owner. The Tender Agent shall notify the City by the close of business on the next succeeding Business Day of the receipt of any notice pursuant to this paragraph.

(c) Remarketing of the Bonds.

(i) The Remarketing Agent shall notify the Tender Agent by Electronic Means not later than 11:45 a.m. (12:15 p.m. in the case of Bonds of a subseries in the Daily Rate Mode), New York City time, of the registration instructions as may be necessary to re-register the Bonds.

(ii) Unless otherwise permitted by the Securities Depository and the book-entry-only system applicable to a Series of Bonds, the Tender Agent shall authenticate and have available for delivery to the Remarketing Agent prior to 12:30 p.m., New York City time, on the Purchase Date or Mandatory Tender Date new Bonds of the Series for the respective purchasers thereof.

(iii) The Remarketing Agent shall at or before 12:00 noon (12:20 p.m. in the case of Bonds of a subseries in the Daily Rate Mode), New York City time, on the Purchase Date or Mandatory Purchase Date, as the case may be, confirm to the City, the Paying Agent/Registrar and the Tender Agent the transfer of the Purchase Price of remarketed Bonds of the subseries to the Tender Agent in immediately available funds at or before 11:45 a.m. (12:15 p.m. in the case of Bonds of a subseries in the Daily Rate Mode), New York City time, such confirmation to include the pertinent identifying information with respect to such transfer.

(iv) To the extent a Liquidity Facility is in effect for a subseries of Bonds, the Tender Agent shall draw on the related Liquidity Facility, in accordance with the terms thereof, by 12:25 p.m., New York City time, on the Purchase Date or Mandatory Purchase Date, as the case may be, in an amount equal to the Purchase Price of all Bonds of the subseries tendered or deemed tendered less the aggregate amount of remarketing proceeds confirmed to the City, the Paying Agent/Registrar and the Tender Agent by the Remarketing Agent pursuant to clause (1) of Section A-407(c) of the Ordinance and shall cause the proceeds of such draw to be transferred to the Tender Agent by no later than 2:30 p.m., New York City time. Notwithstanding the foregoing, the Tender Agent shall draw on the related Liquidity Facility in an amount equal to the Purchase Price of all Bonds of the subseries tendered or deemed tendered for purchase on each Purchase Date or Mandatory Purchase Date, as the case may be, if it does not receive a confirmation from the Remarketing Agent pursuant to clause (1) of Section A-407(c) of the Ordinance.

(v) To the extent a Liquidity Facility is in effect for a subseries of Bonds, the Tender Agent shall confirm to the City by 2:40 p.m., New York City time, on the Purchase Date or Mandatory Purchase Date, receipt of the proceeds of any draw on such Liquidity Facility.



SECTION 6. Tender of Bonds to Tender Agent. Each Owner who is required to tender its Bond to the Tender Agent must tender such Bond to the Tender Agent in accordance with Section A-410 of the Ordinance. For any Bonds required to be tendered for purchase which are not in fact delivered, the Tender Agent shall hold any funds received for purchase of those Bonds in trust in a separate account and shall pay such funds to the former Owners upon presentation of the Bonds subject to tender, and such Bonds shall be deemed tendered and cease to accrue interest as to the former Owners on the Purchase Date or Mandatory Purchase Date pursuant to the Ordinance.

SECTION 7. Source of Funds for Purchase of Bonds of a Subseries. At or before the close of business on the Purchase Date or Mandatory Purchase Date with respect to Bonds of a subseries, the Tender Agent shall purchase such Bonds from the Owners at the Purchase Price. Unless otherwise provided in a certificate of an Authorized Officer delivered to the Paying Agent/Registrar, the Insurer, the Tender Agent and the Remarketing Agent on a Purchase Date or Mandatory Purchase Date, funds for the payment of such Purchase Price shall be derived solely from the following sources in the order of priority indicated: (1) immediately available funds on deposit in the Remarketing Proceeds Account with respect to Bonds of such subseries; and (2) to the extent a Liquidity Facility is in effect, immediately available funds on deposit in the Liquidity Facility Purchase Account derived from the Liquidity Facility relating to Bonds of such subseries.

Notwithstanding the foregoing, unless otherwise provided in a certificate of an Authorized Officer delivered to the Tender Agent and the Remarketing Agent on a Purchase Date or Mandatory Purchase Date, the City shall have the option, but shall not be obligated, to transfer immediately available funds to the Tender Agent for the payment of the Purchase Price of any Bond that is tendered or deemed tendered for purchase in accordance with the terms of Appendix A of the Ordinance and the Purchase Price of which is not paid on the Purchase Date or Mandatory Purchase Date from the source identified above. Any Bonds purchased with such funds from the City shall be cancelled unless otherwise consented to by the Insurer. None of the City, the Tender Agent nor the Remarketing Agent shall have any liability or obligation to pay or advance its own funds or, except from the source identified above, make available such Purchase Price. Any Bonds held by or for the account of the City shall not be entitled to the benefit of a Liquidity Facility or the Bond Insurance Policy. Unless otherwise provided in a certificate of an Authorized Officer delivered to the Paying Agent/Registrar and the Tender Agent on a Purchase Date or Mandatory Purchase Date, the failure to pay any such Purchase Price for Bonds of a subseries that have been tendered or deemed tendered for purchase from the source identified above shall not constitute an Event of Default under the Ordinance and in the case of such failure such Bonds shall not be purchased and shall remain in the Mode in effect immediately preceding such Purchase Date or Mandatory Purchase Date, as the case may be, unless such Mode is automatically converted to a Weekly Rate Mode pursuant to Section A-205 of the Ordinance; provided, however, that if such Bonds were in the Auction Rate Mode immediately preceding such Date, such Bonds shall remain in the Auction Rate Mode for an Auction Period and bearing an Auction Period Rate as provided in Section A-207(c)(7) of the Ordinance.

SECTION 8. Purchase of Tendered Bonds by the Liquidity Facility Issuer; Deposits into the Liquidity Facility Purchase Account of the Purchase Fund; Notice to Paying Agent/Registrar and Tender Agent; Release of Bank Bonds. Each Liquidity Facility Issuer, upon receipt of the

appropriate notice pursuant to the respective Liquidity Facility, has agreed in such Liquidity Facility to purchase such unremarketed Bonds of a subseries by causing an amount equal to the aggregate Purchase Price of the unremarketed Bonds to be deposited in immediately available funds in the Liquidity Facility Purchase Account of the Purchase Fund no later than 2:30 p.m., New York City time, on the Purchase Date against delivery of such Bonds at the time and in the manner set forth in such Liquidity Facility.

The Tender Agent agrees to hold Bank Bonds as agent of each Liquidity Facility Issuer and to release any Bank Bonds solely in accordance with Section A-409 of the Ordinance.

SECTION 9. Disbursements from the Purchase Fund. Money in each of the Remarketing Proceeds Account and the Liquidity Facility Purchase Account of the Purchase Fund shall be applied by the Tender Agent by 3:00 p.m., New York City time, on each Purchase Date or Mandatory Purchase Date to purchase Bonds tendered to the Tender Agent at the Purchase Price in accordance with Appendix A of the Ordinance. Such Purchase Price shall be paid by wire transfer in immediately available funds on such Purchase Date or Mandatory Purchase Date; provided, however, for so long as the Bonds are held in the Book-Entry System, such payment will be in accordance with the requirements of the Book-Entry System.

SECTION 10. Transfer and Delivery of Tendered Bonds for Purchase. A principal amount of Bonds equal to the principal amount of Bonds purchased on behalf of the Remarketing Agent pursuant to Sections 5 and 11 hereof or by a Liquidity Facility Issuer pursuant to Section 8 hereof shall be authenticated by the Tender Agent and delivered to, or as instructed by, the Remarketing Agent or the respective Liquidity Facility Issuer, as applicable, and the Tender Agent shall cause the Paying Agent/Registrar to register such Bonds in the name or names provided by the Remarketing Agent or the respective Liquidity Facility Issuer, as applicable. The Remarketing Agent is required to redeliver such Bonds received from the Tender Agent to the respective purchasers not later than 3:30 p.m., New York City time.

Notwithstanding anything to the contrary in the foregoing paragraph, for so long as the Bonds are held in the system of book-entry of DTC in accordance with Section 3.09 of the Ordinance, (i) any Bond remarketed by the Remarketing Agent shall be delivered to the new beneficial owner thereof by a transfer in the book-entry system of DTC of such remarketed Bond to the applicable DTC Participant account for such beneficial owner; and (ii) Bank Bonds shall be delivered to the applicable Liquidity Facility Issuer by a transfer in the book-entry system of DTC of such Bank Bonds to the DTC Participant account of the Tender Agent for the benefit of such Liquidity Facility Issuer, as beneficial owner of such Bank Bonds.

SECTION 11. Remarketing of Bank Bonds. The Remarketing Agent has agreed in the Remarketing Agreement that it shall exercise its best efforts to solicit purchases of any Bank Bonds at a price of not less than 100% of the principal amount thereof, and upon receipt of the proceeds of any remarketing of such Bank Bonds the Tender Agent shall immediately pay such proceeds to or for the account of the related Liquidity Facility Issuer to the extent of any amount owing to such Liquidity Facility Issuer. Upon receipt by the Tender Agent of funds representing the proceeds of the remarketing of such Bank Bonds, new Bonds in place of such Bank Bonds so remarketed shall be registered in the names of the buyers thereof by the Paying Agent/Registrar and delivered by the Remarketing Agent to the buyers thereof and the proceeds of such

remarketing shall, prior to or simultaneously with such delivery, be transferred by the Tender Agent to the related Liquidity Facility Issuer by wire transfer.

SECTION 12. Draws on Liquidity Facility. Draws on any Liquidity Facility shall be made in accordance with the provisions of Section A-411 of the Ordinance.

SECTION 13. Maintenance of Books and Records. The Tender Agent agrees to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the City, the related Credit Facility Issuer and the related Liquidity Facility Issuer at all reasonable times.

SECTION 14. Notice. Except as specifically provided in this Agreement and unless otherwise hereafter directed in writing by the applicable Person, all notices, demands and formal actions under this Agreement shall be in writing and mailed, telecommunicated or otherwise delivered to:

The Tender Agent:

Wells Fargo Bank, N.A.  
608 2<sup>nd</sup> Ave S  
Minneapolis, MN 55479  
Attention: REORG N9303-121  
Telephone: (612) 316-2148  
Telecopy: (612) 667-4927

with a copy to:

Wells Fargo Bank, N.A.  
750 N. St. Paul Place, Suite 1750  
MAC : T9263-170  
Dallas, TX 75201  
Attention: Kristel Richards  
Telephone: (214) 756-7417  
Telecopy: (214) 756-7401  
E-mail: Kristel.d.richards@wellsfargo.com

The City:

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer  
Telephone: (512) 974-7882  
Telecopy: (512) 370-3838  
E-mail: Art.Alfaro@ci.austin.tx.us

The Liquidity Facility Issuer:  
With respect to the Subseries 2005-1  
Bonds and the Subseries 2005-2 Bonds:

JPMorgan Chase Bank, National Association  
Public Finance Credit Origination  
383 Madison Avenue, 8th Floor  
Mail Code NY1-M076  
New York, NY 10179  
Attention: David M. Bayer  
Phone: (212) 270-4186  
Fax: (917) 546-2657  
E-mail: public.finance.notices@jpmchase.com;  
david.m.bayer@jpmchase.com

With a copy to:

JPMorgan Chase Bank, National Association  
Loan and Agency Services  
1111 Fannin, 10th Floor  
Houston, TX 77002  
Mail Code: TX2-FO46  
Attention: Amanda Brewer/Kimberly Brown  
Phone: (713) 427-0002 / (713) 750-2502  
Fax: (713) 750-2956

and:

JPMorgan Chase Bank, National Association  
Standby Letter of Credit Unit  
131 South Dearborn, 5th Floor  
Mail Code IL1-0236  
Chicago, IL 60603-5506  
Facsimile No.: (312) 954-6163  
Telephone No. (800) 634-1969, Option 1  
Attention: Standby Service Unit

With respect to the Subseries 2005-3  
Bonds

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

With a copy to:

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

With respect to the Subseries 2005-4 Bonds      Royal Bank of Canada  
WFC Branch  
Three World Financial Center  
200 Vesey Street  
New York, NY 10281-8098  
Attention: Credit Transaction Management  
(D. Stapleton)  
Facsimile No.: (416) 842-4020

With a copy to:      Royal Bank of Canada  
Three World Financial Center, 12th Floor  
200 Vesey Street  
New York, NY 10281-8098  
Attention: Laurent Mastey  
Facsimile No.: (212) 428-6201

and:      Royal Bank of Canada  
Royal Bank Plaza  
South Tower, 12th Floor  
200 Bay Street  
Toronto, ON M5J 2J5  
Canada  
Attention: Credit Transaction Management  
(D. Stapleton)  
Facsimile No.: (416) 842-4020

#### SECTION 15. General.

(a) Payment of Tender Agent: Indemnification. The City shall pay the annual Tender Agent fee and all reasonable and actual out of pocket expenses of the Tender Agent for acting under and pursuant to this Agreement as set forth in Annex A hereto. To the extent permitted by law, the City shall indemnify and save harmless the Tender Agent and its officers and employees from and against any and all losses, costs, charges, expenses, judgments and liabilities to third parties arising out of its acting in good faith to carry out the transactions contemplated by this Agreement; provided, however, that such indemnification shall not apply to any losses, costs, charges, expenses, judgments or liabilities caused by the negligence or willful misconduct of the Tender Agent or its officers or employees. The terms of this Section 15(a) shall survive the termination of this Agreement and the payment of the all fees, expenses and amounts due hereunder shall be subject to annual appropriation of available funds by the City for the payment thereof.

(b) Tender Agent's Performance: Duty of Care. The Tender Agent consents and agrees to (i) hold all sums held by it for the payment of Bonds or Bank Bonds, as applicable, in trust for the benefit of the Owners or the related Liquidity Facility Issuer, as applicable, until such sums shall be paid to the Owners or the related Liquidity Facility Issuer or otherwise disposed of as herein provided, and (ii) perform and comply with all the terms and provisions on its part contained in this Agreement.

The duties and obligations of the Tender Agent shall be determined solely by the express provisions of this Agreement and the Ordinance, and no implied covenants or obligations shall be read into this Agreement against the Tender Agent; and in the absence of negligence or willful misconduct on the part of the Tender Agent, the Tender Agent may conclusively rely, as to the truth of the statements expressed therein, upon any document furnished to the Tender Agent and conforming to the requirements of this Agreement and the Tender Agent may rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties; but in the case of any such document which by any provision hereof is specifically required to be furnished to the Tender Agent, the Tender Agent shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Agreement.

No provision of this Agreement shall be construed to relieve the Tender Agent from liability for its own negligence or willful misconduct or that of its officers or employees.

(c) Payments. Any provision of this Agreement or any statute to the contrary notwithstanding, the Tender Agent hereby waives any rights to, or liens for, its fees, charges and expenses for services hereunder from funds or obligations credited to the Purchase Fund. The Tender Agent agrees that it will be reimbursed and compensated for its fees, charges and expenses for acting under and pursuant to this Agreement only from payments to be made by the City pursuant to Section 15(a) hereof.

(d) Term of this Agreement. This Agreement shall become effective upon the effective date of the Letters of Credit and shall remain in full force and effect until (i) such time as the principal of and premium, if any, and interest on all Bonds under the Ordinance shall have been paid or shall no longer have the right to be tendered for purchase; provided, however, that the City and the Tender Agent shall have fulfilled all their respective obligations hereunder, whereupon this Agreement shall terminate; or (ii) resignation by the Tender Agent or removal of the Tender Agent in accordance with Section 15(e) hereof, it being understood, in each case, that the Tender Agent does not waive or relinquish any rights it may have under Section 15(a) hereof.

(e) Resignation by or Removal of the Tender Agent. The Tender Agent may at any time resign and be discharged from the duties and obligations hereby created by giving at least sixty (60) days' written notice by first class mail, postage prepaid, to the City, the related Credit Facility Issuer and the related Liquidity Facility Issuer; provided, that resignation or removal (as set out below) shall not be effective until a successor Tender Agent, which shall be a bank or trust company duly qualified to act in the capacity as a successor Tender Agent, shall have been appointed by the City and acting under the Ordinance. The Tender Agent may be removed at any time, at the direction of the City, by an instrument filed with the Tender Agent and the Remarketing Agent.

(f) Amendments. (i) This Agreement may not be amended so as to adversely affect the right of the Owners or any Liquidity Facility Issuer to effect the purchase of Bonds pursuant to the Ordinance without the prior written approval of each effected Liquidity Facility Issuer and (ii) the City agrees to give to the Tender Agent prompt written notice of any modification or change of or supplement or amendment to the Ordinance which would affect the rights or

obligations of the Tender Agent hereunder. No such modification or change shall be effective against the Tender Agent unless the Tender Agent shall have consented thereto in writing.

(g) Successors and Assigns. The rights, duties and obligations of the City, the Paying Agent/Registrar, the Remarketing Agent and the Tender Agent hereunder shall inure, without further act, to their respective successors and permitted assigns; provided, however, that the Tender Agent may not assign or delegate its rights and obligations under this Agreement without the prior written consent of the City and, provided further, any successor Tender Agent shall execute a tender agent agreement substantially in the form and substance as this Agreement.

(h) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

(i) Limited Liability. Any obligation of the City created by or arising out of this Agreement and owing to the Tender Agent shall be a limited unsecured obligation of the City, payable solely from the Net Revenues of the Airport System, in accordance with the customary payment approval procedures, policies and processes of the City.

(j) Governing Law. This Agreement shall be governed by the laws of the State of Texas.

*[Remainder of page intentionally left blank]*

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

WELLS FARGO BANK, N.A. as Tender Agent

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CITY OF AUSTIN, TEXAS

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## ANNEX A

### FEES OF THE TENDER AGENT



#### SCHEDULE OF FEES

City of Austin, Texas  
Airport System Revenue Refunding Bonds, Series 2005,  
Subseries 2005-1; 2005-2; 2005-3; 2005-4

#### TO ACT AS TENDER AGENT

**Acceptance Fee:**

**\$0.00**

Initial Fees as they relate to Wells Fargo Bank acting in the capacity of Paying Agent/Registrar – includes creation and examination of the Paying Agent/Registrar Agreement; acceptance of the appointment; setting up of Paying Agent/Registrar records and accounting records; and coordination of closing.

Acceptance Fee payable at time of Tender Agency Agreement execution.

**Annual Tender Agent Fee:**

**\$1,000.00**

**Out of Pocket Expenses and Activity Fees:**

We only charge for out of pocket expenses in response to specific tasks assigned by the client. Therefore, we cannot anticipate what specific out-of-pocket items will be needed or what corresponding expenses will be incurred. Possible expenses would be, but are not limited to, express mail and messenger charges, travel expenses to attend closing or other meetings. There are no charges for indirect out-of-pocket expenses. Conversion fees from existing structure to Variable Rate Series will be \$250 for each series and there will be a \$100 charge for each optional tender notice.

*This fee schedule is based upon the assumptions listed above which pertain to the responsibilities and risks involved in Wells Fargo undertaking the role of Paying Agent/Registrar. These assumptions are based on information provided to us as of the date of this fee schedule. Our fee schedule is subject to review and acceptance of the final documents. Should any of the assumptions, duties or responsibilities change, we reserve the right to affirm, modify or rescind our fee schedule.*

***Submitted by:***

Gregory M. Hasty – April 23, 2008  
Vice President/Business Development  
Wells Fargo Bank  
(214) 740-1548

**EXHIBIT F-1**

[JPM Amendment to Reimbursement Agreement]

**FIRST AMENDMENT TO LETTER OF CREDIT AND REIMBURSEMENT  
AGREEMENT**

This First Amendment to Letter of Credit and Reimbursement Agreement (this "*Amendment*") dated as of May 1, 2012, is by and between the City of Austin, Texas (the "*City*") and JPMorgan Chase Bank, National Association (together with its successor and assigns, the "*Bank*"). All capitalized terms used herein but undefined shall have the meanings for such terms set forth in the Agreement (as defined below).

**WITNESSETH:**

WHEREAS, the City and the Bank have previously executed and delivered a Letter of Credit and Reimbursement Agreement dated June 1, 2011 (the "*Agreement*"), pursuant to which the Bank issued two separate irrevocable transferable direct-pay letters of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-1 Bonds and the Subseries 2005-2 Bonds and to provide a liquidity facility in respect of certain drawings under the Subseries 2005-1 Letter of Credit and the Subseries 2005-2 Letter of Credit (together, the "*Letters of Credit*");

WHEREAS, concurrently with the issuance by the Bank of its Letters of Credit, KBC Bank N.V., acting through its New York Branch ("*KBC*"), issued an irrevocable transferable direct pay letter of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-3 Bonds and to provide a liquidity facility in respect of certain drawings under the Subseries 2005-3 Letter of Credit;

WHEREAS, concurrently with the issuance by the Bank of its Letters of Credit, Royal Bank of Canada ("*Royal Bank*"), acting through its WFC, New York, Branch, issued an irrevocable transferable direct pay letter of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-4 Bonds and to provide a liquidity facility in respect of certain drawings under the Subseries 2005-4 Letter of Credit;

WHEREAS the City has decided to terminate the Subseries 2005-3 Letter of Credit issued by KBC and replace it with a letter of credit to be issued by State Street Bank and Trust Company ("*State Street*");

WHEREAS, it is necessary to amend the Agreement to reflect the replacement of KBC with State Street as the provider of the Subseries 2005-3 Letter of Credit; and

WHEREAS, the Bank's Letters of Credit Nos. CPCS-926106 and CPCS-927415 shall also be amended (hereinafter referred to as the "*LOC Amendments*") to reflect certain matters relating to the issuance of the State Street letter of credit (copies of such LOC Amendments are attached hereto as Exhibit A);

NOW, THEREFORE, in consideration of the premises and the mutual agreements, representations and warranties herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties do hereby agree as follows:

**Section 1. Amendments to Definitions.**

- a. The definitions of "*Banks*," "*Cancellation Agreement*," "*Required Banks*," "*Subseries 2005-1 Letter of Credit*," "*Subseries 2005-2 Letter of Credit*," "*Subseries 2005-3 Letter of Credit*" and "*Tender Agent Agreement*" in Article I of the Agreement are hereby deleted and replaced with the following:

"*Banks*" means collectively, the Bank, State Street and Royal Bank.

"*Cancellation Agreement*" means the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent and Tender agent, the Bank, State Street, Royal Bank and the Insurer, as the same may be amended, modified or supplemented in accordance with its terms.

"*Required Banks*" means any two of the Bank, State Street and Royal Bank.

"*Subseries 2005-1 Letter of Credit*" means irrevocable transferable direct-pay letter of credit No. CPCS-926106 issued by the Bank for the Subseries 2005-1 Bonds, as amended.

"*Subseries 2005-2 Letter of Credit*" means irrevocable transferable direct-pay letter of credit No. CPCS-927415 issued by the Bank for the Subseries 2005-2 Bonds, as amended.

"*Subseries 2005-3 Letter of Credit*" means irrevocable transferable direct-pay letter of credit issued by State Street for the Subseries 2005-3 Bonds.

"*Tender Agent Agreement*" means the Second Amended and Restated Tender Agency Agreement between the Tender Agent and the City dated as of May 1, 2012 relating to the Bonds.

- b. The following new definition is added to Article I of the Agreement:

"*State Street*" means State Street Bank and Trust Company.

**Section 2. Counterparts.** This Amendment may be executed in counterparts, each of which shall constitute an original and all taken together constitute one instrument. This Amendment may be delivered by the exchange of signed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as the originally signed version of such signature page.

**Section 3. Conditions Precedent.** As conditions to the effectiveness of this Amendment (i) the City shall have paid all legal fees of legal counsel to the Bank related to the preparation of this Amendment, and (ii) the Bank shall have received such additional documents, instruments and information as the Bank or its legal counsel may reasonably request. The

issuance of the LOC Amendments to Wells Fargo Bank, N.A., in its capacities as Paying Agent and as Tender Agent, shall constitute an acknowledgement by the Bank that the conditions precedent set forth in this Section 3 have been satisfied or waived.

**Section 4. Representations True; No Default.** The City represents and warrants that the representations and warranties contained in Section 3.1 of the Agreement are true and correct in all material respects on and as of the date hereof as though made on and as of such date (except to the extent that such representations and warranties specifically refer to an earlier date, in which case, they are true and correct as of such earlier date); provided, that, for purposes of Section 3.1(g) of the Agreement, no representation is made as to information with respect to the Insurer, the Bank, Royal Bank or State Street. The City hereby represents and warrants that no event has occurred and is continuing which constitutes a City Event of Default or which upon the giving of notice or the lapse of time or both would constitute a City Event of Default.

**Section 5. Ratification.** Except as expressly amended hereby, the Agreement shall remain in full force and effect.

**Section 6. Definitions and References.** Any term used herein which is defined in the Agreement shall have the meaning therein ascribed to it unless otherwise indicated herein. The term "Agreement" as used in the Agreement or any other instrument, document or writing furnished to the Bank by the City and referring to the Agreement shall mean the Agreement as hereby amended.

**Section 7. Governing Law.** This Amendment shall be deemed to be a contract under, and for all purposes shall be governed by, and construed and interpreted in accordance with, the law of the State of Texas. Each party hereto irrevocably waives, if and to the extent permitted by applicable law, any and all, to the extent permitted by law, right to a trial by jury in any action, suit or legal proceedings arising out of or relating to this Amendment or the transactions contemplated hereby.

**Section 8. Miscellaneous.** THE AGREEMENT AS AMENDED BY THIS AMENDMENT AND THE BANK FEE AGREEMENT CONSTITUTE THE ENTIRE UNDERSTANDING OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND THEREOF AND ANY PRIOR AGREEMENTS, WHETHER WRITTEN OR ORAL, WITH RESPECT THERETO ARE SUPERSEDED HEREBY AND THEREBY.

**THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

[Signatures on following page ]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective representatives thereunto duly authorized as of the date first above written.

**JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION**

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

**CITY OF AUSTIN, TEXAS**

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

Exhibit A

Copies of Letter of Credit Amendments

NOTICE OF AMENDMENT

May \_\_, 2012  
CUSIP No. \_\_\_\_\_

Wells Fargo Bank, N.A.  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214-756-7417  
Fax: 214-756-7401  
[kristel.d.richards@wellsfargo.com](mailto:kristel.d.richards@wellsfargo.com)

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. CPCS-**926106** dated June 21, 2011 (the "*Letter of Credit*"), established by us in your favor as Beneficiary related to the City of Austin, Texas Airport system Refunding Revenue Bonds, Series 2005 AMT, Subseries 2005-1 (the "*Bonds*"). All capitalized terms used herein but undefined shall have the meanings for such terms set forth in the Letter of Credit and Reimbursement Agreement dated June 1, 2011 by and between the City of Austin, Texas (the "*City*") and the Bank, as amended by that certain First amendment to Letter of Credit and Reimbursement Agreement dated May 1, 2012 by and between the City and the Bank (the "*Agreement*").

All other terms and conditions remain unchanged. This amendment shall be attached to the Letter of Credit and made a part thereof.

a. The term "*Cancellation Agreement*" in the Letter of Credit is hereby amended to mean the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent/Register and Tender Agent, the Bank, State Street Bank and Trust Company, Royal Bank of Canada, acting through its WFC, New York, Branch and the Insurer.

b. All references in the Letter of Credit and the exhibits attached thereto to contact information for Wells Fargo Bank, National Association shall be deleted and replaced with the following:

Wells Fargo Bank, N.A.  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214-756-7417  
Fax: 214-756-7401  
[kristel.d.richards@wellsfargo.com](mailto:kristel.d.richards@wellsfargo.com)



c. Exhibit L to the Letter of Credit is hereby deleted and replaced with the attached Exhibit L (which consists of Exhibit A-1 and Exhibit A-2 to the above-referenced Amended and Restated Insurance Policy Cancellation Agreement).

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

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

Exhibit L

**Exhibit A-1 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N**

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Assured Guaranty Municipal Corp.  
31 West 52nd Street  
New York, NY 10019  
Attention: Director, Municipal Surveillance

Re: Municipal Bond Insurance Policy No. 205494-N; City of Austin, Texas Airport  
System Refunding Revenue Bonds, Series 2005 (AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default has occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice"), and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement.]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and pursuant to Section 6.4(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section

A-403 of the Ordinance and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit A-2 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Termination of the Letters of Credit  
(Insurance Policy Not Cancelled)**

[Date]

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Re: City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005  
(AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that:

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default and an Insurer Event of Default have occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[the City has failed to pay the Letter of Credit Fee and pursuant to Section 6.4(b) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and is continuing, and a City Event of Default has also occurred and is continuing and pursuant to Section 6.4(c) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

cc: Assured Guaranty Municipal Corp.

NOTICE OF AMENDMENT

May \_\_, 2012  
CUSIP No. \_\_\_\_\_

Wells Fargo Bank, N.A.  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214-756-7417  
Fax: 214-756-7401  
[kristel.d.richards@wellsfargo.com](mailto:kristel.d.richards@wellsfargo.com)

Ladies and Gentlemen:

Reference is hereby made to that certain Irrevocable Transferable Letter of Credit No. CPCS-**927415** dated June 21, 2011 (the "*Letter of Credit*"), established by us in your favor as Beneficiary related to the City of Austin, Texas Airport system Refunding Revenue Bonds, Series 2005 AMT, Subseries 2005-2 (the "*Bonds*"). All capitalized terms used herein but undefined shall have the meanings for such terms set forth in the Letter of Credit and Reimbursement Agreement dated June 1, 2011 by and between the City of Austin, Texas (the "*City*") and the Bank, as amended by that certain First amendment to Letter of Credit and Reimbursement Agreement dated May 1, 2012 by and between the City and the Bank (the "*Agreement*").

All other terms and conditions remain unchanged. This amendment shall be attached to the Letter of Credit and made a part thereof.

d. The term "*Cancellation Agreement*" in the Letter of Credit is hereby amended to mean the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent/Register and Tender Agent, the Bank, State Street Bank and Trust Company, Royal Bank of Canada, acting through its WFC, New York, Branch and the Insurer.

e. All references in the Letter of Credit and the exhibits attached thereto to contact information for Wells Fargo Bank, National Association shall be deleted and replaced with the following:

Wells Fargo Bank, N.A.  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214-756-7417  
Fax: 214-756-7401  
[kristel.d.richards@wellsfargo.com](mailto:kristel.d.richards@wellsfargo.com)

f. Exhibit L to the Letter of Credit is hereby deleted and replaced with the attached Exhibit L (which consists of Exhibit A-1 and Exhibit A-2 to the above-referenced Amended and Restated Insurance Policy Cancellation Agreement).

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit L

**Exhibit A-1 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N**

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Assured Guaranty Municipal Corp.  
31 West 52nd Street  
New York, NY 10019  
Attention: Director, Municipal Surveillance

Re: Municipal Bond Insurance Policy No. 205494-N; City of Austin, Texas Airport  
System Refunding Revenue Bonds, Series 2005 (AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default has occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice"), and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement.]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and pursuant to Section 6.4(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section



A-403 of the Ordinance and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit A-2 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Termination of the Letters of Credit  
(Insurance Policy Not Cancelled)**

[Date]

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Re: City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005  
(AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that:

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default and an Insurer Event of Default have occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[the City has failed to pay the Letter of Credit Fee and pursuant to Section 6.4(b) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and is continuing, and a City Event of Default has also occurred and is continuing and pursuant to Section 6.4(c) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

cc: Assured Guaranty Municipal Corp.

**EXHIBIT F-2**

[Royal Bank Amendment to Reimbursement Agreement]

**FIRST AMENDMENT TO LETTER OF CREDIT AND REIMBURSEMENT  
AGREEMENT**

This First Amendment to Letter of Credit and Reimbursement Agreement (this "*Amendment*") dated as of May 1, 2012, is by and between the City of Austin, Texas (the "*City*") and Royal Bank of Canada (together with its successors and assigns, the "*Bank*"), acting through its WFC, New York, Branch. All capitalized terms used herein but undefined shall have the meanings for such terms set forth in the Agreement (as defined below).

**WITNESSETH:**

WHEREAS, the City and the Bank have previously executed and delivered a Letter of Credit and Reimbursement Agreement dated June 1, 2011 (the "*Agreement*"), pursuant to which the Bank issued its irrevocable transferable direct pay letter of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-4 Bonds and to provide a liquidity facility in respect of certain drawings under the Letter of Credit;

WHEREAS, concurrently with the issuance by the Bank of its Letter of Credit, JPMorgan Chase Bank, National Association ("*JPMorgan*") issued two separate irrevocable transferable direct pay letters of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-1 Bonds and the Subseries 2005-2 Bonds;

WHEREAS, concurrently with the issuance by the Bank of its Letter of Credit, KBC Bank N.V., acting through its New York Branch ("*KBC*"), issued an irrevocable transferable direct pay letter of credit for the payment by the Paying Agent, when and as due, of the principal and purchase price of and interest on the Subseries 2005-3 Bonds;

WHEREAS the City has decided to terminate the Subseries 2005-3 Letter of Credit issued by KBC and replace it with a letter of credit to be issued by State Street Bank and Trust Company ("*State Street*");

WHEREAS, it is necessary to amend the Agreement to reflect the replacement of KBC with State Street as the provider of the Subseries 2005-3 Letter of Credit; and

WHEREAS, the Bank's Letter of Credit shall also be amended (hereinafter referred to as the "*LOC Amendment*") to reflect certain matters relating to the issuance of the State Street letter of credit (a copy of the LOC Amendment is attached hereto as Exhibit A);

NOW, THEREFORE, in consideration of the premises and the mutual agreements, representations and warranties herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties do hereby agree as follows:

**Section 1. Amendments to Definitions.**

- a. The definitions of "*Banks*," "*Cancellation Agreement*," "*Required Banks*," "*Subseries 2005-3 Letter of Credit*" and "*Tender Agent Agreement*" in Article I of the Agreement are hereby deleted and replaced with the following:

"*Banks*" means, collectively, the Bank, State Street and JPMorgan.

"*Cancellation Agreement*" means the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent and Tender Agent, JPMorgan, the Bank, State Street and the Insurer, as the same may be amended, modified or supplemented in accordance with its terms.

"*Required Banks*" means any two of the Bank, State Street and JPMorgan.

"*Subseries 2005-3 Letter of Credit*" means the irrevocable transferable direct pay letter of credit issued by State Street for the Subseries 2005-3 Bonds.

"*Tender Agent Agreement*" means the Second Amended and Restated Tender Agency Agreement, dated as of May 1, 2012, between the City and the Tender Agent relating to the Bonds.

- b. The following new definition is added to Article I of the Agreement:

"*State Street*" means State Street Bank and Trust Company.

**Section 2. Counterparts.** This Amendment may be executed in counterparts, each of which shall constitute an original but all taken together to constitute one instrument. This Amendment may be delivered by the exchange of signed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as the originally signed version of such signature page.

**Section 3. Conditions Precedent.** As conditions to the effectiveness of this Amendment (i) the City shall have paid all legal fees of legal counsel to the Bank related to the preparation of this Amendment, (ii) the Bank shall have received such additional documents, instruments and information as the Bank or its legal counsel may reasonably request, and (iii) the City shall have paid the amendment fee to the Bank pursuant to Section 1.3 of the Bank Fee Agreement. The issuance of the LOC Amendment to Wells Fargo Bank, N.A., in its capacities as Paying Agent and as Tender Agent, shall constitute an acknowledgement by the Bank that the conditions precedent set forth in this Section 3 have been satisfied or waived.

**Section 4. Representations True; No Default.** The City represents and warrants that the representations and warranties contained in Section 3.1 of the Agreement are true and correct in all material respects on and as of the date hereof as though made on and as of such date

(except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date); *provided* that, for purposes of Section 3.1(g) of the Agreement, no representation is made as to information with respect to the Insurer, the Bank, JPMorgan or State Street. The City hereby represents and warrants that no event has occurred and is continuing which constitutes a City Event of Default or which upon the giving of notice or the lapse of time or both would constitute a City Event of Default.

**Section 5. Ratification.** Except as expressly amended hereby, the Agreement shall remain in full force and effect.

**Section 6. Definitions and References.** Any term used herein which is defined in the Agreement shall have the meaning therein ascribed to it unless otherwise indicated herein. The term "Agreement" as used in the Agreement or any other instrument, document or writing furnished to the Bank by the City and referring to the Agreement shall mean the Agreement as hereby amended.

**Section 7. Governing Law.** This Amendment shall be deemed to be a contract under, and for all purposes shall be governed by, and construed and interpreted in accordance with, the law of the State of Texas. Each party hereto irrevocably waives, if and to the extent permitted by applicable law, any and all, to the extent permitted by law, right to a trial by jury in any action, suit or legal proceedings arising out of or relating to this Amendment or the transactions contemplated hereby.

**Section 8. Miscellaneous.** The Agreement as amended by this Amendment and the Bank Fee Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and thereof, and any prior agreements, whether written or oral, with respect thereto are superseded hereby and thereby.

There are no unwritten oral agreements between the parties.

[Signatures on following page ]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective representatives thereunto duly authorized as of the date first above written.

**ROYAL BANK OF CANADA**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Signatory

**CITY OF AUSTIN, TEXAS**

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



## Exhibit A

### Form of LOC Amendment

## AMENDMENT

May \_\_, 2012

Letter of Credit No. 738/S24814 2005-4

**Beneficiary:**

Wells Fargo Bank, National Association, as Paying  
Agent/Registrar and Tender Agent (the "*Beneficiary*")  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214-756-7417  
Fax: 214-756-7401  
[kristel.d.richards@wellsfargo.com](mailto:kristel.d.richards@wellsfargo.com)

Ladies and Gentlemen:

Reference is hereby made to Irrevocable Transferable Direct Pay Letter of Credit No. 738/S24814 2005-4 (the "*Letter of Credit*") established by us in your favor as Beneficiary, for the benefit of the holders of the City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005 (AMT), Subseries 2005-4. All capitalized terms used herein but undefined shall have the meanings for such terms set forth in the Letter of Credit and Reimbursement Agreement dated June 1, 2011, by and between the City of Austin, Texas (the "*City*") and Royal Bank of Canada (together with its successors and assigns, the "*Bank*"), acting through its WFC, New York, Branch, as amended by the First Amendment to Letter of Credit and Reimbursement Agreement dated as of May 1, 2012, by and between the City and the Bank (the "*Agreement*").

The Letter of Credit is hereby amended as follows:

- a. The second paragraph is amended to read as follows:

The term "*Cancellation Agreement*" means the Amended and Restated Insurance Policy Cancellation Agreement dated as of May 1, 2012 entered into by and among the City, Wells Fargo Bank, National Association, as Paying Agent and Tender Agent, JPMorgan Chase Bank, National Association, the Bank, State Street Bank and Trust Company and the Insurer.

b. All references in the Letter of Credit and the exhibits attached thereto to address information for Wells Fargo Bank, National Association shall be deleted and replaced with the following:

Wells Fargo Bank, National Association  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214-756-7417  
Fax: 214-756-7401  
[kristel.d.richards@wellsfargo.com](mailto:kristel.d.richards@wellsfargo.com)

c. Exhibit L to the Letter of Credit is hereby deleted and replaced with the attached Exhibit L (which consists of Exhibit A-1 and Exhibit A-2 to the above-referenced Amended and Restated Insurance Policy Cancellation Agreement).

All other terms and conditions of the Letter of Credit remain unchanged. This Amendment shall be attached to the Letter of Credit and made a part thereof.

ROYAL BANK OF CANADA

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

Exhibit L

**Exhibit A-1 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N**

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Assured Guaranty Municipal Corp.  
31 West 52nd Street  
New York, NY 10019  
Attention: Director, Municipal Surveillance

Re: Municipal Bond Insurance Policy No. 205494-N; City of Austin, Texas Airport  
System Refunding Revenue Bonds, Series 2005 (AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements  
(as hereinafter defined), hereby advise you that

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default has occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice"), and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement.]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and pursuant to Section 6.4(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar (i) to cause a mandatory tender of all of the Bonds in accordance with Section

A-403 of the Ordinance and (ii) to cause Municipal Bond Insurance Policy No. 205494-N to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Cancellation of Insurance Policy No. 205494-N (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit A-2 to Insurance Policy Cancellation Agreement**

**Notice of Mandatory Tender and Termination of the Letters of Credit  
(Insurance Policy Not Cancelled)**

[Date]

Wells Fargo Bank, National Association, as Paying Agent/Registrar and Tender Agent  
750 N. St. Paul Place, Suite 1750  
MAC: T9263-170  
Dallas, TX 75201  
Ph: 214.756.7417  
Fax: 214.756.7401  
E-mail: kristel.d.richards@wellsfargo.com

City of Austin, Texas  
700 Lavaca, Suite 940  
Austin, TX 78701  
Attention: City Treasurer

Re: City of Austin, Texas Airport System Refunding Revenue Bonds, Series 2005  
(AMT)

Ladies and Gentlemen:

The undersigned, constituting the Required Banks under the Reimbursement Agreements (as hereinafter defined), hereby advise you that:

**[Insert one of the following paragraphs as appropriate]**

[a City Event of Default and an Insurer Event of Default have occurred and pursuant to Section 6.3(a) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[the City has failed to pay the Letter of Credit Fee and pursuant to Section 6.4(b) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

[an Insurer Event of Default or an Insurer Downgrade Event has occurred and is continuing, and a City Event of Default has also occurred and is continuing and pursuant to Section 6.4(c) of the Reimbursement Agreements the Required Banks hereby direct the Paying Agent/Registrar to cause a mandatory tender of all of the Bonds in accordance with Section A-403 of the Ordinance, whereby the Letters of Credit will terminate on the sixteenth (16<sup>th</sup>) day following the Paying Agent/Registrar's receipt of this Notice of Mandatory Tender and Termination of the Letters of Credit (this "Notice").]

All capitalized terms used in this Notice and not defined herein shall have the meanings ascribed to such terms in the Letter of Credit and Reimbursement Agreements, dated as of the date set forth therein, by and between the City of Austin, Texas and, respectively, JPMorgan Chase Bank, National Association, Royal Bank of Canada, acting through its WFC, New York, Branch, and State Street Bank and Trust Company (as in effect on the date hereof, the "Reimbursement Agreements").

IN WITNESS WHEREOF, the undersigned have executed and delivered this Notice the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE STREET BANK AND  
TRUST COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ROYAL BANK OF CANADA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

cc: Assured Guaranty Municipal Corp.

**EXHIBIT C**

[Secondary Market Information Circular]



NOT A NEW ISSUE

RATINGS: See "Ratings" herein

## SECONDARY MARKET INFORMATION CIRCULAR

relating to

**\$236,300,000**  
**City of Austin, Texas**  
**Airport System**  
**Refunding Revenue Bonds**  
**Series 2005 (AMT)**

consisting of

Subseries

**\$59,075,000 Sub-Series 2005-1**  
**\$59,025,000 Sub-Series 2005-2**  
**\$59,100,000 Sub-Series 2005-3**  
**\$59,100,000 Sub-Series 2005-4**

Bank

**JPMorgan Chase Bank, N.A.**  
**JPMorgan Chase Bank, N.A.**  
**State Street Bank and Trust Company**  
**Royal Bank of Canada, WFC, New York, Branch**

This Secondary Market Information Circular ("Information Circular") has been prepared for use by the Remarketing Agent with respect to the above-referenced bonds (the "Series 2005 Bonds") and supplements the Remarketing Memorandum dated April 24, 2008 (the "2008 Remarketing Memorandum") relating to the Series 2005 Bonds. Sub-Series 2005-1 of the Series 2005 Bonds was remarketed on May 21, 2008. Sub-Series 2005-2 of the Series 2005 Bonds was remarketed on May 28, 2008. Sub-Series 2005-3 of the Series 2005 Bonds was remarketed on May 7, 2008. Sub-Series 2005-4 of the Series 2005 Bonds was remarketed on May 14, 2008. All terms not otherwise defined herein have the meanings given such terms in the 2008 Remarketing Memorandum.

On June 21, 2011, the City of Austin, Texas (the "City") substituted four separate direct-pay letters of credit, each constituting a Direct-Pay Credit Facility and a Liquidity Facility, for the then existing Liquidity Facility. Each Sub-Series of the Series 2005 Bonds was remarketed on June 21, 2011. The City intends to substitute a direct-pay letter of credit, constituting a Direct-Pay Credit Facility and a Liquidity Facility, for the letter of credit issued on June 21, 2011 by KBC Bank, New York Branch, in support of Sub-Series 2005-3 of the Series 2005 Bonds. Such substitution will take place on May 3, 2012 (the "Tender Date"). Only Sub-Series 2005-3 of the Series 2005 Bonds will be subject to mandatory tender for purchase on the Tender Date.

This Information Circular describes the Letter of Credit and Reimbursement Agreement dated as of May 1, 2012 between the City and State Street Bank and Trust Company ("State Street"), with respect to Sub-Series 2005-3 of the Series 2005 Bonds, that will be executed and delivered on or before the Tender Date. This agreement is substantially in the form and substance as the Letter of Credit and Reimbursement Agreement dated as of June 1, 2011 between the City and JPMorgan Chase Bank, N.A. ("JPM"), with respect to Sub-Series 2005-1 and Sub-Series 2005-2 of the Series 2005 Bonds, and the Letter of Credit and Reimbursement Agreement dated as of June 1, 2011 between the City and Royal Bank of Canada ("Royal Bank"), acting through its WFC, New York, Branch, with respect to Sub-Series 2005-4 of the Series 2005 Bonds, each such agreement having been executed and delivered on June 21, 2011 (each such agreement a "Reimbursement Agreement" and collectively, the "Reimbursement Agreements"). JPM, Royal Bank and State Street are individually referred to herein as a "Bank" and collectively referred to herein as the "Banks". As provided in the respective Reimbursement Agreement, on June 21, 2011, JPM issued a letter of credit, in the amount of \$63,156,636.00, with respect to Sub-Series 2005-1 of the Series 2005 Bonds, JPM issued a letter of credit, in the amount of \$63,131,200.00, with respect to Sub-Series 2005-2 of the Series 2005 Bonds, and Royal Bank issued a letter of credit in the amount of \$63,207,507.00, with respect to Sub-Series 2005-4 of the Series 2005 Bonds. Under the terms of each respective Reimbursement Agreement, the amount of the JPM and Royal Bank letters of credit automatically reduces to correspond to reductions in principal amounts of the Series 2005 Bonds supported by such letter of credit. As provided in the Reimbursement Agreement between the City and State Street, on the Tender Date, State Street will issue a letter of credit in the amount of \$60,129,797.00, with respect to Sub-Series 2005-3 of the Series 2005 Bonds (individually, a "Letter of Credit" and collectively, the "Letters of Credit"). Each Letter of Credit is calculated on the basis of the currently outstanding principal amount of the Sub-Series of 2005 Bonds for which it is issued, plus fifty-three (53) days accrued interest thereon at the rate of twelve percent (12%) per annum calculated on the basis of a 365/366 day year.

Each Letter of Credit will expire on June 21, 2014, unless extended or terminated sooner in accordance with the terms of the respective Reimbursement Agreement. See "REIMBURSEMENT AGREEMENTS" herein. The Letters of Credit also are referred to in this Information Circular as the "Credit Facility".

Payment of scheduled principal of and interest on the Series 2005 Bonds, together with the purchase price of Series 2005 Bonds subject to optional or mandatory tender for purchase which have not been remarketed, will be payable from amounts received under the respective Letter of Credit. Series 2005 Bonds tendered for purchase will be paid first, from the proceeds of remarketing, if any, and second, from a Liquidity Drawing on a Letter of Credit. Each Bank is severally liable solely with respect to the scheduled principal and interest and purchase price of the Series 2005 Bonds for which it is obligated and not for any other Series 2005 Bonds, and the Banks are not jointly liable for payment of scheduled principal and interest and the purchase price of the Series 2005 Bonds. The City has no obligation to purchase tendered Series 2005 Bonds. See "REIMBURSEMENT AGREEMENTS" herein.

This cover page contains certain information for general reference only. It is not intended to be a summary of this transaction. Investors are advised to read the entire Information Circular (including without limitation the information described herein under "THE CITY; DOCUMENTS INCORPORATED BY REFERENCE") in conjunction with the 2008 Remarketing Memorandum to obtain information essential to making an informed investment decision with respect to the Series 2005 Bonds.

**Morgan Stanley & Co Incorporated,  
as Remarketing Agent**

*The date of this Information Circular to the 2008 Remarketing Memorandum is \_\_\_\_\_, 2012.*

The summary information set forth below applies to the Series 2005 Bonds only while the Series 2005 Bonds bear interest at the Weekly Rate. The City has reserved the right in the Ordinance to convert the interest rate mode on the Series 2005 Bonds to permit the interest rate to be determined on a basis other than the Weekly Rate. This information is qualified by reference to the 2008 Remarketing Memorandum, and investors should review the 2008 Remarketing Memorandum, as supplemented by this Information Circular, in its entirety before making any investment decisions with respect to the Series 2005 Bonds.

	<u>Sub-Series 2005-1</u>	<u>Sub-Series 2005-2</u>	<u>Sub-Series 2005-3</u>	<u>Sub-Series 2005-4</u>
Maturity Date:	November 15, 2025	November 15, 2025	November 15, 2025	November 15, 2025
Outstanding Principal Amount:	\$59,075,000	\$59,025,000	\$59,100,000	\$59,100,000
CUSIP No.:	052398DR2	052398DS0	052398DT8	052398DU5
Initial Interest Period:	Weekly	Weekly	Weekly	Weekly
Interest Payment Dates Generally:	First Business Day of each Month	First Business Day of each Month	First Business Day of each Month	First Business Day of each Month
Initial Credit/Liquidity Provider:	JPMorgan Chase Bank, N.A.	JPMorgan Chase Bank, N.A.	State Street Bank and Trust Company	Royal Bank of Canada, WFC, New York, Branch
Expiration Date of Letter of Credit:	June 21, 2014	June 21, 2014	June 21, 2014	June 21, 2014
Initial Short-Term Ratings of Initial Credit/Liquidity Provider:	Moody's: P-1 S&P: A-1 Fitch: F1+	Moody's: P-1 S&P: A-1 Fitch: F1+	Moody's: P-1 S&P: A-1+ Fitch: F1+	Moody's: P-1 S&P: A-1+ Fitch: F1+
Initial Long-Term Ratings of Initial Credit/Liquidity Provider:	Moody's: Aa1 S&P: A+ Fitch: AA-	Moody's: Aa1 S&P: A+ Fitch: AA-	Moody's: Aa2 S&P: AA- Fitch: A+	Moody's: Aa1 S&P: AA- Fitch: AA

## REGARDING USE OF THIS INFORMATION CIRCULAR

This Information Circular has been prepared with respect to the Series 2005 Bonds only.

This Information Circular does not constitute a reoffering or a solicitation of a reoffering of the Series 2005 Bonds, nor shall there be any such reoffering, in any jurisdiction to any person to whom it is unlawful to do so. No dealer, salesman or any other person has been authorized to give any information other than that contained in this Information Circular or to make any representations and, if given or made, such other information or representations must not be relied upon as having been authorized by the City, the Remarketing Agent, the Banks or any other person.

Wells Fargo Bank, N.A., in each of its capacities as Paying Agent/Registrar and Tender Agent, has not participated in the preparation of this Information Circular and assumes no responsibility for its content.

The information contained in APPENDIX A to this Information Circular pertaining to each Bank has been provided by the applicable Bank. The Remarketing Agent has reviewed the information in this Information Circular in accordance with, and as part of, its responsibilities to investors under federal securities laws as applied to the facts and circumstances of this transaction, but the Remarketing Agent does not guarantee the accuracy or completeness of such information.

Neither the City, its Financial Advisor, the Remarketing Agent nor the Banks make any representation or warranty with respect to the information contained in this Information Circular under the caption "BOND INSURANCE" regarding Assured Guaranty Municipal Corp. ("AGM") or its policy, as such information has been furnished by AGM.

AGM makes no representation regarding the Series 2005 Bonds or the advisability of investing in the Series 2005 Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Information Circular or any information or disclosure contained or incorporated by reference herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM presented under the heading "BOND INSURANCE", which was furnished by AGM, and in APPENDIX E to the 2008 Remarketing Memorandum, which is attached to this Information Circular as APPENDIX C.

The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Information Circular nor any remarketing of the Series 2005 Bonds by the Remarketing Agent shall, under any circumstances, create an implication that there has been no change in the affairs of the City, the Banks or any other person or in the other matters described herein.

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## SECONDARY MARKET INFORMATION CIRCULAR

relating to

**\$236,300,000**  
**City of Austin, Texas**  
**Airport System**  
**Refunding Revenue Bonds**  
**Series 2005 (AMT)**

consisting of

Subseries  
**\$59,075,000 Sub-Series 2005-1**  
**\$59,025,000 Sub-Series 2005-2**  
**\$59,100,000 Sub-Series 2005-3**  
**\$59,100,000 Sub-Series 2005-4**

*Capitalized terms not otherwise defined herein shall have the meanings set forth in the 2008 Remarketing Memorandum relating to the Series 2005 Bonds described below. Investors are advised to read this Information Circular in conjunction with the 2008 Remarketing Memorandum referenced below to obtain information essential to making an informed investment decision with respect to the Series 2005 Bonds.*

### PURPOSE OF THIS INFORMATION CIRCULAR

This Information Circular has been prepared for use by the Remarketing Agent with respect to the above-referenced Series 2005 Bonds (the "Series 2005 Bonds") and replaces the Remarketing Memorandum dated May 5, 2008 (the "2008 Remarketing Memorandum") relating to the Series 2005 Bonds. Sub-Series 2005-1 of the Series 2005 Bonds was remarketed on May 21, 2008. Sub-Series 2005-2 of the Series 2005 Bonds was remarketed on May 28, 2008. Sub-Series 2005-3 of the Series 2005 Bonds was remarketed on May 7, 2008. Sub-Series 2005-4 of the Series 2005 Bonds was remarketed on May 14, 2008.

The Series 2005 Bonds were issued by the City of Austin, Texas (the "City" or the "Issuer") pursuant to the ordinance adopted by the City on August 4, 2005, as amended and supplemented on May 26, 2011 (the "Ordinance").

On June 21, 2011, the City substituted four separate direct-pay letters of credit, each constituting a Direct-Pay Credit Facility and a Liquidity Facility, for the then existing Liquidity Facility issued in support of the Series 2005 Bonds. Each Sub-Series of the Series 2005 Bonds was remarketed on June 21, 2011. The City intends to substitute a direct-pay letter of credit, constituting a Direct-Pay Credit Facility and a Liquidity Facility, for the letter of credit issued on June 21, 2011 by KBC Bank, New York Branch ("KBC"), in support of Sub-Series 2005-3 of the Series 2005 Bonds. Such substitution will take place on May 3, 2012 (the "Tender Date"). Only Sub-Series 2005-3 of the Series 2005 Bonds will be subject to mandatory tender for purchase on the Tender Date.

This Information Circular describes the Letter of Credit and Reimbursement Agreement dated as of May 1, 2012 between the City and State Street Bank and Trust Company ("State Street"), with respect to Sub-Series 2005-3 of the Series 2005 Bonds, that will be executed and delivered on or before the Tender Date. This agreement is substantially in the form and substance as the Letter of Credit and Reimbursement Agreement dated as of June 1, 2011 between the City and JPMorgan Chase Bank, N.A. ("JPM"), with respect to Sub-Series 2005-1 and Sub-Series 2005-2 of the Series 2005 Bonds, and the Letter of Credit and Reimbursement Agreement dated as of June 1, 2011 between the City and Royal Bank of Canada ("Royal Bank"), acting through its WFC, New York, Branch, with respect to Sub-Series 2005-4 of the Series 2005 Bonds, each such agreement having been executed and delivered on June 21, 2011 (each such agreement a "Reimbursement Agreement" and collectively, the "Reimbursement Agreements"). JPM, Royal Bank and State Street are individually referred to herein as a "Bank" and collectively referred to herein as the "Banks". As provided in the respective Reimbursement Agreement, on June 21, 2011, JPM issued a letter of credit, in the amount of \$63,156,636.00, with respect to Sub-Series 2005-1 of the Series 2005 Bonds, JPM issued a letter of credit, in the amount of

\$63,131,200.00, with respect to Sub-Series 2005-2 of the Series 2005 Bonds, and Royal Bank issued a letter of credit in the amount of \$63,207,507.00, with respect to Sub-Series 2005-4 of the Series 2005 Bonds. Under the terms of each respective Reimbursement Agreement, the amount of the JPM and Royal Bank letters of credit automatically reduces to correspond to reductions in the outstanding principal amounts of the Series 2005 Bonds supported by each such letter of credit. As provided in the Reimbursement Agreement between the City and State Street, on the Tender Date, State Street will issue a letter of credit in the amount of \$60,129,797.00, with respect to Sub-Series 2005-3 of the Series 2005 Bonds (individually, a "Letter of Credit" and collectively, the "Letters of Credit"). Each Letter of Credit is calculated on the basis of the currently outstanding principal amount of the Sub-Series of Series 2005 Bonds for which it is issued, plus fifty-three (53) days accrued interest thereon at the rate of twelve percent (12%) per annum calculated on the basis of a 365/366 day year. Each Letter of Credit will expire on June 21, 2014, unless extended or terminated sooner in accordance with the terms of the respective Reimbursement Agreement. See "REIMBURSEMENT AGREEMENTS" herein. The Letters of Credit also is referred to in this Information Circular as the "Credit Facility".

Payment of scheduled principal of and interest on the Series 2005 Bonds, together with the purchase price of Series 2005 Bonds subject to optional or mandatory tender for purchase which have not been remarketed, will be payable from amounts received under the respective Letter of Credit. Series 2005 Bonds tendered for purchase will be paid first, from the proceeds of remarketing, if any, and second, from a Liquidity Drawing on a Letter of Credit. Each Bank is severally liable solely with respect to the scheduled principal and interest and purchase price of the Series 2005 Bonds for which it is obligated and not for any other Series 2005 Bonds, and the Banks are not jointly liable for payment of scheduled principal and interest and the purchase price of the Series 2005 Bonds. The City has no obligation to purchase tendered Series 2005 Bonds. See "REIMBURSEMENT AGREEMENTS" herein.

The 2011 substitution of the letters of credit for the then existing Liquidity Facility issued in support of the Series 2005 Bonds resulted in amendments to the Authorizing Ordinance adopted by the City. See "APPENDIX D - AMENDMENTS TO MULTI-MODAL PROVISIONS" to this Information Circular for a description of those amendments. The 2011 substitution of the letters of credit for the then existing Liquidity Facility resulted in certain descriptions in the 2008 Remarketing Agreement being superseded for so long as the Letters of Credit remain in effect. See "APPENDIX E - CERTAIN REVISIONS TO 2008 REMARKETING MEMORANDUM" to this Information Circular for a description of those changes.

## REIMBURSEMENT AGREEMENTS

*The Letters of Credit issued by JPM under the terms of the Reimbursement Agreement relating to Sub-Series 2005-1 and Sub-Series 2005-2 of the Series 2005 Bonds, the Letter of Credit issued by State Street under the terms of the Reimbursement Agreement relating to Sub-Series 2005-3 of the Series 2005 Bonds, and the Letter of Credit issued by Royal Bank under the terms of the Reimbursement Agreement relating to Sub-Series 2005-4 of the Series 2005 Bonds, provide credit and liquidity support only for the Sub-Series of the Series 2005 Bonds covered by each Letter of Credit. The terms and conditions of the Reimbursement Agreement relating to each Letter of Credit issued in respect to a Sub-Series of the Series 2005 Bonds are substantially the same. The following summary of the Reimbursement Agreements does not purport to be comprehensive or definitive and is subject to all the terms and provisions of the Reimbursement Agreements to which reference is made hereby. Investors are urged to obtain and review a copy of the Reimbursement Agreements in order to understand all of the terms of those documents. Copies of the Reimbursement Agreements may be obtained from the City or from the City's Financial Advisor, Public Financial Management, Inc. Austin, Texas. See "APPENDIX A - INFORMATION REGARDING THE BANKS" for certain information regarding the Banks. Certain defined terms used in this section of the Offering Circular have the meanings given said terms in "APPENDIX B - REIMBURSEMENT AGREEMENT DEFINED TERMS".*

### General

Upon compliance with the terms and conditions of each Reimbursement Agreement, and subject to the terms and conditions set forth therein, the Banks are each obligated, subject to the satisfaction of certain conditions precedent, to provide funds for the purchase of the particular Sub-Series of the Series 2005 Bonds that are tendered for purchase and not remarketed, whether at the option of the owner of such Sub-Series of the Series 2005 Bonds or upon mandatory tender for purchase. **The Banks are not jointly liable for payment of the Purchase Price of the Series 2005 Bonds, and no Bank is liable for payment of the Purchase Price of any of the Series 2005 Bonds other than the Series 2005 Bonds for which it is obligated.**

The Paying Agent is authorized to make drawings for the scheduled payment of principal of and interest on the Series 2005 Bonds of any Sub-Series (each, a "Credit Drawing") under the applicable Letter of Credit. The Tender Agent is authorized to make a drawing on the applicable Letter of Credit for the payment of the purchase price of the Series 2005

Bonds bearing interest at the Weekly Rate that have been tendered and not remarketed (each, a "Liquidity Drawing"), subject to certain conditions set forth in the Letters of Credit and in the Reimbursement Agreement.

Each Liquidity Drawing shall constitute an advance (a "Liquidity Advance") under a Letter of Credit. If, however, at the time of payment by a Bank of any Liquidity Drawing the Bond Policy is no longer in effect and the Conditions Precedent are not satisfied, then all amounts of such Liquidity Drawing for which a Bank has not been reimbursed at the close of business of the day of the Bank's payment of such Liquidity Drawing shall be immediately due and payable and shall accrue interest at the Default Rate. In each Reimbursement Agreement, the City promises to reimburse each Bank for the interest portion of each Liquidity Advance (as a result of a Liquidity Drawing under the applicable Letter of Credit) on the earliest to occur of (A) the next succeeding Interest Payment Date, (B) the date on which the applicable Letter of Credit is replaced by a Substitute Credit Facility pursuant to the terms of the Ordinance, (C) the date on which any Sub-Series of Series 2005 Bonds purchased with funds disbursed under the applicable Letter of Credit in connection with such Liquidity Drawing are redeemed, prepaid or canceled pursuant to the Ordinance, (D) the date on which any Sub-Series of Series 2005 Bonds purchased with funds disbursed under the applicable Letter of Credit in connection with such Liquidity Drawing are remarketed or deemed remarketed pursuant to the Ordinance, (E) the Conversion Date with respect to all of the Series 2005 Bonds supported by the applicable Letter of Credit, and (F) the termination of the applicable Letter of Credit pursuant to the terms of the applicable Reimbursement Agreement.

In each Reimbursement Agreement, the City promises to reimburse the applicable Bank for the principal portion of each Liquidity Advance under its applicable Letter of Credit on the earliest to occur of (A) the date on which the applicable Letter of Credit is replaced by a Substitute Credit Facility pursuant to the terms of the Ordinance, (B) the date on which any Sub-Series of Series 2005 Bonds purchased with funds disbursed under the applicable Letter of Credit in connection with such Liquidity Advance are redeemed, prepaid or canceled pursuant to the Ordinance, (C) the date on which any Sub-Series of Series 2005 Bonds purchased with funds disbursed under the applicable Letter of Credit in connection with such Liquidity Advance are remarketed or deemed remarketed pursuant to the Ordinance, (D) the date which is one (1) Business Day following the Conversion Date with respect to all of the Series 2005 Bonds supported by the applicable Letter of Credit, and (E) if on the Amortization Commencement Date the Bond Policy is no longer in effect and the Conditions Precedent are not satisfied, the Amortization Commencement Date.

The Sub-Series of the Series 2005 Bonds purchased by a Bank ("Bank Bonds") shall bear interest at the rates set forth in the Reimbursement Agreement applicable to such Sub-Series and shall be repaid as provided therein. All Liquidity Drawings and Credit Drawings shall be made under the applicable Letter of Credit in accordance with its terms. The City has directed the Banks to make payments under the applicable Letter of Credit in the manner provided therein. The City's obligation to repay each Liquidity Advance and to pay interest thereon shall be evidenced and secured by Bank Bonds.

Unless otherwise paid in full on one of the dates provided above, the principal portion of each Liquidity Advance shall be payable by the City in semiannual installments ("Semiannual Principal Payments") on each Amortization Payment Date, with the final installment in an amount equal to the entire then outstanding principal amount of such Liquidity Advance due and payable on the Amortization End Date (the period commencing on the Amortization Commencement Date and ending on the Amortization End Date is herein referred to as the "Amortization Period"). Each Semiannual Principal Payment shall be that amount of principal which will result in equal (as nearly as possible) Semiannual Principal Payments over the applicable Amortization Period. Notwithstanding the foregoing, if an Amortization End Date is changed in accordance with the proviso to clause (b) of the definition of "Amortization End Date" (as a result of the Bond Policy being terminated after the related Amortization Commencement Date), the Amortization Period shall be adjusted to reflect the new Amortization End Date and each Semiannual Principal Payment due over the remaining term of the adjusted Amortization Period shall be that amount of principal which will result in equal (as nearly as possible) Semiannual Principal Payments over the remaining term of the adjusted Amortization Period.

Each Letter of Credit will terminate on the earliest of (i) its Stated Termination Date; (ii) the date which is one (1) Business Day following the date on which all of the Series 2005 Bonds of the Sub-Series applicable to such Letter of Credit are converted to bear interest at a rate other than a Weekly Rate; (iii) the date which is one (1) Business Day following receipt by the Bank of a certificate stating that the Sub-Series of the Series 2005 Bonds applicable to such Bank's Letter of Credit are no longer outstanding, the Available Amount under a Bank's Letter of Credit has been reduced to zero and may not be reinstated, or a Substitute Credit Facility has been provided for such Letter of Credit; (iv) the date on which a Stated Maturity Drawing (as defined in each Letter of Credit) is honored; (v) the date which is sixteen (16) days following receipt by the Paying Agent/Registrar and the Tender Agent of a written notice specifying



the occurrence of a City Event of Default and the applicable Bank directing the Tender Agent to cause a mandatory tender of the Bonds in accordance with the Ordinance.

### **City Events of Default**

The following constitute City Events of Default under each Reimbursement Agreement:

(a) (i) any principal or interest evidenced by the Sub-Series of Series 2005 Bonds or the Bank Bonds is not paid when due or (ii) any Drawing or any Liquidity Advance is not paid when due; or

(b) any representation or warranty made by the City in the Reimbursement Agreement or any other Financing Document shall prove to be untrue in any material respect on the date as of which it was made; or

(c) nonpayment of any amounts payable under the Reimbursement Agreement or the Bank Fee Agreement when due (other than amounts referred to in (a) above), if such failure to pay when due shall continue for six (6) Business Days; or

(d) failure of the City to observe or perform the covenants set forth in the Reimbursement Agreement relating to the occurrence of a Default or City Event of Default under a Reimbursement Agreement, any default under any other Financing Document to which the City is a party, or any filing by the City of a petition in bankruptcy; litigation with respect to the City or the Airport System; the City maintaining its corporate existence; the City notifying each Bank within ten (10) Business Days of the filing of any action in a court of competent jurisdiction reasonably likely to lead to the material diminution or reallocation of Net Revenues or funds received by the City under any Swap Contract relating to the Sub-Series of Series 2005 Bonds and payable from Net Revenues, or any other event likely to have a material adverse effect on the financial condition or operations of the Airport System or the ability of the City to perform its obligations under the Reimbursement Agreement or any other Financing Document to which the City is a party; the City maintaining insurance at prescribed levels; conversions and replacements of credit facilities; sovereign immunity; maintaining financial institutions acceptable to the Banks as Tender Agent, Paying Agent/Registrar and Remarketing Agent; replacing or funding the Debt Service Reserve Fund in an amount equal to the Debt Service Reserve Fund Requirement over an eighteen month period with cash in the event the financial strength rating of the Insurer is reduced below A3 or is withdrawn or suspended for credit related reasons by Moody's and is reduced below A- or is withdrawn or suspended for credit related reasons by S&P; and enumerated negative covenants; or

(e) default in the due observance or performance by the City of any other term, covenant or agreement set forth in the Reimbursement Agreement (not covered in clauses (a), (c) or (d) above) and the continuance of such default for thirty (30) days after the earlier to occur of (i) the City obtaining actual knowledge thereof or (ii) receipt by the City of notice thereof from the Bank; or

(f) the Ordinance shall terminate or cease to be of full force and effect, other than as a result of any prepayment in full of all of the Sub-Series of Series 2005 Bonds or provision for such prepayment in full in accordance with the Ordinance; or any provision of the Ordinance relating to the security for the Sub-Series of Series 2005 Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations hereunder or the rights and remedies of the Bank, or any other material provision of the Ordinance or of any other Financing Document to which the City is a party, shall cease to be in full force or effect, or the City or any Person acting on behalf of the City shall deny or disaffirm the City's obligations under the Ordinance or any other Financing Document to which the City is a party; or

(g) (i) the City shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate the City as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to the City or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets, or the City shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the City any case, proceeding or other action of a nature referred to in clause (i) above which (x) results in an

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

(h) the City or a governmental authority of competent jurisdiction shall have declared or announced a moratorium (whether or not in writing) with respect to any debt or Payment Obligation payable from Net Revenues; or

(i) any final, non-appealable judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes in an aggregate amount of \$5,000,000 or more, payable from Net Revenues, shall be entered or filed against the City, and shall remain unvacated, unbonded or unstayed for a period of sixty (60) days; or

(j) any "event of default" shall occur under the Ordinance or under any other Financing Document; or

(k) the long-term unenhanced rating assigned to any of the City's debt payable from Net Revenues is reduced below "Baa2" by Moody's or below "BBB" by S&P or is suspended or withdrawn by Moody's or S&P; or

(l) except as otherwise provided in the Reimbursement Agreement, the Bond Policy is canceled or terminated or the Insurer is replaced with another insurer or the terms of the Bond Policy are amended or modified in any respect which, in the sole discretion of the Bank, would have an adverse effect on the rights or security of the Banks, in any case, which was (i) not at the direction of the Banks or (ii) without the prior written consent of the Banks.

(m) the City shall (i) default in any payment of any principal or premium of or interest on any of the City's long-term indebtedness in the amount of \$5,000,000 or more payable from Net Revenues (other than the Sub-Series of Series 2005 Bonds, the Liquidity Drawings and the Liquidity Advances) beyond the period of grace, if any, provided in the instrument or agreement under which such long-term indebtedness was created; or (ii) default in the observance or performance of any agreement or condition relating to any such long-term indebtedness payable from Net Revenues or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such long-term indebtedness (or a trustee or agent on behalf of such holder or holders) to cause (determined without regard to whether any notice is required), any such long-term indebtedness to become due prior to its stated maturity; or

(n) (i) a court or other governmental authority with jurisdiction to rule on the validity of the Reimbursement Agreement, the Ordinance or any other Financing Document to which the City is a party shall find, announce or rule that any material provision of the Reimbursement Agreement or any other Financing Document to which the City is a party, or any provision of the Ordinance, relating to the security for the Sub-Series of Series 2005 Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations under the Reimbursement Agreement or the rights and remedies of the Bank under the Reimbursement Agreement or any other Financing Document, is not a valid and binding agreement of the City; or (ii) the City shall contest the validity or enforceability of the Reimbursement Agreements, any other Financing Document to which the City is a party or any provision of the Ordinance relating to the security for the Sub-Series of Series 2005 Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations under the Reimbursement Agreement or the rights and remedies of the Bank under the Reimbursement Agreement or any other Financing Document; or (iii) the City or any other Person acting on behalf of the City shall seek an adjudication that the Reimbursement Agreement, any other Financing Document to which the City is a party or any provision of the Ordinance relating to the security for the Sub-Series of Series 2005 Bonds or the Obligations, the City's ability to pay the Obligations or perform its obligations under the Reimbursement Agreements or the rights and remedies of the respective

Bank under the respective Reimbursement Agreement or any other Financing Document to which the City is a party, is not valid and binding on the City.

### **Rights and Remedies**

If a City Event of Default shall have occurred, each Bank may exercise any one or more of the following rights and remedies under the applicable Reimbursement Agreement:

(a) give written notice of the occurrence of any City Event of Default to the Paying Agent, with a copy to the City and the Tender Agent, and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all of the Series 2005 Bonds as provided in the Reimbursement Agreement, thereby causing the Letters of Credit to terminate on the sixteenth (16th) day following the Paying Agent's receipt of such notice, and the Bond Policy to terminate in accordance with the provisions of the Cancellation Agreement, in which case the City and the Banks shall take such action as shall be necessary to effect such termination pursuant to the Cancellation Agreement; *provided, however*, if an Insurer Event of Default has occurred and is continuing, the Banks may direct the City and the Paying Agent that the Bond Policy shall not be terminated; or

(b) pursue any rights and remedies it may have under the Financing Documents subject to the terms thereof, including, instituting suit, actions or proceedings to enforce their rights under the Ordinance; or

(c) pursue any other action available at law or in equity either for specific performance of any covenant or agreement contained in the Reimbursement Agreement or in aid of execution of any power granted by the Reimbursement Agreement or for the enforcement of any proper legal remedy; or

(d) declare all Obligations to be immediately due and payable, without any further notice of any kind, notice being waived by the City (unless such automatic acceleration is waived by the Bank in writing);

*provided, however*, that in the case of the foregoing clauses (b), (c) and (d), a Bank shall not exercise any such rights and remedies or pursue such other actions, including directions or remedies under the Ordinance, without the consent of the Insurer unless the following conditions are met: (i) the Bond Policy is no longer in effect and (ii) unless an Insurer Event of Default has occurred and is continuing, the Insurer has been paid all amounts due and payable to it in which event, the Insurer's rights derived through subrogation or assignment shall continue in full force and effect; and *provided further*, notwithstanding the condition set forth in clause (a) of the foregoing proviso, if an Insurer Event of Default has occurred, the Bank may, while the Bond Policy is in effect, exercise any such rights and remedies and pursue such other actions, including directions or remedies under the Ordinance. If a Bank, with the consent of the Required Banks, shall have directed the Paying Agent to cause a mandatory tender of all of the applicable Sub-Series of the Series 2005 Bonds pursuant to the Reimbursement Agreement, the Bank will (unless an Insurer Event of Default has occurred and the Bank has directed the City and the Paying Agent that the Bond Policy shall not be terminated) satisfy at the earliest time practicable all applicable conditions to the effectiveness of termination of the Bond Policy pursuant to the Cancellation Agreement and direct the Paying Agent not to draw on the Bond Policy during the period between the Bank directing the Paying Agent to cause a mandatory tender of all of the applicable Sub-Series of the Series 2005 Bonds and the effectiveness of termination of the Bond Policy. Notwithstanding anything to the contrary, the Insurer's right to enforce certain of the Bank's covenants set forth in each Reimbursement Agreement shall survive any termination of other rights of the Insurer.

In addition, each Bank may pursue any rights and remedies it may have under the Ordinance subject to the terms of the Ordinance, or pursue any other action available at law or in equity either for specific performance of any covenant or agreement contained in the Reimbursement Agreement to which it is a party or in aid of execution of any power granted therein.

### **Mandatory Tender upon Insurer Event of Default or Insurer Downgrade**

In accordance with the terms of each Reimbursement Agreement, if an Insurer Event of Default or an Insurer Downgrade Event shall have occurred each Bank may give written notice to the Paying Agent, with a copy to the City and the Tender Agent, of the occurrence of an Insurer Event of Default or an Insurer Downgrade Event, as applicable, and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all of the Series

2005 Bonds in accordance with the Ordinance, thereby causing the Bond Policy to terminate in accordance with the terms of the Cancellation Agreement on the sixteenth (16th) day following the Paying Agent's receipt of such notice. The City and the Banks shall take such action as may be necessary or required to effect such termination pursuant to the Cancellation Agreement. The Reimbursement Agreement defines "Insurer Downgrade Event" to mean the financial strength or claims-paying rating of the Insurer being (i) reduced below "Aa3" (or its equivalent) or suspended or withdrawn by Moody's and (ii) reduced below "AA-" (or its equivalent) or suspended or withdrawn by S&P.

If an Insurer Event of Default or an Insurer Downgrade Event shall have occurred and be continuing and, in either case, a City Event of Default shall also have occurred, the Bank may give written notice to the Paying Agent, with a copy to the City and the Tender Agent, of the occurrence of such Insurer Event of Default or Insurer Downgrade Event, as applicable, and such a City Event of Default and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all of the Series 2005 Bonds in accordance with the Ordinance, thereby causing the Letters of Credit to terminate on the sixteenth (16th) day following the Paying Agent's receipt of such notice.

#### **Mandatory Tender upon Failure to Pay Letter of Credit Fee**

If the City fails to pay any Letter of Credit Fee, the Banks may give written notice of such failure to pay to the Paying Agent, with a copy to the City and the Tender Agent, and, with the consent of the Required Banks, direct the Paying Agent to cause a mandatory tender of all of the Series 2005 Bonds in accordance with the Ordinance, thereby causing the Letters of Credit to terminate on the sixteenth (16th) day following the Paying Agent's receipt of such notice.

See "CANCELLATION AGREEMENT" for a discussion regarding procedures for the cancellation of the Bond Policy.

*The mandatory tenders of the Series 2005 Bonds described above in paragraph (a) under "REIMBURSEMENT AGREEMENTS - Rights and Remedies", and described above under "REIMBURSEMENT AGREEMENTS - Mandatory Tender upon Insurer Event of Default or Insurer Downgrade" and "REIMBURSEMENT AGREEMENTS - Mandatory Tender upon Failure to Pay Letter of Credit Fee", are in addition to the mandatory tender provisions described in APPENDIX E under the heading "Mandatory Tenders".*

### **CANCELLATION AGREEMENT**

The Banks, the City, Wells Fargo Bank, National Association, as paying agent and tender agent (the "Agent"), and AGM will execute and deliver an Amended and Restated Insurance Policy Cancellation Agreement, dated as of May 1, 2012 (the "Cancellation Agreement"), which is expected to be delivered on or before the Tender Date. Should the conditions occur that are described above in either paragraph (a) of "REIMBURSEMENT AGREEMENTS - Rights and Remedies" or the first paragraph under "REIMBURSEMENT AGREEMENTS - Mandatory Tender upon Insurer Event of Default or Insurer Downgrade", the Banks may provide written notice signed by at least two (2) of the Banks (the "Notice") to the City, the Agent and AGM of the exercise of their right granted under the Cancellation Agreement to direct the cancellation of the Bond Policy to occur on the sixteenth (16th) day following the Agent's receipt of the Notice (the "Cancellation Date"), and the Agent shall take steps to effect the mandatory tender of the Series 2005 Bonds. In the Cancellation Agreement, the Banks agree that they will not direct the Agent to draw upon the Bond Policy, and the Agent agrees that it will not draw upon the Bond Policy, after the Banks have delivered the Notice.

Upon the mandatory tender of the Series 2005 Bonds, in connection with any remarketing of the Series 2005 Bonds on and after the Cancellation Date, a disclosure document will be delivered to prospective holders of the Series 2005 Bonds that states prominently that the Bond Policy is no longer in effect with respect to the Series 2005 Bonds and the City will file with the MSRB (as herein defined) on or as of the Cancellation Date disclosing that the Bond Policy is no longer in effect with respect to the Series 2005 Bonds.

Should AGM have made payments, directly or indirectly, on account of principal of or interest on Series 2005 Bonds to any holder of the Series 2005 Bonds (the "Holder") prior to the Cancellation Date, AGM will be (a) subrogated to the rights of the Holder to receive the amount of such payment from the City, as provided and from the sources listed in the Ordinance and the Series 2005 Bonds, and (b) deemed the Holder of such Series 2005 Bonds for all purposes under the Ordinance, including, without limitation, the direction of remedies, the voting or giving consent with respect to remedies and other actions or inactions of the Agent or the City that may require voting or consent, and the filing of proofs of claim and other indicia of ownership in any insolvency proceeding. AGM also will be entitled to receive the amount of

principal and interest as provided in the Ordinance and the Series 2005 Bonds, and the parties to the Cancellation Agreement will otherwise treat AGM as the owner of such rights to the amount of such payment.

In connection with the issuance of the Series 2005 Bonds, a debt service reserve policy (the "Reserve Policy") was issued, and AGM is obligated under the terms of the Reserve Policy to make payments in the event conditions specified in the Ordinance occur which would result in a draw being necessary to pay debt service on the Series 2005 Bonds. The Cancellation Agreement provides that upon the cancellation of the Bond Policy in accordance with the terms of the Cancellation Agreement (unless an Insurer Event of Default has occurred and is continuing), the Reserve Policy shall be cancelled by a date that is not more than three years after the Cancellation Date, and the City shall (i) beginning with the first full calendar month following the Cancellation Date, commence funding on a monthly basis an amount sufficient so that the Debt Service Reserve Fund Requirement established pursuant to the Ordinance in support of the Series 2005 Bonds is established (without giving effect to the Reserve Policy) by the date that is three years after the Cancellation Date and (ii) restore any draw on the Debt Service Reserve Fund established pursuant to the Ordinance from over a period of no more than eighteen (18) months as required by the Ordinance. The City further agrees in the Cancellation Agreement not to issue any Additional Revenue Bonds payable from the Reserve Policy.

### **SWAP MANAGEMENT AGREEMENT**

In connection with the issuance of the Series 2005 Bonds, the City entered into an interest rate swap agreement with Morgan Stanley Capital Services, Inc., as "Counterparty" (see "CREDIT AGREEMENT"). A financial guaranty insurance policy (the "Swap Policy") was issued relating to the swap transaction entered into by the City with the Counterparty (the "Swap Transaction"), and AGM is obligated to make certain payments under the Swap Policy in relation to certain events occurring with respect to the Swap Transaction. The City and AGM, in connection with the substitution of the Letter of Credit for the Sub-Series 2005-3 of the Series 2005 Bonds, have entered into an Amended and Restated Agreement Regarding Insured Swap Transaction (the "Swap Management Agreement"), in which the City may be required to terminate the Swap Policy if the Bond Policy is cancelled under the terms of the Cancellation Agreement. In the Swap Management Agreement, upon the termination of the Bond Policy pursuant to the Cancellation Agreement, the City shall provide AGM with (i) on a monthly basis, a statement of the estimated aggregate mark-to-market value of the Swap Transaction and (ii) notice at such time, if any, as the aggregate mark-to-market value of the Swap Transaction is negative \$100,000 or an amount more favorable to the City within two (2) Business Days of that being the case. Unless AGM directs or agrees otherwise, not later than the earlier of (a) ten (10) Business Days after the first date on which the estimated aggregate mark-to-market value of the Swap Transaction payable by the City is zero or on which such estimated aggregate mark-to-market value is positive to the City and (b) three (3) years of the date of the cancellation of the Bond Policy pursuant to the Cancellation Agreement, the City shall do one of the following: (1) designate an early termination date, or other optional termination, with respect to the Swap Transaction, or (2) deliver to AGM the original Swap Policy together with an instrument from the Counterparty satisfactory to AGM deeming the Swap Transaction to no longer be insured and releasing AGM from all further liability under the Swap Policy. **The Swap Management Agreement does provide, however, that the City and AGM agree that in the event the Bond Policy is cancelled as a result of the occurrence of an Insurer Event of Default, the City shall not be obligated to perform its obligations described in the immediately preceding sentence.**

### **BOND INSURANCE**

#### **Introduction**

*The following information has been supplied by Assured Guaranty Municipal Corp. ("Assured Guaranty Municipal", "AGM", or the "Insurer") for inclusion in this Information Circular. The following information is not complete and reference is made to APPENDIX E of the 2008 Remarketing Memorandum. No representation is made by the City, its Financial Advisor, the Remarketing Agent or the Banks as to the accuracy or completeness of this information.*

#### **Bond Insurance Policy**

At the time of the issuance of the Series 2005 Bonds, a financial guaranty insurance policy (the "Bond Policy") was issued to guarantee the scheduled payment of principal of and interest on the Series 2005 Bonds when due. AGM is obligated under the terms of the Bond Policy; the form of the Bond Policy is set forth in APPENDIX E to the 2008 Remarketing Memorandum.

The Bond Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Assured Guaranty Municipal Corp.**

AGM is a New York domiciled financial guaranty insurance company and a wholly owned subsidiary of Assured Guaranty Municipal Holdings Inc. ("Holdings"). Holdings is an indirect subsidiary of Assured Guaranty Ltd. ("AGL"), a Bermuda-based holding company whose shares are publicly traded and are listed on the New York Stock Exchange under the symbol "AGO". AGL, through its operating subsidiaries, provides credit enhancement products to the U.S. and global public finance, infrastructure and structured finance markets. No shareholder of AGL, Holdings or AGM is liable for the obligations of AGM.

AGM's financial strength is rated "AA-" (stable outlook) by Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business ("S&P") and "Aa3" (on review for possible downgrade) by Moody's Investors Service, Inc. ("Moody's"). An explanation of the significance of the above ratings may be obtained from the applicable rating agency. The above ratings are not recommendations to buy, sell or hold any security, and such ratings are subject to revision or withdrawal at any time by the rating agencies, including withdrawal initiated at the request of AGM in its sole discretion. In addition, the rating agencies may at any time change AGM's long-term rating outlooks or place such ratings on a watch list for possible downgraded in the near term. Any downward revision or withdrawal of any of the above ratings, the assignment of a negative outlook to such ratings or the placement of such ratings on a negative watch list may have an adverse effect on the market price of any security guaranteed by AGM. AGM only guarantees scheduled principal and scheduled interest payments payable by the issuer of the bonds insured by AGM on the date(s) when such amounts were initially scheduled to become due and payable (subject to and in accordance with the terms of the relevant insurance policy), and does not guarantee the market price or liquidity of the securities it insures, nor does it guarantee that the ratings on such securities will not be revised or withdrawn.

#### *Current Financial Strength Ratings*

On March 20, 2012, Moody's issued a press release stating that it had placed AGM's "Aa3" insurance financial strength rating on review for possible downgrade. AGM can give no assurance as to any further ratings action that Moody's may take. Reference is made to the press release, a copy of which is available at [www.moodys.com](http://www.moodys.com), for the complete text of Moody's comment.

On November 30, 2011, S&P published a Research Update in which it downgraded AGM's counterparty credit and financial strength rating from "AA+" to "AA-". At the same time S&P removed the financial strength rating from CreditWatch negative and changed the outlook to stable. AGM can give no assurance as to any further ratings action that S&P may take. Reference is made to the Research Update, a copy of which is available at [www.standardandpoors.com](http://www.standardandpoors.com), for the complete text of S&P's comments.

For more information regarding AGM's financial strength ratings and the risks relating thereto, see AGL's Annual Report on Form 10-K for the fiscal year ended December 31, 2011.

#### *Capitalization of AGM*

At December 31, 2011, AGM's consolidated policyholders' surplus and contingency reserves were approximately \$3,107,919,136 and its total net unearned premium reserve was approximately \$2,171,861,791, in each case, in accordance with statutory accounting principles.

AGM's statutory financial statements for the fiscal year ended December 31, 2011, which have been filed with the New York State Department Financial Services and posted on AGL's at <http://www.assuredguaranty.com>, are incorporated by reference into this Information Circular and shall be deemed a part hereof.

#### *Incorporation of Certain Documents by Reference*

Portions of the following document filed by AGL with the SEC relating to AGM are hereby incorporated by reference into this Information Circular and shall be deemed to be a part hereof:

(i) the Annual Report on Form 10-K for the fiscal year ended December 31, 2011 (filed by AGL with the SEC on February 29, 2012).

All information relating to AGM included in, or as exhibits to, documents filed by AGL pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, after the filing of the last document referred to above and prior to the date of this Information Circular shall be deemed to be incorporated by reference into this Information Circular and to be a part hereof from the respective dates of filing such documents. Copies of materials incorporated by reference are available over the internet at the SEC's website at <http://www.sec.gov>, at AGL's website at <http://www.assuredguaranty.com>, or will be provided upon request to Assured Guaranty Municipal Corp.: 31 West 52nd Street, New York, New York 10019, Attention: Communications Department (telephone (212) 826-0100).

Any information regarding AGM included herein under the heading "BOND INSURANCE - Assured Guaranty Municipal Corp." or included in a document incorporated by reference herein (collectively, the "AGM Information") shall be modified or superseded to the extent that any subsequently included AGM Information (either directly or through incorporation by reference) modifies or supersedes such previously included AGM Information. Any AGM Information so modified or superseded shall not constitute a part of this Information Circular, except as so modified or superseded.

AGM makes no representation regarding the Series 2005 Bonds or the advisability of investing in the Series 2005 Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Information Circular or any information or disclosure contained herein, or omitted from this Information Circular, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under the heading "BOND INSURANCE", and the information set forth in "APPENDIX E - Specimen Financial Guaranty Insurance Policy", set forth in the 2008 Remarketing Memorandum.

#### *Miscellaneous Matters*

AGM or one of its affiliates may purchase a portion of the Bonds or any uninsured bonds offered under this Official Statement and may hold such Bonds or uninsured bonds for investment or may sell or otherwise dispose of such Bonds or uninsured bonds at any time or from time to time.

AGM makes no representation regarding the Bonds or the advisability of investing in the Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Information Circular Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under the heading "BOND INSURANCE".

### **CREDIT AGREEMENT**

In addition to the payment obligations of the City under the terms of each Reimbursement Agreement, in conjunction with the original delivery of the Series 2005 Bonds, and pursuant to the Ordinance, the City entered into an Interest Rate Swap Agreement (the "Interest Rate Swap Agreement") with Morgan Stanley Capital Services, Inc. (the "Counterparty"), pursuant to which the City is obligated to make payments to the Counterparty calculated on a notional amount equal to the scheduled outstanding principal amount of the Series 2005 Bonds and a fixed interest rate of 4.051% per annum, and the Counterparty is obligated to make reciprocal payments to the City calculated on a notional amount equal to the scheduled outstanding principal amount of the Series 2005 Bonds and a variable rate equal to the 71% of the one-month London Interbank Borrowing Rate (LIBOR) for U.S. deposits. Payments under the Interest Rate Swap Agreement will be made on a net basis on the first day of each month, commencing in October 2008 and ending in November 2025. Interest on the Series 2005 Bonds is determined in a manner that differs from the LIBOR index used to calculate amounts payable to the City under the terms of the Interest Rate Swap Agreement. On the effective date of the Interest Rate Swap Agreement, the Counterparty was rated "Aa3" by Moody's, "AA-" by S&P and "AA-" by Fitch. Payments to be made by the City, if any, under the terms of the Interest Rate Swap Agreement (other than a "termination payment" as discussed below) are on a parity with the City's obligation to pay principal and interest on the Series 2005 Bonds. Arrangements made in respect of the Interest Rate Swap Agreement do not alter the City's obligation to pay principal of and interest on the Series 2005 Bonds and the obligations of the City under each Reimbursement Agreement. As of March 15, 2012, the net aggregate monthly payments the City has made under the Interest Rate Swap Agreement equal \$\_\_\_\_\_.

If either party to the Interest Rate Swap Agreement commits an event of default, suffers a reduction in credit worthiness, or merges with a materially weaker entity, or in certain other circumstances, the Interest Rate Swap Agreement may be terminated at the option of the other party. Accordingly, no assurance can be given that the Interest Rate Swap Agreement will continue in existence until November 2025. If the Interest Rate Swap Agreement is

terminated, then current market conditions will determine whether the City will owe a termination payment to the Counterparty or be entitled to receive a termination payment from the Counterparty. Such termination payment generally would be based on the market value of the Interest Rate Swap Agreement on the date of termination and could be substantial. In addition, a partial termination of the Interest Rate Swap Agreement could occur to the extent any Series 2005 Bonds are redeemed pursuant to the City exercising its right to effect an optional redemption of the Series 2005 Bonds. If such optional redemption were to occur, termination payments related to the portion of the Interest Rate Swap Agreement to be terminated will be owed by either the City or the Counterparty, depending on the existing market conditions. The obligation of the City to pay a termination payment to the Counterparty could result in the City issuing Additional Revenue Bonds or Subordinate Obligations (each as defined in the Ordinance) to enable the City to make such a termination payment.

The City's obligation to make scheduled payments under the Interest Rate Swap Agreement is insured by AGM under the terms of the Swap Policy issued in 2005. Any termination payment the City may become obligated to pay under the terms of the Interest Rate Swap Agreement is not covered by the Swap Policy. See "SWAP MANAGEMENT AGREEMENT" for a discussion of events that could result in the termination of the Swap Policy.

### THE REMARKETING AGENT

Effective June 9, 2009, Morgan Stanley & Co. Incorporated became the sole Remarketing Agent for the Series 2005 Bonds. The Remarketing Agent's responsibilities include determining the interest rate from time to time and remarketing Series 2005 Bonds that are optionally or mandatorily tendered by the owners thereof (subject, in each case, to the terms of the Remarketing Agreement), all as further described herein. The Remarketing Agent is appointed by the City and is paid by the City for its services. As a result, the interests of the Remarketing Agent may differ from those of existing holders and potential holders of Series 2005 Bonds.

The Remarketing Agent acts as *remarketing agent for a variety of variable rate demand obligations* and, in its sole discretion, routinely purchases such obligations for its own account. The Remarketing Agent is permitted, but not obligated, to purchase tendered Series 2005 Bonds (*e.g.*, because there otherwise are not enough buyers to purchase Series 2005 Bonds), or for other reasons. However, the Remarketing Agent is not obligated to purchase Series 2005 Bonds, and may cease doing so at any time without notice. The Remarketing Agent may also make a market in the Series 2005 Bonds by routinely purchasing and selling Series 2005 Bonds other than in connection with an optional or mandatory tender and remarketing. Such purchases and sales may be at or below par. The Remarketing Agent is not required, however, to make a market in the Series 2005 Bonds. The Remarketing Agent may also sell any Series 2005 Bond it has purchased to one or more affiliated investment vehicles for collective ownership or enter into derivative arrangements with affiliates or others in order to reduce its exposure to the Series 2005 Bonds. The purchase of Series 2005 Bonds by the Remarketing Agent may cause the interest rate to be lower than it would be if the Remarketing Agent did not purchase Series 2005 Bonds and may create the appearance that there is greater third party demand for the Series 2005 Bonds in the market than is actually the case. The practices described above also may result in fewer Series 2005 Bonds being tendered in a remarketing.

Pursuant to the Remarketing Agreement, the Remarketing Agent is required to determine the applicable rate of interest that, in its judgment, is the lowest rate that would permit the sale of Series 2005 Bonds bearing interest at the applicable interest rate at par plus accrued interest, if any, on and as of the applicable Rate Determination Date (as defined in the Ordinance). The interest rate will reflect, among other factors, the level of market demand for the Series 2005 Bonds (including whether the Remarketing Agent is willing to purchase Series 2005 Bonds for its own account). The purchase of Series 2005 Bonds by the Remarketing Agent may cause the interest rate to be lower than it would be if the Remarketing Agent did not purchase Series 2005 Bonds. There may or may not be Series 2005 Bonds tendered and remarketed on a Rate Determination Date, the Remarketing Agent may or may not be able to remarket any Series 2005 Bonds tendered for purchase on such date at par and the Remarketing Agent may sell Series 2005 Bonds at varying prices to different investors on such date or any other date. The Remarketing Agent, in its sole discretion, may offer Series 2005 Bonds on any date, including the Rate Determination Date, at a discount to par to some investors.

The Remarketing Agent may buy and sell Series 2005 Bonds other than through the tender process. It is not obligated, however, to do so and may cease doing so at any time without notice and may require holders that wish to tender their Series 2005 Bonds to do so through the Tender Agent with appropriate notice. Thus, investors who purchase the Bonds, whether in a remarketing or otherwise, should not assume that they will be able to sell their Series 2005 Bonds other than by tendering the Series 2005 Bonds in accordance with the tender process.



Under certain circumstances, the Remarketing Agent may be removed or has the ability to resign or cease its remarketing efforts, without a successor having been named, subject to the terms of the Remarketing Agreement. In the event there is no Remarketing Agent, the Paying Agent/Registrar may assume such duties as described in the Ordinance.

## **RATINGS**

The Series 2005 Bonds currently have an underlying rating of "A" from S&P. S&P has assigned the Sub-Series 2005-1 Bonds and the Sub-Series 2005-2 Bonds the rating of "AAA/A-1+" based on the Letters of Credit provided by JPM. S&P has assigned the Sub-Series 2005-3 Bonds the rating of "\_\_\_/\_\_\_" based on the Letter of Credit provided by State Street. S&P has assigned the Sub-Series 2005-4 Bonds the rating of "AAA/A-1+" based on the Letter of Credit provided by Royal Bank.

The Banks have furnished certain information and material to the rating agencies concerning themselves and the Letters of Credit, which are not included in this Information Circular.

The Series 2005 Bonds were also rated "AA-" (stable outlook) by S&P as a result of the municipal bond insurance policy of the Insurer. See "BOND INSURANCE - Current Financial Ratings" for a description of the current state of the financial guaranty insurance industry and information regarding downgrading and negative changes to the ratings outlook of multiple financial guaranty insurers, including the Insurer. Going forward, the long-term ratings on the Series 2005 Bonds will reflect the higher rating of the Insurer or the joint rating of the City and the provider of the respective Letters of Credit. The short-term ratings on the Series 2005 Bonds solely reflect the respective short-term rating of the Bank providing the Letter of Credit in support of each Sub-Series of the Series 2005 Bonds.

The ratings described above reflect only the views of S&P, and any explanation of the significance of the ratings may be obtained only from S&P. There is no assurance that any of the ratings will continue for any given period of time or that any rating may not be lowered or withdrawn if, in the judgment of a rating agency, circumstances so warrant. Any such downward change in or withdrawal of the rating may have an adverse effect on the secondary market prices of the Series 2005 Bonds.

## **THE CITY; DOCUMENTS INCORPORATED BY REFERENCE**

### **General**

The 2008 Remarketing Memorandum (other than Appendices A, B, D and G thereto) is attached hereto as APPENDIX C, and is incorporated herein by reference. APPENDIX D to this Information Circular supplements the information contained in APPENDIX C to the 2008 Remarketing Memorandum. APPENDIX E to this Information Circular supplements the information contained in APPENDIX F to the 2008 Remarketing Memorandum.

The City files periodic reports and other information regarding the Airport System with the Municipal Securities Rulemaking Board (the "MSRB"). These reports and information are available free of charge from the MSRB via the Electronic Municipal Market Access system ("EMMA") at [www.emma.msrb.org](http://www.emma.msrb.org).

This Information Circular "incorporates by reference" the information regarding the Airport System the City files with the MSRB, which means that important information is disclosed to you by referring you to those documents. The information regarding the Airport System incorporated by reference is an important part of this Information Circular. The information incorporated by reference includes the City's annual report for the fiscal year ended September 30, 2011, including the consolidated financial statements and consolidating schedules and Management Discussion and Analysis of Financial Condition and Results of Operations that are a part thereof, as well as any filing made by the City in the future. Certain information relating to the current operations and management of the Airport System is set forth below under "- Airport System".

Any statement incorporated or deemed to be incorporated by reference will be deemed to be modified or superseded for purposes of this Information Circular to the extent that a statement contained in this Information Circular modifies or supersedes that statement.

## Amendments to the Ordinance

On May 26, 2011, the City Council approved amendments to the Ordinance to effect certain changes in respect to the delivery of the Letters of Credit by JPM, Royal Bank and KBC including, without limitation, providing for the mandatory tender of the Series 2005 Bonds in connection with the cancellation of the Bond Policy. See APPENDIX D to this Information Circular.

Several of the amendments to the Ordinance relate to the Bond Insurer and the Bond Policy. With respect to claims under the Bond Policy and payments by and to the Bond Insurer, if by 12:00 noon, New York City time, on the Business Day prior to the related scheduled interest payment date or principal payment date (each, a "Payment Date"), there is not on deposit with the Paying Agent/Registrar, after making all transfers and deposits required under the Ordinance (including drawing on any Direct-Pay Credit Facility), moneys sufficient to pay the principal of and interest on the Series 2005 Bonds (other than Bank Bonds and Series 2005 Bonds paid by the Banks, as provided for below) due on a Payment Date, the Paying Agent/Registrar shall make a claim under the Bond Policy and give notice to the Bond Insurer and to its designated agent (if any) (the "Bond Insurer's Fiscal Agent") by telephone or telecopy of the amount of such deficiency, including allocation of such deficiency between the amount required to pay interest on the Series 2005 Bonds and the amount required to pay principal of the Series 2005 Bonds, confirmed in writing to the Bond Insurer and the Bond Insurer's Fiscal Agent by 1:00 p.m., New York City time, on such Business Day by filling in the Notice of Claim and Certificate delivered with the Bond Policy.

In the event the claim to be made is for a mandatory sinking fund redemption installment, upon receipt of the moneys due, the Paying Agent/Registrar shall authenticate and deliver to affected owners of Series 2005 Bonds who surrender their Series 2005 Bonds new Series 2005 Bonds in an aggregate principal amount equal to the unredeemed portion of the Series 2005 Bonds surrendered. The Paying Agent/Registrar shall designate any portion of payment of principal on Series 2005 Bonds paid by the Bond Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Series 2005 Bonds registered to the then current owner, whether DTC or its nominee or otherwise, and shall issue a replacement Series 2005 Bond to the Bond Insurer, registered in the name of Assured Guaranty Municipal Corp. in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent/Registrar's failure to so designate any payment or issue any replacement Series 2005 Bond shall have no effect on the amount of principal or interest payable by the City on any Series 2005 Bond or the subrogation rights of the Bond Insurer.

The Paying Agent/Registrar shall keep a complete and accurate record of all funds deposited by the Bond Insurer into the Policy Payments Account (hereinafter defined) and the allocation of such funds to payment of interest on and principal paid in respect of any Series 2005 Bonds. The Bond Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent/Registrar.

Upon payment of a claim under the Bond Policy the Paying Agent/Registrar shall establish a separate special purpose trust account for the benefit of the Bondholders (the "Policy Payments Account") and over which the Paying Agent/Registrar shall have exclusive control and sole right of withdrawal. The Paying Agent/Registrar shall receive any amount paid under the Bond Policy in trust on behalf of the Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for the purpose of making payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent/Registrar to Bondholders in the same manner as principal and interest payments are to be made with respect to the Series 2005 Bonds. Amounts held by the Paying Agent/Registrar in the Policy Payments Account shall not constitute Gross Revenues or Net Revenues under the Ordinance. Notwithstanding anything to the contrary otherwise set forth in the Ordinance, and to the extent permitted by law and subject to appropriation thereof by the City from the Debt Service Fund, in the event amounts paid under the Bond Policy are applied to claims for payment of principal of and interest on the Series 2005 Bonds, interest on such principal and interest shall accrue and be payable from the date of such payment at the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank or its successor at its principal office in The City of New York, as its prime or base lending rate plus 3%, and (ii) the then applicable rate of interest on the Series 2005 Bonds provided that in no event shall such rate exceed the maximum rate permissible under applicable usury or similar laws limiting interest rates.

Funds held in the Policy Payments Account shall not be invested and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent/Registrar. Any funds remaining in the Policy Payments Account following a Payment Date shall promptly be remitted to the Bond Insurer.

## Airport System

*The 2008 Remarketing Memorandum describes the financial information and statistical data the City has agreed to update on an annual basis, and as noted in "General" above, that information is incorporated by reference into this Information Circular. The following information relating to the Airport System updates certain narrative information that was contained in the 2008 Remarketing Memorandum.*

### *General*

The Airport System is comprised of airport, heliport and aviation facilities or any interest therein owned, operated or controlled in whole or in part by the City and includes Austin Bergstrom International Airport ("ABIA"), but expressly excludes any heliport or heliports operated by City Departments other than the Aviation Department. ABIA is classified by the Federal Aviation Administration ("FAA") as a medium hub airport. According to Airports Council International, ABIA is the 44th largest airport in the United States based on 2010 total passengers.

The Airport's Five Year Capital Improvement Program beginning FY 2013, totaling \$149,379,500, is funded primarily from cash by Capital Fund contributions (90%), and anticipated FAA and Transportation Security Administration grant funding (10%). The projects for the five year program fall into three categories: Airfield/Apron - \$31,179,500; Terminal - \$85,500,000; and Parking and Roadways - \$32,700,000.

The Department of Aviation has entered into use and lease agreements with the eight major airlines serving ABIA. The current agreements were effective October 1, 2009 and extend five years through September 30, 2014. Under current City ordinance, any airline that does not have a written agreement to operate at the Airport must pay landing fees equal to double the rate paid by carriers who do have an agreement.

### *Transfers from Airport Capital Fund to Airport Operations Fund*

In Fiscal Year 2002 the Airport System began supplementing revenues available for the payment of operation and maintenance expenses and debt service through the transfer of funds from other available Airport sources, including specifically from the Airport Capital Fund. For the Fiscal Years ended September 30, 2002 through the Fiscal Year ended September 30, 2011, the Airport System transferred on average \$7.3 million annually to the Airport Operating Fund. As is the case with other airports around the country, Airport management continues to explore opportunities to increase non-airline generated revenues at the Airport (e.g., parking, concessions, real estate and other activities).

Set forth below is a table showing the actual and budgeted transfers to the Airport Operating Fund.

#### Austin-Bergstrom International Airport Transfer from Airport Capital Fund to Airport Operating Fund

Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012
<u>Actual</u>	<u>Actual</u>	<u>Actual</u>	<u>Actual</u>	<u>Budgeted</u>
\$6,879,187	\$7,146,363	\$7,930,449	\$8,341,513	\$7,828,333

The transfers to the Airport Operating Fund enable the City to satisfy the rate covenant set forth in the Ordinance as well as satisfying the tests governing the issuance of additional revenue bonds.

### *Passenger Facility Charges*

Application. Under the Aviation Safety and Capacity Act of 1990 (the "PFC Act"), as modified by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century ("AIR-21"), the FAA may authorize a public agency to impose a Passenger Facility Charge ("PFC") of \$1.00, \$2.00, \$3.00, \$4.00 or \$4.50 on each passenger enplaned at any commercial service airport controlled by the public agency, subject to certain limitations. On December 20, 1994, the Department of Aviation filed with the FAA a PFC application totaling \$337.8 million for funding a portion of the construction and the financing costs related to ABIA. The scope of the application, to impose and use a \$3.00 Passenger Facility Charge, included construction costs of a passenger terminal complex, airfield facilities, and landside facilities on a pay-as-you-go basis and the financing costs associated with these Passenger Facility Charge qualifying scopes of work. The FAA approved application number 95-03-C00-AUS on February 8, 1995 for a total of \$333,232,479. PFC collections authorized by this application began in August, 1995. Amounts totaling \$27.2 million, collections through September 1998, together with over collections posted on two earlier applications, were used

towards the actual construction costs of the PFC qualifying scopes of work. Beginning October 1998, interest earned and Passenger Facility Charges collected were used for the debt costs associated with the Passenger Facility Charge qualifying scope of work. As of December 2011, PFC collections and interest earned on collections totaled \$213.3 million.

The Aviation Department received approval from the FAA in 2004 amending its current outstanding PFC application to an increase in (i) the PFC collection rate from \$3.00 to \$4.50, (ii) the total authorized collections to \$343,074,546, and (iii) the PFC eligibility amount of the debt service related to the original project funding for the construction of ABIA, effective April 1, 2004. In September 2004, the FAA approved the \$4,125,000 application to impose and use PFC revenue for the installation of the EDS machines and the associated baggage handling system. The proceeds of the Passenger Facility Charges currently imposed by the City are not part of the Net Revenues pledged by the City to the payment of revenue bonds, including the Series 2005 Bonds. In the Ordinance, however, the City covenants and agrees, for the benefit of the owners of revenue bonds, that during each Fiscal Year the City will set aside from any passenger facility charges imposed by the City on enplaned passengers the lesser of (i) such passenger facility charges imposed and collected by the City or (ii) \$4.50 derived from each passenger facility charge so imposed and collected by the City for the payment of debt service on the Prior Lien Bonds and the Revenue Bonds (each as defined in the Ordinance) in the following Fiscal Year, unless the City receives a report from an Airport Consultant showing that an alternative use of all or a portion of such passenger facility charges will not reduce the forecast coverage of Debt Service Requirements with respect to the Prior Lien Bonds and the Revenue Bonds by forecast Net Revenues during the following Fiscal Year (or such longer forecast period as may be covered in the Airport Consultant's Report) to less than 125%.

Sufficiency. The Airport System's ability to collect PFC revenues will vary depending on the actual number of passenger enplanements at ABIA. If the number of enplaned passengers at ABIA falls below projections, actual PFC revenues will fall short of projections. Such a shortfall in PFC collections could have an adverse affect on the timely payment of debt service on bonds secured by a pledge of PFC revenues. This adverse impact could be direct or indirect, if the PFC shortfall results in sufficient increases in landing fees as to impact negatively ABIA's desirability to the airline industry and thus ultimately impact the collection of landing fees at ABIA. While passenger traffic fell after September 11, 2001, and during the economic crisis of 2008 and 2009, traffic at the Airport has recovered resulting in enplanements returning to near record levels in 2011. There can be no assurance as to what passenger traffic, and ABIA revenues, will be in the future.

Availability. The authority to impose and use PFCs is subject to the terms and conditions of the PFC Act, AIR-21 and the related regulations thereto. Failure to comply with the requirements of applicable law, such as the failure to use PFCs strictly for approved PFC projects, may cause the FAA to terminate or reduce the Airport System's authority to impose and collect PFCs. In addition, notwithstanding FAA regulations requiring airlines to collect PFCs to account for PFC collections separately and indicating that those PFC collections are to be regarded as funds held in trust by the collecting airline for the beneficial interest of the public agency imposing the PFC, in the event of a bankruptcy proceeding involving a collecting airline, there is the possibility that a bankruptcy court could hold that the PFCs in the airline's custody are not to be treated as trust funds and that ABIA is not entitled to any priority over other creditors of the collecting airline as to such funds. Also, there is no assurance that the PFC Act, AIR-21, or any other relevant legislation or regulation will not be repealed or amended to adversely affect the Airport System's ability to collect PFCs. The occurrence of any of these events could have an adverse impact on the timely payment of debt service on bonds secured in part by the pledge of PFCs.

No assurance can be given that PFCs will actually be received in the amount or at the time contemplated by the City, or that the Airport System will collect such PFC revenues in amounts or at times sufficient to pay debt service. The amount of actual PFC revenues collected, and the rate of collection, will vary depending on the actual levels of qualified passenger enplanements at ABIA, and will not necessarily correlate in any way to the debt service requirements of the bonds or other obligations issued for the Airport System to which PFC revenues have been pledged. Regardless of the amount of PFC revenues, the City will be able to apply such revenues to pay debt service only to the extent the City applied bond proceeds to pay the costs of PFC approved projects described in the PFC application that was authorized by the FAA. In addition, the FAA may terminate ABIA's ability to impose PFCs, subject to formal and informal procedural safeguards, if (1) ABIA fails to use its PFC revenues for approved projects in accordance with the FAA's approval, the PFC Act or the regulations promulgated thereunder, or (2) ABIA otherwise violates the PFC Act or regulations.

## *Management*

*Jim Smith, Executive Director of Aviation.* Mr. Smith is responsible for the City's Department of Aviation. He served in executive capacities in Norfolk, Virginia and Dayton, Ohio before joining the City in 1984. Since coming to Austin he has served as Director of Planning and Development, Director of Public Works and Transportation, Assistant City Manager and now Executive Director of the Department of Aviation. He has a Bachelor of Science Degree from the City University of New York and a Master of Public Administration Degree from the University of Dayton.

*Patti Edwards, LAP, Director, Operations & Maintenance.* Ms. Edwards is responsible for all maintenance, operations, security and IT, which include parking, buildings, grounds, airfield, roadways, motor pool and unimproved areas. She has been employed by the City's Aviation Department for over 14 years. She has been in her current position since November 2005. Ms. Edwards has over 25 years experience in Facilities and Project management. She is an active member of BOMA, ACI and AAAE and has earned the Airport Council International certification as an "International Airport Professional".

*Jamy Kazanoff, Assistant Director, Aviation Business Development & Customer Relations.* Ms. Kazanoff is responsible for airport marketing, business development and community relations for ABIA. She oversees the areas of marketing, advertising revenue, passenger air service development, passenger assistance programs, media relations and serves as the point of contact with many Austin-area business and community groups. She has been employed by the City's Aviation Department for ten years. Ms. Kazanoff has 25 years of marketing and business development experience, primarily serving in account executive positions with advertising agencies. She is actively involved in the Airports Council International (ACI) Marketing and Communications Committee, serving as Chairwoman in 2008. She is also active in ACI's International Program, Central Texas Regional Partnership, and Austin Hospitality Council. She is a graduate of The University of Texas at Austin with a Bachelor of Journalism degree.

*David Arthur, CPA, Assistant Director and Chief Financial Officer.* Mr. Arthur is responsible for overall financial management of the Airport System, including financial accounting and reporting, day to day fiscal operations, budgeting, grants administration, airport rate setting, and airport property and contracts management. Before joining the City's Aviation Department in July 2009, he served the Houston Airport System in Financial and Management positions, most recently as Assistant Director, Finance and Budget. He is a graduate of Northwest Missouri State University and a Certified Public Accountant.

*Shane Harbinson, Assistant Director, Planning & Engineering.* Mr. Harbinson is responsible for Airport Planning, Development and Environmental Services. Mr. Harbinson has served in airport positions at Minneapolis St. Paul International, and Midland International in Midland, Texas before joining the City in 1999. Since coming to the City, he has served as Operations Coordinator, Noise Abatement Officer, Airport Planner, Manager of Airport Operations, Assistant Director of Operations and Security, and now Assistant Director of Planning & Engineering and Maintenance. He is a graduate of Saint Cloud State University, Saint Cloud, Minnesota, with a Bachelor of Science in Aviation. He is active in the American Association of Airport Executives and Airport's Council International.

*Donnell January, Assistant Director, Maintenance and Facilities.* Mr. January is responsible for all Maintenance and Facility Services at ABIA. He oversees the areas of Airline Maintenance, Building Maintenance, Airside Maintenance, Landside Maintenance, Facility Services, Motor-pool and the Sign Shop. He has been employed by the Department of Aviation for five years, and has over 20 years of management experience. Since joining the Aviation Department, Mr. January has served as Division Manager implementing and maintaining the new in-line baggage handling system. Mr. January has a Bachelor of Science Degree from the College of Engineering Technology at Prairie View A&M University, Prairie View, Texas.

*General Factors Affecting Air Carrier Revenues.* The revenues of both the Airport System and the airlines serving ABIA may be materially affected by many factors including, without limitation, the following: declining demand; service and cost competition; mergers; the availability and cost of fuel and other necessary supplies; high fixed costs; high capital requirements; the cost and availability of financing; technological changes; national and international disasters and hostilities; the cost and availability of employees; strikes and other employee disruptions; the maintenance and replacement requirements of aircraft; the availability of routes and slots at various airports; litigation liability; regulation by the federal government; environmental risks and regulations; noise abatement concerns and regulation; deregulation; federal and state bankruptcy and insolvency laws; acts of war and terrorism; world health concerns such as the outbreak of SARS; and other risks. Many airlines, as a result of these and other factors, have operated at a loss in the past and several have filed for bankruptcy, ceased operations and/or have merged with other airlines. Historically, the airline

industry's results have correlated with the performance of the economy. The September 11, 2001 attacks, the wars in the Middle East and their aftermath have resulted in a further adverse effect on airline industry earnings. Several major carriers filed for federal bankruptcy protection, including US Airways (twice), Delta, Northwest, and United. Each of these major carriers successfully reorganized under Chapter 11. Vanguard Airlines also sought federal bankruptcy protection but ceased to operate. On November 29, 2011, American Airlines and its parent corporation, AMR Corporation, filed for federal bankruptcy protection, which filing currently is pending in federal bankruptcy court. Further bankruptcy filings, liquidations or major restructuring by members of the airline industry remain possible. There is increasing likelihood of consolidation within the airline industry, with reports of possible airline mergers including American, Delta, and US Airways, among others. If two or more existing carriers operating at ABIA were to merge, it is possible that the merged entity may seek to consolidate its space at the Airport by reducing the amount of gate, ticket counter, office and operations space it rents from the Department of Aviation. While this may result in some reduced rental income, it will also make it easier for the Airport to attract new entrants, who may have been deterred by a lack of available space in the Barbara Jordan Terminal.

#### **MISCELLANEOUS**

This Information Circular has been prepared for use by Morgan Stanley & Co. Incorporated, as Remarketing Agent for the Series 2005 Bonds, for the sole purpose of providing information with respect to the Series 2005 Bonds in connection with the Letters of Credit issued in support of the Series 2005 Bonds. Except with respect to such matters as provided for in this Information Circular, the 2008 Remarketing Memorandum has not been updated since its date.

## APPENDIX A

### INFORMATION REGARDING THE BANKS

*The information contained in this APPENDIX A relates to and has been obtained from the applicable Bank. The delivery of this Secondary Market Information Circular shall not create any implication that there has been no change in the affairs of any of the Banks since the date hereof, or that the information contained or referred to in this APPENDIX A is correct as of any time subsequent to its date.*

## APPENDIX A-1

### JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

JPMorgan Chase Bank, National Association ("the Bank") is a wholly owned bank subsidiary of JPMorgan Chase & Co., a Delaware corporation whose principal office is located in New York, New York. The Bank offers a wide range of banking services to its customers, both domestically and internationally. It is chartered and its business is subject to examination and regulation by the Office of the Comptroller of the Currency.

As of December 31, 2010, JPMorgan Chase Bank, National Association, had total assets of \$1,631.6 billion, total net loans of \$531.9 billion, total deposits of \$1,020.0 billion, and total stockholder's equity of \$123.4 billion. These figures are extracted from the Bank's unaudited Consolidated Reports of Condition and Income (the "Call Report") as of December 31, 2010, prepared in accordance with regulatory instructions that do not in all cases follow U.S. generally accepted accounting principles, which are filed with the Federal Deposit Insurance Corporation. The Call Report, including any update to the above quarterly figures, can be found at [www.fdic.gov](http://www.fdic.gov).

Additional information, including the most recent annual report on Form 10-K for the year ended December 31, 2009, of JPMorgan Chase & Co., the 2009 Annual Report of JPMorgan Chase & Co., and additional annual, quarterly and current reports filed with or furnished to the Securities and Exchange Commission (the "SEC") by JPMorgan Chase & Co., as they become available, may be obtained without charge by each person to whom this Official Statement is delivered upon the written request of any such person to the Office of the Secretary, JPMorgan Chase & Co., 270 Park Avenue, New York, New York 10017 or at the SEC's website at [www.sec.gov](http://www.sec.gov).

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The information contained in this Appendix relates to and has been obtained from the Bank. The delivery of the Information Circular shall not create any implication that there has been no change in the affairs of the Bank since the date hereof, or that the information contained or referred to in this APPENDIX A-1 is correct as of any time subsequent to its date.



## APPENDIX A-2

### STATE STREET BANK and TRUST COMPANY

State Street Bank and Trust Company (the "Bank") is a wholly-owned subsidiary of State Street Corporation (the "Corporation"). The Corporation (NYSE: STI) is the world's leading provider of financial services to institutional investors including investment servicing, investment management and investment research and trading. With \$21.81 trillion in assets under custody and administration and \$1.86 trillion in assets under management, the Corporation operates in 29 countries and more than 100 markets worldwide. The consolidated total assets of the Bank as of December 31, 2011 accounted for approximately 98% of the consolidated total assets of the Corporation as of the same date. As of December 31, 2011, the Corporation had consolidated total assets of \$216.83 billion, total deposits (including deposits in non-U.S. offices) of \$157.29 billion, total loans and leases, net of unearned income and allowance for loan losses, of \$10.03 billion and total shareholders' equity of \$19.40 billion.

The Bank's *Consolidated Reports of Condition and Income for A Bank With Domestic and Foreign Offices Only -- FFIEC 031* at December 31, 2011 (the "Call Reports"), as filed with the Federal Deposit Insurance Corporation, are incorporated by reference in this Appendix and shall be deemed to be a part hereof.

In addition, all Call Reports filed by the Bank pursuant to 12 U.S.C. §324 after the date of this Information Circular shall be deemed to be incorporated herein by reference and shall be deemed to be a part hereof from the date of filing of any such report.

Additional information, including financial information relating to the Corporation and the Bank, is set forth in the Corporation's Annual Report on Form 10-K for the year ended December 31, 2011. The Form 10-K can be found on the Corporation's web site, [www.statestreet.com](http://www.statestreet.com). Such report and all reports filed by the Corporation pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this Information Circular are incorporated herein by reference and shall be deemed a part hereof from the date of filing of any such report. The Reimbursement Agreement is an obligation of the Bank and not of the Corporation.

Any statement contained in any document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Information Circular to the extent that a statement contained herein or in any subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Circular.

The Bank hereby undertakes to provide, without charge to each person to whom a copy of this Information Circular has been delivered, on the written request of any such person, a copy of any or all of the documents referred to above which have been or may be incorporated in this Information Circular by reference, other than exhibits to such documents. Written requests for such copies should be directed to Investor Relations, State Street Corporation, One Lincoln Street, Boston, Massachusetts 02111, telephone number 617-786-3000.

*Neither the Bank nor its affiliates make any representation as to the contents of this Information Circular (except as to this Appendix to the extent it relates to the Bank), the suitability of the Series 2005 Bonds for any investor, the feasibility or performance of any project or compliance with any securities or tax laws or regulations.*

## APPENDIX A-3

### ROYAL BANK OF CANADA

Royal Bank of Canada (referred to in this section as “Royal Bank”) is a Schedule I bank under the Bank Act (Canada), which constitutes its charter and governs its operations. Royal Bank’s corporate headquarters are located at Royal Bank Plaza, 200 Bay Street, Toronto, Ontario M5J 2J5, Canada, and its head office is located at 1 Place Ville Marie, Montreal, Quebec H3C 3A9, Canada.

Royal Bank and its subsidiaries operate under the master brand name RBC. Royal Bank is Canada’s largest bank as measured by assets and market capitalization and among the largest banks in the world based on market capitalization. Royal Bank is one of North America’s leading diversified financial services companies and provides personal and commercial banking, wealth management services, insurance, corporate and investment banking and transaction processing services on a global basis. Royal Bank and its subsidiaries employ approximately 79,000 full- and part-time employees who serve close to 18 million personal, business, public sector and institutional clients through offices in Canada, the U.S. and 56 other countries.

Royal Bank had, on a consolidated basis, as at January 31, 2011, total assets of C\$721 billion (approximately US\$720 billion\*), shareholders’ equity of C\$40 billion (approximately US\$40 billion\*), and total deposits of C\$437 billion (approximately US\$436 billion\*). The foregoing figures were prepared in accordance with Canadian generally accepted accounting principles and have been extracted and derived from, and are qualified by reference to, Royal Bank’s unaudited Interim Consolidated Financial Statements included in Royal Bank’s Report to Shareholders for the fiscal period ended January 31, 2011.

The senior long-term unsecured debt of Royal Bank has been assigned ratings of AA- (positive outlook) by Standard & Poor’s Ratings Services, Aa1 (stable outlook) by Moody’s Investors Service and AA (stable outlook) by Fitch Ratings. Royal Bank’s common shares are listed on the Toronto Stock Exchange, the New York Stock Exchange and the Swiss Exchange under the trading symbol “RY.” Its preferred shares are listed on the Toronto Stock Exchange.

Upon written request, and without charge, Royal Bank will provide a copy of its most recent publicly filed Annual Report on Form 40-F, which includes audited Consolidated Financial Statements, to any person to whom this Official Statement is delivered. Requests for such copies should be directed to Investor Relations, Royal Bank of Canada, by writing to 200 Bay Street, 4th Floor, North Tower, Toronto, Ontario M5J 2W7, Canada, or by calling (416) 955-7802, or by visiting [rbc.com/investorrelations/](http://rbc.com/investorrelations/).

The delivery of this Official Statement shall not create any implication that there has been no change in the affairs of Royal Bank since the date hereof or that the information contained or referred to herein is correct as at any time subsequent to its date.

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\*As at January 31, 2011: C\$1.00 = US\$0.9985

## APPENDIX B

### REIMBURSEMENT AGREEMENT DEFINED TERMS

This APPENDIX B includes definitions of certain terms used in this Offering Circular and the Reimbursement Agreement.

*"Affiliate"* of a specified Person means any other Person which "controls", or is "controlled" by, or is under common "control" with such specified Person. For purposes of this definition, a Person "controls" another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract or otherwise.

*"Amortization Commencement Date"* means, with respect to each Bank Bond, the earlier to occur of (a) 90 days after the date of the related Liquidity Advance and (b) the Termination Date.

*"Amortization End Date"* means (a) if the Bond Policy has been terminated prior to the related Amortization Commencement Date, the earliest to occur of (i) the fifth (5th) anniversary of the date the related Liquidity Advance was made, (ii) the Conversion Date, and (iii) the Substitution Date, or (b) if the Bond Policy is in effect on the related Amortization Commencement Date, the earliest to occur of (i) the seventh (7th) anniversary of the date the related Liquidity Advance was made, (ii) the Conversion Date, and (iii) the Substitution Date; *provided, however*, that if the Bond Policy is terminated after the related Amortization Commencement Date, the Amortization End Date shall be the earliest to occur of (i) the seventh (7th) anniversary of the date of the related Liquidity Advance, (ii) the fifth (5th) anniversary of the effective date of the termination of the Bond Policy, (iii) the Conversion Date, and (iv) the Substitution Date.

*"Amortization Payment Date"* means (a) the first Business Day of the sixth calendar month immediately succeeding date of the related Liquidity Advance, (b) the first Business Day of each sixth calendar month occurring thereafter prior to the Amortization End Date and (c) the Amortization End Date.

*"Available Amount"* means the amount so designated in each respective Letter of Credit.

*"Bank Bond"* means each Series 2005 Bond purchased for the account of a Bank with the proceeds of a Liquidity Drawing under a Letter of Credit.

*"Bank Fee Agreement"* means each Bank Fee Agreement dated as of the date specified therein, between the City and the respective Banks.

*"Business Day"* means any day which is not (a) a Saturday, a Sunday or legal holiday, or (b) a day on which the payment office of the Bank for draws on its Letter of Credit is located is required or authorized by law to remain closed.

*"Code"* means the Internal Revenue Code of 1986, as amended from time to time.

*"Conditions Precedent"* means (a) the representations and warranties of the City contained in the Reimbursement Agreement are true and correct in all material respects as of the date of a Liquidity Drawing (except to the extent that such representations and warranties specifically refer to an earlier date, in which case, the representations and warranties are true and correct as of such earlier date) and (b) no event has occurred and is continuing, or would result from the making of such Liquidity Drawing, which constitutes a Default or a City Event of Default under the Reimbursement Agreement.

*"Custody Agreement"* means each Custody Agreement for the Bank Bonds between the respective Banks and Wells Fargo Bank, National Association dated as of the date specified therein.

*"Default"* means with any circumstance, condition or event which, with the giving of notice or lapse of time, or both, could reasonably be expected to, unless cured or waived, become a City Event of Default.

*"Drawing"* means, with respect to any Letter of Credit, any drawing honored under such Letter of Credit.

*"Financing Documents"* means the Ordinance, the Series 2005 Bonds, the Bond Policy, the Remarketing Agreement, the Reimbursement Agreement, the Letters of Credit, the Custody Agreement, the Bank Fee Agreement, any Swap Contract related to the Series 2005 Bonds and payable from Net Revenues and the ordinance of the City authorizing such Swap Contracts, the Tender Agent Agreement and the Surety Policy.

*"GAAP"* means generally accepted accounting principles for governmental entities in the United States set forth in the opinions and pronouncements of the Accounting Principles Board, the American Institute of Certified Public Accountants and the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to governmental entities and the circumstances as of the date of determination, consistently applied.

*"Governmental Authority"* means any nation or government, any state, department, agency or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, and any corporation or other entity owned or controlled (through ownership of common stock or capital) by any of the foregoing.

*"Guarantee"* by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Payment Obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation or to purchase (or to advance or supply funds for the purchase of) such Payment Obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise), (b) entered into for the purpose of assuring in any other manner the obligee of such Payment Obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (c) with respect of any letter of credit issued for the account of such Person or as to which such other Person is otherwise liable for reimbursement for drawings, *provided that the term Guarantee shall not include (i) endorsements for collection or deposit in the ordinary course of business or (ii) performance or completion guarantees.*

*"Insurance Policy"* or *"Bond Policy"* or *"Policy"* means the financial guaranty insurance policy described in the Information Circular under the heading "BOND INSURANCE".

*"Insurer"* or *"Bond Insurer"* or *"AGM"* means Assured Guaranty Municipal Corp., a stock insurance company organized under the laws of the State of New York, or any successor thereto or assignee thereof.

*"Insurer Downgrade Event"* means the financial strength or claims-paying rating of the Insurer shall be (i) reduced below "Aa3" (or its equivalent) or suspended or withdrawn by Moody's and (ii) reduced below "AA-" (or its equivalent) or suspended or withdrawn by S&P.

*"Insurer Event of Default"* means the occurrence of one or more of the following events:

(i) any principal or interest evidenced by the Series 2005 Bonds (including Bank Bonds) is not paid by the Insurer when, as, and in the amounts required to be paid pursuant to the terms of the Bond Policy; or

(ii) (a) any material provision of the Bond Policy relating to the obligation of the Insurer to make payments of principal and interest thereunder at any time for any reason ceases to be valid and binding on the Insurer in accordance with the terms of the Bond Policy or the New York Department of Insurance, or a court or other Governmental Authority of appropriate jurisdiction shall find or rule or shall enter an order, judgment or decree that the Bond Policy is not valid and binding on the Insurer or (b) the Insurer shall (1) claim in writing that the Bond Policy is not valid and binding on the Insurer, (2) repudiate the Insurer's obligations under the Bond Policy or (3) initiate legal proceedings seeking an adjudication that the Bond Policy, or any material provision thereof regarding the payment of principal or interest on Series 2005 Bonds (including Bank Bonds) is not valid and binding on the Insurer; or

(iii) a proceeding is instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect to the Insurer or for any substantial part of its property under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee or sequestrator (or other similar official) and such proceeding shall not have been dismissed within ninety (90) days or such court enters an order granting the relief sought

in such proceeding; or the New York Department of Insurance shall declare a moratorium on the payment of the Insurer's debts, or the Insurer shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of the Insurer or for any substantial part of its property, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its Payment Obligations (provided for purposes of this definition, "Payment Obligation" shall not include any obligation of the Insurer under any insurance policy or surety bond) as they become due, or an order for rehabilitation, liquidation or dissolution of the Insurer shall be issued; or

(iv) the Insurer fails to make any payment related to principal or interest when due under any insurance policy (other than the Insurance Policy) or surety bond issued by it insuring or supporting the payment of municipal obligations rated by any Rating Agency, and such failure continues for a period of thirty (30) days (it being understood by the Bank that default for purposes of this clause (iv) shall not mean a situation wherein the Insurer contests in good faith its liability under any such policy or policies in light of the claims made thereunder).

*"Insurer Ordinance Event of Default"* means that one or more of the circumstances described in the Ordinance as an Insurer Ordinance Event of Default has occurred as a result of which all references in the Ordinance to the Insurer and all provisions in the Ordinance for the benefit of the Insurer are of no effect (other than rights of the Insurer derived through subrogation and assignment).

*"Interest Payment Date"* with respect to any Series 2005 Bond which is not a Bank Bond, has the meaning set forth in the Ordinance and, with respect to Bank Bonds and Liquidity Advances, means the first Business Day of each calendar month.

*"Letters of Credit"* means the Subseries 2005-1 Letter of Credit, the Subseries 2005-2 Letter of Credit, the Subseries 2005-3 Letter of Credit or the Subseries 2005-4 Letter of Credit, as applicable.

*"Liquidity Advance"* means a Liquidity Drawing which constitutes an advance under a Letter of Credit.

*"Liquidity Drawing"* means a drawing under a Letter of Credit resulting from a failed remarketing of Series 2005 Bonds.

*"Moody's"* means Moody's Investors Service, Inc. and any successor thereto.

*"Obligations"* means all obligations of the City to pay or reimburse each Bank arising under or in relation to the applicable Reimbursement Agreement or the Bank Fee Agreement, including, without limitation, the Reimbursement Obligations, the Letter of Credit Fees (as defined in the Bank Fee Agreement) and the obligations of the City as provided in the applicable Reimbursement Agreement and including, in each instance, accrued interest thereon.

*"Paying Agent"* or *"Paying Agent/Registrar"* means Wells Fargo Bank, National Association, acting in the capacity of paying agent and registrar for the Series 2005 Bonds, together with any successor thereto named or appointed in accordance with the terms of the Ordinance.

*"Payment Obligation"* of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money and reimbursement obligations which are not contingent, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services which purchase price is due twelve (12) months or more from the date of incurrence of the obligation in respect thereof, (iv) all obligations of such Person as lessee under capital leases, (v) all Payment Obligations of others Guaranteed by such Person, and (vi) all payment obligations of such Person, in addition to any obligations set forth in clauses (i) through (v) above, arising under any Swap Contract; *provided* that it is understood that any Payment Obligation does not include contingent obligations of such Person to reimburse any other Person in respect of surety bonds or letters of credit to the extent that such surety bonds or letters of credit support any Payment Obligation of such Person.

*"Person"* means any individual, partnership, firm, corporation, association, joint venture, trust or other entity, or any government (or political subdivision or agency, department or instrumentality thereof).

*"Reimbursement Obligations"* means, without duplication, any and all obligations of the City to reimburse the Bank for any Drawings under the Letters of Credit, including, without limitation, any outstanding Liquidity Drawing and outstanding Bank Bonds.

*"Remarketing Memorandum"* means this Information Circular relating the Series 2005 Bonds, including any supplement or amendment thereto, and any other offering document from time to time distributed relating to the Series 2005 Bonds.

*"Required Banks"* means any two (2) of the three (3) Banks.

*"SCP"* means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, and any successor thereto.

*"Series 2005 Bonds"* means the City of Austin, Texas, Airport System Refunding Revenue Bonds, Series 2005 (AMT), consisting of the Subseries 2005-1 Bonds, the Subseries 2005-2 Bonds, the Subseries 2005-3 Bonds and the Subseries 2005-4 Bonds.

*"Stated Expiration Date"* means June 21, 2014, as such Stated Expiration Date may be extended with respect to a Letter of Credit in accordance with the terms of such Letter of Credit.

*"Subseries 2005-1 Bonds"* means the \$59,075,000 Subseries 2005-1 Bonds.

*"Subseries 2005-1 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by JPM for the Subseries 2005-1 Bonds.

*"Subseries 2005-2 Bonds"* means the \$59,025,000 Subseries 2005-2 Bonds.

*"Subseries 2005-2 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by JPM for the Subseries 2005-2 Bonds.

*"Subseries 2005-3 Bonds"* means the \$59,100,000 Subseries 2005-3 Bonds.

*"Subseries 2005-3 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by State Street for the Subseries 2005-3 Bonds.

*"Subseries 2005-4 Bonds"* means the \$59,100,000 Subseries 2005-4 Bonds.

*"Subseries 2005-4 Letter of Credit"* means the irrevocable transferable direct-pay letter of credit issued by Royal Bank for the Subseries 2005-4 Bonds.

*"Substitute Credit Facility"* means any credit facility or liquidity facility supporting the Bonds issued in substitution for any Letter of Credit in accordance with the terms of the Ordinance.

*"Surety Policy"* or *"Reserve Policy"* means the municipal bond debt service reserve insurance policy effective August 17, 2005, provided by the Insurer for the debt service reserve fund requirement for the Series 2005 Bonds.

*"Swap Contract"* means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a *"Master Agreement"*), including any such obligations or liabilities under any Master Agreement.

*"Tender Agent"* means Wells Fargo Bank, National Association, acting in the capacity of tender agent for the Series 2005 Bonds, together with any successor thereto named or appointed in accordance with the terms of the Ordinance.

*"Tender Agent Agreement"* means the Second Amended and Restated Tender Agency Agreement between Wells Fargo Bank, National Association, in its capacity as tender agent, and the City, dated as of May 1, 2012, relating to the Series 2005 Bonds.

## APPENDIX C

### 2008 REMARKETING MEMORANDUM

*The information contained in this APPENDIX C reflects the 2008 Remarketing Memorandum dated April 24, 2008, delivered in connection with the remarketing of the Series 2005 Bonds, other than APPENDICES A, B, D and G thereto.*



## APPENDIX D

### AMENDMENTS TO THE MULTI-MODAL PROVISIONS

The ordinance adopted by the City Council on May 26, 2011 made several changes to the multi-modal provisions of the Authorizing Ordinance. The changes described below should be read in conjunction with APPENDIX F to the 2008 Remarketing Memorandum.

**Section A-101 was amended as provided below to add, delete and revise definitions contained in such Section:**

The definition of "BMA Index" was deleted in its entirety.

The definition of "Alternate Rate" was amended to read:

**Alternate Rate** means, on any Rate Determination Date, the SIFMA Swap Index or if the SIFMA Swap Index is no longer published, an index or a rate selected or determined by the City with the consent of the Insurer and the Credit Facility Issuer, which consent shall not be unreasonably withheld.

The definition of "Credit Facility" was amended to read:

**Credit Facility** means any letter of credit, standby bond purchase agreement, line of credit, policy of bond insurance, surety bond, guarantee or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing), which is obtained by the City and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Bond (but excluding, for purposes of this APPENDIX A, any Liquidity Facility as defined below) which is obtained by the City pursuant to Section A-501 hereof and that provides (to the extent, and subject to the terms and conditions, set forth therein) for the payment of principal of and interest on the Bonds of a subseries becoming due and payable during the term thereof, as the same may be amended or supplemented from time to time.

The definition of "Liquidity and Credit Amount" was amended to read:

**Liquidity and Credit Amount** means at any time:

(i) in the case of a Credit Facility and/or a Liquidity Facility that is not also a Direct-Pay Credit Facility and with respect to (a) the Bonds of a subseries bearing interest at the Daily Rate or Weekly Rate, an amount to pay the Purchase Price equal to the principal amount (and, with respect to a Credit Facility, Redemption Price) of the Bonds of the Series then Outstanding plus an interest amount equal to 35 days' interest thereon calculated at the Maximum Rate on the basis of a 365 day year for the actual number of days elapsed; and (b) the Bonds of a subseries in the Term Rate Mode, an amount equal to the principal amount (and, with respect to a Credit Facility, Redemption Price) of such Bonds then Outstanding plus an interest amount equal to 187 days' interest thereon calculated at the then applicable Term Rate, and with respect to both clauses (a) and (b), such other interest amount as may be required by any Rating Agency at the time of delivery of such Credit Facility and/or Liquidity Facility; and

(ii) in the case of a Credit Facility and/or a Liquidity Facility that is also a Direct-Pay Credit Facility and with respect to (a) the Bonds of a subseries bearing interest at the Daily Rate or Weekly Rate, an amount to pay the Purchase Price equal to the principal amount (and, with respect to a Credit Facility, Redemption Price) of the Bonds of the Series then Outstanding plus an interest amount equal to 45 days' interest thereon calculated at the Maximum Rate on the basis of a 365 day year for the actual number of days elapsed; and (b) the Bonds of a subseries in the Term Rate Mode, an amount equal to the principal amount (and, with respect to a Credit Facility, Redemption Price) of such Bonds then Outstanding plus an interest amount equal to 197 days' interest thereon calculated at the then applicable Term Rate, and with respect to both clauses (a) and (b), such other interest amount as may be required by any Rating Agency at the time of delivery of such Credit Facility and/or Liquidity Facility.

The definition of "Purchase Price" was amended to read:

**Purchase Price** means an amount equal to the principal amount of any Bond of a subseries purchased on any Purchase Date or Mandatory Purchase Date, plus, unless the Purchase Date or Mandatory Purchase Date for such Bond is also an Interest Payment Date, accrued interest to the Purchase Date or Mandatory Purchase Date, as the case may be.

The definition of "Rating Agencies" was amended to read:

**Rating Agencies** means Fitch, Moody's and S&P, or such other nationally recognized securities rating agencies selected by the City and then rating the Bonds at the request of the City.

The definition of "Remarketing Agreement" was amended to read:

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

The definition of "Termination Date" was amended to read:

**Termination Date** means, with respect to a Credit Facility or a Liquidity Facility, (i) the date on which such Credit Facility or Liquidity Facility shall terminate pursuant to its terms or otherwise be terminated prior to its Expiration Date, (ii) the date on which the obligation of the Credit Facility Issuer or the Liquidity Facility Issuer to provide a loan shall terminate, or (iii) the date on which the Bond Insurance Policy shall terminate or be cancelled; provided, however, that "Termination Date" shall not mean any date upon which a Credit Facility or Liquidity Facility is no longer effective by reason of its Expiration Date.

The following definitions were added:

**Redemption Price** means, when used with respect to a Bond and if not specified in the Ordinance, the principal amount of such Bond plus the applicable premium specified in a Pricing Certificate, if any, payable upon redemption thereof, plus interest accrued to the Redemption Date.

**SIFMA Swap Index** means, on any date, a rate determined on the basis of the seven-day high grade market index of tax-exempt variable rate demand obligations, as produced by Municipal Market Data and published or made available by the Securities Industry & Financial Markets Association (formerly the Bond Market Association) ("SIFMA") or any Person acting in cooperation with or under the sponsorship of SIFMA and acceptable to the Paying Agent/Registrar and effective from such date.

**Section A-304 was deleted in its entirety and replaced with the following:**

Section A-304                      Redemption of Bank Bonds.

(a) The Bank Bonds of a subseries shall be subject to redemption at the option of the City, in whole or in part, on any Business Day, at the Redemption Price equal to the principal amount thereof, plus accrued interest to the Redemption Date.

(b) The Bank Bonds of a subseries also shall be subject to mandatory redemption as provided in a Liquidity Facility.

**Subsection (b) of Section A-401 was deleted in its entirety and replaced with the following:**

(b) The Owners of Bonds of a subseries in a Weekly Rate Mode that are not Bank Bonds may elect to have such Bonds (or portions thereof in Authorized Denominations) purchased at a price equal to the Purchase Price upon delivery of an irrevocable written notice of tender to the Tender Agent and Remarketing Agent, at their respective Principal Offices, not later than 5:00 p.m. on a Business Day not less than seven (7) days before the Purchase Date specified by the Owner. Such notice shall (i) state the number and the principal amount of such Bond being tendered and (ii) state that such Bond shall be

purchased on the Purchase Date so specified by the Owner. The Tender Agent shall notify the City by the close of business on the next succeeding Business Day of the receipt of any notice pursuant to this paragraph.

**Section A-403 was deleted in its entirety and replaced with the following:**

Section A-403                      Mandatory Purchase Upon Expiration Date, Termination Tender Date, Interest Non-Reinstatement Date and Substitution Date.

Except for Bank Bonds, the Bonds of a subseries shall be subject to mandatory tender for purchase on:

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

(b) the fifth calendar day (or if such day is not a Business Day, the preceding Business Day) preceding the Termination Date of a Credit Facility, a Liquidity Facility or the Bond Insurance Policy, which fifth calendar day is hereinafter referred to as a "Termination Tender Date", if the Credit Facility or Liquidity Facility permits a draw thereon on the Termination Tender Date;

(c) the fifth calendar day (or if such day is not a Business Day, the preceding Business Day) following the receipt by the City of a written notice from the issuer of a Direct-Pay Credit Facility that such Direct-Pay Credit Facility will not be reinstated (in respect of interest) to an amount equal to the interest component of the Liquidity and Credit Amount required with respect to the Bonds of such subseries, which fifth calendar day is hereinafter referred to as an "Interest Non-Reinstatement Tender Date"; and

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

**Subsection (b) of Section A-405 was deleted in its entirety and replaced with the following:**

(b) Upon receipt of a written notice from the Credit Facility Issuer, the Liquidity Facility Issuer or the City that the Credit Facility or the Liquidity Facility, as the case may be, will terminate, that the obligation of the Credit Facility Issuer or the Liquidity Facility Issuer, as the case may be, to provide a loan thereunder will terminate prior to its Expiration Date, or that the Bond Insurance Policy will be cancelled or terminated, the Paying Agent/Registrar shall within one (1) Business Day give notice of the mandatory tender of the Bonds of such subseries that is to occur on such Termination Tender Date if it has not theretofore received from the Credit Facility Issuer, the Liquidity Facility Issuer or the City, as the case may be, a notice stating that the event which resulted in the Credit Facility Issuer, the Liquidity Facility Issuer or the City giving a notice of the Termination Date has been cured and that the Credit Facility Issuer, the Liquidity Facility Issuer or the City has rescinded its election to terminate the Credit Facility, the Liquidity Facility of the Bond Insurance Policy, as the case may be. Notwithstanding anything to the contrary in subsection (f) below, such notice shall be given by Electronic Means capable of creating a written notice. Any notice given substantially as provided by this subsection (b) shall be conclusively presumed to have been duly given, whether or not received by each Owner.

**Subsection (d) of Section A-406 was deleted in its entirety and replaced with the following:**

(d) No Investment; Amounts Applied Solely to Related Series. Amounts held by the Tender Agent in the Liquidity Facility Purchase Account or the Remarketing Proceeds Account relating to the Bonds of a subseries shall not constitute Gross Revenues or Net Revenues under the Ordinance and shall be held uninvested and separate and apart from all other funds and accounts. Amounts so held or available to be drawn under a Liquidity Facility for deposit in a Liquidity Facility Purchase Account shall not be available to pay the Purchase Price of Bonds of any subseries other than Bonds of a subseries that are supported by such Liquidity Facility.

**Subsection (c) of Section A-407 was deleted in its entirety and replaced with the following:**

(c) Transfer of Funds; Draw on Liquidity Facility.

(1) The Remarketing Agent shall at or before 12:00 noon (12:20 p.m. in the case of Bonds of a subseries in the Daily Rate Mode) on the Purchase Date or Mandatory Purchase Date, as the case may be, confirm to the City, the Paying Agent/Registrar and the Tender Agent the transfer of the Purchase Price of remarketed Bonds of the Series to the Tender

Agent in immediately available funds at or before 11:45 a.m. (12:15 p.m. in the case of Bonds of a subseries in a Daily Rate Mode), such confirmation to include the pertinent identifying information with respect to such transfer.

(2) To the extent a Liquidity Facility is in effect, the Tender Agent shall draw on the Liquidity Facility, in accordance with the terms thereof, by 12:25 p.m. on the Purchase Date or Mandatory Purchase Date, as the case may be, in an amount equal to the Purchase Price of all Bonds of the Series tendered or deemed tendered less the aggregate amount of remarketing proceeds confirmed to the City, the Paying Agent/Registrar and the Tender Agent by the Remarketing Agent pursuant to clause (1) of this Section A-407(c) and shall cause the proceeds of such draw to be transferred to the Tender Agent by no later than 2:30 p.m. Notwithstanding the foregoing, the Tender Agent shall draw on the Liquidity Facility, if any, in an amount equal to the Purchase Price of all of Bonds of the Series tendered or deemed tendered for purchase on each Purchase Date or Mandatory Purchase Date, as the case may be, if it does not receive a confirmation from the Remarketing Agent pursuant to clause (1) above of this Section A-407(c).

(3) To the extent a Liquidity Facility is in effect, the Tender Agent shall confirm to the City by 2:40 p.m. on the Purchase Date or Mandatory Purchase Date, receipt of proceeds of any draw on the Liquidity Facility.

**Article A-V was deleted in its entirety and replaced with the following:**

## **ARTICLE A-V**

### **LIQUIDITY FACILITIES AND CREDIT FACILITIES**

#### **Section A-501**

#### **Liquidity Facility and Credit Facility.**

(a) At any time, the City may provide for the delivery of (i) an initial Liquidity Facility and an Alternate Liquidity Facility with respect to the Bonds of any subseries, and/or (ii) an initial Credit Facility and an Alternate Credit Facility with respect to the Bonds of any subseries. The City shall not obtain a Liquidity Facility for the Bonds of a subseries or provide for the delivery of a Liquidity Facility for the Bonds of a subseries without the prior consent of any Credit Facility Issuer for the Bonds of such subseries. Any such Liquidity Facility or Credit Facility shall provide that a Termination Date which permits the City to make on the Termination Tender Date a draw under the Liquidity Facility or the Credit Facility, as the case may be, shall not occur unless written notice thereof is given to the City, the Paying Agent/Registrar and the Tender Agent at least sixteen (16) days prior to the Termination Date. To the extent that any Liquidity Facility or Credit Facility permits the issuer thereof to assign its obligation thereunder, such Liquidity Facility or Credit Facility, as the case may be, shall provide that such assignment shall not be effective unless a written notice of such assignment is given to the City, the Paying Agent/Registrar and the Tender Agent at least sixteen (16) days prior to the effective date of such assignment. On or prior to the date on which a Liquidity Facility or Credit Facility is obtained or delivered to the City, the City shall obtain a Favorable Opinion of Bond Counsel. As provided in Section A-403 hereof, all Outstanding Bonds of the Series to which such Liquidity Facility or Credit Facility relates will become subject to mandatory tender for purchase on the Substitution Date.

(b) The City may execute and deliver any instrument that, upon such execution and delivery by the City, would constitute a "Credit Facility," a "Liquidity Facility" or both.

(c) The City shall deliver to the Paying Agent/Registrar, the Tender Agent, the Credit Facility Issuer, the Insurer and the Remarketing Agent a copy of each Liquidity Facility or Credit Facility obtained pursuant to this article on the effective date of such Liquidity Facility or Credit Facility. If at any time there shall have been delivered (i) an Alternate Credit Facility or Alternate Liquidity Facility in substitution for the Credit Facility or Liquidity Facility with respect to Bonds of a subseries then in effect and (ii) a Favorable Opinion of Bond Counsel, then, providing that any condition to substitution contained in the existing Credit Facility or Liquidity Facility shall have been satisfied, the Paying Agent/Registrar and/or the Tender Agent, as applicable, shall accept such Alternate Credit Facility or Alternate Liquidity Facility and, subject to subsection (d) of this Section A-501, shall surrender the Credit Facility or Liquidity Facility then in effect to the Credit Facility Issuer or Liquidity Facility Issuer on the effective date of the Alternate Credit Facility or Alternate Liquidity Facility. In the event of an extension of the Expiration Date, the City shall give the Paying Agent/Registrar, the Tender Agent, the Credit Facility Issuer and the Remarketing Agent a written notice of the new Expiration Date at least sixteen (16) days prior to the Expiration Tender Date. In the event of a substitution of a Liquidity Facility with an Alternate Liquidity Facility or of a Credit Facility with an Alternate Credit Facility, the City shall give the Paying Agent/Registrar, the Tender Agent, the Insurer and the Remarketing Agent a written notice of the Substitution Date at least sixteen (16) days prior to such Substitution Date.

The City shall give the Paying Agent/Registrar, the Tender Agent, the Insurer and the Remarketing Agent a written notice of its election to terminate the Credit Facility or the Liquidity Facility at least sixteen (16) days prior to the Termination Tender Date resulting from its election to terminate such Credit Facility or Liquidity Facility.

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

(e) The City shall not sell, assign or otherwise transfer the Credit Facility or Liquidity Facility, except in accordance with the terms of the Credit Facility or Liquidity Facility and the Ordinance.

(f) Prior to the Substitution Date, no drawing under an Alternate Liquidity Facility shall be made by the City if the predecessor Liquidity Facility shall be effective and available to make drawings on the date of such drawing. On and after the Substitution Date, no drawing under a predecessor Liquidity Facility shall be made by the City if the Alternate Liquidity Facility shall be effective and available to make drawings on the date of such drawing.

#### Section A-502

#### Direct-Pay Credit Facility Drawing Account.

(a) If a Direct-Pay Credit Facility is in effect with respect to the Bonds of any subseries, there shall be created and established and maintained with the Paying Agent/Registrar a separate account for the Bonds of such subseries to be known as the "[Name of Bonds of a subseries that are secured by such Credit Facility] Direct-Pay Credit Facility Drawing Account" (the "Direct-Pay Credit Facility Drawing Account"). The establishment of such Direct-Pay Credit Facility Drawing Account shall be evidenced in a certificate of an authorized representative of the Paying Agent/Registrar.

(b) The City shall make payments of principal and Redemption Price of and interest on the Bonds of a subseries in accordance with the Ordinance into the Debt Service Fund as and when the same shall become due and payable regardless of whether a Direct-Pay Credit Facility is in effect with respect to the Bonds of such subseries.

(c) If a Direct-Pay Credit Facility is in effect with respect to the Bonds of a subseries, the Paying Agent/Registrar shall take all action necessary to draw or make a claim on the related Direct-Pay Credit Facility in such amounts, at such times, and in such manner as shall be necessary to pay the principal and Redemption Price (including, to the extent amounts are available therefor under the Direct-Pay Credit Facility, Sinking Fund Installments) of and interest on all Bonds payable therefrom as and when the same shall become due and payable; provided, however, in the event the Bond Insurance Policy is in effect, any such draw or claim on a Direct-Pay Credit Facility shall be made at such times in order to receive payment in immediately available funds by 11:30 a.m. on the Business Day immediately preceding the date on which payment is due on the Bonds. The Paying Agent/Registrar shall promptly deposit into the related Direct-Pay Credit Facility Drawing Account all moneys so drawn by the Paying Agent/Registrar under the related Direct-Pay Credit Facility, which shall not be commingled with any other moneys held by the Paying Agent/Registrar and which shall be applied to the payment of such principal, Redemption Price and interest.

(d) Subject to the immediately succeeding paragraph, on each Principal Installment due date or Redemption Date, as the case may be, and Interest Payment Date, the Paying Agent/Registrar shall make payments of principal or Redemption Price of and interest on the Bonds of each Series to their Owners in accordance with the Ordinance.

If a Direct-Pay Credit Facility is in effect with respect to the Bonds of any subseries, notwithstanding the immediately preceding paragraph, the Paying Agent/Registrar shall make payments of principal or Redemption Price of and interest on the Bonds of such subseries to their Owners in the manner provided for in the Ordinance from the moneys deposited in the related Direct-Pay Credit Facility Drawing Account pursuant to subsection (c) of this Section A-502. If sufficient funds are not available in the related Direct-Pay Credit Facility Drawing Account, the City shall apply other moneys, if any, available in the Debt Service Fund to the extent necessary to make such payment. If the principal or Redemption Price of and interest on the Bonds of a subseries has been paid in full when due and all payments required to be made under the Direct-Pay Credit Facility have been made, the City shall apply remaining moneys, if any, available in the Debt Service Fund in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer of the Direct-Pay Credit Facility for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer of the Direct-Pay Credit Facility. In the event the Credit Facility Issuer of the related

Direct-Pay Credit Facility for such draw or borrowing is not reimbursed by the City within five (5) Business Days of such draw or borrowing and the Bond Insurance Policy is in effect, the Paying Agent/Registrar may make a claim under the Bond Insurance Policy on behalf of the Credit Facility Issuer, if instructed to do so in writing by such Credit Facility Issuer, to the extent provided for in the Bond Insurance Policy and Section 12.02(d) of the Ordinance.

(e) Amounts held by the Paying Agent/Registrar in each Direct-Pay Credit Facility Drawing Account shall not constitute Gross Revenues or Net Revenues under the Ordinance and shall be held uninvested and separate and apart from all other funds and accounts. Amounts so held or available to be drawn under a Direct-Pay Credit Facility for deposit in a Direct-Pay Credit Facility Drawing Account shall not be available to pay the principal or Redemption Price of or interest on any subseries other than the Bonds of a subseries that are supported by such Direct-Pay Credit Facility.

(f) So long as the Bond Insurance Policy is in effect and a Direct-Pay Credit Facility is in effect with respect to the Bonds of any subseries, the Paying Agent/Registrar first shall take all action necessary to draw or make a claim on the related Direct-Pay Credit Facility in such amounts, at such times, and in such manner as prescribed by subsection (c) of this Section A-502.

(g) To the extent that any payment on the Bonds has been made to an Owner with funds provided by a draw under a Direct-Pay Credit Facility for which the related Credit Facility Issuer has not been reimbursed by the City, such Bonds shall be deemed to be unpaid and shall be deemed to remain outstanding for all purposes of this Ordinance and such Credit Facility Issuer shall be subrogated to the rights of the Owner of such Bond. In the event the related Credit Facility Issuer of the Direct-Pay Credit Facility is reimbursed for such draw by a payment under the Bond Insurance Policy or another Credit Facility, such Bond shall be deemed to remain outstanding for all purposes of this Ordinance and the Bond Insurer or the Credit Facility Issuer of such other Credit Facility, as applicable, shall be subrogated to the rights of the Owner of such Bond until such Bond is paid in full by the City.

#### Section A-503

#### Amendments Relating to Credit Facilities and Liquidity Facilities.

In addition to any amendments permitted pursuant to Article Nine of the Ordinance, the City, with the consent of the Insurer, may amend any provisions of the Ordinance, including without limitation any provisions of this APPENDIX A, as the City deems necessary or appropriate in connection with the conversion to a Daily Rate Mode or a Weekly Rate Mode or with the delivery of any Credit Facility or Liquidity Facility.

**The third paragraph of Section A-602 was deleted in its entirety and replaced with the following:**

The Tender Agent shall be selected by the City and shall be a bank or other financial institution that satisfies the qualifications determined by the City and set forth in any applicable provisions of law. The City's execution of a Certificate setting forth the effective date of the appointment of a Tender Agent and the name, address and telephone number of such Tender Agent shall be conclusive evidence that (i) such Tender Agent has been appointed and is qualified to act as Tender Agent under the terms hereof and (ii) if applicable, the predecessor Tender Agent has been removed in accordance with the provisions hereof. Notwithstanding any other provision of this Section A-602 to the contrary, so long as a Credit Agreement is in effect with respect to the Bonds and such Credit Agreement constitutes both a Credit Facility and a Liquidity Facility, the entity serving as Tender Agent for the Bonds shall also serve as Paying Agent/Registrar for the Bonds.

\* \* \* \* \*

*Except as reflected in the amendments described above, all other terms and provisions of the Authorizing Ordinance remain in full force and effect. To the extent of any conflict or inconsistency between the terms and provisions contained in the Authorizing Ordinance and the terms and provisions reflected in this APPENDIX E, the terms and provisions reflected in this Appendix E shall govern and prevail to the extent necessary to resolve such conflict or inconsistency.*

## APPENDIX E

### CERTAIN REVISIONS TO 2008 REMARKETING MEMORANDUM

*Certain summaries in the 2008 Remarketing Memorandum under the heading DESCRIPTION OF THE BONDS shall be superseded by the descriptions provided below.*

*The summary in the 2008 Remarketing Memorandum under the caption "DESCRIPTION OF THE BONDS – Mandatory Tenders" is replaced in its entirety by the following:*

#### **Mandatory Tenders**

Except for Bank Bonds, the Bonds of a subseries to be changed to any Mode from any other Mode are subject to mandatory tender for purchase on the Mode Change Date at the Purchase Price. Except for Bank Bonds, the Bonds of a subseries shall be subject to mandatory tender for purchase on: (a) the second Business Day preceding the Expiration Date of a Credit Facility or Liquidity Facility, which second Business Day is hereinafter referred to as an "Expiration Tender Date"; (b) the fifth calendar day (or if such day is not a Business Day, the preceding Business Day) preceding the Termination Date of a Credit Facility, a Liquidity Facility or the Bond Insurance Policy which fifth calendar day is hereinafter referred to as a "Termination Tender Date", if the Credit Facility or Liquidity Facility permits a draw thereon on the Termination Tender Date; (c) the fifth calendar day (or if such day is not a Business Day, the preceding Business Day) following the receipt by the City of a written notice from the issuer of a Credit Facility that such Credit Facility will not be reinstated (in respect of interest) to an amount equal to the interest component of the Liquidity and Credit Amount required with respect to the Bonds of such subseries, which fifth calendar day is hereinafter referred to as an "Interest Non-Reinstatement Tender Date"; and (d) the Substitution Date for a Credit Facility or a Liquidity Facility. Except for Bank Bonds, the Bonds of a subseries in the Term Rate Mode are subject to mandatory tender for purchase on each Purchase Date at the Purchase Price. **Notwithstanding the foregoing, for so long as the Letters of Credit remain in effect, clause (c) does not apply to the Letters of Credit.**

*Notice.* The Paying Agent/Registrar shall, at least fifteen (15) days prior to the Expiration Tender Date with respect to Bonds of a subseries, give notice of the mandatory tender of the Bonds of such subseries on such Expiration Tender Date if it has not therefore received confirmation that the Expiration Date has been extended.

Upon receipt of a written notice from the Credit Facility Issuer, the Liquidity Facility Issuer or the City that the Credit Facility or the Liquidity Facility, as the case may be, will terminate or, that the obligation of the Credit Facility Issuer or Liquidity Facility Issuer, as the case may be, to provide a loan thereunder will terminate prior to its Expiration Date, or the Bond Insurance Policy will be cancelled or terminated, the Paying Agent/Registrar shall within one (1) Business Day give notice of the mandatory tender of the Bonds of such subseries that is to occur on such Termination Tender Date if it has not theretofore received from the Credit Facility Issuer, the Liquidity Facility Issuer or the City, as the case may be, a notice stating that the event which resulted in the Credit Facility Issuer, the Liquidity Facility Issuer or the City giving a notice of the Termination Date has been cured and that the Credit Facility Issuer, the Liquidity Facility Issuer or the City has rescinded its election to terminate the Credit Facility, the Liquidity Facility or the Bond Insurance Policy, as the case may be. Notwithstanding anything to the contrary below, such notice shall be given by Electronic Means capable of creating a written notice. Any notice given substantially as provided herein shall be conclusively presumed to have been duly given, whether or not actually received by each Owner.

Upon receipt of a written notice from the issuer of a Credit Facility that such Credit Facility will not be reinstated (in respect of interest) to an amount equal to the interest component of the Liquidity and Credit Amount required with respect to the Bonds of such subseries, the Paying Agent/Registrar shall within one (1) Business Day give notice of the mandatory tender of the Bonds of such subseries on such Interest Non-Reinstatement Tender Date if it has not theretofore received from the issuer of the Credit Facility a notice stating that the Direct-Pay Credit Facility has been reinstated to an amount equal to the interest component of the Liquidity and Credit Amount. Notwithstanding anything to the contrary herein below, such notice shall be given by Electronic Means capable of creating a written notice. Any notice given substantially as provided herein shall be conclusively presumed to have been duly given, whether or not actually received by each Owner. **This provision is not applicable for so long as the Letters of Credit remain in effect.**

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

The Paying Agent/Registrar shall, at least fifteen (15) days prior to (i) any Mode Change Date or (ii) the end of an Interest Period with respect to Bonds of a subseries in the Term Rate Mode, give notice of the mandatory tender for purchase of such Bonds that is to occur on such date.

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

*The summary in the 2008 Remarketing Memorandum under the caption "DESCRIPTION OF THE BONDS – Optional Tender of Bonds in Weekly Rate Mode" is replaced in its entirety by the following:*

#### **Optional Tender of Bonds in Weekly Rate Mode**

The Owners of Bonds of a subseries in a Weekly Rate Mode that are not Bank Bonds may elect to have such Bonds (or portions thereof in Authorized Denominations) purchased at a price equal to the Purchase Price upon delivery of an irrevocable written notice of tender to the Tender Agent and the Remarketing Agent, at their respective principal offices, not later than 5:00 p.m. on a Business Day not less than seven (7) days before the Purchase Date specified by the Owner. Such notice shall (i) state the number and the principal amount of such Bond being tendered and (ii) state that such Bond shall be purchased on the Purchase Date so specified by the Owner. The Tender Agent shall notify the City by the close of business on the next succeeding Business Day of the receipt of any notice pursuant to this paragraph.

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

*The summary in the 2008 Remarketing Memorandum under the caption "DESCRIPTION OF THE BONDS – Substitute Liquidity Facility" is replaced in its entirety by the following:*

#### **Substitute Liquidity Facility**

At any time, the City may provide for the delivery of (i) an initial Liquidity Facility and an Alternate Liquidity Facility with respect to the Bonds of any subseries, and/or (ii) an initial Credit Facility and an Alternate Credit Facility with respect to the Bonds of any subseries. The City shall not obtain a Liquidity Facility for the Bonds of a subseries or provide for the delivery



of a Liquidity Facility for the Bonds of a subseries without the prior consent of any Credit Facility Issuer for the Bonds of such subseries. Any such Liquidity Facility or Credit Facility shall provide that a Termination Date which permits the City to make on the Termination Tender Date a draw under the Liquidity Facility or the Credit Facility, as the case may be, shall not occur unless written notice thereof is given to the City, the Paying Agent/Registrar and the Tender Agent at least sixteen (16) days prior to the Termination Date. To the extent that any Liquidity Facility or Credit Facility permits the issuer thereof to assign its obligation thereunder, such Liquidity Facility or Credit Facility, as the case may be, shall provide that such assignment shall not be effective unless a written notice of such assignment is given to the City, the Paying Agent/Registrar, the Remarketing Agent and the Tender Agent at least sixteen (16) days prior to the effective date of such assignment. On or prior to the date on which a Liquidity Facility or Credit Facility is obtained or delivered to the City, the City shall obtain a Favorable Opinion of Bond Counsel. The Ordinance provides that all Outstanding Bonds of the Series to which such Liquidity Facility or Credit Facility relates will become subject to mandatory tender for purchase on the Substitution Date.

The City may execute and deliver any instrument that, upon such execution and delivery by the City, would constitute a "Credit Facility" or "Liquidity Facility", or both.

The City shall deliver to the Paying Agent/Registrar, the Tender Agent, the Credit Facility Issuer, the Bond Insurer and the Remarketing Agent a copy of each Liquidity Facility or Credit Facility obtained pursuant to the Ordinance on the effective date of such Liquidity Facility or Credit Facility. If at any time there shall have been delivered (i) an Alternate Credit Facility or Alternate Liquidity Facility in substitution for the Credit Facility or Liquidity Facility with respect to Bonds of a subseries then in effect and (ii) a Favorable Opinion of Bond Counsel, then, providing that any condition to substitution contained in the existing Credit Facility or Liquidity Facility shall have been satisfied, the Paying Agent/Registrar and/or the Tender Agent, as applicable, shall accept such Alternate Credit Facility or Alternate Liquidity Facility and, subject to certain provisions of the Ordinance relating to the receipt of sufficient funds to pay the Purchase Price of Bonds then subject of mandatory tender, shall surrender the Credit Facility or Liquidity Facility then in effect to the Credit Facility Issuer or Liquidity Facility Issuer on the effective date of the Alternate Credit Facility or Alternate Liquidity Facility. In the event of an extension of the Expiration Date, the City shall give the Paying Agent/Registrar, the Tender Agent, the Credit Facility Issuer, the Liquidity Facility Issuer and the Remarketing Agent a written notice of the new Expiration Date at least sixteen (16) days prior to the Expiration Tender Date. In the event of a substitution of a Liquidity Facility with an Alternate Liquidity Facility or of a Credit Facility with an Alternate Credit Facility, the City shall give the Paying Agent/Registrar, the Tender Agent, the Bond Insurer, and the Remarketing Agent a written notice of the Substitution Date at least sixteen (16) days prior to such Substitution Date. The City shall give the Paying Agent/Registrar, the Tender Agent, the Bond Insurer, and the Remarketing Agent a written notice of its election to terminate the Credit Facility or the Liquidity Facility at least sixteen (16) days prior to the Termination Tender Date resulting from its election to terminate such Credit Facility or Liquidity Facility.

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

The City shall not sell, assign or otherwise transfer the Credit Facility or Liquidity Facility, except in accordance with the terms of the Credit Facility or Liquidity Facility and the Ordinance.

Prior to the Substitution Date, no drawing under an Alternate Liquidity Facility shall be made by the City if the predecessor Liquidity Facility shall be effective and available to make drawings thereunder on the date of such drawing. On or after the Substitution Date, no drawing under a predecessor Liquidity Facility shall be made by the City if the Alternate Liquidity Facility shall be effective and available to make drawings thereunder on the date of such drawing.

*The summary in the 2008 Remarketing Memorandum under the caption "DESCRIPTION OF THE BONDS – Paying Agent/Registrar" is replaced in its entirety by the following:*

#### **Paying Agent/Registrar**

Interest on and principal of the Bonds will be payable, and transfer functions will be performed at the Designated Payment/Transfer Office of the Paying Agent/Registrar; currently, its corporate trust office is in Minneapolis, Minnesota. In the Ordinance, the City retains the right to replace the Paying Agent/Registrar. The City covenants to maintain and provide a Paying Agent/Registrar at all times while the Bonds are outstanding and any successor Paying Agent/Registrar shall be a

commercial bank, trust company organized under the laws of the State of Texas or the United States of America, or other entity duly qualified and legally authorized to serve as and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause of written notice thereof to be sent to each registered owner of the Bonds by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar. So long as a Credit Agreement is in effect with respect to the Bonds and such Credit Agreement constitutes both a Credit Facility and a Liquidity Facility, the entity serving as Paying Agent/Registrar also shall serve as Tender Agent for the Bonds.