

**LETTER OF CREDIT REIMBURSEMENT AGREEMENT**

By and between

**CITY OF AUSTIN, TEXAS**

and

**CITIBANK, N.A.,**

Relating to

**[\$115,695,000]  
City of Austin, Texas  
Water and Wastewater System  
Variable Rate Revenue Refunding Bonds  
Series 2008**

Dated as of [\_\_\_\_\_], 2015

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## LETTER OF CREDIT REIMBURSEMENT AGREEMENT

**THIS LETTER OF CREDIT REIMBURSEMENT AGREEMENT** (the “Agreement”) is dated as of [\_\_\_\_], 2015, by and between **THE CITY OF AUSTIN, TEXAS** (the “Issuer”) and **CITIBANK, N.A.**, a national banking association organized under the laws of the United States of America (together with its successors and assigns, the “Bank”). All capitalized terms used herein and not otherwise defined shall have the meaning assigned in Section 1.01 or as otherwise provided in Section 1.02.

### WITNESSETH:

WHEREAS, pursuant to the provisions of its home rule charter, Chapter 1371, Texas Government Code (“Chapter 1371”), and the Ordinance (as hereinafter defined), the City Council, as the governing body of the Issuer (the “City Council”), previously authorized, issued, sold and delivered the City’s Water and Wastewater System Variable Rate Revenue Refunding Bonds, Series 2008 (the “Bonds”) currently outstanding in the principal amount of \$[\_\_\_\_];

WHEREAS, Chapter 1371 authorizes the Issuer to execute a letter of credit and a reimbursement agreement with respect to the Bonds;

WHEREAS, pursuant to the Ordinance, the Bonds may bear interest in the Weekly Mode and the Issuer has determined to maintain a Liquidity Facility and a Credit Enhancement (each as hereinafter defined) in the form of a direct pay letter of credit;

WHEREAS, to enhance the marketability of the Bonds, the Issuer has requested the Bank to issue the Letter of Credit to secure certain payments to be made with respect to the Bonds in the amount of \$\_\_\_\_, of which \$\_\_\_\_ will be available to pay principal of the Bonds either at maturity or upon redemption or acceleration thereof or to pay the portion of the purchase price of Eligible Bonds (as hereinafter defined) representing the principal amount thereof, and of which \$\_\_\_\_ ((\_\_\_\_) days of interest on the principal amount of Bonds calculated at the rate of 12% and computed on the basis of a year of 365 days) will be available to pay interest on the Bonds as interest becomes due or to pay the portion of the purchase price of the Bonds representing the accrued interest thereon;

WHEREAS, the obligations of the Issuer hereunder and under any Bank Bonds (as hereinafter defined) are secured by a pledge of the Net Revenues (as hereinafter defined) which pledge is subordinate only to the pledge thereof securing the currently outstanding Prior First Lien Obligations (as hereinafter defined); and

WHEREAS, the Bank has agreed to issue the Letter of Credit pursuant to the terms hereof.

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

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** In addition to terms defined at other places in this Agreement, the following defined terms are used throughout this Agreement with the following meanings:

“*Accountant*” means an independent certified public accountant or a firm of independent certified public accountants, selected by the Issuer and satisfactory to the Bank.

“*Act*” means Chapter 1371, Texas Government Code, and all laws heretofore and hereafter amendatory thereof or supplemental thereto.

“*Affiliate*” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under common control with such Person. For purposes of this definition, “control” (including “controlled by” and “under common control with”), when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting rights, the power to appoint officers, members, trustees or directors, by contract or statute or otherwise. Without limiting the foregoing, the definition of “*Affiliate*” of any Person shall include any subsidiary of such Person.

“*Agreement*” means this Letter of Credit Reimbursement Agreement, including such amendments, modifications or supplements permitted pursuant to the terms hereof.

“*Alternate Credit Facility*” means any replacement credit facility and/or liquidity facility meeting the requirements of an Alternate Credit Enhancement or an Alternate Liquidity Facility pursuant to Section [7(h)] of the Ordinance.

“*Amortization End Date*” means, with respect to any Bank Bonds and Principal Purchase Drawing, the first to occur of (i) the date which is thirty-six (36) months after the date of the Principal Purchase Drawing, (ii) an Early Expiration Date, (iii) the date the Stated Amount is reduced to zero and (iv) the date upon which (A) an Event of Default shall occur or (B) any date during the Term Amortization upon which any representation or warranty of the Issuer made in this Agreement or in any certificate or document delivered in connection with this Agreement shall no longer be accurate and complete, as deemed made on and as of such date.

“*Applicable Law(s)*” means, collectively, the Constitutions of the United States and the State of Texas, all applicable common law and principles of equity and all international, foreign, federal, state and local laws, statutes, treaties, codes, acts, rules, regulations, guidelines, ordinances, resolutions, orders, judgments, decrees, injunctions, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all administrative orders, directed duties, requests, licenses, certificates, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law, that are applicable now or are applicable at any time hereafter to (a) the Issuer or (b) any assets, property, operations or facilities (including the Water/Wastewater System) of the Issuer or (c) the Transactions.

“*Authorized Issuer Representative*” means the City Manager, any Assistant City Manager, the Chief Financial Officer of the Issuer, any Deputy Chief Financial Officer of the Issuer, the City Treasurer, any Deputy City Treasurer and any other officer or employee of the Issuer authorized to perform the specific acts or duties to be performed by resolution duly adopted by the Issuer and of whom another

Authorized Issuer Representative gives written notice to the Bank; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Issuer Representative pursuant to the terms of this Agreement, such certificate or statement shall be executed only by an Authorized Issuer Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement. Any document or certificate hereunder that is executed by an Authorized Issuer Representative shall be deemed to have been authorized by all necessary action by the Issuer.

*“Authorized Denominations”* shall have the meaning assigned in the Ordinance.

*“Bank”* means Citibank N.A., a banking association organized and existing under the laws of the United States of America, and its successors and assigns.

*“Bank Bond”* means any Bond which has been purchased with the proceeds of a draw on the Letter of Credit from and including the date it is acquired by the Bank to, but excluding, the earliest of (a) the date of its payment in full or redemption and (b) the date of its sale by the Bank (other than through the grant of a participation or an assignment as permitted hereunder); provided that a Bank Bond shall continue to be deemed to be a Bank Bond following any assignment thereof by the Bank pursuant to Section 2.04(j), subject to the terms of Section 2.04(j). Bank Bonds are referred to as “Liquidity Provider Bonds” in the Ordinance.

*“Bank Bond CUSIP Number”* means [\_\_\_\_\_].

*“Bank Bond Interest Payment Date”* has the meaning assigned to such term in Section 2.01(d).

*“Bank Bond Owner”* means the Bank (but only in its capacity as owner (which term as used herein shall mean beneficial owner if at the relevant time Bank Bonds are Book Entry Bonds) of Bank Bonds pursuant to this Agreement) and any other Person or its permitted assignee which has purchased Bank Bonds as described in Section 2.04(j).

*“Bank Bond Rate”* means the Bank Rate, provided that, at any time and for so long as the Bank Rate exceeds the Maximum Bond Rate, the Bank Bond Rate means the Maximum Bond Rate.

*“Bank Bond Sale Consideration”* has the meaning set forth in Section 2.04(h).

*“Bank Disclosure”* means the information provided by the Bank and included in Appendix [\_\_\_] of the Reoffering Document under the caption “[\_\_\_\_\_]”.

*“Bank Rate”* means, for each date of determination, (a) the Base Rate, and (b) from and after the earlier of (i) the date amounts are owed hereunder but are not paid when due and (ii) during the occurrence and continuance of an Event of Default, the Default Rate; provided, however, that notwithstanding the foregoing, at any time that some but less than all of the Bonds are Bank Bonds, the Bank Rate shall never be less than the per annum interest rate then payable in respect of the Bonds that are not Bank Bonds.

*“Base Rate”* means, for any date, a rate per annum equal to the LIBOR Index Rate plus seven hundred fifty basis points (7.50%).

*“Bonds”* means bonds authenticated and delivered under and pursuant to the Ordinance.

“*Book Entry Bonds*” means the Bonds so long as the book entry system with the Securities Depository is used for determining beneficial ownership of the Bonds.

“*Business Day*” means any day other than (a) a Saturday or Sunday, (b) a day on which banks located in any of the cities in which the designated office of any of the Tender Agent, the Remarketing Agent, the Paying Agent or the Bank is located are required or authorized by law or executive order to close, (c) a day on which the New York Stock Exchange is closed, or (d) a day on which the payment system of the Federal Reserve System is not operational. For purposes of this definition, the Bank’s designated office shall be the office of the Bank at which Drawings are to be presented under the Letter of Credit the Paying Agent’s principal office shall be its respective office as designated in the [\_\_\_\_\_] Agreement and the Tender Agent’s principal office shall be its respective office as designated in the [\_\_\_\_\_] Agreement.

“*Calendar Quarter*” means each calendar quarter ending December 31, March 31, June 30 and September 30.

“*Closing Date*” means [\_\_\_\_\_] , 2015, or such later date on which this Agreement is fully executed and delivered.

“*Code*” means the Internal Revenue Code of 1986, as amended, or any successor provision or provisions thereto or any successor federal tax code, and any regulations (including temporary and proposed regulations relating to the matters governed by this Agreement) thereunder or under any such provision or successor federal tax code.

“*Contract*” means any ordinance, resolution, indenture, contract, mortgage, deed of trust, guaranty, note or agreement (other than this Agreement), other contractual restriction, lease, instrument, certificate of incorporation, charter or by-law.

“*Covered Rate*” means the Weekly Rate.

“*Credit Agreement*” has the meaning assigned to such term in Exhibit A to the Master Ordinance

“*Credit Enhancement*” has the meaning assigned to such term in Section 1 of the Ordinance.

“*Credit Provider*” has the meaning assigned to such term in Section 1 of the Ordinance

“*Date of Determination*” means the second London Banking Day prior to (a) the Closing Date, for the period from the Closing Date to and including [\_\_\_\_\_] , 2015, and (b) the first day of each calendar month, for all other periods.

“*Date of Issuance*” means [\_\_\_\_\_] , 2015, on which date the Bank will issue the Letter of Credit.

“*Debt*” means with respect to any Person, all items that would be classified as a liability in accordance with GAAP, including, without limitation, (a) indebtedness or liability for borrowed money including amounts drawn under a letter of credit or other credit facility, or amounts advanced under a commercial paper program or for the deferred purchase price of property or services (including trade obligations); (b) all capital lease obligations of such Person; (c) current liabilities in respect of unfunded benefits under employee benefit, retirement or pension plans; (d) obligations issued for the account of any other Person; (e) all obligations arising under acceptance facilities; (f) all Guarantees and other contingent obligations to purchase, to provide funds for payment, to supply funds to invest in any other Person or



otherwise to assure a creditor against loss; (g) obligations secured by full faith and credit or any mortgage, Lien, pledge, security interest or other charge or encumbrance on property, whether or not the obligations have been assumed; (h) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable, if such amounts were advanced under the credit facility; (i) obligations of such Person under Hedge Agreements; and (j) all amounts required to be paid by such Person as a guaranteed payment to partners or members or as a preferred or special dividend, including any mandatory redemption of shares or interests; and, in each case, whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss.

*“Debt Service Fund”* has the meaning assigned to such term in Exhibit A to the Master Ordinance, as continued by the Ordinance.

*“Debtor Relief Laws”* means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws and regulations of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

*“Default”* means the occurrence of any event or the existence of any condition which constitutes an Event of Default or the occurrence of any event or the existence of any condition which with the giving of notice, the passage of time, or both, would constitute an Event of Default.

*“Default Premium”* means a per annum rate equal to three hundred basis points (3.00%).

*“Default Rate”* means a per annum rate of interest equal to the Base Rate plus the Default Premium.

*“Designated Maturity”* means one month.

*“Determination Counsel”* means a firm of attorneys of nationally-recognized standing in matters pertaining to the validity of and tax exempt nature of interest on bonds and other debt instruments issued by states and their political subdivisions, designated by the Issuer and acceptable to the Bank in its sole and absolute discretion.

*“Determination of Taxability”* means a determination that the interest payable on the Bonds does not qualify as interest which is excludable from gross income of the recipient thereof for federal income tax purposes under Section 103 of the Code (“Exempt Interest”) for any reason, which determination shall be deemed to have been made upon the first to occur of any of the following:

(a) the date on which (i) the Internal Revenue issues a proposed or final determination of taxability, a Notice of Proposed Issue (IRS Form 5701-TEB), a notice of deficiency or similar notice, or any other notice, determination or decision, in each case, to the effect that the interest payable on the Bonds or any portion thereof does not qualify as Exempt Interest, or (ii) a court of competent jurisdiction has rendered any final ruling or decision to the effect that the interest payable on the Bonds or any portion thereof does not qualify as Exempt Interest;

(b) the date when the Issuer files any statement, supplemental statement, or other tax schedule, return or document, which is in any respect inconsistent with interest payable on the Bonds or any portion thereof continuing to qualify as Exempt Interest;

(c) the date of any sale, lease or other deliberate action within the meaning of Treas. Reg. § 1.141-2(d), if prior to such action the Issuer and the Bank have not received an unqualified opinion of Determination Counsel to the effect that such action will not cause interest on the Bonds to become includable in the gross income of the recipient for federal income tax purposes; or

(d) (i) the date that circumstances relating to the Issuer or the Project or any portion thereof have occurred or changed, or any federal tax law or regulation, or any public or private final ruling, technical advice memorandum or any other written communication by the Internal Revenue Service is adopted or issued, or any final ruling or decision of a court of competent jurisdiction is rendered or any other set of circumstances has occurred, in any such case, which may adversely affect the excludability of the Exempt Interest from the gross income of the recipient for federal income tax purposes; and thereafter (ii) Determination Counsel is notified by the Bank in writing, with a copy to the Issuer, or by the Issuer, with a copy to the Bank, that Determination Counsel is requested to deliver an updated approving tax-exempt opinion in form and substance acceptable to the Bank in its sole discretion (“Approving Opinion”) during the 45-day period after receipt of the request and is assured as to the payment of its fees and expenses for such services; and (iii) within 45 days after such notice has been received by Determination Counsel, either (A) the Bank and the Issuer have received written communication from Determination Counsel to the effect that, based upon an analysis of the facts and applicable law, it is unable to render an updated Approving Opinion, or (B) Determination Counsel has not delivered an Approving Opinion.

“*Differential Interest Amount*” means, with respect to any Principal Purchase Drawing, the excess of (a) interest which has accrued and is payable under this Agreement at the Bank Rate on such Principal Purchase Drawing, as determined in accordance with Sections 2.01 and 2.03, up to but excluding the Business Day on which such Principal Purchase Drawing is repaid in full to the Bank, less (b) the interest accrued on the Bank Bonds purchased pursuant to such Principal Purchase Drawing which is received by the Bank as part of the Sale Price for such Bank Bonds under Section 2.04(h).

“*Drawing*” means any Interest Drawing, Interest Purchase Drawing, Principal Drawing or Principal Purchase Drawing.

“*Early Expiration Date*” means any occurrence of the “Expiration Date” as described in any of subparts (b), (c), (d) or (e) of the definition of Expiration Date”.

“*Eligible Bonds*” means Tendered Bonds which have not been remarketed pursuant to Section [ ] of the Ordinance, other than any such Bond which (a) is a Bank Bond or (b) is owned by or on behalf of or is held for the account or for the benefit of the Issuer or any Affiliate of the Issuer.

“*Electric System*” means the Issuer’s Electric Utility System, which is referred to as the “City’s Electric Light and Power System” in the Master Ordinance.

“*Environmental Claim*” shall mean any and all administrative, regulatory or judicial investigations, proceedings, actions, suits, demand letters, claims, Liens, notices of noncompliance or violation, relating in any way to any Environmental Law (“claims”) or any permit issued under any such Environmental Law, including without limitation (a) any and all claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any applicable Environmental Law, and (b) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment.

*“Environmental Law(s)”* means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to air, water or land pollution, wetlands or the protection of the environment or to emissions, discharges or releases of Hazardous Materials into the environment, including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials or the clean-up or other remediation thereof.

*“Environmental Liability”* means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Issuer or any of its Affiliates directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, presence, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

*“Event of Default,”* in relation to this Agreement, shall have the meaning assigned to such term in Article VII, and in relation to any Related Document, shall have the meaning set forth therein.

*“Event of Insolvency”* means, with respect to any Person, the occurrence of one or more of the following events:

(a) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of such Person;

(b) the commencement by or against such Person of a case or other proceeding seeking liquidation, reorganization or other relief with respect to such Person or its debts under any bankruptcy, insolvency or other similar state or federal law now or hereafter in effect, including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for such Person or any substantial part of its property or there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;

(c) the making of an assignment for the benefit of creditors by such Person;

(d) the failure of such Person to generally pay its debts as they become due;

(e) the declaration of a moratorium with respect to the payment of the debts of such Person;

(f) such Person shall admit in writing its inability to pay its debts when due; or

(g) the initiation of any actions to authorize or consent to any of the foregoing by or on behalf of such Person.

*“Excess Interest Amount”* shall have the meaning assigned to such term in Section [\_\_\_\_\_].

“*Expiration Date*” has the meaning given to such term in Paragraph 1 of the Letter of Credit.

“*Exposure*” means, for any date with respect to a Person and any Hedge Agreement, the amount of any Settlement Amount that would be payable by such Person if such Hedge Agreement were terminated as of such date. Exposure shall be determined in accordance with the standard methods of calculating such Exposure under similar arrangements as prescribed from time to time by the Bank, taking into account the methodology for calculating amounts due upon early termination as set forth in the related Hedge Agreement and the notional principal amount, term and other relevant provisions thereof.

“*Facility Fee*” has the meaning assigned to that term in Section 2.05.

“*Fiscal Year*” means the fiscal year of the Issuer ending on September 30 of each calendar year.

“*Fitch*” means Fitch, Inc., or any successor thereto.

“*GAAP*” means accounting principles generally accepted in the United States, as 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 in such other statements by such other entity as may be in general use by significant segments of the accounting profession as in effect on the date hereof.

“*General Fund*” means [\_\_\_\_\_].

“*Governmental Approvals*” means an authorization, consent, approval, permit, license, certificate of occupancy or an exemption of, a registration or filing with, or a report to, any Governmental Authority.

“*Governmental Authority*” means any national, supra-national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, administrative, public or statutory instrumentality, authority, body, agency, department, commission, bureau, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other Person with authority to bind a party at law.

“*Gross Revenues*” has the meaning assigned to such term in Exhibit A to the Master Ordinance.

“*Guarantee*” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Debt or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (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) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Debt or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Debt or obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“*Hazardous Materials*” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, contaminants, chemicals, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas,

infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

*“Hedge Agreement”* means any rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap, credit default swap or any other similar transaction (including any option with respect to any of these transactions) and any other agreement or option involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions.

*“Holder”* has the meaning assigned to such term in Section 1 of the Ordinance.

*“Interest Drawing”* means a drawing under the Letter of Credit pursuant to an Interest Drawing, as defined in the Letter of Credit, to pay scheduled and unpaid interest accrued on the Bonds when due.

*“Interest Payment Date”* has the meaning assigned to that term in Section 2.03.

*“Interest Purchase Drawing”* means the portion of a drawing under the Letter of Credit pursuant to a Purchase Drawing to pay the portion of the purchase price of Eligible Bonds representing accrued and unpaid interest on Eligible Bonds to be purchased.

*“Issuer”* means the City of Austin, Texas, a home-rule city operating under its home-rule charter adopted pursuant to Section 5 of Article XI of the Texas Constitution, and its successors and assigns permitted hereunder.

*“Letter of Credit”* means the Irrevocable Letter of Credit No. [\_\_\_\_\_] issued by the Bank dated [\_\_\_\_\_] 2015, including such amendments, modifications or supplements permitted pursuant to its terms and the terms hereof, substantially in the form of Exhibit A hereto.

*“LIBOR Index Rate”* means:

(a) as of any Date of Determination, the interest rate per annum equal to (i) the offered quotations for the Designated Maturity in United States Dollars which appears on LIBOR01 Page of the Reuters LIBOR Rates Screen (or such other page as may replace LIBOR01 Page at or about 11:00 a.m. (London time) on the applicable Date of Determination; or (ii) if the interest rate determined under clause (i) is not available, the arithmetic mean (rounded upward to the nearest one-sixteenth of one percent (0.0625%)) of the interest rates quoted by the “London Reference Banks” to leading banks in the London interbank market at or about 11:00 a.m. (London time) on the applicable Date of Determination for a period of the Designated Maturity (commencing on the first day of the relevant interest period) in United States Dollars;

(b) provided, however that, if the Bank determines that for any reason and with respect to any Date of Determination (i) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Designated Maturity, or (ii) adequate and reasonable means do not exist for determining the LIBOR Index Rate for any Designated Maturity, the Bank will promptly so notify the Issuer and the Paying Agent and the LIBOR Index Rate for such Designated Maturity and such Date of Determination shall be that of the preceding interest period for the Designated Maturity until such time as the Bank shall either

notify the Issuer and the Paying Agent (x) of an alternative index to be used to calculate the LIBOR Index Rate or (y) that the LIBOR Index Rate will again be calculated as set forth under (a) of this definition.

“*Lien*” on or with respect to any asset means any mortgage, deed of trust, lien, pledge, charge, security interest, hypothecation, assignment, deposit arrangement or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected or effective under applicable law, as well as the interest of a vendor or lessor under any conditional sale agreement, capital or finance lease or other title retention agreement relating to such asset and, in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“*Liquidity Facility*” has the meaning assigned to such term in Section 1 of the Ordinance.

“*Liquidity Facility Purchase Account*” has the meaning assigned to such term in Section 1 of the Ordinance.

“*Liquidity Provider*” has the meaning assigned to such term in Section 1 of the Ordinance.

“*London Banking Day*” means any day (other than a Saturday or Sunday) on which commercial banks are open for business in one month LIBOR transactions in London, England.

“*Margin Stock*” shall have the meaning assigned to that term in Regulation U promulgated by the Board of Directors of the Federal Reserve System, as now and hereafter from time to time in effect.

“*Master Ordinance*” means Ordinance No. 000608-56A providing for the issuance of “Parity Water/Wastewater Obligations,” as defined therein, passed by the Issuer on June 8, 2000.

“*Material Adverse Change*” means the occurrence of any event or change which in the sole reasonable discretion of the Bank results in a material and adverse change in the business, condition (financial or otherwise), operations or prospects of the Water/Wastewater System since the last day of the period reported in the audited annual financial statements of the Issuer for the Fiscal Year ended [September 30, 2013], or which in the sole reasonable discretion of the Bank materially and adversely affects (a) the enforceability of this Agreement or any of the other Related Documents, (b) the ability of the Issuer to perform its obligations hereunder or thereunder or (c) the rights of or benefits or remedies available to the Bank under this Agreement or the Ordinance.

“*Material Adverse Effect*” means (a)(i), a materially adverse effect upon such Person’s business, assets, liabilities, condition (financial or otherwise), results of operations or business prospects, and (ii), a materially adverse effect upon the business, assets, liabilities, financial conditions, results of operations or business prospects of the Issuer, (b) with respect to this Agreement or any of the other Related Documents or any of the Issuer’s obligations arising under this Agreement or any of the Related Documents, an adverse effect upon the binding nature, validity or enforceability of such agreement or obligation, (c) an adverse effect on the exclusion of interest with respect to the Bonds from gross income for purposes of federal income taxation or the exemption of such interest from State personal income taxes or (d) a materially adverse effect (i) on the ability of the Issuer to complete the Transactions or (ii) on the rights or remedies of the Bank hereunder or under the other Related Documents.

“*Material Litigation*” shall have the meaning assigned in Section 4.07.

“*Maturity Date*” has the meaning assigned to such term in Section 1 of the Ordinance

*“Maximum Bank Interest Rate”* means the lesser of (a) 25% per annum and (b) the Maximum Lawful Rate.

*“Maximum Bond Rate”* means fifteen percent (15.00%) per annum.

*“Maximum Lawful Rate”* means, with respect to the Required Payments under this Agreement and at any time, the lesser of (i) the maximum, nonusurious rate of interest permitted to be charged on such obligation by applicable federal or State law (whichever shall permit the higher lawful rate) from time to time in effect or (ii) the maximum “net effective interest rate” permitted by present or future law to be paid on such Debt issued or incurred by the Issuer in the exercise of its borrowing powers, as currently prescribed by Chapter 1204, Texas Government Code.

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

*“Net Revenues”* has the meaning assigned to such term in Exhibit A to the Master Ordinance.

*“Non-Covered Interest Rate”* means a rate of interest payable on the Bonds other than a Covered Rate or the Bank Bond Rate.

*“Obligor Rating”* means any rating by a Rating Agency on any [Parity Water/Wastewater Obligations] of the Issuer secured by a Lien on and security interest in the Net Revenues that is not guaranteed by any other Person or subject to any third-party credit enhancement.

*“Off-Balance Sheet Liabilities”* means any liability or obligation, absolute, contingent or otherwise, incurred under an “off-balance sheet arrangement” as defined in the Final Rule: Disclosure in Management’s Discussion and Analysis about Off-Balance Sheet Arrangements and Aggregate Contractual Obligations, Securities And Exchange Commission 17 CFR Parts 228, 229 and 249, as such rule may be amended or supplemented from time to time.

*“Operating Expenses”* has the meaning assigned to such term in Exhibit A to the Master Ordinance.

*“Ordinance”* means Ordinance No. 20080306-053 of the City Council, adopted on March 6, 2008, authorizing the issuance and sale of the Bonds, as amended by Ordinance No. 20110407-061, adopted on April 18, 2011, and as amended by the Supplement.

*“Other Taxes”* means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, the Letter of Credit or this Agreement.

*“Outstanding”* shall have the meaning assigned in the Ordinance.

*“Owner”* means the registered owner of a Bond or, if the Bonds are Book Entry Bonds, the beneficial owner of such Bond.

*“Parity Bonds”* means the Parity Water/Wastewater Obligations, the Prior Subordinate Lien Obligations and the Previously Issued Separate Lien Obligations, currently Outstanding.

*“Parity Water/Wastewater Obligations”* has the meaning assigned to such term in Exhibit A to the Master Ordinance.

“*Participant(s)*” means any bank(s) or other financial institution(s) which may purchase a participation interest from the Bank in the Letter of Credit, this Agreement and certain of the Related Documents pursuant to a participation agreement between the Bank and the Participant(s).

“*Parity Water/Wastewater Obligations*” shall have the meaning assigned to such term in the Ordinance.

“*Paying Agency Agreement*” means the Paying Agent Agreement, dated as of [\_\_\_\_\_], between the Paying Agent and the Issuer, as the same may be amended, supplemented or extended from time to time pursuant to the terms thereof and hereof and any other similar agreement between the Issuer and any successor paying agent.

“*Paying Agent*” means U.S. Bank National Association or its permitted successor as Paying Agent under the Ordinance.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, a business trust, a limited liability company or any other entity or organization, including a governmental or political subdivision or an agency or instrumentality thereof.

“*Previously Issued Parity Water/Wastewater Obligations*” has the meaning assigned to such term in Section 1 of the Ordinance.

“*Previously Issued Separate Lien Obligations*” has the meaning assigned to such term in Exhibit A to the Master Ordinance.

“*Principal Drawing*” means that portion of each Drawing used to pay the principal of Bonds upon redemption or at maturity.

“*Principal Portion*” has the meaning assigned to such term in the Letter of Credit.

“*Principal Purchase Drawing*” means a drawing under the Letter of Credit pursuant to a Purchase Drawing to pay the portion of the purchase price of Eligible Bonds representing the principal amount of Eligible Bonds to be purchased.

“*Prior Bonds*” means the Prior First Lien Obligations currently Outstanding.

“*Prior First Lien Obligations*” has the meaning assigned to such term in Exhibit A to the Master Ordinance.

“*Prior Subordinate Lien Obligations*” has the meaning assigned to such term in Exhibit A to the Master Ordinance.

[“*Prior Supplements*” means \_\_\_\_\_.]

“*Purchase Date*” shall mean the date that Eligible Bonds are purchased pursuant to a Purchase Drawing on the Letter of Credit and become Bank Bonds.

“*Purchase Drawing*” has the meaning assigned to such term in the Letter of Credit.

“*Purchase Notice*” shall have the meaning assigned to such term in Section 2.04(g).

“*Purchase Price*” shall have the meaning set forth in the Letter of Credit.



“*Purchaser*” shall have the meaning assigned to such term in Section 2.04(g).

“*Rating Agency*” means S&P, Moody’s, Fitch or any successor or additional rating agency that rates the Bonds or other Parity Water/Wastewater Obligations at the written request of the Issuer with the written consent of the Bank.

“*Reimbursement Agreement*” has the meaning assigned to such term in Section 1 of the Ordinance.

“*Related Documents*” means, collectively, this Agreement, the Letter of Credit, the Ordinance, the Master Ordinance, the Supplement, the Paying Agency Agreement, the Remarketing Agreement, the Bonds, [the Tender Agent Agreement,] the Reoffering Document and any exhibits, instruments or agreements relating thereto, as the same may be amended from time to time in accordance with their respective terms and the terms hereof.

“*Remarketing Agent*” means initially the Person acting from time to time as the Remarketing Agent under the Ordinance and the Remarketing Agreement, currently [REMARKETING AGENT].

“*Remarketing Agreement*” means the Remarketing Agreement by and between the Issuer and the Remarketing Agent dated as of [DATE] and any similar agreement between the Issuer and any successor Remarketing Agent, including, in each case, such amendments, modifications or supplements permitted pursuant to its terms and the terms hereof.

“*Reoffering Document*” means the [ ] dated [ ] (including the cover page and all summary statements, appendices and other materials included or incorporated by reference or attached thereto), as amended or supplemented and any other preliminary or final official statement of the Issuer or prospectus used with respect to the remarketing of the Bonds or supplement to the Reoffering Document.

“*Required Payments*” means (a) all required payments in reimbursement of Drawings (including without limitation any Term Amortization) under the Letter of Credit for payment of the unpaid principal amount of, purchase price of, and accrued interest on, the Bonds, (b) all required payments of interest under this Agreement at the Bank Rate, (c) all required payments of the Facility Fee, (d) all payments of principal and interest on the Bank Bonds and (e) all other amounts, charges, costs, fees (including reasonable attorneys’ fees as set forth), expenses and sums due the Bank under this Agreement, the Bank Bonds and the other Related Documents, whether in the form of a direct, reimbursement, or indemnity, payment obligation, and including all payment obligations of the Issuer to the Bank, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Issuer of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“*Reserve Fund*” has the meaning assigned to such term in Exhibit A to the Master Ordinance, as continued by the Ordinance.

“*S&P*” means Standard and Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, or any successor thereto.

“*Sale Date*” shall have the meaning assigned to such term in Section 2.04(g).

“*Sale Price*” shall have the meaning assigned to such term in Section 2.04(g).

“*Securities Depository*” shall have the meaning assigned to such term in the Ordinance.

“*Settlement Amount*” means, with respect to a Person and any Hedge Agreement, any amount payable by such Person under the terms of such Hedge Agreement in respect of, or intended to compensate the other party for, the value of such Hedge Agreement upon early termination thereof.

“*State*” means the State of Texas.

“*Stated Amount*” has the meaning given to such term in Paragraph 2 of the Letter of Credit.

“*Stated Expiration Date*” has the meaning assigned to that term in subpart (a) of the definition of “Expiration Date.”

“*Supplement*” means [DESCRIBE NEW SUPPLEMENTARY ORDINANCE FOR THIS SUBSTITUTION].

“*Taxes*” has the meaning assigned to that term in Section 2.06(b).

“*Tender Agent*” shall mean U.S. Bank National Association or any successor tender agent which may at any time be substituted in its place as provided in the Ordinance.

“*Tendered Bonds*” means any Bonds Outstanding under and entitled to the benefits of the Ordinance which bear interest at a Covered Rate and that are tendered or deemed to have been tendered for purchase to the Paying Agent pursuant to Section [ ] of the Ordinance.

“*Term Amortization*” means the amortization period the Issuer is deemed to have requested the Bank to extend on and subject to the terms and conditions described in Section 2.01(b).

“*Termination Date*” means the first to occur of any Expiration Date.

“*Termination Fee*” has the meaning assigned to such term in Section 2.05(c).

“*To the best knowledge of*” (or any similar knowledge qualifier) means, when modifying a representation, warranty or other statement of any Person, that the fact or situation described therein is known by the Person (or, in the case of a Person other than a natural Person, known by an authorized representative of such Person) making the representation, warranty or other statement, or with the exercise of reasonable due diligence under the circumstances (in accordance with the standard of what a reasonably prudent Person in similar circumstances would have done) would have been known by the Person (or, in the case of a Person other than a natural Person, by such Person’s authorized representative).

“*Transactions*” means the substitution of the Letter of Credit as a Liquidity Facility and Credit Enhancement under the Ordinance, the execution and delivery by the Issuer of this Agreement as a Credit Agreement, and of the other Related Documents, the performance by the Issuer of its obligations (including payment obligations) under the Bonds and under this Agreement and the other Related Documents, the advance of the Drawings under the Letter of Credit and the use of the proceeds thereof.

“*Voluntary Termination*” means any election by the Issuer to terminate the Letter of Credit in connection with (i) an optional prepayment of all Outstanding Bonds (including all Bank Bonds), (ii) the replacement of the Letter of Credit with an Alternate Credit Facility or (iii) the conversion of all the Bonds to a Non-Covered Interest Rate.

*“Water/Wastewater System”* shall have the meaning assigned to such term in Section 1 of the Ordinance.

*“Weekly Rate”* has the meaning assigned to such term in Section 1 of the Ordinance.

*“Written”* or *“in writing”* means any form of written communication or a communication by means of facsimile device and as described in Section 10.16.

**Section 1.02. Incorporation of Certain Definitions by Reference.** Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Ordinance and the Bonds, as applicable, unless the context otherwise requires.

**Section 1.03. Accounting Matters.** All accounting terms used herein without definition shall be interpreted in accordance with GAAP, and except as otherwise expressly provided herein all accounting determinations required to be made pursuant to this Agreement shall be made in accordance with GAAP.

**Section 1.04. Computation of Time Periods.** In this Agreement, in the computation of a period of time from a specified date to a later specified date, unless otherwise specified herein, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

**Section 1.05. New York City Time Presumption.** All references herein to times of the day shall be presumed to refer to New York City time unless otherwise specified.

**Section 1.06. Relation to Other Documents.** Nothing in this Agreement shall be deemed to amend, or relieve the Issuer of any of its obligations under any Related Document. To the extent that the Issuer undertakes in any provision of this Agreement representations, covenants or obligations which conflict with, or are more exacting than, a provision of any other Related Document to which the Issuer is a party, such provisions of this Agreement shall control for all purposes of this Agreement.

**Section 1.07. Interpretation.** All words used herein shall be construed to be of such gender as the circumstances require. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, the singular includes the plural and the part includes the whole. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless otherwise specified (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in such document or herein), (b) any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not be limited to any particular provision of this Agreement, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and, when used in connection with any Person, to refer to all rights, title and interests of such Person in and to any and all property whether real, personal or mixed, or tangible or intangible, and wherever situated, including cash, securities, investment property, accounts, land, buildings, general intangibles, chattel, intellectual property, contract rights and other property and assets.

## ARTICLE II

### REIMBURSEMENT, BANK BONDS, FEES AND PAYMENT PROVISIONS

The Issuer shall pay and reimburse the Bank for all amounts drawn under the Letter of Credit and shall pay such other amounts as are set forth in this Article II and the other provisions of this Agreement, all on and subject to the terms and conditions of this Agreement:

**Section 2.01. Reimbursement of Drawings.** The Issuer agrees to repay to the Bank all amounts drawn under the Letter of Credit pursuant to a Principal Drawing, a Principal Purchase Drawing, an Interest Drawing, or an Interest Purchase Drawing, payable without any requirement of notice or demand by the Bank, on the day on which such Drawing is paid by the Bank; provided, however, if on the date of any Principal Purchase Drawing the conditions set forth in Section 3.02 are satisfied, the Issuer shall be deemed to have requested the Bank to extend a Term Amortization of the Principal Purchase Drawing to the Issuer on the terms set forth in Section 2.01(b) and the Issuer shall be required to repay to the Bank such Term Amortization and the amounts accruing in respect thereof in accordance with the provisions of this Section 2.01, as follows:

(a)

(i) The Issuer shall pay to the Bank, without any requirement of notice or demand by the Bank, an amount equal to the Principal Purchase Drawing together with any accrued unpaid interest thereon.

(A) on the earliest to occur of (1) an Early Expiration Date, (2) the Maturity Date, (3) an Event of Default hereunder and (4) the remarketing, acceleration, prepayment, redemption, defeasance or other payment of the Bank Bonds purchased pursuant to such Principal Purchase Drawing, and

(B) during a Term Amortization, upon the occurrence of an Amortization End Date.

(ii) The Issuer may prepay the amount of a Principal Purchase Drawing at any time in Authorized Denominations. The Issuer shall prepay amounts owed under this Section 2.01(a) upon any remarketing of Bank Bonds in amounts equal to the principal amount of the Bank Bonds remarketed.

(iii) Upon delivery to the Bank of any such payment or prepayment, the Bank shall apply such payment as provided in Section 2.08. To the extent of the principal payments actually received by the Bank in connection with the Bank Bonds and applied to principal under Section 2.08, such principal payments shall be credited to the payment of principal owed on the corresponding Principal Purchase Drawing, and the Bank shall cause to be released a principal amount of Bank Bonds, if any, equal to the amount of the principal of the Principal Purchase Drawing repaid under this Section 2.01; provided, however, that if the prepayment is less than the minimum Authorized Denomination, Bank Bonds shall be released only at such time as prepayments accumulate to the minimum Authorized Denomination then available, and provided further that, prior to any release of Bank Bonds, the Issuer shall have paid to the Bank any Differential Interest Amount and Excess Interest Amount owing in respect of the Principal Purchase Drawing pursuant to which such Bank Bonds were purchased.

(b) Term Amortization and Required Mandatory Prepayment of Bank Bonds.

(i) The Bank shall extend a Term Amortization to the Issuer on the date of the Principal Purchase Drawing and the Bank Bonds shall be subject to special mandatory prepayment, as stated in subpart (b)(ii), at a prepayment price equal to the Bank Bond Sale Consideration if, as of the date of the Principal Purchase Drawing, the requirements of Section 3.02 are met.

(ii) Subject to the provisions of subpart (iii) of this Section 2.01(b), the amount of the Principal Purchase Drawing shall amortize in six (6) semi-annual principal installments (the "Principal Payments") with the initial Principal Payment being due and payable by the Issuer 180 days after the date of such Principal Purchase Drawing and each successive Principal Payment being due six (6) months after the prior such Principal Payment, with the final Principal Payment in an amount equal to the entire remaining unpaid amount of the Principal Purchase Drawing, with all accrued interest due and owing as of such date, due on the Amortization End Date. Each Principal Payment shall be that amount of principal which will result in equal (as nearly as possible) aggregate Principal Payments assuming a Term Amortization ending on the date which is thirty-six (36) months after the date of the Principal Purchase Drawing.

(iii) If as of any date during the Term Amortization, the Amortization End Date shall occur, then the Term Amortization shall be terminated and the entire principal amount of all Bank Bonds, with accrued interest with respect thereto, together with all Bank Bond Sale Consideration shall be due and payable as of such Amortization End Date.

(iv) The Issuer shall be deemed to have made on and as of each day during a Term Amortization each of the representations and warranties of the Issuer made in this Agreement and in any certificate or document delivered in connection with this Agreement and each such representation and warranty shall continue to be accurate and complete on and as of such date.

(c) The Issuer shall pay to the Bank interest on any and all amounts drawn under the Letter of Credit pursuant to a Principal Purchase Drawing, such interest to accrue from the date of such Drawing until payment thereof in full, payable on the first Business Day of each month or, if earlier, the date on which all or a portion of such principal amount is paid or required to be paid, to the extent of such principal repayment, at a fluctuating interest rate per annum equal to the Bank Rate from time to time in effect, provided that (i) if any such amount is not paid when due and (ii) upon the occurrence and during the continuance of any Event of Default, amounts owed hereunder shall thereafter bear interest at the Default Rate. The Bank Rate shall be effective from and including the first day of each calendar month through and including the last day of such month regardless of whether any such day is a Business Day; provided that the Bank Rate for the period beginning on the Closing Date shall be effective from the Closing Date to and including [\_\_\_\_], 2015.

(d) Interest shall accrue on Bank Bonds at the Bank Bond Rate, which interest shall be due and payable on the first Business Day of each month or, if earlier, the date on which all or a portion of the principal amount of any such Bank Bond is paid or required to be paid, to the extent of such principal repayment (each a "Bank Bond Interest Payment Date") and in the amounts described in this Article II. Interest actually received by the Bank on Bank Bonds shall be credited to the payment of interest owed pursuant to Section 2.01(c).

(e) In any event, an amount equal to any Interest Drawing, Interest Purchase Drawing or Principal Drawing shall be due and payable by the Issuer to the Bank on the date of any such Drawing.

(f) Each time the Paying Agent makes a Drawing, the Issuer shall be deemed to represent and warrant on the date of such Drawing that (i) the conditions set forth in Section 3.02 have been satisfied, and (ii) the representations and warranties made by the Issuer herein are true and correct in all material respects on and as of such date, as made on and as of such date.

**Section 2.02. Default Interest.** The Issuer agrees to pay to the Bank, upon demand, interest on any and all amounts owed by the Issuer under this Agreement from the earlier of (a) the date such amounts are due and payable but not paid until payment thereof in full and (b) a date on which an Event of Default occurs (and for so long as any Event of Default is continuing), at a fluctuating interest rate per annum equal to the Default Rate. The obligations of the Issuer under this Section 2.02 shall survive the termination of this Agreement.

**Section 2.03. Payment of Interest Amounts.** The amount of interest required to be paid on any date under Sections 2.01 or 2.02, or under any other provision of this Article II (each, an “Interest Payment Date”) shall be due and payable by the Issuer on such date at the Bank Rate, including when the Bank Rate exceeds the Maximum Bond Rate, in accordance with the following provisions:

(a) Interest at the Bank Rate is due and payable by the Issuer to the Bank hereunder on each Interest Payment Date as a contractual obligation in respect of the advances made by the Bank hereunder.

(b) To the extent that interest hereunder is due and payable on Bank Bonds, such interest shall be paid in accordance with the terms of the Bonds and Section 2.01(d) and shall be credited against the Issuer’s repayment obligations in accordance with the terms of Section 2.01(d).

(c) To the extent that at any time (i) interest accrues hereunder on Bank Bonds and (ii) the Bank Rate is in excess of the Maximum Bond Rate, then the Bank Bond Rate shall be capped at the Maximum Bond Rate and all interest paid in respect of the Bank Bonds shall be applied to satisfy *pro tanto* the Issuer’s contractual obligation described under Section 2.03(a).

(d)

(i) If the amount of interest (including all amounts which are treated as interest on amounts advanced hereunder under Applicable Law) required to be paid on any Interest Payment Date under the terms of this Agreement (calculated as a net effective interest rate) exceeds the amount of interest that would have been payable for the applicable period had interest for such period been calculated at the Maximum Bank Interest Rate, then (ii) the applicable rate of interest shall not exceed but shall be capped at such Maximum Bank Interest Rate and (iii) in any interest accrual period thereafter that the applicable rate of interest (calculated as a net effective interest rate) is less than the Maximum Bank Interest Rate, [the Bank Bonds] and all Required Payments shall bear interest at the Maximum Bank Interest Rate until the earlier of (x) payment to the Bank of an amount equal to the amount which would have accrued but for the limitation of the applicable rate of interest set forth under (i) hereinbefore and (y) the Stated Expiration Date.

(e) Any interest or other amounts treated as interest that would have been due and payable under any provision hereof but for the operation of subparagraph (d) immediately above, shall accrue and be payable as provided in this subparagraph (e) and shall constitute, less interest actually paid to the Bank on such Interest Payment Date, the “*Excess Interest Amount*.” If there is any accrued and unpaid Excess Interest Amount as of any Interest Payment Date, then, on the current and each subsequent Interest Payment Date, interest shall be paid at the Maximum Bank Interest Rate rather than the otherwise applicable rate until the earliest of (x) payment to the Bank of the entire accrued Excess Interest Amount, (y) the Term-Out End Date or (z) the date on which no principal amount hereunder remains unpaid.

(f) Notwithstanding the foregoing, all unpaid Excess Interest Amount shall be, to the fullest extent permitted by applicable law, due and payable by the Issuer as a fee on the earlier of (i) the Term-Out End Date or (ii) the date on which no principal amount hereunder remains unpaid.

(g) It is expressly agreed that the provisions of this Section 2.03, including the fee described in subsection (f), and applicable federal and State law, including, as applicable, Chapter 1204 Texas Government Code (collectively, “*Chapter 24*”) (i) permit the Banks to charge interest, in accordance with the terms hereof, up to the Maximum Bank Interest Rate (and, in the case of the Bank Bonds, the Maximum Bond Rate), and (ii) permit the recapture of interest by allowing the rate of interest charged by the Banks to exceed a rate of 15% per annum so long as and provided that such rate does not at any time exceed the Maximum Lawful Rate. All amounts paid or agreed to be paid in connection with the obligations under this Agreement which under Chapter 24 would be deemed to be interest shall, to the extent permitted by Chapter 24, be amortized, prorated, allocated and spread throughout the full term of such obligations.

#### **Section 2.04. Purchase, Holding and Sale of Bank Bonds.**

(a) *Bank Bonds.* The Issuer and the Bank agree that, pursuant to the Ordinance, any Bonds purchased with the proceeds of a draw on the Letter of Credit are purchased by the Bank and shall be transferred and delivered by the Remarketing Agent to the Tender Agent for delivery to the Bank or its nominee or designee, as further provided in this Section 2.04, and prior to such delivery, shall be held in trust by the Remarketing Agent and Tender Agent, respectively, for the benefit of the Bank. Any Bonds so purchased shall constitute Bank Bonds (“*Liquidity Provider Bonds*” under the Ordinance) and, from the Purchase Date and while they are Bank Bonds, shall have the characteristics of Bank Bonds as set forth herein and of Liquidity Provider Bonds as set forth in the Ordinance.

(b) *Registration.* Bank Bonds shall be (i) transferred on the registration books of the Issuer kept at the office of the Tender Agent and registered on such books in the name of the Bank (or its nominee or designee) or (ii) if the Bonds are then Book Entry Bonds, delivered by transfer of such Bonds to an account specified from time to time by the Bank that the Bank (or its nominee or designee) maintains at the Securities Depository.

(c) (i) *Purchase.* With respect to any transfer referred to in clause (b)(i), the Issuer shall cause the Tender Agent to deliver, after such transfer, a principal amount of Bonds, appropriately registered as provided in clause (b)(i), equal to the principal amount of Bank Bonds purchased by the Bank to the Bank (or its nominee or designee).

(ii) *Book Entry Purchase.* With respect to any transfer referred to in clause (b)(ii), so long as Bank Bonds are Book Entry Bonds held by the Tender Agent as

part of DTC's FAST automated transfer program ("FAST Eligible Bonds"), concurrent with the Tender Agent's receipt of the Purchase Price for each purchase of Bank Bonds by the Issuer, the Tender Agent, as a participant of DTC (or any other successor Securities Depository) or an eligible transfer agent, shall, if so directed by the Bank, make a direct registration electronic book entry (A) crediting the DTC account of the Tender Agent at DTC Participation #\_\_\_\_\_, Ref.: #\_\_\_\_\_ (the "Bank Bond Book Entry Account") with the principal amount of the Bank Bonds purchased using the appropriate Bank Bond CUSIP Number and (B) debiting the book entry account of DTC for such Bonds (thereby reducing the principal balance of the global certificate representing the Bonds) (the "DTC Book Entry Account") by the principal amount of the Bank Bonds purchased by the Bank.

(iii) *Remarketing.* So long as the Bonds are FAST Eligible Bonds, upon a remarketing of Bank Bonds and the Bank's receipt from the Remarketing Agent of the remarketing proceeds, the Tender Agent, as a participant of DTC (or any other successor Securities Depository) or an eligible transfer agent, shall, if the Tender Agent has previously credited the appropriate Bank Bond Book Entry Account as described in clause (A) of the second sentence of this Section 2.04(c), make a direct registration electronic book entry in its records (X) debiting the appropriate Bank Bond Book Entry Account for the principal amount of the Bank Bonds so remarketed and (Y) crediting the appropriate DTC Book Entry Account for the Bonds (thereby increasing the principal balance of the global certificate representing the Bonds) with the principal amount of the Bank Bonds so remarketed.

(iv) *Procedures Generally.* The Tender Agent acknowledges that it is familiar with the procedures and requirements set forth in a notice from DTC, dated April 4, 2008, respecting "Variable Rate Demand Obligations ("VRDO") Failed Remarketings and Issuance of Bank Bonds", and agrees that, with respect to any and all Bonds, it will follow the procedures and requirements set forth in such notice and the same shall be applicable hereto, *mutatis mutandis*, as the same may be amended, supplemented, restated or replaced from time to time. To the extent that, following any amendment of such notice, the procedures and requirements therein should become inconsistent with any aspect of the provisions of this Section 2.04(c), the Tender Agent, the Issuer and the Bank shall promptly negotiate in good faith and agree upon amendments of this paragraph so as to eliminate such inconsistency. All costs and expenses related to actions taken pursuant to this Section 2.04(c) or otherwise to register Bank Bonds or transfer legal or beneficial interests therein shall be borne by the Issuer. At any time that Bank Bonds are Book Entry Bonds as provided in this Section 2.04(c), promptly following receipt of a written request from the Bank, the Tender Agent shall take such steps as are necessary to cause such Bank Bonds to be converted to physical form and to be delivered to or at the direction of the Bank.

(d) *Notices by Tender Agent.* The Tender Agent covenants and agrees to provide the notices to the Bank that the Tender Agent is required to give to the Bank by the terms of the Ordinance, including but not limited to all tender notices, promptly upon receipt thereof by the Tender Agent, by providing a true copy by overnight mail or courier service and to present each Drawing under the Letter of Credit by facsimile notice to the Bank. The Issuer agrees to comply, and to use its best efforts to cause the Tender Agent to comply, with these provisions and those in the Ordinance regarding Bank Bonds. The Bank shall have no responsibility for, nor incur any liability in respect of, any act, or any failure to act, by the Tender Agent, the Remarketing Agent, the Paying Agent or the Issuer which results in (i) the failure of the Tender Agent to effect the



purchase of the Bonds by the Issuer, (ii) the failure of such Bank Bonds to be delivered to the Bank or its nominee or designee or (iii) the failure of the Bank to collect or realize upon the Bank Bonds or for any delay in so doing.

(e) *Release or Debit.* Notwithstanding any other provision of this Agreement or the Ordinance, the Tender Agent shall not release Bank Bonds (or, debit the Bank Bond Book Entry Account) unless the Tender Agent has received notice from the Bank that the Bank has been paid all amounts owed with respect to such Bank Bonds and the related Drawing and the Stated Amount has been reinstated as provided in paragraph 4(b) of the Letter of Credit. The Issuer and the Bank hereby agree that the Bank Bonds are held as independent obligations and as additional security for the payment and performance of the Issuer's obligations hereunder.

(f) *Best Efforts.* The Issuer shall cause the Remarketing Agent to use its best efforts to remarket Bank Bonds at the Sale Price.

(g) *Purchase Notice.* Prior to 12:00 noon (New York time) on any Business Day on which the Bank (or other Bank Bond Owner) holds Bank Bonds, unless and insofar as the Bank shall have issued a Termination Event of Default Notice pursuant to Section 7.02, the Remarketing Agent may deliver a notice (a "Purchase Notice") to the Tender Agent and the Bank (or other Bank Bond Owner), stating that it has located a purchaser (the "Purchaser") for some or all of such Bank Bonds in an Authorized Denomination and that such Purchaser desires to purchase on the Business Day (a "Sale Date") following the Business Day on which the Bank (or other Bank Bond Owner) receives, prior to 12:00 noon New York time, a Purchase Notice at a price equal to the principal amount thereof plus unpaid accrued interest with respect thereto from and including the Purchase Date to but excluding the Sale Date at the interest rate then applicable to the Bonds (collectively, the "Sale Price").

(h) *Bank Bond Sale Consideration.* The Bank (or other Bank Bond Owner) shall cause such Bank Bonds to be sold to a Purchaser on the Sale Date (subject to receipt by it of the funds set forth in this sentence) by causing the delivery of such Bank Bonds to the Tender Agent (or, if the Bank Bonds are Book Entry Bonds, by causing the beneficial ownership thereof to be credited to the account of the Remarketing Agent at DTC) by 10:00 a.m. (New York time) on the Sale Date against receipt of the Sale Price therefor in immediately available funds at the Bank's (or other Bank Bond Owner)'s address listed in the Bond Register or such other address as specified by the Bank (or other Bank Bond Owner), and payment by the Issuer to the Bank (or other Bank Bond Owner) of the Differential Interest Amount and any Excess Interest Amount in respect of the Principal Purchase Drawing being repaid (collectively, the "Bank Bond Sale Consideration"); upon receipt by the Bank (or other Bank Bond Owner) of the Bank Bond Sale Consideration such Bonds shall thereupon no longer be considered Bank Bonds. When Bank Bonds are sold in accordance with this Section 2.04(h), the Tender Agent shall, upon receipt of such Bank Bonds and upon receipt by the Bank (or other Bank Bond Owner) of the Bank Bond Sale Consideration, notify the Issuer and the Paying Agent that such Bonds are no longer Bank Bonds. Any sale of a Bank Bond pursuant to this Section 2.04 shall be without recourse to the seller and without representation or warranty of any kind.

(i) *Transfer.* In the event of any such sale (i) if the Bank Bonds are not then Book Entry Bonds, the Bank (or other Bank Bond Owner) shall deliver (or cause to be delivered) such Bank Bonds duly endorsed in blank for transfer, or (ii) if the Bank Bonds are then Book Entry Bonds, the Bank (or other Bank Bond Owner) shall deliver (or cause to be delivered) in accordance with Section 2.04(b) such Bank Bonds through the facilities of such Securities Depository.

(j) *Sale and Assignment.* The Bank expressly reserves the right to sell and assign its interest in any Bank Bonds pursuant to the terms of this Agreement at any time. The Bank agrees that each sale and assignment pursuant to this subsection (j) will be made only to institutional investors or other entities or individuals which customarily purchase commercial paper or tax exempt securities in large denominations. The Bank shall notify such assignee, and obtain a written acknowledgment from such assignee (as Bank Bond Owner), that (A) any credit rating of the Bonds by virtue of the Letter of Credit shall be inapplicable to such Bank Bonds and (B) if the Bank Bonds are remarketed as contemplated by Section 2.04(g) hereof, the such Bank Bond Owner will sell its interest in such Bank Bonds and, if such Bank Bond Owner fails to sell its interests in such Bank Bonds, such Bonds shall bear interest from the date of such proposed sale at the rate of interest such Bonds would have borne had they not been Bank Bonds. The Bank agrees to notify the Issuer, the Paying Agent, the Tender Agent, and the Remarketing Agent promptly of any such assignment effected by it pursuant to this subsection (j) and, from and after delivery of such notice, the Bank shall have no further obligation or liability under this Section 2.04 with respect to such Bonds. Such Bank Bonds shall continue to bear interest at the Bank Bond Rate as though the Bank were the Owner thereof, unless such assignee fails to sell such Bank Bonds pursuant to Section 2.04(g) hereof, in which case such Bonds shall bear interest from such date of the proposed sale not at the Bank Bond Rate, but at the rate of interest such Bonds would have borne had they not been Bank Bonds, and such Bonds shall be deemed to have been remarketed and the Stated Amount shall be appropriately increased.

(k) *Pledge.* The Bank shall also have the right to pledge its interest in Bank Bonds and the related Required Payments as security for its obligations under any repurchase agreement or other agreement with any third party financial institution. Other than with respect to a pledge of Bank Bonds and the related Required Payments to any Federal Reserve Bank or the United States Treasury, the Bank shall notify such pledgee, and obtain a written acknowledgment from such pledgee, that (A) any credit rating on the Bonds by virtue of the Letter of Credit shall be inapplicable to such Bank Bonds and (B) if the Bank Bonds are remarketed as contemplated by Section 2.04(g) hereof, the pledgee will sell its interest in such Bank Bonds and, if such pledgee fails to sell its interest such the Bank Bonds, such Bonds shall bear interest from the date of such proposed sale not at the Bank Bond Rate, but at the rate of interest such Bonds would have borne had they not been Bank Bonds. Upon receipt of a Purchase Notice submitted pursuant to Section 2.04(g) hereof with respect to Bank Bonds pledged pursuant to this subsection (k), including Bank Bonds pledged to any Federal Reserve Bank or the United States Treasury, the Bank shall use its best efforts to deliver the Bank Bonds subject to such Purchase Notice, free and clear of the pledged interest therein, by 2:30 p.m. (New York City time) on the Business Day specified in such Purchase Notice. If the Bank shall not deliver such Bank Bonds to the Tender Agent, free and clear of the pledged interest therein, by the Business Day specified in the Purchase Notice, such Bank Bonds shall as of such date no longer constitute Bank Bonds and such Bonds shall be deemed to have been remarketed, the Stated Amount shall be appropriately increased, and such Bonds shall bear interest at the same rate as Bonds that are not Bank Bonds.

(l) *Further Rights.* If an Event of Default shall have occurred, the Bank may, without notice, exercise all rights, privileges or options under this Agreement and the other Related Documents, upon such terms and conditions as it may determine, all without liability. The Issuer shall be liable for the deficiency if the proceeds of any sale or other disposition of the Bank Bonds are insufficient to pay all amounts to which the Bank is entitled.

## **Section 2.05. Fees.**

(a) *Facility Fee.* The Issuer hereby agrees to pay to the Bank without any requirement of notice or demand, in immediately available funds, quarterly in arrears on the first Business Day of each Calendar Quarter (commencing on April 1, 2015, for the period from and including the Effective Date to but not including April 1, 2015) and on the Expiration Date and on the Amortization End Date, a non-refundable facility fee (the “Facility Fee”) with respect to the Stated Amount under the Letter of Credit (without regard to any reductions subject to reinstatement) during each period in respect of which such payment is to be made at the rate per annum (the “Facility Fee Rate”) specified below based upon the then applicable Rating (as defined below).

<b>Level</b>	<b>Moody’s Rating</b>	<b>S&amp;P Rating</b>	<b>Fitch Rating</b>	<b>Facility Fee Rate</b>
<b>1</b>	Aa3 or greater	AA- or greater	AA- or greater	.28%
<b>2</b>	A1	A+	A+	.28%
<b>3</b>	A2	A	A	.48%
<b>4</b>	A3	A-	A-	.68%
<b>5</b>	Baa1 or below	BBB+ or below	BBB+ or below	.88%

The term “Rating” as used above shall mean the Obligor Rating. In the event of a split Rating (i.e., one or more of the Rating Agency’s Ratings is at a different level than the Rating of the other Rating Agencies), the Facility Fee Rate shall be based upon the lowest Rating. Any change in the Facility Fee Rate resulting from a change in a 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 presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency, including, without limitation, any recalibration of the Ratings in connection with the adoption of a “global” rating scale, each of the Ratings from the Rating Agency 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 currently in effect. The Issuer and the Bank acknowledge that as of the Effective Date the Facility Fee Rate is that specified above for Level 1. In the event that any Rating is suspended, removed, withdrawn or otherwise unavailable from any Rating Agency, and for so long as such Rating remains so suspended, withdrawn or otherwise unavailable and upon the occurrence and during the continuance of any Default or an Event of Default under the Agreement, the Facility Fee Rate shall, without notice to the Issuer, be increased by an amount equal to the Default Premium of 3.00% per annum from and after the date of such suspension, withdrawal or occurrence and continuance of a Default or an Event of Default under the Agreement. The Issuer shall provide prompt written notice to the Bank of any suspension, removal or withdrawal of any Rating. The Facility Fee shall be payable quarterly in arrears, as specified above, together with interest on the Facility Fee from the date payment is due until payment in full at the Default Rate. The Facility Fee shall be payable in immediately available funds and computed on the basis of a 360 day year and the actual number of days elapsed.

(b) *Drawing Fee; Transfer and Amendment Fee.*

(i) Upon each Drawing hereunder, the Issuer agrees to pay to the Bank a non-refundable drawing fee of \$350, payable without any requirement of notice or demand by the Bank on the day on which such Drawing is paid by the Bank.

(ii) Upon each transfer or assignment of the Letter of Credit or this Agreement in accordance with its terms and upon any amendment of this Agreement or the Letter of Credit, the Issuer agrees to pay to the Bank a non-refundable fee of \$3500 plus the Bank's actual costs and expenses associated with such transfer, assignment or amendment (including, without limitation, the reasonable fees and expenses of Bank Counsel).

(c) *Reduction or Termination of Commitment; Termination Fee.*

(i) Subject to the provisions of subsection (ii) of this Section 2.05(c), the Issuer at any time may reduce the Stated Amount of the Letter of Credit or terminate the Stated Amount; provided that all Required Payments, including without limitation, all principal and interest owing in connection with any Drawings or Term Amortizations and all other amounts payable hereunder shall be paid to the Bank at or prior to the time of such termination;

(ii) In the event that this Agreement is terminated or the Stated Amount is reduced on or before the end of the "Initial Period" (such "Initial Period" being the period commencing on the Date of Issuance and ending on the date which is twelve (12) months after the Date of Issuance), the Issuer shall pay to the Bank on the date of termination or reduction date (either, the "Termination Date") (i) all amounts then due and owing to the Bank and (ii) a termination fee equal to the Facility Fee that would have been paid to the Bank during the Initial Period, calculated at the Facility Fee Rate in effect as of the Termination Date, multiplied by the Stated Amount as of the Date of Issuance (or, if a scheduled redemption of the Bonds has taken place, as of the date immediately preceding the Termination Date), all as described in Section 2.05(a) above, less the amount of the Facility Fee theretofore received by the Bank pursuant to Section 2.05(a) above since the Date of Issuance (the fee described in clause (ii) being the "Termination Fee").

Notwithstanding the foregoing paragraph, no such Termination Fee will become payable if the Issuer terminates the Agreement during the Initial Period solely because the Bank's short-term ratings at the time of such termination have been reduced below "A-1" by S&P, VMIG-1 by Moody's or "F1" by Fitch, by such of those Rating Agencies as are then rating the Issuer's debt; provided that the short-term ratings of any replacement liquidity facility provider shall not be the same as or lower than the Bank's then current short-term ratings.

**Section 2.06. Costs, Expenses and Taxes.**

(a) The Issuer agrees to pay on demand all costs and expenses incurred by the Bank and its Counsel in connection with the preparation, negotiation, execution and delivery of this Agreement, the Related Documents and any other documents and certificates which may be delivered in connection with this Agreement and the other Related Documents, including, without limitation, the fees, expenses and disbursements of Counsel for the Bank as provided in Section 3.01(m)(iii). In addition, the Issuer shall pay or cause to be paid on demand, upon not less than twenty-one (21) days prior written notice to the Issuer, the necessary and reasonable out-

of-pocket expenses and disbursements of the Bank and the necessary and reasonable fees, expenses and disbursements of Counsel to the Bank in connection with (i) the administration of this Agreement including any waiver or consent under this Agreement or any Related Document or other document or certificate delivered in connection with the Transactions or any amendment or requested amendment hereof or thereof (whether or not the transactions contemplated thereby shall be consummated) or any Default or alleged Default hereunder, (ii) the preparation, execution, delivery, administration and enforcement or preservation of rights in connection with a workout, refinancing, restructuring or waiver with respect to this Agreement, or any of the Related Documents and (iii) the occurrence of an Event of Default and collection and other enforcement proceedings resulting therefrom.

(b) Any and all payments to the Bank by or on behalf of the Issuer hereunder shall be made free and clear of, and without deduction for, any and all taxes, levies, imposts, deductions, charges or withholdings imposed, including but not limited to as a result of a change in, law, rule, treaty, or regulation, or any policy, guideline, or directive of, or any change in the interpretation, implementation, or administration thereof by, any Governmental Authority, and all liabilities with respect thereto, excluding only 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, other than a connection resulting solely from executing, delivering or performing its obligations or receiving a payment under, or enforcing, this Agreement (all such non excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes"). If the Issuer is required by law to withhold or deduct any sum from payments required under this Agreement, the Issuer shall, to the maximum extent permitted by Applicable Law, increase the amount paid by it to the Bank so that, after all withholdings and deductions, the amount received by the Bank shall equal the amount the Bank would have received without any such withholding or deduction.

(c) In addition, the Issuer shall pay or cause to be paid on demand, upon not less than twenty-one (21) days prior written notice to the Issuer, any present or future stamp, recording, or Other Taxes and fees payable or determined to be payable under Applicable Law in connection with the execution, delivery, filing and recording of this Agreement, the Related Documents and such other documents and certificates and agrees to defend, indemnify and hold the Bank harmless from and against any and all liabilities with respect to or resulting from any failure to pay, or any delay in paying, such taxes and fees.

#### **Section 2.07. Change in Law.**

(a) If the Bank or any Participant shall have determined that the adoption or implementation of, or any change in, any law, rule, treaty, regulation, policy, guideline, supervisory standard or directive of, or any change in the interpretation, implementation, or administration thereof by, any Governmental Authority (in each case, whether or not having the force of law), or compliance by the Bank or any Participant with any request by or directive of any Governmental Authority (in each case, whether or not having the force of law), including but not limited to any such law, rule, regulation, policy, guideline, standard, directive, interpretation or application implementing, invoking or in any way related to any provision (as now or hereafter amended) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (or any other statute referred to therein or amended thereby) or any rules, guidelines, standards, policies, regulations, or directives promulgated by the Basel Committee on Banking Supervision or the Bank for International Settlements (BIS) (or any successor or similar organizations), shall (i) change the basis of taxation of payments to the Bank or such Participant of any amounts

payable hereunder (except for taxes on the overall net income of the Bank or such Participant) or under the Bank Bonds, (ii) impose, modify or deem applicable any reserve, liquidity, special deposit, insurance premium, fee, financial charge, monetary burden or similar requirement against issuing the Letter of Credit or honoring draws under the Letter of Credit or holding any Bank Bonds, or complying with any term of this Agreement, or against assets held by, or deposits with or for the account of, the Bank or such Participant or (iii) impose on the Bank or such Participant any other condition, expense or cost regarding this Agreement or the Letter of Credit, and the result of any event referred to in clause (i), (ii) or (iii) above shall be to increase the cost to the Bank or such Participant of issuing the Letter of Credit or honoring draws under the Letter of Credit or complying with any term of this Agreement or to reduce the amount of any sum received or receivable by the Bank or such Participant hereunder, then, upon demand by the Bank, the Issuer shall pay to the Bank for its own account, or for the account of such Participant, as applicable, such additional amount or amounts as will compensate the Bank or such Participant for such increased costs or reductions in amount.

(b) If the Bank or any Participant shall have determined that the adoption or implementation of, or any change in, any law, rule, treaty, regulation, policy, guideline, supervisory standard or directive of, or any change in the interpretation, implementation, or administration thereof by, any Governmental Authority (in each case whether or not having the force of law), or compliance by the Bank or any Participant with any request by or directive of any Governmental Authority (in each case, whether or not having the force of law), including but not limited to any such law, rule, regulation, policy, guideline, standard, directive, interpretation or application implementing, invoking or in any way related to any provision (as now or hereafter amended) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (or any other statute referred to therein or amended thereby) or any rules, guidelines, standards, or directives promulgated by the Basel Committee on Banking Supervision or the Bank for International Settlements (BIS) (or any successor or similar organizations), shall impose, modify or deem applicable any capital (including but not limited to contingent capital) adequacy, reserve, insurance, liquidity or similar requirement (including, without limitation, a request or requirement that affects the manner in which the Bank or any Participant allocates capital resources or reserves to its commitments (including its obligations under letters of credit)) that either (i) affects or would affect the amount of capital or reserves to be maintained by the Bank or such Participant or (ii) reduces or would reduce the rate of return on the Bank's or such Participant's capital or reserves to a level below that which the Bank or such Participant could have achieved but for such circumstances (taking into consideration the policies of the Bank or such Participant with respect to capital adequacy or the maintenance of reserves) then, upon demand by the Bank, the Issuer shall pay to the Bank for its own account, or for the account of such Participant, as applicable, such additional amount or amounts as will compensate the Bank or such Participant for such event.

(c) All payments of amounts referred to in clauses (a) and (b) above shall be paid by the Issuer to the Bank within five Business Days of such demand. A certificate as to such increased cost, increased capital or reserves or reduction in return incurred by the Bank or any Participant as a result of any event mentioned in clause (a) or (b) of this subsection setting forth, in reasonable detail, the basis for calculation and the amount of such calculation shall be submitted in writing by the Bank to the Issuer simultaneously with such demand for payment and shall be conclusive as to the amount thereof absent manifest error. In making the determinations contemplated by the above referenced certificate, the Bank or Participant may make such reasonable estimates, assumptions, allocations and the like that the Bank or Participant in good faith determines to be appropriate, which estimates, assumptions and allocations shall be set forth

or described in the certificate. The obligations of the Issuer under this Section shall survive the termination of this Agreement.

**Section 2.08. Payments Generally.**

(a) Except as may be otherwise provided herein, all fees hereunder and interest on amounts owed hereunder or on the Bank Bonds shall be computed on the basis of a year of 360 days, and the actual number of days elapsed. All payments by or on behalf of the Issuer to the Bank hereunder shall be fully earned when due and nonrefundable when paid and made in lawful currency of the United States of America and in immediately available funds. Amounts payable to the Bank hereunder, unless otherwise directed by the Bank in writing, and except as credited to the Bank Bond Book Entry Account by the Tender Agent via the book-entry system of the Securities Depository in the case of Bank Bonds that are Book Entry Bonds, shall be paid by wire transfer to the Bank's account at Citibank, New York, ABA # 021-000-089, Credit to Account No. 4058-0089; Ref: City of Austin Series 2008 Bonds (or to such other account of the Bank as the Bank may specify by written notice to the Issuer) not later than 3:30 p.m. New York, New York time, on the date payment is due. Any payment received by the Bank after 3:30 p.m., New York, New York time, shall be deemed to have been received by the Bank on the next Business Day. If any payment hereunder is due on a day that is not a Business Day, then such payment shall be due on the next succeeding Business Day, and, in the case of the computation of the interest or fees hereunder, such extension of time shall, in such case, be included in the computation of the payment due hereunder.

(b) If at any time insufficient funds are received by and available to the Bank to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied first, to payment of that portion of the Required Payments constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Bank and amounts payable under Section 2.07) payable to the Bank, second, to payment of that portion of the Required Payments constituting accrued and unpaid interest on any Drawing or other amount unpaid hereunder or on the Bank Bonds (and, in any such case, first to past due interest and second to current interest), and third, to payment of that portion of the Required Payments constituting unpaid principal of any Drawing or Term Amortization or Bank Bonds.

**Section 2.09. Maintenance of Accounts.** The Bank shall maintain in accordance with its usual practice an account or accounts evidencing the Debt of the Issuer under this Agreement and the amounts payable and paid from time to time hereunder. In any legal action or proceeding in respect of this Agreement, the entries made in such account or accounts shall be presumptive evidence of the existence and amounts of the obligations of the Issuer therein recorded. The failure to record any such amount shall not, however, limit or otherwise affect the obligations of the Issuer to repay all amounts owed under this Agreement, together with all interest accrued thereon as provided herein.

**Section 2.10. Cure.** The Issuer agrees to pay to the Bank on demand, any amounts advanced by or on behalf of the Bank, to the extent required to cure any Default or Event of Default under this Agreement or any Related Document. The Bank shall give the Issuer reasonably prompt notice of any such advances. The Bank shall have the right, but not the obligation, to cure any such Default or Event of Default.

**Section 2.11. Operating Expenses.** The Issuer agrees that (a) the obligations of the Issuer to make the [payments described in subsections (a), (b), (c) and (d) of the definition of] Required Payments constitute Parity Water/Wastewater Obligations as set forth in the Supplement [and (b) the obligation to

pay any Required Payments payable by the Issuer under this Agreement other than those described under (a), are payable as Operating Expenses of the Issuer].

### ARTICLE III

#### CONDITIONS PRECEDENT

**Section 3.01. Closing Conditions.** On [\_\_\_\_\_], 2015, and subject to satisfaction of the conditions precedent set forth in this Section 3.01, the Bank shall issue the Letter of Credit in the Stated Amount, effective on the Date of Issuance and expiring on the Expiration Date. As conditions precedent to the issuance of the Letter of Credit, the Bank shall have received the following items on or before the Date of Issuance, each in form and substance satisfactory to the Bank and its counsel and the Issuer shall satisfy the Bank that the following conditions have been fulfilled:

(a) an opinion dated the Date of Issuance of Bond Counsel (or a reliance letter with respect to the original opinion of Bond Counsel) as to the due and valid execution and delivery of the Bonds, the tax-exempt status of the Bonds, and that the Bonds are entitled to the benefits of the Ordinance, satisfaction of legal requirements, lien status and securities matters and related matters, which shall expressly include this Agreement and the delivery and acceptance of the Letter of Credit as a Liquidity Facility and Credit Enhancement under the Ordinance and this Agreement as a Reimbursement Agreement under the Ordinance and a Credit Agreement under the Master Ordinance and cover such other matters as the Bank shall reasonably request within the scope of the matters opined upon including an opinion that none of the obligations of the Issuer hereunder or under the Bonds constitute a debt of the Issuer or of the State of Texas or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction; and the opinions shall be addressed to the Bank or a reliance letter shall be provided to the Bank expressly stating that the Bank is entitled to rely upon said opinions as if such opinions were addressed to the Bank;

(b) an opinion of Bond Counsel dated the Date of Issuance addressed to and acceptable to the Bank, to the effect that all conditions necessary to create a valid pledge of the Security in favor of the Bank and subject to no prior Lien other than the Lien securing the currently outstanding Prior First Lien Obligations, have been accomplished and that such pledge is on a parity with the pledge securing the Parity Water/Wastewater Obligations, Prior Subordinate Lien Obligations and Previously Issued Separate Lien Obligations (collectively, the "Parity Obligations") and covering such other matters relating to the Agreement and any of the other Related Documents or the proceedings of the Issuer as the Bank may request, including due authority, due execution and delivery, enforceability, no conflict, no consent, no litigation and related opinions;

(c) an opinion of Bond Counsel dated the Date of Issuance addressed to and acceptable to the Bank, to the effect that the Ordinance (as amended by the Supplement and as previously amended) has been duly and validly adopted, has not been amended since its date of passage and is in full force and effect, and covering related matters with respect to the Issuer as may be requested by the Bank, including due authority, due execution and delivery, enforceability, no conflict, no consent, no litigation and related opinions;

(d) a letter from the Paying Agent to the Bank, substantially in the form of Exhibit B;

(e) a certificate of the Issuer, in form and substance satisfactory to the Bank, executed by the Authorized Issuer Representative, dated the Date of Issuance, to the effect that



(i) all actions required to be taken by, and all resolutions required to be adopted under Applicable Law (which resolutions shall be attached to such certificate) by the Issuer in connection with the execution, delivery and performance of and under this Agreement and the other Related Documents to which the Issuer is a party, have been done and adopted and (ii) that each of the Related Documents to which the Issuer is a party, constitutes the legal, valid and binding obligations thereof, enforceable in accordance with their terms (subject, as to enforceability, to applicable bankruptcy, moratorium, insolvency or similar laws affecting the rights of creditors generally and to general principles of equity); and (iii) covering such other matters relating to the Bonds, the Issuer, this Agreement or any of the other Related Documents as the Bank may reasonably request;

(f) an incumbency certificate of the City Clerk of the Issuer certifying as to the name and true signature of the Authorized Issuer Representative(s) authorized to execute this Agreement, the Related Documents and any other document to be delivered by the Issuer hereunder or under the other Related Documents;

(g) certified copies of (i) all approvals, authorizations or consents of, or notices to or filings or registrations with, any governmental body, agency or official required for the Issuer to execute, deliver or perform this Agreement or any of the other Related Documents to which the Issuer is a party and (ii) audited financial statements of the Issuer for the Fiscal Years concluding on the last day of September [2011, 2012 and 2013], respectively;

(h) in final form, the Reoffering Document in the form reviewed by the Bank and dated the Date of Issuance;

(i) (i) a specimen original of a Bond, and

(ii) executed originals (or, when the Bank is not a party thereto, duplicates thereof) of this Agreement, each other Related Document and of each other agreement, document, instrument, certificate or opinion required to be delivered by any Person pursuant to the Related Documents, each of which shall be in form and substance satisfactory to the Bank and, in the case of each such opinion, either addressed to the Bank or accompanied by a letter addressed to the Bank from the counsel rendering such opinion stating that the Bank is entitled to rely upon such opinion as if such opinion were addressed to it;

(j) such other agreements, documents, instruments, certificates (and, if requested by the Bank, certified duplicates of executed copies thereof) and opinions as the Bank may reasonably request; and

(k) evidence satisfactory to the Bank and its counsel that all filings and recordings necessary to perfect the liens and security interests created by the Related Documents in favor of the Bank have been made in the appropriate governmental offices and that all filing fees, taxes or other impositions required therewith have been paid in full.

(l) The following statements shall be true and correct on the Date of Issuance and the Bank shall have received a certificate signed by an Authorized Issuer Representative dated the Date of Issuance, stating that on and as of the Date of Issuance: (i) the representations and warranties contained (or incorporated by reference) in Article IV hereof are true and correct, in all material respects, on and as of the Date of Issuance, as though made on and as of such date; (ii) no Material Adverse Change has occurred since September 30, [2013]; (iii) no Default or Event

of Default has occurred and is continuing or would result from the issuance of the Letter of Credit or the execution, delivery and performance by the Issuer of this Agreement or any of the other Related Document to which the Issuer is a party; (iv) the Issuer is in compliance with all of the terms, provisions and conditions of each rate or financial covenant and any other material provision of the Related Documents and any other contract or obligation entered into in connection with any Debt; (vi) all requirements and preconditions to the issuance, execution, delivery and sale of the Bonds and the acceptance of the Letter of Credit as an Alternate Liquidity Facility and Alternate Credit Enhancement have been satisfied; (vii) the Issuer has complied with all agreements and covenants and satisfied all conditions stated in this Agreement on its part to be performed or satisfied at or prior to the Date of Issuance; (viii) no petition by or against the Issuer has at any time been filed under the United States Bankruptcy Code or under any similar law; and (ix) covering such other matters of fact as may be reasonably requested by the Bank.

(m) On or before the Date of Issuance:

(i) the Issuer shall have made the finding described in Section 10(d) of the Master Ordinance, in the Supplement authorizing and approving the Letter of Credit and authorizing and approving this Agreement as a Credit Agreement, and the Issuer shall have further executed and delivered the certificate described in said Section 10(d);

(ii) the Bank shall have received copies of the Ordinance and the Master Ordinance, each certified by an Authorized Issuer Representative as being in full force and effect on the Date of Issuance, as not having been amended or supplemented through the date thereof (other than in Supplements attached thereto) and as being the only Ordinance and Master Ordinance, respectively, relating to the Bonds;

(iii) (A) provision by the Issuer for the fees and expenses of counsel to the Bank payable in connection with the delivery of the Letter of Credit and the preparation and negotiation of the Related Documents shall be paid and (B) all other amounts payable on the Date of Issuance pursuant to this Agreement shall have been received;

(iv) the Bank shall have received satisfactory evidence that the Bonds have been assigned long-term ratings of at least [ ] by [ ] and short-term ratings of "A-1," by S&P, and short-term ratings of "F-1," by Fitch, and "VMIG-1" by Moody's, after giving effect to the Letter of Credit and this Agreement and that the Obligor Rating on [Prior First Lien Obligations][Parity Water/Wastewater Obligations] is as follows:

Separate Lien (Water and Wastewater System):

Aa2	(Moody's Investors Service)
AA	(Standard & Poor's Corporation)
AA-	(Fitch, Inc.)

(n) *Other Documents.* The Bank shall have received such other documents, certificates, approvals, filings, and opinions as the Bank shall have reasonably requested in writing to the Issuer.

(o) *CUSIP and DTC.* The Bank shall have received written evidence satisfactory to the Bank that the Bank Bond CUSIP Number has been obtained from Standard & Poor's CUSIP

Service for the Bonds and that the Bonds are eligible for inclusion in DTC's FAST automated transfer program ("FAST Eligible Bonds").

(p) *Credit Requirements.* Prior to the Date of Issuance, the Bank shall have determined, in its sole discretion, based in part upon the information and reports submitted by the Issuer, that (i) the Issuer has met the Bank's credit requirements, (ii) the Bank has not discerned any adverse change in the financial condition, manner of operation, properties or prospects of the Issuer or any material inaccuracy in the information, representations and materials submitted to the Bank by the Issuer in connection with the issuance of the Letter of Credit, (iii) there has been no change in any law, rule or regulation (or their interpretation or administration) nor is there any pending or threatened litigation, that, in each case, may adversely affect the consummation of the Transactions and (iv) the Bank has not discerned any bar or restriction under Applicable Law that places in question any aspect of the execution and delivery of the Bonds, the execution, delivery and performance by the Bank of the Letter of Credit or this Agreement or the execution, delivery and performance by the Issuer or any other Person of any Related Document. Provided, that, notwithstanding the foregoing terms and any investigation and/or determination by the Bank, the Issuer expressly acknowledges and agrees that no such investigation or determination by the Bank shall in any respect whatsoever qualify, or release the Issuer from, any representation, warranty or covenant contained in this Agreement or create or constitute any defense to the enforcement of the provisions of this Agreement.

(q) *Tender Agent's and Paying Agent's Documents.* The Bank shall have received (i) copies of the resolution(s) of the Tender Agent and Paying Agent authorizing the execution, delivery and performance of the Related Documents to which it is a party and the performance of any duties of the Tender Agent and Paying Agent under or in connection with the other Related Documents including the Letter of Credit, this Agreement and the Ordinance, and (ii) a certificate of an authorized representative of the Tender Agent and Paying Agent (A) certifying as to the authority, incumbency and specimen signatures of the authorized representatives of the Tender Agent and Paying Agent authorized to sign the Related Documents to which it is a party and any other documents to be delivered by it hereunder and who will be authorized to represent the Tender Agent and Paying Agent in connection with this Agreement, upon which the Bank may rely until it receives a new certificate and certifying that the resolution(s) referred to under (ii) is/are presently in full force and effect and (B) covering such matters relating to the Reoffering Document and the other Related Documents as the Bank may reasonably request.

(r) *No Debt Default.* The Bank shall have received a certificate, in form and substance satisfactory to the Bank, dated and effective as of the Date of Issuance, and executed by an Authorized Issuer Representative, and stipulating that no default or event of default exists with respect to any Debt of the Issuer.

**Section 3.02. Conditions Precedent to Amortization.** All amounts drawn under the Letter of Credit as a Principal Drawing Purchase are due and payable on the date drawn unless on such date the following conditions are satisfied:

- (a) No Default or Event of Default shall have occurred and be continuing;
- (b) No Material Litigation shall be pending and no Early Expiration Date shall have occurred;
- (c) No Material Adverse Change shall have occurred since September 30, [2013];  
and

(d) The Issuer shall be deemed to have made on and as of the date of such Drawing each of the representations and warranties of the Issuer made in this Agreement and in any certificate or document delivered in connection with this Agreement and each such representation and warranty shall continue to be accurate and complete in all material respects on and as of such date.

The Issuer shall be deemed to represent and warrant that the conditions described in this Section 3.02 have been satisfied on the date of such Drawing and on the date of any commencement (or purported commencement) of a Term Amortization.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES

The Issuer represents, warrants and covenants to and with the Bank as of the Closing Date and as of each date on which the Bank honors a Drawing under the Letter of Credit as follows:

**Section 4.01. Existence and Power.** The Issuer is a “Home Rule City,” acting as such under the Constitution and laws of the State, and has full legal right, power and authority to (i) own, operate and maintain the Water/Wastewater System, (ii) adopt the Ordinance, (iii) execute and deliver this Agreement and the Related Documents (iv) issue and deliver the Bonds, (v) pledge the Net Revenues, and (vi) perform fully and completely all its obligations and liabilities under the Master Ordinance, the Ordinance, this Agreement and under the other Related Documents.

**Section 4.02. Regulatory Issuer.** The Issuer is duly authorized to conduct its business and activities under all laws, rules, regulations and ordinances applicable to the Issuer, the Water/Wastewater System, its business and activities, and the Issuer has obtained all required approvals of the State and of federal, regional and local governmental bodies required to be obtained prior to the date of the execution and delivery of the Bonds, the Related Documents and this Agreement.

**Section 4.03. Noncontravention.** The execution and delivery by the Issuer of this Agreement and the other Related Documents and the performance of its obligations hereunder and thereunder, will not violate any existing law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Issuer, or result in a breach of any of the terms of, or constitute a default under any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Issuer is a party or by which it or any of its property is bound or any of the rules or regulations applicable to it or its property or any decree, ruling or order of any court or other governmental body.

**Section 4.04. Due Authorization.** The adoption, execution, delivery and performance by the Issuer of this Agreement and the other Related Documents to which it is a party is within its corporate power and authority, and has been duly authorized by all necessary action and will not contravene any provision of the Ordinance.

**Section 4.05. Valid and Binding Obligations.** This Agreement and the other Related Documents to which the Issuer is a party have been duly executed and delivered by the Issuer and constitute the valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as such enforceability may be limited by the Issuer’s bankruptcy, insolvency, reorganization, moratorium or other laws or equitable principles relating to or limiting creditors’ rights generally.

**Section 4.06. Reoffering Document.** The information contained in the Reoffering Document is correct in all material respects and does not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading. The Issuer makes no representation as to the Bank Disclosure in the Reoffering Document.

**Section 4.07. Litigation.** There are no actions, suits, proceedings, inquiries or investigations pending nor, to the best knowledge of the Issuer after due inquiry, are there any actions, suits, proceedings, inquiries or investigations threatened against the Issuer or any property of the Issuer in any court or before any arbitrator of any kind or before or by any other Governmental Authority, (i) wherein an unfavorable decision, ruling or finding could have a Material Adverse Effect, (ii) which seek to restrain or enjoin any of the Transactions, (iii) which may adversely affect (A) the exclusion of interest on the Bonds from gross income for federal income tax purposes, (B) the validity, binding effect and perfection of the pledge of and Lien on the Net Revenues under the Master Ordinance and the Ordinance, or (C) the ability of the Issuer to perform its obligations under this Agreement, the Bonds or any other Related Documents, or (iv) in which there is reasonable possibility of an adverse decision which could materially and adversely affect the business, financial position or results of operations of the Issuer (any such action or proceeding being herein referred to a “Material Litigation”).

**Section 4.08. Insurance.** The Issuer currently maintains insurance of such type 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, cities of like type, size and character to the Issuer.

**Section 4.09. Financial Statements.** The balance sheet of the Issuer as of September 30, 2013 and the related statement of revenues and expenses and changes in financial position for the year then ended and the auditors’ reports with respect thereto and the balance sheet of the Issuer as of September 30, 2013 and the related statements of revenues and expenses and change in financial position for the period then ended, copies of which have heretofore been furnished to the Bank, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the Issuer at such dates and for such periods, and were prepared in accordance with GAAP consistently applied except as stated in the notes thereto. Since September 30, 2013 there has been no Material Adverse Change nor any increase in the Issuer’s long term debt. The Issuer has no material contingent liabilities or other material contracts or commitments payable from Gross Revenues or Net Revenues which are not reflected in such financial statements, or in the notes thereto.

**Section 4.10. Complete and Correct Information.** All information, reports and other papers and data with respect to the Issuer furnished to the Bank or their counsel by the Issuer were, taken in the aggregate and at the time the same were so furnished, complete and correct in all material respects. No fact is known to the Issuer which materially and adversely affects or in the future may (so far as it can foresee) materially and adversely affect the business, assets or liabilities, financial condition, results of operations of the Issuer, or any of its business prospects which has not been set forth in the financial statements referred to in Section 4.09 above or in such information, reports, papers and data or otherwise disclosed in writing to the Bank by the Issuer. When taken in the aggregate, no document furnished or statement made by the Issuer in connection with the negotiation, preparation or execution of this Agreement or any other Related Document contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein not misleading.

**Section 4.11. Pending Legislation and Decisions.** There is no amendment, or to the knowledge of the Issuer, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect

of which will materially adversely affect the issuance of any of the Bonds, the security for any of the Bonds or the Issuer's obligations hereunder or under any of the other Related Documents, or the Issuer's ability to repay when due its obligations under this Agreement, any of the Bonds, and the other Related Documents.

**Section 4.12. Bond.** Each Bond (including all Bank Bonds) has been duly and validly issued under the Ordinance and is entitled to the benefits thereof.

**Section 4.13. Default.** No Default or Event of Default has occurred and is continuing and the Issuer has not taken any action or failed to take any action which constitutes a default or, with the giving of notice or the passage of time, or both, would constitute a default, under any Prior Supplement or other instrument or agreement pursuant to which any outstanding Prior First Lien Obligations or Parity Water/Wastewater Obligations or Prior Subordinate Lien Obligations, or Previously Issued Separate Lien Obligations have been issued.

**Section 4.14. Bank Bonds.** The Bank Bonds will be transferred to the Bank, free and clear of all Liens, security interests or claims of any Person other than the Bank, except for consensual Liens or other security interests as may be created by the Bank.

**Section 4.15. Incorporation of Representations and Warranties.** The Issuer hereby makes to the Bank the same representations and warranties made by the Issuer in each of the other Related Documents to which it is a party, which representations and warranties, together with the related definitions of terms contained therein, are incorporated herein by this reference with the same effect as if each and every such representation and warranty and definition were set forth herein in its entirety. No amendment to or waiver of such representations, warranties or definitions made pursuant to the relevant Related Documents shall be effective to amend, or waive, such representations and warranties and definitions as incorporated by reference herein without the prior written consent of the Bank.

**Section 4.16. Employee Benefit Plan Compliance.** The Issuer has no funding deficiency with respect to any employee benefit plan and is otherwise in compliance with terms of any such plan in which the Issuer or any of its employees participate in. Neither the Issuer nor any employee benefit plan maintained by the Issuer is subject to the Employee Retirement Income Security Act of 1974, as amended.

**Section 4.17. Sovereign Immunity.** The Issuer is not entitled to claim, and shall not assert any claim, with respect to itself or its revenues, assets or property (irrespective of the use or intended use thereof), of immunity on the grounds of sovereignty or similar grounds from suit, jurisdiction of any court, relief by way of injunction, order for specific performance or for recovery of property, attachment of its assets (whether before or after judgment, in aid of execution, or otherwise) and execution or enforcement of any judgment to which it or its revenues, assets or property might otherwise be entitled in any suit, action or proceeding relating to this Agreement in the courts of any jurisdiction, nor may there be attributed to the Issuer or its revenues, assets or property any such immunity (nor shall such attribution be claimed by the Issuer). The Issuer further represents that to the extent its obligations hereunder and under the other Related Documents to which it is a party represent the legal obligations of the Issuer, its non-discretionary duties are subject to enforcement in State courts by writ of mandamus, and that it is not immune to an equitable mandamus action.

**Section 4.18. Interest.** None of the Related Documents to which the Issuer is a party or the Bonds provide for any payments that would violate any Applicable Law regarding permissible maximum rates of interest or the calculation or collection of interest upon interest.

**Section 4.19. Federal Reserve Board Regulations.** The Issuer will not use any part of the proceeds of the Bonds or the funds advanced under the Letter of Credit and has not incurred any Debt to be reduced, retired or purchased by the Issuer out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and the Issuer does not own and will not acquire any such Margin Stock.

**Section 4.20. Investment Company Act.** The Issuer is not an “investment company” or a company “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

**Section 4.21. Revenues; Master Ordinance and Ordinance.**

(a) The Bonds are Parity Water/Wastewater Obligations and the Required Payments of the Issuer under this Agreement and the Bank Bonds are secured obligations under the Master Ordinance. The Master Ordinance creates, for the benefit of the Bonds and the obligations of the Issuer under this Agreement, a legally valid and binding Lien on and pledge of the Net Revenues, subject only to the Prior Bonds. No filing, registering, recording or publication of the Master Ordinance, Ordinance or Supplement or any other instrument is required to establish the pledge under the Master Ordinance or to perfect, protect or maintain the Liens created thereby on the Net Revenues.

(b) Other than the Prior Bonds, there is no Debt or other obligations of the Issuer that are entitled to a prior benefit of the Net Revenues relative to the benefit of the Net Revenues conferred by the Ordinance upon the Bonds and the obligations of the Issuer under this Agreement and the Bank Bonds.

(c) Except as provided in the Master Ordinance and the Prior Supplements, the Issuer has not pledged or granted a Lien, security interest or other encumbrance of any kind on Gross Revenues or the Net Revenues.

(d) The Bonds are Parity Bonds.

(e) This Agreement is a “Credit Agreement” as such term is used in Section 10(d) of the Master Ordinance. All payments required to be made by the Issuer hereunder are therefore on a parity with the Parity Bonds. The Issuer hereby finds that Gross Revenues will be sufficient to meet the obligations of the Water/Wastewater System, including sufficient Net Revenues to satisfy the Annual Debt Service Requirements (as defined in the Master Ordinance) of Parity Water/Wastewater Obligations currently Outstanding and the financial obligations of the Issuer hereunder. Such finding is also set forth in [\_\_\_\_\_] and is supported by a certificate of [\_\_\_\_\_] of the Issuer as required by Section 10(d) of the Master Ordinance.

(f) This Agreement constitutes a Liquidity Facility. All Bank Bonds will constitute Liquidity Provider Bonds (as defined in the Ordinance). The Ordinance provides that the Maximum Rate (as defined in the Ordinance) applicable to Liquidity Provider Bonds shall be the rate specified in the Liquidity Facility (as defined in the Ordinance). The parties hereto agree that such Maximum Rate shall be the Maximum Bond Rate in the case of the Bank Bonds and shall otherwise be the Maximum Bank Interest Rate.

(g) The Letter of Credit, together with this Agreement, constitutes the Credit Enhancement. The Bank is the Liquidity Provider and the Credit Provider.

**Section 4.22. No Preferential or Fraudulent Transfer.** Neither the issuance of the Letter of Credit, nor the making of any payment thereunder or the use of any proceeds thereof, constitutes or will constitute, or be part of, a preferential or fraudulent transfer or conveyance to any Person (including the Bank, the Paying Agent and the Tender Agent) under any applicable law, including Section 544, 547, 548 or 550 of the United States Bankruptcy Code.

**Section 4.23. Anti-Terrorism Representation.**

(a) Neither the Issuer nor any of its Affiliates is in violation of any laws relating to terrorism or money laundering (“Anti-Terrorism Laws”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “Executive Order”), and the USA Patriot Act, Title III of Pub.L.107-56, 115 Stat. 272 (the “Patriot Act”);

(b) Neither the Issuer nor any of its Affiliates is any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by an Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(v) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“OFAC”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list (collectively, the “OFAC Lists”);

(c) Neither the Issuer nor any of its Affiliates (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (b)(ii) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

**Section 4.24. Environmental Matters.** In the ordinary course of its business, the Issuer conducts an ongoing review of the effect of Environmental Laws on the business, operations and properties of the Issuer, in the course of which they identify and evaluate associated liabilities and costs (including, without limitation, any capital or operating expenditures required for clean-up or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, and related constraints on operating activities, and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). The Issuer and its property (i) has not become subject to any Environmental Liability nor does the Issuer know



of any basis for any Environmental Liability, (ii) has not received notice of any Environmental Claim or of any failure or alleged failure to comply with applicable federal, state or local health and safety statutes or regulations, and (iii) to the best of the knowledge of the Issuer, it is in compliance with all Environmental Laws and has obtained and maintains or complies with any permit, license or other approval required under any Environmental Law, in each case, except with respect to any matters that, individually or in the aggregate, could not result in a Material Adverse Effect.

## ARTICLE V

### AFFIRMATIVE COVENANTS

The Issuer covenants and agrees that until the principal of and interest on the Bonds and all Required Payments have been indefeasibly paid in full and all other obligations of the Issuer under this Agreement or with respect to any Bank Bonds have been paid and performed and the Bank shall have no further obligation or liability under or in respect of the Letter of Credit:

**Section 5.01. Compliance With Laws and Regulations.** The Issuer shall comply with all Applicable Laws, including Environmental Laws, to which the Issuer or its property may be subject.

**Section 5.02. Reporting Requirements.** The Issuer shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of the Issuer on a consolidated or combined basis in accordance with GAAP consistently applied. The Issuer shall furnish to the Bank two copies of each of the following:

(b) ***Annual Financial Statements.*** As soon as available, and in any event within 120 days after the close of each Fiscal Year of the Issuer, (i) the complete audited financial statements of the Issuer including the balance sheet as of the end of such Fiscal Year and the related statements of revenues, expenses and cash flows and changes in fund balance for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the preceding Fiscal Year all in reasonable detail, certified and prepared by an Accountant in accordance with GAAP, consistently applied.

(c) ***Quarterly Financial Statements.*** As soon as available, and in any event within 45 days after each of the first three quarters of each Fiscal Year of the Issuer, the unaudited financial statements of the Issuer's Water/Wastewater System and of the Issuer's Electric System, including the balance sheet as of the end of such quarter and a statement of income and expenses, all in reasonable detail and certified, subject to year-end adjustment, by the chief financial officer or the treasurer of the Issuer.

(d) ***Certificate of Compliance.*** Simultaneously with the delivery of each set of financial statements referred to in (a) above, a certificate signed by the chief financial officer or the treasurer of the Issuer stating that (i) under his/her supervision the Issuer has made a review of its activities during the preceding annual period for the purpose of determining whether or not the Issuer has complied with all of the terms, provisions and conditions of this Agreement and the other Related Documents and (ii) to the best of his/her knowledge the Issuer is not in Default in the performance or observance of any of the terms, covenants, provisions or conditions of this Agreement or any of the other Related Documents, or if the Issuer shall be in Default, such certificate shall specify each such Default, the nature and status thereof and any remedial steps taken or proposed to correct each such Default and (iii) whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in

Section 4.09 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate.

(e) **Other Reports.** Promptly upon request by the Bank, copies of any financial statement or report furnished to any other holder of the long-term securities of the Issuer pursuant to the terms of the Ordinance or any long-term indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Bank pursuant to any other clause of this Section 5.02.

(f) **Budget.** As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Issuer, the approved budget of the Issuer for the current fiscal year (including therein detailed budget information relating to the Water/Wastewater System and the Electric System), together with a certificate from the chief financial officer or the treasurer of the Issuer certifying that (A) the rates and charges for the Water/Wastewater System set forth in such approved budget are sufficient to allow the Issuer to comply with the provisions of Section 4 of the Master Ordinance at all times during such fiscal year, (B) containing the Issuer's calculation of its compliance for the preceding fiscal year of the covenant set forth in Section 4 of the Master Ordinance and (C) a statement as to the net revenues of the Electric System and the debt service paid on debt of such Electric System secured by a Lien on such net revenues in the preceding fiscal year and the amount of projected net revenues for the Electric System for the upcoming fiscal year and the amount of projected debt service for all debt secured by such net revenues for such upcoming fiscal year.

(g) **Amendments.** Promptly after the adoption thereof, copies of any amendments of or supplements to the bylaws of the Issuer and copies of any amendments to the Related Documents.

(h) **Material Event Notices.** Immediately following any dissemination, distribution or provision thereof to any Person, a copy of any Material Event Notice disseminated, distributed or provided in satisfaction of or as may be required by the provisions of Rule 15c2 12 promulgated pursuant to the Securities Exchange Act of 1934, as amended (17 C.F.R. Sec. 240 15c2 12), or any successor or similar legal requirement.

(i) **NRMSIR Filings.** Copies of all filings made by the Issuer with any Nationally Recognized Municipal Securities Information Repository (including the Municipal Securities Rulemaking Board's Electronic Market Access System ("EMMA")) promptly after such filings are made.

(j) **Ordinance Information.** Copies of all notices, certificates, opinions and other reports or documents required to be filed pursuant to the Master Ordinance or the Ordinance.

(k) **Offering Documents.** As soon as available, copies of each official statement or offering memorandum related to the debt of the Issuer's Water/Wastewater System or the Issuer's Electric System.

(l) **Other Information.** Such other information respecting the business, properties or the condition or operations, financial or otherwise, of the Issuer as the Bank may from time to time reasonably request.

### **Section 5.03. Notices.**

(a) **Notice of Default.** The Issuer shall provide to the Bank immediate notice by telephone, promptly confirmed in writing, of any Default or Event of Default or any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect and will promptly notify the Bank of the occurrence of any “Event of Default” under any Prior Supplement, or any ordinance, indenture, agreement or other instrument pursuant to which any Prior First Lien Obligations or Parity Water/Wastewater Obligations or Prior Subordinate Lien Obligations, or Previously Issued Separate Lien Obligations are issued, specifying the details thereof and the action that the Issuer proposes to take with respect thereto.

(b) **Litigation.** Together with the information described in Section 5.02(b), the Issuer shall provide to the Bank written notice of all actions, suits and proceedings before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, against the Issuer and which if adversely determined, could have a Material Adverse Effect and notice of (a) the occurrence of any material litigation or proceeding affecting the Issuer and of any proceeding or threatened proceeding between the Issuer and any Governmental Authority or any other Person which, in each such case, might substantially interfere with the normal operation of the Water/Wastewater System, or (ii) any amendment to the Act or any other governing instrument of the Issuer, which would have a material adverse effect on the Water/Wastewater System or the Bonds,

(c) **Certain Notices.** The Issuer shall furnish to the Bank a copy of any notice, certification, demand or other writing or communication given by the Remarketing Agent, the Paying Agent, or the Tender Agent to the Issuer or by the Issuer to the Remarketing Agent, the Paying Agent, or the Tender Agent under or in connection with any of the Related Documents, in each case promptly after the receipt or giving of the same

(d) **Master Ordinance and Ordinance.** Promptly upon becoming available, the Issuer shall furnish to the Bank copies of all notices, certificates, opinions and other reports or documents required to be filed pursuant to the Master Ordinance or Ordinance. The Issuer shall, upon request, provide or cause to be provided, to the Bank the list of the name and address of the last known Owners of the Bonds.

(e) **S&P, Fitch & Moody’s.** Promptly after S&P, Fitch or Moody’s shall have announced a change in an Obligor Rating, the Issuer shall furnish to the Bank written notice of such rating change.

(f) **Other Notices.** The Issuer shall promptly give written notice to the Bank of any (i) material dispute which may exist between the Issuer and any of the Remarketing Agent, the Paying Agent, or Tender Agent or any dispute in connection with any transaction contemplated under this Agreement or any Related Document, and (ii) any failure by the Remarketing Agent, the Tender Agent or the Paying Agent to perform any of their respective obligations under the Related Documents.

**Section 5.04. Further Assurances.** The Issuer shall, upon the request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and the Related Documents. Except to the extent it is exempt therefrom, the Issuer will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in

connection with the execution and delivery of this Agreement, the other Related Documents and such instruments of further assurance. In addition, the Issuer shall, promptly upon the request of the Bank, provide the Bank with any additional documentation or agreement necessary for the Bank to pledge the Bank Bonds as collateral pursuant to federal banking regulations.

**Section 5.05. Right of Entry.** The Issuer shall permit the duly authorized representatives of the Bank during normal business hours and upon reasonable notice to enter the premises of the Issuer, or any parts thereof, to examine and copy the Issuer's financial and corporate books, records and accounts and to make copies thereof and extracts therefrom, and to discuss the affairs, finances, business and accounts of the Issuer with the Issuer's officers and employees.

**Section 5.06. Payment of Obligations; Removal of Liens.** The Issuer shall pay (a) all indebtedness and obligations of the Issuer in accordance with the terms thereof and (b) all amounts payable by it and them hereunder and under the other Related Documents according to the terms hereof and thereof and (c) all assessments or other governmental charges as the same respectively become due, all taxes, 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 it or any of its property, including without limitation the assets comprising the Water/Wastewater System, or any interest thereon and promptly discharge or cause to be discharged all Liens, encumbrances and charges on such property and assets.

**Section 5.07. Related Obligations.** The Issuer shall promptly pay all amounts payable by it hereunder and under the other Related Documents according to the terms hereof or thereof and shall duly perform each of its obligations under this Agreement and the other Related Documents to which it is a party; which provisions, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety without giving effect to any expiration, amendment, supplement or termination of the Related Documents to which the Bank have not given their express written consent. The Issuer shall cause the Paying Agent, the Tender Agent and the Remarketing Agent at all times to comply with the terms of the Related Documents to which they are a party.

**Section 5.08. Insurance.** The Issuer will at all times maintain insurance with respect to its business operations and properties against such risks, in such amounts, with such companies and with such deductibles as is customary for business operations and properties of like size, location and character to those of each such entity.

**Section 5.09. Alternate Credit Facility.**

(a) The Issuer covenants that as of the Termination Date, the Issuer shall have obtained (i) an Alternate Credit Facility to replace the Letter of Credit or (ii) a written commitment of an underwriter to purchase the Bonds.

(b) The Issuer agrees that any Alternate Credit Facility or written commitment, as the case may be, will require, as a condition to the effectiveness of the Alternate Credit Facility or written commitment, as the case may be, that the provider of the Alternate Credit Facility or underwriter will provide funds to the extent necessary, in addition to other funds available, on the date the Alternate Credit Facility or written commitment, as the case may be, becomes effective, for the purchase of all Bank Bonds at par plus accrued interest through the date purchased. On such date all Required Payments owing to the Bank hereunder or under the other Related Documents or the Bonds shall be paid in full to the Bank.

(c) The Issuer shall not permit an Alternate Credit Facility or written commitment as described in subparagraph (a) to become effective with respect to less than all of the Bonds without the prior written consent of the Bank. No Alternate Credit Facility shall become effective unless the Issuer shall have given the Bank 30 days prior written notice thereof and paid any amounts required to be paid in connection with the termination of the Letter of Credit pursuant to this Agreement.

**Section 5.10. Employee Benefit Plan Compliance.** The Issuer and each Affiliate of the Issuer shall in a timely fashion, comply, in all material respects with all requirements under any employee benefit plan in which the Issuer, any Affiliate of the Issuer or any of their respective employees participate.

**Section 5.11. Disclosure of Participants.** The Issuer agrees to permit the Bank to disclose any information received by the Bank in connection herewith, including without limitation the financial information described in Section 5.02, to any assignees or Participants of the Bank in this Agreement without notice to or further consent from the Issuer.

**Section 5.12. Sovereign Immunity.** To the extent that the Issuer has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings, including but not limited to a writ of mandamus ordering a levy of taxes by the Issuer, on the grounds of sovereignty or otherwise, the Issuer hereby irrevocably waives such rights to immunity for itself and agrees not to invoke any defense of immunity in respect of its obligations arising under or related to this Agreement.

**Section 5.13. Proceeds of Bonds.** The proceeds of the Bonds will be used by the Issuer solely for the purposes described in the Ordinance.

**Section 5.14. Proceeds of Letter of Credit.** The Issuer shall cause the amounts under the Letter of Credit to be used only to pay the principal of, interest on or purchase price only of Eligible Bonds.

**Section 5.15. Conversions; Defeasance.** The Issuer (a) shall promptly furnish, or cause to be furnished, to the Bank, not later than its furnishing the same to the Remarketing Agent, a copy of any written notice furnished by the Issuer to the Remarketing Agent pursuant to the Ordinance indicating a proposed conversion of the interest rate on the Bonds, and (b) shall not permit a conversion of the Bonds to Bonds bearing an interest rate other than a Covered Rate without the prior written consent of the Bank if, after giving effect to such conversion, (i) any Bonds remain as Bank Bonds or (ii) if, after giving effect to such conversion, there would be any (i) Bank Bonds or (ii) Differential Interest Amount or Excess Interest Amount owing to the Bank under this Agreement or any other amount owing in respect of any Principal Purchase Drawing. In addition, the Issuer will not defease, nor allow the defeasance of, the Bonds without having contemporaneously satisfied all of its obligations hereunder.

**Section 5.16. Preservation of Lien.** The Issuer shall take all necessary action to maintain and preserve the Lien on and security interest in the Net Revenues securing the Bonds and the payment and performance of the Issuer's obligations hereunder.

**Section 5.17. The Tender Agent, the Paying Agent and Remarketing Agent.** The Issuer shall maintain one or more financial institutions acceptable to the Bank as the Tender Agent, the Paying Agent and the Remarketing Agent. Unless the Bank shall otherwise consent in writing, the roles of Tender Agent and Paying Agent shall at all times be performed by the same financial institution.

**Section 5.18. Removal of Paying Agent, Tender Agent and Remarketing Agent.** The Issuer shall not remove the Paying Agent, the Tender Agent or the Remarketing Agent or appoint a tender agent,

paying agent or co-paying agent or appoint a successor Paying Agent, the Tender Agent or Remarketing Agent without the written consent of the Bank. If the position of Paying Agent, the Tender Agent or Remarketing Agent becomes vacant, the Issuer shall promptly appoint a successor which is reasonably acceptable to the Bank.

**Section 5.19. Additional Bond or Collateral.** If at any time the Issuer shall seek to restrain or preclude payment of or Drawing under the Letter of Credit or any court shall extend the term of the Letter of Credit or take any other action which has a similar affect, then, in each case, the Issuer shall provide the Bank with a bond or other collateral of a type and value satisfactory to the Bank as security for the obligations of the Issuer hereunder.

**Section 5.20. [Most Favored Covenant.** In the event that the Issuer has previously entered into or shall hereafter enter into or otherwise consent to any agreement or instrument (or any amendment, supplement or modification thereto) (each a "Relevant Agreement") under which any Person undertakes to make loans, to refinance or restructure existing Debt or to extend credit or liquidity to the Issuer pursuant to which the Issuer and a Person agree to a Hedge Agreement or other similar arrangement, which Relevant Agreement (i) provides such Person with a covenant, provision or agreement which is more restrictive, as to the Issuer, or (ii) gives or grants greater rights or remedies to such Person whether as to timing of payment, priority of payment or Lien or otherwise (each, a "Favored Covenant") than, in the case of (i), are undertaken by the Issuer herein or, in the case of (ii), are given or granted to the Bank herein, then each such Favored Covenant shall automatically be deemed to be incorporated into this Agreement and the Bank shall have the benefits of each such Favored Covenant as if specifically set forth in this Agreement for the duration of such Relevant Agreement. If necessary, the Issuer shall promptly enter into an amendment to this Agreement to include the Favored Covenant; provided that the Bank shall maintain the benefit of such Favored Covenant even if the Issuer fails to provide such amendment.][TO REVIEW WITH BANK]

**Section 5.21. CUSIP Numbers.** The Issuer shall at all times (i) cause Bonds which are not Bank Bonds to be assigned a CUSIP Number and (ii) cause Bank Bonds to be assigned a Bank Bond CUSIP Number.

**Section 5.22. Rating Maintenance.** The Issuer covenants that it shall at all times from and including the Date of Issuance until and including the Amortization End Date, cause at least two of Moody's, S&P and Fitch to assign long term and short term ratings to the Bonds. At any time Bank Bonds are Outstanding, upon the request of the Bank, the Issuer (i) shall promptly and within not later than five (5) Business Days apply for, from at least one of Moody's, S&P or Fitch which is then rating the Bonds, a long-term unenhanced rating specifically assigned to such Bank Bonds and use its best efforts to cause such Rating Agency to assign such a rating of at least investment grade within thirty (30) calendar days of receipt of such request and (ii) shall take all actions which may be necessary or appropriate to cause the Bank Bond CUSIP number and the rating assigned to such Bank Bonds to be available electronically to the Bank pursuant to a third party provider of such information.

**Section 5.23. Rating Reduction, Withdrawal or Suspension.** The Issuer covenants and agrees that if at any time any Obligor Rating is reduced by any of S&P, Fitch or Moody's to below "A-" in the case of S&P, "A-" in the case of Fitch or "A3" in the case of Moody's or any such rating is withdrawn or suspended by any of S&P, Fitch or Moody's, then on or prior to the sixtieth (60th) day after such reduction, withdrawal or suspension is announced, the Issuer shall (a) pay to the Bank all amounts owed to the Bank in respect of any Drawings under the Letter of Credit and all other Required Payments owing to the Bank, including the Differential Interest Amount and any Excess Interest Amount, and (b) provide for the purchase of any Bank Bonds and the payment to the Bank of the Sale Price therefor.

**Section 5.24. Remarketing of Bonds.** The Issuer shall use its best efforts to cause the Remarketing Agent to remarket, sell and deliver Bonds (including Bank Bonds) at the then current market rate, up to the Maximum Rate (as defined in the Ordinance for Bonds other than Liquidity Provider Bonds). If the Remarketing Agent fails to remarket the Bonds for [sixty (60) consecutive days], then the Issuer, at the written request of the Bank and with mutual agreement of the Issuer, shall replace the Remarketing Agent with a Remarketing Agent reasonably satisfactory to the Bank.

**Section 5.25. Regarding the Pledge.** Chapter 1208, Texas Government Code provides that no filing, registering, recording or publication of this Agreement is required to establish a pledge of Net Revenues to perfect, protect or maintain the lien securing the obligations of the Issuer under this Agreement. In the event Chapter 1208, Texas Government Code is amended at any time while any obligations of the Issuer remain outstanding under this Agreement, such that the lien on the Net Revenues is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, the Issuer agrees to take such action to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, to maintain perfection of the lien on the Net Revenues.

**Section 5.26. Maintenance of Funds and Accounts.** The Issuer will maintain or cause to be maintained the Debt Service Fund, the Reserve Fund and the Liquidity Facility Purchase Account as required by the Ordinance;

## **ARTICLE VI**

### **NEGATIVE COVENANTS**

The Issuer covenants and agrees that until the principal of and interest on the Bonds and all Required Payments have been indefeasibly paid in full and all other obligations of the Issuer under this Agreement or with respect to any Bank Bonds have been paid and performed and the Bank shall have no further obligation or liability under or in respect of the Letter of Credit:

**Section 6.01. Amendments.** The Issuer shall not amend, modify or supplement, nor agree to any amendment or modification of, or supplement to, any of the Related Documents, nor grant any waiver of the requirements thereof, without the prior written consent of the Bank.

**Section 6.02. Preservation of Existence, Ownership, Etc.** The Issuer shall not dissolve nor shall it sell, lease, assign, transfer or otherwise dispose of all or substantially all of its assets. The Issuer shall preserve and maintain its existence, right (charter and statutory) and franchises and licenses.

**Section 6.03. Certain Information.** The Issuer shall not include in an offering document or circular or reoffering supplement for the Bonds any information concerning the Bank that is not supplied in writing, or otherwise approved in writing, by the Bank expressly for inclusion therein.

#### **Section 6.04. Liens, Additional Debt and Rate Setting.**

(a) **Liens.** Except for those Liens on Gross Revenues or Net Revenues existing on the Closing Date and described in the Ordinance and permitted by Section 6.21(c), the Issuer shall not grant or suffer to exist any Lien, pledge or security interest in the Gross Revenues or Net Revenues which is on parity with or senior to the Lien on Net Revenues that secure the payment of the Issuer's obligations hereunder and under the Bank Bonds.

(b) **Additional Senior Debt.** The Issuer shall not incur any debt after the Closing Date which is payable from Net Revenues on a priority or secured by a Lien on Net Revenues which is senior to that securing the Bonds.

(c) **Additional Parity Debt.** The Issuer shall not incur Parity Water/Wastewater Obligations except to the extent permitted by Section 10 of the Master Ordinance.

(d) **Gross Revenues.** The Issuer shall not use or permit the use of Gross Revenues for any purpose other than those described in Sections 6 and 9 of the Master Ordinance.

(e) **[Rate Covenant.]** [TBD: REVIEW RATE COVENANT WITH BANK]

**Section 6.05. Consolidation or Merger.** The Issuer shall not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it or acquire all or substantially all of the property and assets of any other Person.

**Section 6.06. Paying Agent; Tender Agent; Remarketing Agent.** Issuer shall provide the Bank written notice of any change in the identity of the Paying Agent, Tender Agent or Remarketing Agent upon becoming aware of the same. Upon written notice from the Bank that the Paying Agent, the Tender Agent, or the Remarketing Agent is failing to perform its respective duties in the manner contemplated by the Ordinance or the other Related Documents, the Issuer shall replace or cause to be replaced the Paying Agent, Tender Agent or the Remarketing Agent, as the case may be, with a successor acceptable to the Bank. If the position of Paying Agent, Tender Agent or Remarketing Agent becomes vacant, the Issuer shall promptly appoint a successor which is reasonably acceptable to the Bank.

**Section 6.07. Accounting Methods and Fiscal Year.** The Issuer will not adopt, permit or consent to any change in accounting practices other than as required by GAAP and will not adopt, permit or consent to any change in its Fiscal Year.

**Section 6.08. Exempt Status.** The Issuer shall not take any action or omit to take any action that, if taken or omitted, would adversely affect the excludability of interest on the Bonds from the gross income of the holders thereof for purposes of Federal income taxation under the Code.

**Section 6.09. Optional Redemption.** The Issuer shall not permit or cause any Bonds to be optionally redeemed (or purchased in lieu of redemption) pursuant to Section 6(b) of the Ordinance unless and insofar as the Issuer complies with each of the following requirements: (i)(A) all Bank Bonds, if any, will be redeemed at a redemption price equal to the Sale Price therefor as a part of such optional redemption and (B) after giving effect to such redemption, all Differential Interest Amount, Excess Interest Amount and other amounts owing in respect of the Principal Purchase Drawing pursuant to which any such Bank Bonds were purchased together with any other Required Payments owing hereunder shall have been paid in full to the Bank (ii) the amount necessary to reimburse the Bank in accordance with Section 2.01 for the Drawing under the Letter of Credit to effect the redemption shall have been irrevocably deposited with the Paying Agent 45 days prior to the date fixed for redemption, as certified by the Paying Agent to the Bank in writing.

**Section 6.10. Off-Balance Sheet Liabilities.** The Issuer has not entered into, nor will the Issuer enter into, any Off-Balance Sheet Liabilities except in compliance with Applicable Law and except as disclosed in the consolidated or combined financial statements insofar as disclosure therein is required under GAAP.



**Section 6.11. Refunding.** The Issuer will not issue any Bonds to refund [Prior First Lien Obligations] without the prior written consent of the Bank.

**Section 6.12. Capacity.** The Issuer shall at all times maintain the ability to issue Parity Bonds and have Debt outstanding in an amount at least equal to the sum of (i) the aggregate principal amount of the Parity Bonds plus (ii) the aggregate amount of accrued interest to maturity on all Parity Bonds, plus (iii) any other obligations owing to any credit enhancer or liquidity provider on the Parity Bonds.

## ARTICLE VII

### EVENTS OF DEFAULT

**Section 7.01. Events of Default.** The occurrence of any of the following events shall constitute an “Event of Default,” unless waived by the Bank in writing:

(a) Failure of the Issuer to pay or cause to be paid when due any amount owed by the Issuer hereunder or under any of the other Related Documents.

(b) Failure of the Issuer to observe or perform the covenants set forth in Sections 5.06, 5.07, 5.09, 5.12, 5.13, 5.14, 5.15, 5.16, 5.17, 5.18, 5.19, 5.21, 5.22, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.08, 6.09 or 6.10.

(c) Failure of the Issuer to observe or perform any covenant, condition or provision of this Agreement or of any of the other Related Documents (other than as specified in (a) or (b) above) and such failure remains uncured for ten (10) Business Days.

(d) Any representation or warranty made or deemed made by or on behalf of the Issuer in this Agreement or any other Related Document or in any amendment of, or waiver under, this Agreement or other Related Document, or in any certificate, financial statement or other document furnished by or on behalf of the Issuer pursuant to or in connection with this Agreement or any of the other Related Documents shall have been inaccurate or incomplete in any material respect when made or deemed to have been made.

(e) The occurrence and continuation of a default, event of default or termination event under the Master Ordinance, the Ordinance or any of the other Related Documents, irrespective of whether said default, event of default or termination event is declared, undeclared or has been waived under the terms of the Master Ordinance, the Ordinance or such respective document, or a mandatory redemption or acceleration has occurred with respect to the Bonds.

(f) Default in the payment of the principal of or the interest on (i) the Bonds, (ii) the Parity Bonds, (iii) the Prior Bonds, or (iv) any other Debt payable from or secured by Gross Revenues, Net Revenues or the assets comprising the Water/Wastewater System.

(g) The occurrence of any (i) default by the Issuer in the payment of any amount due in respect of any Debt owed to the Bank or its Affiliates, (ii) default by the Issuer in the payment of any amount due in respect of any other Debt [in an aggregate amount in excess of \$5,000,000 (measured in the case of any Hedge Agreement, by the Issuer’s Exposure thereunder)], or in the payment of any non-Debt obligation in an aggregate amount exceeding \$5,000,000 which is payable from the General Fund or the Gross Revenues, in each case as and when the same shall become due, or (iii) default (other than a default covered by clause (g)(i) or (ii) of this paragraph) under any Contract under or pursuant to which such Debt is incurred or issued, and continuance

of such default beyond the period of grace, if any, allowed with respect thereto, or (iv) the occurrence of any event, default, event of default or act or omission by the Issuer under any such Contract which results in such Debt becoming, or being capable of becoming, immediately due and payable (or, with respect to any Hedge Agreement, which results in such Hedge Agreement being terminated early or being capable of being terminated early).

(h) The entry or filing of one or more judgments, writs or warrants of attachment or of any similar process which, individually or in the aggregate, equals or exceeds \$1,000,000, shall be rendered against the Issuer or against any of its property and the same shall remain undismissed or unbonded (by property other than any of the Gross Revenues or Net Revenues) for a period of 30 days, or any action shall be taken by a judgment creditor to attach or levy upon any revenues or assets of the Issuer to enforce any such judgment.

(i) The occurrence of an Event of Insolvency with respect to the Issuer.

(j) The rating assigned to the Bonds or any Parity Bonds [or the Prior First Lien Obligations] by Moody's, S&P or Fitch, shall for any reason be withdrawn, suspended or fall below "A3" by Moody's, "A-" by S&P or "A-" by Fitch.

(k) This Agreement, any other Related Document or any provision of this Agreement or any of the other Related Documents shall cease to be valid and binding on the Issuer, or a Governmental Authority with jurisdiction to rule on the validity of this Agreement or any other Related Document shall so find, announce or rule, or the Issuer or any Person on its or their behalf shall (i) contest the validity or enforceability of this Agreement or any Related Document or any provision of this Agreement or any such Related Document, (ii) deny that the Issuer has any further liability under one or more provisions of this Agreement or any of the other Related Documents or (iii) seek an adjudication that (y) this Agreement or (z) any provision of any Related Document relating to, or the absence or invalidity of which could adversely affect, the security for the Bonds, the Bank Bonds, or the Issuer's ability to pay the Bonds or the Bank Bonds or perform its obligations under this Agreement or any of the other Related Documents or the rights and remedies of the Bank, is not valid and binding on the Issuer.

(l) Any Net Revenues, Gross Revenues or other funds or investments on deposit in, or otherwise to the credit of, any of the funds or accounts established under the Master Ordinance, the Ordinance or any of the other Related Documents, or any of the assets comprising the Water/Wastewater System, shall become subject to any writ, judgment, warrant or attachment, execution or similar process.

(m) A Determination of Taxability shall occur.

(n) An event (separately or in the aggregate with other events) occurs which in the judgment of the Bank constitutes a Material Adverse Change.

(o) The breach by the Issuer of any material covenant of the Remarketing Agreement or (i) the breach by the Remarketing Agent of any material covenant of the Remarketing Agreement or the suspension or termination by the Remarketing Agent of its obligations under the Remarketing Agreement and the failure of the Issuer within fifteen (15) days thereafter to either cause such breach to be cured or to replace such Remarketing Agent with a successor acceptable to the Bank in accordance with Section 6.06 hereof.

(p) A court of competent jurisdiction has found any of the City's Parity Water/Wastewater Obligations or Prior First Lien Obligations to have been issued illegally or in violation of the additional debt test in the related ordinance.

(q) There shall be commenced against the Issuer any case, proceeding or action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of the Water/Wastewater System, which results in the entry of an order for relief which shall not have been vacated, discharged, stayed or bonded pending appeal within thirty (30) days from the entry thereof; or

(r) Any lien, pledge or security interest created to secure any amount due under this Agreement or the Bank Bonds should fail to be fully enforceable with the same priority as and when such lien, pledge or security interest was first acquired.

#### **Section 7.02. Rights and Remedies.**

(a) If an Event of Default occurs and is continuing, the Bank may, in its sole discretion:

(i) notify the City that an Event of Default has occurred and is continuing,

(ii) (A) notify the [Paying Agent] that an Event of Default has occurred and is continuing and that the Letter of Credit shall terminate and (B) in such notice further direct the [Paying Agent] to (1) cause a mandatory tender of the Bonds and draw upon the Letter of Credit in accordance with its terms and purchase all Eligible Bonds for the account of the Bank, whereupon such Bonds shall be Bank Bonds, and may direct the [Paying Agent] to declare the principal of all Outstanding Bonds and the accrued interest thereon to be due and payable immediately upon the completion of such purchase, or (2) declare the principal of all Outstanding Bonds and the accrued interest thereon to be immediately due and payable,

(iii) at any time subsequent to any notice under subpart (ii) and if the Bank has not already directed such action, the Bank may give notice to the [Paying Agent] directing the [Paying Agent] to declare the principal of the Bank Bonds, and the accrued interest thereon, to be immediately due and payable,

(iv) by notice to the City, declare the entire unpaid principal and interest amount of any advances outstanding as a result of any Drawing (including any Purchase Drawing following such notice to the [Paying Agent] and any Term Amortization) together with accrued interest thereon, and all other amounts owing under this Agreement, to be, whereupon the same shall become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the City; provided that in the case of any of the Events of Default specified in Section 7.01(i) or 7.01(p) above, without any notice to the City or any other Person or any other act by the Bank, the entire unpaid principal and interest amount of any advances outstanding as a result of any Drawing (including any Drawing thereafter occurring), together with accrued interest thereon, and all other Required Payments owing to the Bank, and all principal and interest on the Bank Bonds, shall be immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the City,

(v) (A) cure any default, event of default or event of nonperformance under this Agreement or under any of the Related Documents (in which event the City shall reimburse the Bank therefor pursuant to Section 2.10 hereof), (B) exercise its banker's lien, or right of set off, (C) proceed to protect its right by suit in equity, action at law or other appropriate proceedings, whether for specific performance of any covenant or agreement of the City herein contained or in the exercise of any power or remedy granted to the Bank under any of the Related Documents, (D) exercise its rights under the Security and exercise any right it or the Holders may have under the Ordinance to take any action, including without limitation any right it or the Holders may have to collect, foreclose, marshal, dispose of or otherwise realize on the Net Revenues and moneys in the funds and accounts under the Ordinance, pursuant to and in compliance with the Ordinance, and to cause the application and payment of Net Revenues and amounts on deposit in the Debt Service Fund, Reserve Fund and the [Water and Sewer System Fund] in accordance with the provisions of Section [ ] of the Ordinance and payment of amounts owing to the Bank, and to otherwise direct or control the enforcement of remedies and proceedings taken under the Related Documents, and foreclose, marshal, dispose of and otherwise realize on any other collateral of the City pledged hereunder or under the Related Documents, on such terms and in such manner as the Bank may determine, or (E) exercise any other rights or remedies available under any Related Document, any other agreement or at law or in equity,

(vi) Following receipt by the [Paying Agent] of a notice from the Bank pursuant to subparts (ii)(B) or (iii) of this Section 7.02(a) and to the extent it has not already done so, the [Paying Agent] shall promptly draw under the Letter of Credit in accordance with its terms and to the extent permitted by the Letter of Credit, to purchase the Eligible Bonds for the account of the Bank, whereupon such Bonds shall be Bank Bonds, or to pay principal of and interest on the Eligible Bonds, as directed by the Bank under the Letter of Credit. The Letter of Credit shall terminate upon the earlier of (x) [seven (7)] days following the notice given by the Bank to the Trustee pursuant to subpart (ii)(B) or (iii) of this Section 7.02(a) and (y) distribution of the proceeds of such drawing to the Trustee. Upon receipt by the [Paying Agent] of a notice from the Bank pursuant to subparts (ii) or (iii) of this Section 7.02(a) directing the acceleration of the principal of all Outstanding Bonds, the [Paying Agent] shall immediately declare the entire principal amount of the unpaid Bonds and the interest accrued thereon immediately due and payable pursuant to Section [ ] of the Ordinance and shall apply all payments from, and products and proceeds of, the Net Revenues and other amounts recovered from or paid by the City upon or following an Event of Default as provided in Section [ ] of the Ordinance.

(b) The rights and remedies of the Bank specified herein are for the sole and exclusive benefit, use and protection of the Bank, and the Bank is entitled, but shall have no duty or obligation to the City, the Paying Agent, the Holders of the Bonds or any other Person, (i) to exercise or to refrain from exercising any right or remedy reserved to the Bank hereunder, or (ii) to cause the Paying Agent or any other Person to exercise or to refrain from exercising any right or remedy available to it under any of the Related Documents.

(c) From and after the occurrence of an Event of Default, all amounts owing to the Bank hereunder shall bear interest at the Default Rate.

**Section 7.03. No Waiver; Remedies.** No failure on the part of the Bank to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any

single or partial exercise of any right under this Agreement preclude any other further exercise of such right or the exercise of any other right.

## ARTICLE VIII

### NATURE OF OBLIGATIONS; INDEMNIFICATION

**Section 8.01. Obligations Absolute.** The obligations of the Issuer to pay all Required Payments under this Agreement and the other Related Documents shall be absolute, unconditional and irrevocable, notwithstanding any other provision of this Agreement or any other Related Document, and shall not be subject to any right of setoff, recoupment or counterclaim against the Bank or any Participant and shall be paid and performed strictly in accordance with the terms of this Agreement under all circumstances whatsoever. Until the principal of and interest on the Bonds and all Required Payments including the repayment of all Drawings, have been indefeasibly paid in full and all other obligations of the Issuer hereunder and under the Related Documents have been performed and discharged, the Issuer waives and covenants not to assert any right of setoff or recoupment against its and their obligations to make all payments of principal, interest and all other Required Payments due hereunder and under the other Related Documents in the amounts and at the times required hereby and thereby, and without abatement, diminution, deduction, counterclaim or defense for any reason, including, without limitation, in the following circumstances:

- (a) any lack of validity or enforceability of the Letter of Credit or any of the Related Documents;
- (b) any amendment or waiver of any provision, term or condition of any of the Related Documents;
- (c) any failure of any portion of the Water/Wastewater System to be delivered, constructed or completed, any defects, malfunctions, breakdowns or infirmities in the Water/Wastewater System, any accident, condemnation, destruction or unforeseen circumstances, or any damage, destruction or condemnation of the Issuer's facilities or any part thereof or any acts or circumstances that may constitute failure of consideration or commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State, or any political subdivision of either thereof;
- (d) the existence of any dispute with, or any claim, right of setoff or recoupment, defense or other rights which the Issuer may have at any time against, the Paying Agent or the Tender Agent, any beneficiary or any transferee of the Letter of Credit (or any persons or entities for whom the Paying Agent or the Tender Agent, any such beneficiary or any such transferee may be acting), the Bank (other than the defense of payment to the Bank in accordance with the terms of this Agreement), any Participant or any other Person, whether in connection with this Agreement, the other Related Documents or any transaction contemplated thereby or any unrelated transaction;
- (e) 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 whatsoever;
- (f) payment by the Bank under the Letter of Credit against presentation of a sight draft or certificate which does not comply with the terms of the Letter of Credit; and

(g) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff or recoupment against, the Issuer's, the Issuer's obligations hereunder or under any of the other Related Documents.

**Section 8.02. Continuing Obligation.** All covenants, agreements, representations and warranties made by the Issuer in this Agreement and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the Bank and shall survive the execution and delivery of this Agreement, the issuance of the Letter of Credit and any Drawings under the Letter of Credit including any Principal Purchase Drawings, regardless of any investigation made by the Bank or on behalf thereof and notwithstanding that the Bank may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the Bonds or any Required Payments remain outstanding and unpaid. The obligations of the Issuer under this Agreement shall survive the expiration or termination of the Letter of Credit and continue until the date upon which all amounts due and owing to the Bank hereunder and under any Bank Bonds shall have been indefeasibly paid in full; *provided, however*, that the obligations of the Issuer pursuant to Sections 2.02, 8.03, and 8.04 hereof shall survive any expiration or termination of this Agreement.

**Section 8.03. Liability of the Bank.** With respect to the Bank, the Issuer assumes any and all risks with respect to the acts or omissions of each of the Paying Agent, the Tender Agent, the Remarketing Agent, and any transferee of the Letter of Credit and any other Person in connection with its or their use of the Letter of Credit or of any amounts made available by the Bank thereunder. Neither the Bank, any Affiliate or any Participant, nor any of their respective officers, directors, employees or agents shall be liable or responsible for any of the following: (a) the use that may be made of the Letter of Credit or any amounts made available by the Bank thereunder or for any acts or omissions of the Paying Agent, the Tender Agent, the Issuer, the Remarketing Agent or any other Person in connection with the Letter of Credit or the use of its proceeds; (b) any of the acts, omissions, agreements, circumstances or conditions covered by the indemnification provided in Section 8.04 hereof, (c) any act or omission of the Bank; (d) the validity, sufficiency 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, insufficient, fraudulent or forged; (e) 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 (f) any other circumstances whatsoever in making or failing to make payment under the Letter of Credit; provided, that, the Issuer shall have a claim against the Bank, and the Bank shall be liable to the Issuer, to the extent, but only to the extent, of any direct, actual damages, but expressly not for any lost profits or any consequential, special, indirect or punitive damages (the right to recover or receive lost profits, consequential, special, indirect or punitive damages being hereby waived), suffered by the Issuer and not required to be mitigated by the Issuer, which direct, actual damages are determined by a final and nonappealable judgment of a court of competent jurisdiction to have been directly caused by (i) the Bank's willful misconduct or gross negligence in determining whether documents presented under the Letter of Credit comply with the terms thereof or (ii) the Bank's willful failure to pay under the Letter of Credit after the presentation to it by the Paying Agent or Tender Agent (or a successor Paying Agent or tender agent under the Ordinance in accordance with its terms) of a draft and certificate strictly complying with the terms and conditions thereof; provided, however, that the maximum amount of damages recoverable by the Issuer from the Bank as provided above is expressly limited to the Stated Amount of the Bank's Letter of Credit. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary. In addition, (x) the Bank shall not be liable in any way for any failure on its part to honor any draft under the Letter of Credit as a result of any act or omission of any Governmental Authority or any other cause beyond the control of the Bank

and (y) the Bank specifically advised the Issuer that the U.S. Government has in place certain sanctions against certain countries, individuals, entities, and vessels; and, Citibank, N.A. and its Affiliates are prohibited from engaging in transactions or other activities within the scope of applicable sanctions..

**Section 8.04. Indemnification; Taxes, Etc.** In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, the Issuer hereby agrees to defend, indemnify and hold harmless the Bank and its Affiliates, each Participant and each of the respective officers, directors, employees and agents of the foregoing Persons (each an “Indemnified Party”) from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever (including reasonable attorneys’ fees) that an Indemnified Party may incur (or which may be claimed against an Indemnified Party by any Person whatsoever) that arises out of or in connection with any of the Transactions contemplated by this Agreement or the Related Documents, including, without limitation, (i) any untrue statement or alleged untrue statement of any material fact contained or incorporated by reference in the Reoffering Document or any other offering circular or document used in connection with the Bonds or the Letter of Credit, or in any supplement or amendment thereof, or the omission or alleged omission to state therein a material fact necessary to make such statements, in the light of the circumstances under which they are or were made, not misleading or the failure to deliver the Reoffering Document or any other offering circular or document to any offeree or purchaser of Bonds (but excluding the Bank Disclosure or equivalent disclosure information relating to the Bank included in such other offering circular or document and provided in writing by the Bank for inclusion therein); (ii) the execution and delivery or transfer of, or payment or failure to pay under the Letter of Credit; (iii) (A) the issuing, offering, sale, remarketing or resale of the Bonds or (B) the pledge, holding, transfer, registration, delivery, sale or other disposition of the Bank Bonds under the Ordinance or this Agreement; (iv) the proposed or actual use of the proceeds of the Bonds or any amounts drawn under the Letter of Credit; (v) the untruth or material inaccuracy of any warranty or representation undertaken or given by the Issuer in this Agreement or any other Related Document or in any certificate furnished hereunder or thereunder or the breach or nonperformance by any Person of any covenant of this Agreement or any other Related Document; any act or omission of the Issuer or any imposition arising from, burden imposed by, violation of, or failure to comply with any applicable law by the Issuer; (vii) any Taxes or Other Taxes; or (viii)(A) any patent or latent condition of the Water/Wastewater System or any real property, land or structure owned, leased or occupied by the Issuer, including without limitation, any Environmental Claim or Environmental Liability, (B) the construction, reconstruction, improvement, use, occupancy, conduct or management of or any work or anything whatsoever done or omitted to be done in or about the Water/Wastewater System or any real property, land or structure owned, leased or occupied by the Issuer or (C) any accident, injury or damage whatsoever to any person occurring in or about the Water/Wastewater System or any real property, land or structure owned, leased or occupied by the Issuer; provided, in each case, that the Issuer shall not be required to indemnify the the Bank for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, directly caused by (1) the willful misconduct or gross negligence of the Bank or (2) the Bank’s willful failure to pay under the Letter of Credit after the presentation to it by the Paying Agent or the Tender Agent of a draft and certificate strictly complying with the terms and conditions of the Letter of Credit, to the extent that there has been a final and nonappealable judgment of a court of competent jurisdiction that such claims, damages, losses, liabilities, costs and expenses were directly caused by the willful misconduct or gross negligence of the Bank. If any proceeding shall be brought or threatened against an Indemnified Party by reason of or in connection with the events described in (i), (ii), (iii), (iv), (v), (vi), (vii) or (viii), such Indemnified Party shall promptly notify the Issuer in writing and the Issuer shall assume the defense thereof, including the employment of counsel and the payment of all costs of litigation. The Issuer will not settle or compromise any such action or claim without the prior written consent of the relevant Indemnified Party if the settlement or compromise would require any act or admission by such Indemnified Party or any of its Affiliates, or impose any cost or expense on the Indemnified Party or its Affiliates or impose any limitation on the business or future actions of the Indemnified Party or its

Affiliates. Notwithstanding the preceding sentence, an Indemnified Party shall have the right to employ its own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the expense of an Indemnified Party unless (x) the employment of such counsel has been authorized in writing by the Issuer or (y) the Issuer, after due notice of the action, shall not have promptly employed counsel to have charge of such defense, in either of which events the reasonable fees and expenses of counsel for such Indemnified Party shall be borne by the Issuer. The Issuer shall not be liable for any settlement of any such action effected without its consent. Nothing under this Section 8.04 shall or shall be construed to limit the Issuer's payment obligations under Article II.

The provisions of this Section 8.04 shall survive the termination of this Agreement and the payment in full of the Bonds and the obligations of the Issuer thereunder and hereunder.

**Section 8.05. Facsimile Documents.** At the request of the Issuer, the Letter of Credit provide that Drawings thereunder may be presented to the Bank by, among other methods, facsimile. The Issuer acknowledges and assumes all risks relating to the use of such facsimile demands for payment and agrees that its obligations under this Agreement and the Related Documents shall remain absolute, unconditional and irrevocable as provided in Section 8.01 above if the Bank honors such facsimile demands for payment.

## **ARTICLE IX**

### **TRANSFER, REDUCTION OR EXTENSION OF LETTER OF CREDIT**

The Letter of Credit may be transferred, reduced and reinstated in accordance with the provisions set forth therein.

## **ARTICLE X**

### **MISCELLANEOUS**

**Section 10.01. Right of Setoff.** Upon the occurrence of an Event of Default, the Bank and its affiliates may, at any time and from time to time, without notice to the Issuer or any other Person (any such notice being expressly waived), set off and appropriate and apply, against and on account of, any obligations and liabilities of the Issuer to the Bank or their Affiliates, whether or not arising under or connected with this Agreement or the Related Documents and without regard to whether or not the Bank shall have made any demand therefor and although such obligations and liabilities may be contingent or unmatured and regardless of currency, place of payment or booking office thereof, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, but not including trust accounts) and any other Debt or other payment obligation at any time held or owing by the Bank or its Affiliates to or for the credit or the account of the Issuer, whether or not arising under or connected with this Agreement or the Related Documents, whether or not matured, whether or not contingent and regardless of the currency, place of payment or booking office thereof. The rights of the Bank under this Section are in addition to other rights and remedies (including other rights of setoff) which the Bank may have at law or in equity.

**Section 10.02. Amendments and Waivers; Remedies Cumulative.** No amendment or waiver of any provision of this Agreement nor consent to any departure by the Issuer from any such provision shall in any event be effective unless the same shall be in writing and signed by the Bank. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which



given. In the event any covenant or agreement contained in this Agreement is breached by the Issuer and thereafter waived by the Bank, such waiver shall be limited to the particular breach so waived for the specific period set out in such waiver and such waiver shall not constitute a waiver of such breach for any other period and shall not waive any other or similar breach hereunder. Specifically and not in limitation of the foregoing, this Agreement may not be amended or modified by course of dealing, oral acknowledgement or agreement or by any writing, unless it is a writing which is expressly stated to constitute an amendment of this Agreement and is signed by an authorized officer of the Bank and an Authorized Issuer Representative. The rights and remedies of the Bank hereunder are cumulative and are not exclusive of any rights or remedies that it would otherwise have under law or equity.

**Section 10.03. Counterparts.** This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.

**Section 10.04. Notices.** All notices, requests, demands, directions and other communications (collectively “notices”) under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be properly addressed and sent by registered or certified mail or by express courier for next Business Day delivery and shall be deemed received as follows: (a) if by registered or certified mail, five (5) days after mailing; (b) if by express courier for next Business Day delivery, on the next Business Day; and (c) if by facsimile, when confirmation of transmission is obtained if prior to 5:00 p.m. local time on a Business Day, and otherwise, on the next Business Day; provided that service of a notice prescribed by any applicable statute shall be considered complete when the requirements of that statute are met. Notices by electronic mail (e-mail) shall not constitute notice under this Agreement and are only to be used in addition to notice given as prescribed under (a), (b) or (c) of this Section 10.04. All notices shall be sent to the applicable party at the following address or in accordance with the last unrevoked written direction from such party to the other parties hereto:

if to the City, addressed to the City at:

City of Austin, Texas  
P.O. Box 2106  
Austin, Texas 78768  
Attention: City Treasurer  
Telephone: 512-974-7882  
E-Mail: [debt@austintexas.gov](mailto:debt@austintexas.gov)

or if to the Bank, addressed to if at:

For Administrative Matters:

Citibank, N.A., Delaware  
1615 Brett Rd., OPS 3  
New Castle, DE 19720  
Attention: Adriene Jackson  
Telephone: (302) 323-5888  
Facsimile: (212) 994-0849  
E-Mail: [adriene.jackson@citi.com](mailto:adriene.jackson@citi.com)

With a copy to:

Citibank, N.A., Tampa  
3800 Citibank Center Building  
Tampa, FL 33610  
Attention: Karen E. Kunze GTS Letter of Credit Operations  
Telephone: (813) 604-7038  
Facsimile: (813) 604-7187  
E-Mail: Karen.e.kunze@citigroup.com

For Credit Matters:

Citibank, N.A.  
390 Greenwich Street, 8th Floor  
New York, NY 10013  
Attention: Municipal Credit Surveillance  
E-Mail: munisurveillance@citi.com

With a copy to:

Citigroup Global Markets, Inc.  
390 Greenwich Street, 2nd Floor  
New York, NY 10013  
Attention: Rebekah McGuire  
E-Mail: rebekah.mcguire@citi.com

or if to the Paying Agent, addressed to it at:

[U.S. Bank National Association  
100 Wall Street, 16th Floor  
New York, NY 10005  
Attention: Corporate Trust Services  
Reference: Austin, Texas Series 2008 Bonds  
Telephone: (212) 361-2892  
Facsimile: (212) 361-5217  
E-Mail: millie.rolla@usbank.com]

or if to the Tender Agent, addressed to it at:

[\_\_\_\_\_  
[\_\_\_\_\_  
[\_\_\_\_\_  
Attention: [\_\_\_\_\_  
Telephone: [\_\_\_\_\_  
E-Mail: [\_\_\_\_\_]

**Section 10.05. Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**Section 10.06. GOVERNING LAW.** THIS AGREEMENT SHALL BE DEEMED TO BE A CONTRACT UNDER, AND TOGETHER WITH ANY DISPUTES OR CONTROVERSIES ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK AND APPLICABLE FEDERAL LAW, WITHOUT REGARD TO CHOICE OF LAW RULES OTHER THAN NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1401 (OR ANY SUCCESSOR STATUTE THERETO).

**Section 10.07. Consent to Jurisdiction, Venue and Service of Process.** Pursuant to, and in accordance with, Section 5-1402 of the New York General Obligations Law (or any successor statute thereto), the Issuer and the Bank, irrevocably (a) agree that any suit, action or other legal proceeding arising out of or relating to this Agreement shall be brought in the exclusive jurisdiction of a court of record in the State of New York located in the Borough of Manhattan or in the United States District Court for the Southern District of the State of New York located in the Borough of Manhattan, (b) consent to the jurisdiction of each such court in any such suit, action or proceeding, and (c) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. The Issuer and the Bank also irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to the respective address set forth for such party in Section 10.04. The Issuer and the Bank agree that a final judgment in any suit, action or proceeding shall be conclusive and may be enforced in appropriate jurisdictions by suit on the judgment or in any other manner provided by law. All mailings under this Section 10.07 shall be by certified mail, return receipt requested.

Nothing in this Section 10.07 shall affect the right of the Bank to serve legal process in any other manner permitted by law or affect the right of the Bank to bring any suit, action or proceeding against the Issuer or its property in the courts of any other jurisdiction.

**Section 10.08. Headings.** Section headings in this Agreement are included herein for convenience of reference only and shall not have any effect for purposes of interpretation or construction of the terms of this Agreement.

**Section 10.09. Participations.** The Issuer acknowledges and agrees that the Bank may participate all or any portion of their obligations under the Letter of Credit and the obligations of the Issuer under the Bank Bonds, and the obligations of the Issuer under this Agreement and any other Related Documents (collectively, the “Participated Obligations”) to other financial institutions and waives any notice of such participations. The Issuer agrees to provide to the Bank, promptly upon request, a copy of the most recent financial information concerning the Issuer thereof in connection with any such participation or prospective participation. The Bank may disclose to any Participants or prospective Participants any information or other data or material in the Bank’s possession relating to this Agreement, the Reoffering Document or any Related Document, without the consent of or notice to the Issuer. The Issuer further acknowledges and agrees that upon any such participation the Participants will become owners of a pro rata portion of the Participated Obligations and the Issuer waives any right of setoff it may at any time have against the Bank or any Participant with regard to the Participated Obligations. The grant of any participation interest in the Participated Obligations shall not impair the Bank’s obligation to honor Drawings made in accordance with the express terms of the Letter of Credit.

**Section 10.10. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Issuer, the Bank and their respective successors, endorsees and assigns, provided that the Issuer may not assign, transfer or delegate all or any portion of its respective rights or obligations hereunder without the prior written consent of the Bank. The Bank may grant interests in its rights

hereunder as provided in Section 10.09; provided, however, that no such grant shall affect the obligations of the Bank under the Letter of Credit.

Notwithstanding any other provision of this Agreement, the Bank may at any time pledge or grant a security interest in all or any portion of its rights (including, without limitation, rights to payment under this Agreement) to secure obligations of the Bank to a Federal Reserve Bank, without notice to or consent of the Issuer; provided that no such pledge or grant of a security interest shall release the Bank from any of its obligations hereunder, as the case may be, or substitute any such pledgee or grantee for the Bank as a party hereto, as the case may be.

**Section 10.11. Complete and Controlling Agreement.** This Agreement and the other Related Documents completely set forth the agreements between the Bank and the Issuer and fully supersede all prior and contemporaneous understandings, agreements, and contracts, both written and oral, between the Bank and the Issuer relating to the issuance of the Letter of Credit and all matters set forth herein and in the Related Documents.

**Section 10.12. Waiver of Rule of Construction.** The Issuer hereby waives any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.

**Section 10.13. WAIVER OF JURY TRIAL.** THE ISSUER AND THE BANK EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (WHETHER AS CLAIM, COUNTER-CLAIM, AFFIRMATIVE DEFENSE OR OTHERWISE) BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE ISSUER OR THE BANK. THE ISSUER ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND RECOGNIZES AND AGREES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE BANK ENTERING INTO THIS AGREEMENT AND ISSUING THE LETTER OF CREDIT. THE ISSUER REPRESENTS AND ACKNOWLEDGES THAT IT HAS REVIEWED THIS PROVISION WITH ITS LEGAL COUNSEL AND THAT IT HAS KNOWINGLY AND VOLUNTARILY WAIVED ANY JURY TRIAL RIGHTS IT MAY HAVE FOLLOWING CONSULTATION WITH SUCH LEGAL COUNSEL.

**Section 10.14. Payments Set Aside.** To the extent that any payment by or on behalf of the Issuer is made to the Bank, or the Bank exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Bank in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

**Section 10.15. Usury.** If notwithstanding the application of Section 2.10 of this Agreement, Applicable Law shall be interpreted by a court of competent jurisdiction to render usurious any amount or amounts payable to the Bank under this Agreement or under the Bonds (including Bank Bonds), or contracted for, charged or received by the Bank with respect to the obligations of the Issuer hereunder or under the Bonds, or if any acceleration or optional or extraordinary prepayment results in the Issuer having paid any interest (together with any amounts treated as interest under Applicable Law) in excess of that permitted by Applicable Law, then it is the Bank's express intent that all excess amounts theretofore

collected by the Bank shall be credited against the principal balance of the Issuer's obligations to the Bank and the provisions of this Agreement and the other Related Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder modified, without the necessity of the execution of any new documents, so as to comply with the Applicable Law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to the Bank, which may be characterized as interest under Applicable Law shall, to the extent permitted thereby, be amortized, prorated, allocated, and spread throughout the full stated term of the Bonds or other obligations of the Issuer until payment in full so that the rate or amount of interest on account of such obligations does not exceed the Maximum Lawful Rate from time to time in effect and applicable to such obligations for so long as the obligations are outstanding.

#### **Section 10.16. Voluntary Termination; Extension.**

(a) *Voluntary Termination.* Subject to the provisions of Article II with respect to the payment of a Termination Fee, the City shall have the right to effect a Voluntary Termination of the Letter of Credit at any time upon not less than ten (10) Business Days' prior written notice to the Bank. The City may not exercise its right to effect a Voluntary Termination unless it can be demonstrated to the reasonable satisfaction of the Bank that immediately upon such Voluntary Termination there shall be sufficient funds on deposit in the Debt Service Fund or Liquidity Facility Purchase Account for the purpose of paying to the Bank all amounts owing pursuant to this Agreement (and any Bank Bonds).

(b) *Extension.* At any time not earlier than one hundred eighty (180) days, and not later than ninety (90) days, prior to the Stated Expiration Date, the City may by written notice to the Bank request that the Stated Expiration Date of the Letter of Credit and of this Agreement be extended on terms and conditions to be mutually agreed to by the City and the Bank. The Bank may, in its sole and absolute discretion, decide to accept or reject any such proposed extension and no extension shall become effective unless the Bank shall have consented thereto, in its sole discretion, in writing within sixty (60) days of the Bank's receipt of such written notice. The Bank's consent shall be conditioned upon the preparation, execution and delivery of documentation in form and substance satisfactory to the Bank and its counsel. The Bank's failure to so respond to a requested extension of the Stated Expiration Date shall constitute the Bank's denial of such request. If the Stated Expiration Date is extended, the City shall, except as otherwise agreed to in writing by the Bank, be deemed to have made the representations and warranties contained herein on and as of the date on which the Stated Expiration Date is so extended.

**Section 10.17. Electronic Signature; Electronically Signed Document.** For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the Internet as a pdf (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature. The parties agree that the electronic signature of a party to this Agreement (or any amendment or supplement of this Agreement) shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts", if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest

the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

**Section 10.18. No Advisory or Fiduciary Responsibility.** In connection with all aspects of the Transactions contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Related Document), the Issuer acknowledges and agrees that: (i) (A) the arranging, structuring and other services regarding this Agreement provided by the Bank and any of its Affiliates are arm's-length commercial transactions between the Issuer and its Affiliates, on the one hand, and the Bank and its Affiliates, on the other hand, (B) the Issuer has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Issuer is capable of evaluating, and understands and accepts, the terms, risks and conditions of the Transactions contemplated hereby and by the other Related Documents; (ii) (A) the Bank and each of its Affiliates is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Issuer or any of its Affiliates, or any other Person and (B) neither the Bank nor any of its Affiliates has any obligation to the Issuer or any of its Affiliates with respect to the Transactions, except those obligations expressly set forth herein; and (iii) the Bank and each of its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Issuer, and neither the Bank nor any of its Affiliates has any obligation to disclose any of such interests to the Issuer, or its Affiliates. To the fullest extent permitted by Applicable Law, the Issuer hereby waives and releases any claims that it may have against the Bank and each of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

**Section 10.19. Amounts Payable to the Bank.** The parties hereto agree and acknowledge that the amounts payable to the Bank hereunder are payable on parity with the Bonds.

[Remainder of page intentionally left blank]

[Signature Page to Letter of Credit Reimbursement Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Letter of Credit Reimbursement 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:

Attest:

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

SEAL]

[Signature Page to Letter of Credit Reimbursement Agreement]

CITIBANK, N.A., as Bank

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

DRAFT



**EXHIBIT A**  
**FORM OF LETTER OF CREDIT**

DRAFT

**EXHIBIT B**

**FORM OF PAYING AGENT'S LETTER**

[\_\_\_\_\_], 2015

Citibank, N.A.

Re: Irrevocable Transferable Direct Pay Letter of Credit No. 69601898

Dear Ladies and/or Gentlemen:

We refer to the above referenced Irrevocable Transferable Direct Pay Letter of Credit (the "Letter of Credit") issued pursuant to the Letter of Credit Reimbursement Agreement dated [\_\_\_\_\_], 2015 (the "Reimbursement Agreement") by and between the City of Austin, Texas (the "City") and Citibank, N.A.

We have read and understand our obligations under the Reimbursement Agreement. We hereby further agree to provide notice to you in the form of Exhibit E to the Letter of Credit when so instructed by the City or when payment for all of the Bonds has been made pursuant to the Ordinance. Subject to the terms and conditions of the Ordinance and the Paying Agency Agreement regarding performance of the duties set forth therein by the Paying Agent, we agree to perform our duties set forth in Article II of the Reimbursement Agreement and the Letter of Credit.

Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Reimbursement Agreement.

Very truly yours,

[Signature on next page]

[Signature Page to Letter of Paying Agent of [\_\_\_\_\_], 2015]

U.S. Bank National Association, as Paying Agent

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

DRAFT

## EXHIBIT C

### FORM OF COMPLIANCE CERTIFICATE

To: Citibank, N.A. (the "Bank")

This Compliance Certificate is furnished pursuant to that certain Letter of Credit Reimbursement Agreement dated [\_\_\_\_], 2015, (as amended, modified, renewed or extended from time to time, the "Agreement") by and between the City of Austin, Texas (the "City") and the Bank. Unless otherwise defined herein, capitalized terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

#### THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the \_\_\_\_\_ of the City;
2. This Compliance Certificate is provided with respect to the Fiscal Year ending on [\_\_\_\_\_] (the "Relevant Period").
3. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the transactions and conditions of the City during the Relevant Period; and
4. The examinations described in paragraph 3 did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes a Default during or at the end of the Relevant Period or as of the date of this Compliance Certificate, except as set forth below.

Described below are the exceptions, if any, to paragraph 4 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the City has taken, is taking, or proposes to take with respect to each such condition or event:

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5. In accordance with Section \_\_\_\_ of the Agreement, I certify on behalf of the City the following as of \_\_\_\_\_, 20\_ for the Relevant Period:

(a) Pursuant to Section 5.01(l), the rates and charges for the System set forth in the approved City budget are sufficient to allow the City to comply with the provisions of Section 5.01(1) at all times during such Fiscal Year.

(b) Annex \_\_ attached hereto sets forth financial data and computations evidencing the City's calculation of its compliance for the preceding Fiscal Year with respect to the covenant set forth in Section 5.01(1) of this Agreement, all of which data and computations are true, complete and correct.

6. I have reviewed the City's insurance coverages and certify that the City is in compliance with the insurance coverage requirements of [\_\_\_\_\_].

7. [OTHER REPORTING ITEMS, AS APPLICABLE].

The foregoing certifications, together with any financial data and computations provided herewith, are made and delivered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY OF AUSTIN, TEXAS

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