

1 **ORDINANCE NO.**

2 **AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF**
3 **AUSTIN, TEXAS PUBLIC PROPERTY FINANCE CONTRACTUAL**
4 **OBLIGATIONS, SERIES 2017; ESTABLISHING PARAMETERS FOR THE**
5 **SALE OF THE OBLIGATIONS; APPROVING RELATED DOCUMENTS;**
6 **ENACTING OTHER PROVISIONS RELATED TO THE OBLIGATIONS; AND**
7 **DECLARING AN IMMEDIATE EFFECTIVE DATE**

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

9 **PART 1. FINDINGS.**

10 The Act authorizes Council to execute, perform and make payments under contracts with any
11 person for the use, acquisition, purchase or financing of personal property as described in the Act; and

12 The Act permits Council to execute contracts in any form it deems appropriate in connection
13 with the use, acquisition, purchase or financing of personal property; and

14 Council desires to acquire, purchase or finance personal property as described in Schedule I, or
15 such other personal property, appliances, equipment, facilities, furnishings or interests therein, whether
16 movable or fixed, deemed by Council to be necessary, useful and/or appropriate for its purposes (the
17 "Property"); and

18 Council deems it appropriate to adopt this Ordinance and issue the "Contractual Obligations"
19 authorized by the Act; and

20 Council desires to delegate to the Authorized Representative (defined below) the authority to
21 effect the sale of the Contractual Obligations authorized by this Ordinance, subject to the parameters
22 prescribed by this Ordinance; and

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

26 **PART 2. DEFINITIONS.**

27 The terms used in this Ordinance have the following meanings:

28 "Act" means the Public Property Finance Act, Sec. 271.001, et seq., Subchapter A, Texas Local
29 Government Code.

30 "Authentication Certificate" means the Paying Agent/Registrar's Authentication Certificate, in
31 the form identified in the Form of Obligation.

32 "Authorized Denomination" means \$5,000 or any integral multiple of \$5,000.

33 "Authorized Representative" means the City Manager or the Chief Financial Officer of the City.

1 “Business Day” means a day other than a Saturday, a Sunday, a legal holiday, or a day on which
2 banking institutions are authorized by law or executive order to close in the City or the city where the
3 Designated Payment/Transfer Office of the Paying Agent/Registrar is located.

4 “Chapter 9” means Chapter 9 of the Texas Business & Commerce Code.

5 “Chapter 1204” means Chapter 1204 of the Texas Government Code.

6 “Chapter 1206” means Chapter 1206 of the Texas Government Code.

7 “Chapter 1208” means Chapter 1208 of the Texas Government Code.

8 “Chapter 1371” means Chapter 1371 of the Texas Government Code.

9 “City” means the City of Austin, Texas.

10 “Code” means the Internal Revenue Code of 1986, as amended.

11 “Council” means the City Council of the City.

12 “Defeasance Securities” means any securities permitted by Section 1207.062, Texas Government
13 Code (or any successor statute), including (i) direct, noncallable obligations of the United States of
14 America, including obligations that are unconditionally guaranteed by the United States of America, (ii)
15 noncallable obligations of an agency or instrumentality of the United States of America, including
16 obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on
17 the date of approval of the proceedings authorizing the issuance of the refunding bonds, are rated as to
18 investment quality by a nationally recognized investment rating firm not less than “AAA” or its
19 equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other
20 political subdivision of a state that have been refunded and that, on the date of approval of the
21 proceedings authorizing the issuance of the refunding bonds, are rated as to investment quality by a
22 nationally recognized investment rating firm not less than “AAA” or its equivalent.

23 “Defeased Obligation” means any Obligation and the interest on the Obligation that is
24 considered to be paid, retired and no longer outstanding under the terms of this Ordinance, specifically
25 PART 16 of this Ordinance.

26 “Designated Payment/Transfer Office” means the office of the Paying Agent/Registrar identified
27 by the Paying Agent/Registrar as its Designated Payment/Transfer Office for the purpose of discharging
28 its duties under this Ordinance.

29 “DTC” means The Depository Trust Company, New York, New York.

30 “Event of Default” has the meaning described in PART 17 of this Ordinance.

31 “Expiration Date” means February 16, 2018.

32 “Future Escrow Agreement” means an escrow agreement or other similar instrument with respect
33 to Defeased Obligations.

1 “Interest and Sinking Fund” means the Interest and Sinking Fund established in PART 9 of this
2 Ordinance.

3 “MSRB” means the Municipal Securities Rulemaking Board.

4 “Obligations” means the contractual obligations of the City to be issued under authority of this
5 Ordinance.

6 “Paying Agent/Registrar” means the bank, trust company, financial institution, or agency named
7 in the Paying Agent/Registrar Agreement.

8 “Paying Agent/Registrar Agreement” means the agreement between the City and the Paying
9 Agent/Registrar with respect to the Obligations in the form approved by an Authorized Representative,
10 and any successor agreement.

11 “Pricing Certificate” means a certificate executed by an Authorized Representative on the date of
12 sale of any series of the Obligations containing the terms of such series authorized to be determined by
13 the Authorized Representative pursuant to PART 4 of this Ordinance.

14 “Property” has the meaning described in PART 1 of this Ordinance.

15 “Purchase Agreement” means any purchase agreement between the City and the Underwriters
16 providing for the sale of the Obligations by the City and the purchase of the Obligations by the
17 Underwriters.

18 “Registered Owner” means the owner of any Obligation as recorded in the Registration Books.

19 “Registration Books” means the books or records of registration and transfer of the Obligations
20 maintained by the Paying Agent/Registrar.

21 “Rule” means SEC Rule 15c2-12.

22 “SEC” means the United States Securities and Exchange Commission.

23 “Underwriters” means the entity or entities designated in the Purchase Agreement.

24 **PART 3. OBLIGATIONS AUTHORIZED.**

25 The Obligations shall be issued in accordance with the Constitution, laws of the State of Texas,
26 and the Charter of the City, in one or more series, in the aggregate principal amount not to exceed
27 \$5,460,000 for the purposes of (a) paying all or a portion of the City’s contractual obligations to be
28 incurred with the acquisition, purchase or financing of the Property, in accordance with the provisions of
29 the Act, and (b) paying the costs of issuance associated with the sale of the Obligations. The aggregate
30 principal amount and the designation of Obligations issued pursuant to this Ordinance shall be set forth
31 in the Pricing Certificate.

1 **PART 4. SALE PARAMETERS.**

2 (a) The Obligations shall be issued in any Authorized Denomination as fully registered
3 obligations, without interest coupons, payable to the respective initial registered owners of the
4 Obligations, or to the registered assignee or assignees of the Obligations, maturing not later than 25
5 years from their issue date, payable serially or otherwise on the dates, in the years and in the principal
6 amounts, and dated, all as set forth in the Pricing Certificate.

7 (b) In accordance with Chapter 1371, Council authorizes each Authorized Representative to
8 act on behalf of the City in selling and delivering the Obligations and carrying out the other procedures
9 specified in this Ordinance, including determining and fixing the number of series and the designation or
10 title by which any series of the Obligations sold shall be known and, with respect to any series of
11 Obligations, the purposes and aggregate principal amount of the Obligations sold, the dated date and the
12 date of delivery of the Obligations sold, the price at which the Obligations will be sold, the years in
13 which the Obligations will mature, the principal amount of Obligations to mature in each of such years,
14 the rate or rates of interest to be borne by or accrue on each maturity, the interest payment periods and
15 interest payment dates, the record date, the dates, prices, and terms upon and at which the Obligations
16 shall be subject to redemption (including provisions for optional and mandatory redemption), and all
17 other terms, details and matters relating to the Obligations and their issuance, sale and delivery,
18 including, without limitation, obtaining a municipal bond insurance policy in support of the Obligations,
19 all of which shall be specified in the Pricing Certificate; *provided*, that (i) the price to be paid for the
20 Obligations shall not be less than 95% of the aggregate principal amount of the Obligations sold, plus
21 accrued interest, if any, (ii) the Obligations shall not bear interest at a rate greater than the maximum rate
22 allowed by Chapter 1204, and (iii) prior to their delivery, the Obligations shall be rated by a nationally
23 recognized rating agency for municipal securities in one of the four highest rating categories for long-
24 term debt instruments.

25 An Authorized Representative may approve modifications to this Ordinance to conform to the
26 terms of the Obligations, as approved by the Authorized Representative, and execute any instruments,
27 agreements and other documents as the Authorized Representative shall deem necessary or appropriate
28 in connection with the issuance, sale and delivery of Obligations pursuant to this Ordinance.

29 It is in the best interests of the City for the Obligations to be sold through a negotiated sale, and
30 Council authorizes each Authorized Representative to enter into and carry out the Purchase Agreement
31 with the Underwriters pursuant to PART 12 of this Ordinance. Each Authorized Representative may
32 designate underwriters for future series of the Obligations.

33 The authority of an Authorized Representative to execute any Purchase Agreement shall expire
34 at 11:59 p.m. on the Expiration Date. Obligations sold pursuant to a Purchase Agreement executed on
35 or before the Expiration Date may be delivered after the Expiration Date.

36 In establishing the aggregate principal amount of the Obligations of each series, the Authorized
37 Representative shall establish an amount which shall be sufficient (together with any premium received
38 from the sale of the Obligations) to provide for the purposes for which the Obligations are authorized.
39 The Obligations of any series shall be sold at such price, with and subject to such terms, as set forth in
40 the Pricing Certificate.

1 (c) Any finding or determination made by an Authorized Representative relating to the
2 issuance and sale of the Obligations and the execution of the Purchase Agreement shall have the same
3 force and effect as a finding or determination made by Council.

4 **PART 5. REDEMPTION PROVISIONS.**

5 The Obligations are not subject to redemption prior to maturity.

6 **PART 6. INTEREST.**

7 The Obligations shall bear interest at the rates per annum set forth in the Pricing Certificate. The
8 interest shall be payable to the Registered Owner of any Obligation in the manner provided and on the
9 dates stated in the Pricing Certificate. Interest shall be calculated on the basis of a 360-day year
10 consisting of twelve 30-day months.

11 **PART 7. ADDITIONAL CHARACTERISTICS OF THE OBLIGATIONS.**

12 (a) The City shall keep, or cause to be kept, at the Designated Payment/Transfer Office, the
13 Registration Books, and the Paying Agent/Registrar named in the Paying Agent/Registrar Agreement
14 shall act as the registrar and transfer agent for the City to keep books or records and make the transfers
15 and registrations under the reasonable regulations as the City and the Paying Agent/Registrar may
16 prescribe; and the Paying Agent/Registrar shall make transfers and registrations as provided in this
17 Ordinance. It shall be the duty of the Paying Agent/Registrar to obtain from the Registered Owner and
18 record in the Registration Books the address of the Registered Owner to which payments with respect to
19 the Obligations shall be mailed, as provided in this Ordinance. The City, or its designee, shall have the
20 right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but
21 otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless
22 otherwise required by law, shall not permit their inspection by any other entity. Ownership of each
23 Obligation may be transferred in the Registration Books only upon presentation and surrender of the
24 Obligation to the Paying Agent/Registrar for transfer of registration and cancellation, together with
25 proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the
26 Paying Agent/Registrar, evidencing the assignment of the Obligation, or any portion of the Obligation,
27 in any Authorized Denomination, to the assignee or assignees, and the right of the assignee or assignees
28 to have the Obligation or any portion of the Obligation registered in the name of the assignee or
29 assignees. Upon the assignment and transfer of any Obligation, a new substitute obligation or
30 obligations shall be issued in exchange for the Obligation in the manner provided in this Ordinance.

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

38 (c) The Paying Agent/Registrar named in the Paying Agent/Registrar Agreement shall act as
39 the paying agent for paying the principal of, premium, if any, and interest on, the Obligations, and to act
40 as the agent of the City to exchange or replace Obligations, all as provided in this Ordinance. The

1 Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying
2 Agent/Registrar with respect to the Obligations, and of all exchanges and replacements, as provided in
3 this Ordinance.

4 (d) Each Obligation may be exchanged for fully registered obligations as set forth in this
5 Ordinance. Each Obligation issued and delivered pursuant to this Ordinance may, upon surrender at the
6 Designated Payment/Transfer Office, together with a written request duly executed by the Registered
7 Owner or its assignee or assignees, or its or their duly authorized attorneys or representatives, with
8 guarantee of signatures satisfactory to the Paying Agent/Registrar, at the option of the Registered Owner
9 or its assignee or assignees, as appropriate, be exchanged for fully registered obligations, without
10 interest coupons, in the form prescribed in the Form of Obligation, in any Authorized Denomination
11 (subject to the requirement stated below that each substitute Obligation shall have a single stated
12 maturity date), as requested in writing by the Registered Owner or its assignee or assignees, in an
13 aggregate principal amount equal to the unredeemed principal amount of any Obligation or Obligations
14 so surrendered, and payable to the appropriate Registered Owner, assignee, or assignees. If a portion of
15 any Obligation is assigned and transferred, each Obligation issued in exchange shall have the same
16 maturity date and bear interest at the same rate as the Obligation for which it is being exchanged. Each
17 substitute Obligation shall bear a letter and/or number to distinguish it from each other Obligation. The
18 Paying Agent/Registrar shall exchange or replace Obligations as provided in this Ordinance, and each
19 fully registered Obligation delivered in exchange for or replacement of any Obligation or portion of an
20 Obligation as permitted or required by any provision of this Ordinance shall constitute one of the
21 Obligations for all purposes of this Ordinance, and may again be exchanged or replaced. Any
22 Obligation delivered in exchange for or replacement of another Obligation before the first scheduled
23 interest payment date on the Obligations (as stated on the face of the Obligation) shall be dated the same
24 date, but each substitute Obligation delivered on or after the first scheduled interest payment date shall
25 be dated the interest payment date preceding the date on which the substitute Obligation is delivered,
26 unless the substitute Obligation is delivered on an interest payment date, in which case it shall be dated
27 as of the date of delivery; however, if at the time of delivery of any substitute Obligation the interest on
28 the Obligation for which it is being exchanged has not been paid, then the substitute Obligation shall be
29 dated the date to which interest has been paid in full. On each substitute Obligation issued in exchange
30 for or replacement of any Obligation issued under this Ordinance there shall be printed on the Obligation
31 the Authentication Certificate. An authorized representative of the Paying Agent/Registrar shall, before
32 the delivery of any substitute Obligation, date the substitute Obligation in the manner set forth above,
33 and manually sign and date the Authentication Certificate, and no substitute Obligation shall be
34 considered to be issued or outstanding unless the Authentication Certificate is executed. The Paying
35 Agent/Registrar promptly shall cancel all Obligations surrendered for exchange or replacement. No
36 additional ordinances, orders, or resolutions need be passed or adopted by Council or any other body or
37 person to accomplish the exchange or replacement of any Obligation, and the Paying Agent/Registrar
38 shall provide for the printing, execution, and delivery of the substitute Obligations in the manner
39 prescribed in this Ordinance. Pursuant to Chapter 1206, the duty of exchange or replacement of any
40 Obligation is imposed on the Paying Agent/Registrar, and, upon the execution of the Authentication
41 Certificate, the exchanged or replaced obligation shall be valid, incontestable, and enforceable in the
42 same manner and with the same effect as the Obligations which originally were delivered pursuant to
43 this Ordinance, approved by the Texas Attorney General, and registered by the Texas Comptroller of
44 Public Accounts.

1 (e) All Obligations issued in exchange or replacement of any other Obligation or portion of
2 an Obligation (i) shall be issued in fully registered form, without interest coupons, with the principal of
3 and interest on the Obligations to be payable only to the Registered Owners, (ii) may be redeemed prior
4 to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be exchanged for other
5 Obligations, (v) shall have the characteristics, (vi) shall be signed and sealed, and (vii) the principal of
6 and interest on the Obligations shall be payable, all as provided, and in the manner required or indicated
7 in this Ordinance and the Pricing Certificate.

8 (f) The City shall pay the Paying Agent/Registrar's reasonable and customary fees and
9 charges for making transfers of Obligations, but the Registered Owner of any Obligation requesting the
10 transfer shall pay any taxes or other governmental charges required for the transfer. The Registered
11 Owner of any Obligation requesting any exchange shall pay the Paying Agent/Registrar's reasonable
12 and standard or customary fees and charges for exchanging any Obligation or a portion of an Obligation,
13 together with any required taxes or governmental charges, all as a condition precedent to the exercise of
14 the privilege of exchange, except in the case of the exchange of an assigned and transferred Obligation
15 or Obligations or any portion or portions in any Authorized Denomination, the fees and charges will be
16 paid by the City. In addition, the City covenants with the Registered Owners of the Obligations that it
17 will (i) pay the reasonable and standard or customary fees and charges of the Paying Agent/Registrar for
18 its services with respect to the payment of the principal of and interest on the Obligations, when due, and
19 (ii) pay the fees and charges of the Paying Agent/Registrar for services with respect to the transfer or
20 registration of Obligations, and with respect to the exchange of Obligations solely to the extent stated
21 above.

22 (g) An Authorized Representative is authorized to execute and deliver the Paying
23 Agent/Registrar Agreement. The City covenants with the Registered Owners of the Obligations that at
24 all times while the Obligations are outstanding the City will provide a competent and legally qualified
25 bank, trust company, or other entity duly qualified and legally authorized to act as and perform the
26 services of Paying Agent/Registrar for the Obligations under this Ordinance, and that the Paying
27 Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the
28 Paying Agent/Registrar upon not less than 60 days' written notice to the Paying Agent/Registrar. In the
29 event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger,
30 acquisition, or other method) should resign or otherwise stop acting as such, the City covenants that it
31 will promptly appoint a competent and legally qualified national or state banking institution organized
32 and doing business under the laws of the United States of America or of any state, authorized under the
33 laws to exercise trust powers, subject to supervision or examination by federal or state authority, and
34 whose qualifications substantially are similar to the previous Paying Agent/Registrar to act as Paying
35 Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous
36 Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy of these
37 Registration Books), along with all other pertinent books and records relating to the Obligations, to the
38 new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying
39 Agent/Registrar, the City promptly will cause a written notice to be sent by the new Paying
40 Agent/Registrar to each Registered Owner of the Obligations, by United States mail, first-class postage
41 prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the
42 position and performing as such, each Paying Agent/Registrar shall be considered to have agreed to the
43 provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying
44 Agent/Registrar.

1 **PART 8. FORM OF OBLIGATIONS.**

2 The Obligations shall be signed with the manual or facsimile signatures of the Mayor and the
3 City Clerk, and the seal of the City shall be affixed or impressed on the Obligations. The form of all
4 Obligations, including the form of the Comptroller's Registration Certificate to accompany the
5 Obligations on the initial delivery, the form of the Authentication Certificate, and the Form of
6 Assignment to be printed on each Obligation, shall be, respectively, substantially in the form set forth in
7 Exhibit A, with such appropriate variations, omissions, or insertions as are permitted or required by this
8 Ordinance and the Pricing Certificate.

9 **PART 9. LEVY OF TAX; INTEREST AND SINKING FUND.**

10 (a) The Interest and Sinking Fund (which may include the designation or title by which a
11 series of Obligations shall be known, as determined pursuant to PART 4(b) of this Ordinance) is created
12 and it shall be established and maintained at an official depository of the City. The Interest and Sinking
13 Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used
14 only for paying the interest on and principal of the Obligations. All ad valorem taxes levied and
15 collected for and on account of the Obligations shall be deposited, as collected, to the credit of the
16 Interest and Sinking Fund. During each year while any Obligation is outstanding and unpaid, Council
17 shall compute and ascertain the rate and amount of ad valorem tax, based on the latest approved tax rolls
18 of the City, with full allowances being made for tax delinquencies and costs of tax collections, which
19 will be sufficient to raise and produce the money required to pay the interest on the Obligations as the
20 interest comes due, and to provide a sinking fund to pay the principal of the Obligations as the principal
21 matures, but never less than 2% of the outstanding principal amount of the Obligations as a sinking fund
22 each year. The rate and amount of ad valorem tax needed to fund this obligation is ordered to be and is
23 hereby levied against all taxable property in the City for each year while any Obligation is outstanding
24 and unpaid, and the ad valorem tax shall be assessed and collected each year and deposited to the credit
25 of the Interest and Sinking Fund. The ad valorem taxes necessary to pay the interest on and principal of
26 the Obligations, as the interest comes due, and the principal matures as provided in the Pricing
27 Certificate, are pledged for this purpose, within the limit set by law. The City appropriates from current
28 funds on hand, and directs the transfer for deposit into the Interest and Sinking Fund moneys as may be
29 necessary to pay debt service on the Obligations scheduled to occur prior to receipt of taxes levied to
30 pay such debt service. Money in the Interest and Sinking Fund, at the option of the City, may be
31 invested in the securities or obligations as permitted under applicable law and the City's investment
32 policy. Any securities or obligations in which money is invested shall be kept and held in trust for the
33 benefit of the owners of the Obligations and shall be sold and the proceeds of sale shall be timely
34 applied to the making of all payments required to be made from the Interest and Sinking Fund. Interest
35 and income derived from the investment of money in the Interest and Sinking Fund shall be credited to
36 the Interest and Sinking Fund.

37 (b) Should more than one series of Obligations be sold under authority of this Ordinance, a
38 separate interest and sinking fund will be created and maintained at an official depository of the City to
39 secure each series of Obligations.

40 (c) Chapter 1208 applies to the issuance of the Obligations and the pledge of ad valorem
41 taxes made under PART 9(a) of this Ordinance, and the pledge is valid, effective, and perfected. If
42 Texas law is amended at any time while any Obligation is outstanding and unpaid so that the pledge of

1 ad valorem taxes made by the City under PART 9(a) of this Ordinance is to be subject to the filing
2 requirements of Chapter 9, then to preserve to the Registered Owners of the Obligations the perfection
3 of the security interest in the pledge, the City agrees to take measures as it determines are reasonable and
4 necessary under Texas law to comply with the applicable provisions of Chapter 9 and enable a filing to
5 perfect the security interest in the pledge.

6 **PART 10. DAMAGED, LOST, STOLEN OR DESTROYED OBLIGATIONS.**

7 (a) In the event any outstanding Obligation is damaged, mutilated, lost, stolen, or destroyed,
8 the Paying Agent/Registrar shall cause to be printed, executed, and delivered a new obligation of the
9 same principal amount, maturity, and interest rate as the damaged, mutilated, lost, stolen, or destroyed
10 Obligation in replacement for the Obligation in the manner provided in this Ordinance.

11 (b) Application for replacement of any damaged, mutilated, lost, stolen, or destroyed
12 Obligation shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of an
13 Obligation, the applicant for a replacement obligation shall furnish to the City and to the Paying
14 Agent/Registrar the security or indemnity as may be required by them to save each of them harmless
15 from any loss or damage with respect to the Obligation. Also, in every case of loss, theft, or destruction
16 of an Obligation, the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to
17 their satisfaction of the loss, theft, or destruction of the Obligation. In every case of damage or
18 mutilation of an Obligation, the applicant shall surrender to the Paying Agent/Registrar for cancellation
19 the damaged or mutilated Obligation.

20 (c) Notwithstanding clauses (a) and (b), in the event any Obligation shall have matured, and
21 there is no continuing default in the payment of the principal of, premium, if any, or interest on the
22 Obligation, the City may authorize its payment (without surrender except in the case of a damaged or
23 mutilated Obligation) instead of issuing a replacement Obligation, provided security or indemnity is
24 furnished as above provided in this PART.

25 (d) Prior to the issuance of any replacement Obligation, the Paying Agent/Registrar shall
26 charge the owner of the Obligation with all legal, printing, and other expenses in connection with the
27 replacement. Every replacement Obligation issued pursuant to the provisions of this Ordinance by
28 virtue of the fact that any Obligation is damaged, mutilated, lost, stolen, or destroyed shall constitute a
29 contractual obligation of the City whether the damaged, mutilated, lost, stolen, or destroyed Obligation
30 shall be found, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance
31 equally and proportionately with any and all other Obligations duly issued under this Ordinance.

32 (e) In accordance with Chapter 1206, this PART constitutes authority for the issuance of any
33 such replacement Obligation without necessity of further action by Council or any other body or person,
34 and the duty of the replacement of the Obligations is authorized and imposed on the Paying
35 Agent/Registrar, subject to the conditions imposed by this PART, and the Paying Agent/Registrar shall
36 authenticate and deliver the Obligations in the form and manner and with the effect, as provided in
37 PART 7(d) of this Ordinance for Obligations issued in exchange for other Obligations.

38 **PART 11. SUBMISSION OF PROCEEDINGS TO ATTORNEY GENERAL.**

39 The Mayor, or his designee, is authorized to have control of the Obligations and all necessary
40 records and proceedings pertaining to the Obligations pending their delivery and their investigation,

1 examination and approval by the Texas Attorney General and their registration by the Texas
2 Comptroller of Public Accounts. Upon registration of the Obligations, the Comptroller (or a deputy
3 designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration
4 Certificate accompanying the Obligations, and the seal of the Comptroller shall be impressed, or placed
5 in facsimile, on each certificate. After registration by the Comptroller, delivery of the Obligations shall
6 be made to the Underwriters, under and subject to the general supervision and direction of the Mayor,
7 against receipt by the City of all amounts due to the City under the terms of sale.

8 **PART 12. SALE OF OBLIGATIONS; OFFICIAL STATEMENT.**

9 (a) The Obligations shall be sold to the Underwriters at the price set forth in the Pricing
10 Certificate, and delivery of the Obligations to the Underwriters shall be made upon payment for the
11 Obligations in accordance with the terms of the Purchase Agreement. An Authorized Representative is
12 authorized and directed to execute the Pricing Certificate and the Purchase Agreement on behalf of the
13 City, and the Mayor, Mayor Pro Tem, City Manager, Chief Financial Officer, City Clerk and all other
14 officials, agents and representatives of the City are authorized to execute and deliver such agreements,
15 certificates, instruments and other documents, and do any and all things necessary or desirable to satisfy
16 the conditions set out in the documents, to provide for the issuance and delivery of the Obligations.

17 (b) Council ratifies, authorizes and approves, in connection with the sale of the Obligations,
18 the preparation and distribution of the Preliminary Official Statement and a final Official Statement,
19 substantially in the form of the Preliminary Official Statement, containing additional information and
20 amendments as may be necessary to conform to the terms of the Obligations, this Ordinance, the Pricing
21 Certificate, and the Purchase Agreement, and the Preliminary Official Statement is deemed final as of its
22 date within the meaning and for the purposes of paragraph (b)(1) of the Rule. An Authorized
23 Representative is authorized to approve any amendments and supplements to the Official Statement as
24 either of them deem necessary or appropriate. The Mayor and City Clerk are authorized to execute the
25 final Official Statement by manual, facsimile or electronic signature and/or to deliver a certificate
26 pertaining to the final Official Statement as prescribed in the Official Statement or in the Purchase
27 Agreement, dated as of the date of payment for and delivery of the Obligations.

28 (c) The Mayor, Mayor Pro Tem, City Manager, City Clerk, Chief Financial Officer and all
29 other officials, agents and representatives of the City are authorized to take actions as any officer,
30 official, agent or representative shall approve in seeking ratings on the Obligations from one or more
31 nationally recognized statistical ratings organizations, or any confirmation of ratings issued by a rating
32 agency, and these actions are ratified and confirmed.

33 (d) Proceeds from the sale of the Obligations shall be disbursed in the amounts and for the
34 purposes set forth in the Pricing Certificate. An Authorized Representative may provide for the
35 establishment of any fund, account or subaccount as deemed necessary or appropriate for the
36 safekeeping and administration of proceeds from the sale of the Obligations pending their disbursement
37 for authorized purposes.

38 **PART 13. COVENANTS TO MAINTAIN TAX EXEMPT STATUS.**

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

1 “Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted
2 on or before the Issue Date.

3 “Computation Date” has the meaning stated in section 1.148-1(b) of the Regulations.

4 “Gross Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

5 “Investment” has the meaning stated in section 1.148-1(b) of the Regulations.

6 “Issue Date” for the Obligations or other obligations of the City is the respective date on which
7 the Obligations or other obligations of the City are delivered against payment therefor.

8 “Net Sale Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

9 “Nonpurpose Investment” has the meaning stated in section 1.148-1(b) of the Regulations.

10 “Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

11 “Rebate Amount” has the meaning stated in section 1.148-3 of the Regulations.

12 “Regulations” means the temporary or final Income Tax Regulations applicable to the
13 Obligations issued pursuant to sections 141 through 150 of the Code. Any reference to a section of the
14 Regulations shall also refer to any successor provision to such section hereafter promulgated by the
15 Internal Revenue Service pursuant to sections 141 through 150 of the Code and applicable to the
16 Obligations.

17 “Yield of”

18 (i) any Investment shall be computed in accordance with section 1.148-5 of the
19 Regulations, and

20 (ii) the Obligations shall be computed in accordance with section 1.148-4 of the
21 Regulations.

22 (b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of or
23 omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or
24 improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if
25 made or omitted, respectively, would cause the interest on any Obligations to become includable in the
26 gross income, as defined in section 61 of the Code, of the owner for federal income tax purposes.
27 Unless and until the City has received a written opinion of counsel nationally recognized in the field of
28 municipal bond law to the effect that failure to comply with such covenant will not adversely affect the
29 exemption from federal income tax of the interest on any Obligation, the City shall comply with the
30 specific covenants in this Section.

31 (c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and
32 the regulations and rulings relating to section 141 of the Code, the City shall, at all times prior to the last
33 stated maturity of the Obligations,

1 (i) exclusively own, operate, and possess all property the acquisition, construction, or
2 improvement of which is to be financed directly or indirectly with Gross Proceeds of the
3 Obligations and not use or permit the use of such Gross Proceeds or any property acquired,
4 constructed, or improved with such Gross Proceeds in any activity carried on by any person or
5 entity other than a state or local government, unless such use is solely as a member of the general
6 public, or

7 (ii) not directly or indirectly impose or accept any charge or other payment for use of
8 Gross Proceeds of the Obligations or any property the acquisition, construction or improvement
9 of which is to be financed directly or indirectly with such Gross Proceeds other than taxes of
10 general application and interest earned on investments acquired with such Gross Proceeds
11 pending application for their intended purposes.

12 (d) No Private Loan. Except to the extent permitted by section 141 of the Code and the
13 regulations and rulings relating to section 141 of the Code, the City shall not use Gross Proceeds of the
14 Obligations to make or finance loans to any person or entity other than a state or local government. For
15 purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if
16 (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to a person or
17 entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service
18 from the property is committed to the person or entity under a take-or-pay, output, or similar contract or
19 arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of Gross Proceeds or
20 property are otherwise transferred in a transaction which is the economic equivalent of a loan.

21 (e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code
22 and the regulations and rulings relating to section 148 of the Code, the City shall not, at any time prior to
23 the earlier of the final stated maturity or final payment of the Obligations, directly or indirectly invest
24 Gross Proceeds of the Obligations in any Investment (or use Gross Proceeds to replace money so
25 invested), if as a result of the investment the Yield of all Investments allocated to Gross Proceeds
26 whether then held or previously disposed of, exceeds the Yield on the Obligations.

27 (f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code
28 and the regulations and rulings relating to section 149(b) of the Code, the City shall not take or omit to
29 take any action which would cause the Obligations to be federally guaranteed within the meaning of
30 section 149(b) of the Code and the regulations and rulings relating to section 149(b) of the Code.

31 (g) Information Report. The City shall timely file with the Secretary of the Treasury the
32 information required by section 149(e) of the Code with respect to the Obligations on the forms and at
33 the place as Secretary of the Treasury may prescribe.

34 (h) Payment of Rebate Amount. Except to the extent otherwise provided in section 148(f) of
35 the Code and the regulations and rulings relating to section 148(f) of the Code, the City shall:

36 (i) account for all Gross Proceeds (including all receipts, expenditures and
37 investments of Gross Proceeds) on its books of account separately and apart from all other funds
38 (and the related receipts, expenditures and investments) and shall retain all records of the
39 accounting for at least six years after the final Computation Date. The City may, however, to the
40 extent permitted by law, commingle Gross Proceeds of the Obligations with other money of the

1 City, provided that the City separately accounts for each receipt and expenditure of such Gross
2 Proceeds and the obligations acquired with these proceeds.

3 (ii) calculate the Rebate Amount with respect to the Obligations, not less frequently
4 than each Computation Date, in accordance with rules set forth in section 148(f) of the Code,
5 section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of
6 such calculations for at least six years after the final Computation Date.

7 (iii) as additional consideration for the purchase of the Obligations by the initial
8 purchaser and the loan of the money represented by this purchase, and in order to induce such
9 purchase by measures designed to ensure the excludability of the interest from the gross income
10 of the owners for federal income tax purposes, pay to the United States the amount described in
11 paragraph (2) above at the times, in the installments, to the place, in the manner and
12 accompanied by such forms or other information as is or may be required by section 148(f) of
13 the Code and the regulations and rulings relating to section 148(f) of the Code, and

14 (iv) exercise reasonable diligence to assure that no errors are made in the calculations
15 required by paragraph (2) and, if such error is made, to discover and promptly to correct such
16 error within a reasonable amount of time, including payment to the United States of any interest
17 and any penalty required by the Regulations.

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

25 (j) Not Hedge Bonds. The City will not invest more than 50 percent of the Proceeds of the
26 Obligations in Nonpurpose Investments having a guaranteed yield for four years or more. On the
27 closing date, the City will reasonably expect that at least 85 percent of the Net Sale Proceeds of the
28 Obligations will be used to carry out the governmental purpose of such series within three years after the
29 closing date.

30 **PART 14. CONTINUING DISCLOSURE OBLIGATION.**

31 (a) *Annual Reports.*

32 (i) The City shall provide annually to the MSRB, (A) within six months after the end
33 of each fiscal year of the City, financial information and operating data with respect to the City
34 of the general type included in the final Official Statement authorized by PART 12 of this
35 Ordinance, being information of the type described in the Pricing Certificate, including financial
36 statements of the City if audited financial statements of the City are then available, and (B) if not
37 provided as part such financial information and operating data, audited financial statements of
38 the City, when and if available. Any financial statements to be provided shall be (x) prepared in
39 accordance with the accounting principles described in the Pricing Certificate, or such other
40 accounting principles as the City may be required to employ from time to time pursuant to state

1 law or regulation, and in substantially the form included in the Official Statement, and
2 (y) audited, if the City commissions an audit of its financial statements and the audit is
3 completed within the period during which they must be provided. If the audit of financial
4 statements is not complete within 12 months after any fiscal year end, then the City shall file
5 unaudited financial statements within the 12-month period and audited financial statements for
6 the applicable fiscal year, when and if the audit report on the financial statements becomes
7 available.

8 (ii) If the City changes its fiscal year, it will notify the MSRB of the change (and of
9 the date of the new fiscal year end) before the next date the City would be required to provide
10 financial information and operating data pursuant to this PART.

11 The financial information and operating data to be provided pursuant to this PART may
12 be set forth in full in one or more documents or may be included by specific reference to any
13 document (including an official statement or other offering document) available to the public on
14 the MSRB's website or filed with the SEC. Filings shall be made electronically, accompanied by
15 identifying information as prescribed by the MSRB.

16 (b) *Disclosure Event Notices.* The City shall notify the MSRB in an electronic format
17 prescribed by the MSRB, in a timely manner not in excess of 10 Business Days after the occurrence of
18 the event, of any of the following events with respect to the Obligations:

- 19 (i) Principal and interest payment delinquencies;
- 20 (ii) Non-payment related defaults, if material;
- 21 (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- 22 (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- 23 (v) Substitution of credit or liquidity providers, or their failure to perform;
- 24 (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed
25 or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-
26 TEB) or other material notices or determinations with respect to the tax status of
27 the Obligations, or other material events affecting the tax status of the
28 Obligations;
- 29 (vii) Modifications to rights of holders of the Obligations, if material;
- 30 (viii) Obligation calls, if material, and tender offers;
- 31 (ix) Defeasances;
- 32 (x) Release, substitution, or sale of property securing repayment of the Obligations, if
33 material;
- 34 (xi) Rating changes;
- 35 (xii) Bankruptcy, insolvency, receivership or similar event of the City;
- 36 (xiii) The consummation of a merger, consolidation, or acquisition involving the City
37 or the sale of all or substantially all of the assets of the City, other than in the
38 ordinary course of business, the entry into a definitive agreement to undertake
39 such an action or the termination of a definitive agreement relating to any such
40 actions, other than pursuant to its terms, if material; and
- 41 (xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the
42 Paying Agent/Registrar, if material.

1 As used in clause (xii) above, the phrase “bankruptcy, insolvency, receivership or similar event”
2 means the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the
3 U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or
4 governmental authority has assumed jurisdiction over substantially all of the assets or business of the
5 City, or if jurisdiction has been assumed by leaving Council and officials or officers of the City in
6 possession but subject to the supervision and orders of a court or governmental authority, or the entry of
7 an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental
8 authority having supervision or jurisdiction over substantially all of the assets or business of the City.

9 The City shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely
10 manner, of any failure by the City to provide financial information or operating data in accordance with
11 subsection (a) of this PART by the time required by subsection (a).

12 (c) *Limitations, Disclaimers, and Amendments.* The City shall be obligated to observe and
13 perform the covenants named in this PART for only so long as the City remains an “obligated person”
14 with respect to the Obligations within the meaning of the Rule, except that the City will give written
15 notice of any deposit made in accordance with this Ordinance, or applicable law, that causes any
16 Obligation no longer to be outstanding.

17 The provisions of this PART are for the sole benefit of the holders and beneficial owners of the
18 Obligations, and nothing in this PART, express or implied, shall give any benefit or any legal or
19 equitable right, remedy, or claim to any other person. The City undertakes to provide only the financial
20 information, operating data, financial statements, and notices which it has expressly agreed to provide
21 pursuant to this PART and does not undertake to provide any other information that may be relevant or
22 material to a complete presentation of the City’s financial results, condition, or prospects or to update
23 any information provided in accordance with this PART or otherwise, except as expressly provided in
24 this Ordinance. The City does not make any representation or warranty concerning the information or
25 its usefulness to a decision to invest in or sell Obligations at any future date.

26 UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR
27 BENEFICIAL OWNER OF ANY OBLIGATION OR ANY OTHER PERSON, IN CONTRACT OR
28 TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE
29 CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT
30 SPECIFIED IN THIS PART, BUT EVERY RIGHT AND REMEDY OF ANY PERSON, IN
31 CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY BREACH SHALL BE LIMITED TO AN
32 ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

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

37 The provisions of this PART may be amended by the City from time to time to adapt to changed
38 circumstances that arise from a change in legal requirements, a change in law, or a change in the
39 identity, nature, status, or type of operations of the City, but only if (1) the provisions of this PART, as
40 amended, would have permitted an underwriter to purchase or sell Obligations in the primary offering of
41 the Obligations in compliance with the Rule, taking into account any amendments or interpretations of

1 the Rule since the offering as well as the changed circumstances and (2) either (a) the holders of a
2 majority in aggregate principal amount (or any greater amount required by any other provision of this
3 Ordinance that authorizes an amendment) of the outstanding Obligations consent to the amendment or
4 (b) a person that is unaffiliated with the City (such as nationally-recognized bond counsel) determines
5 that the amendment will not materially impair the interest of the holders and beneficial owners of the
6 Obligations. If the City amends the provisions of this PART, it shall include with the next financial
7 information and operating data provided in accordance with subsection (a) of this PART an explanation,
8 in narrative form, of the reason for the amendment and of the impact of any change in the type of
9 financial information or operating data so provided. The City may also amend or repeal the provisions
10 of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the
11 Rule or a court of final jurisdiction enters judgment that the provisions of the Rule are invalid, but only
12 if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully
13 purchasing or selling Obligations in the primary offering of the Obligations.

14 **PART 15. DTC REGISTRATION.**

15 The Obligations initially shall be issued and delivered in the manner that no physical distribution
16 of the Obligations will be made to the public, and DTC initially will act as depository for the
17 Obligations. DTC has represented that it is a limited purpose trust company incorporated under the laws
18 of the State of New York, a member of the Federal Reserve System, a “clearing corporation” within the
19 meaning of the New York Uniform Commercial Code, and a “clearing agency” registered under Section
20 17A of the Securities Exchange Act of 1934, as amended, and the City accepts, but in no way verifies,
21 the representations of DTC. The Obligations initially authorized by this Ordinance intended to be held
22 by DTC shall be delivered to and registered in the name of Cede & Co., the nominee of DTC. It is
23 expected that DTC will hold the Obligations on behalf of the Underwriters and their participants. So
24 long as each Obligation is registered in the name of Cede & Co., the Paying Agent/Registrar shall treat
25 and deal with DTC the same in all respects as if it were the actual and beneficial owner. It is expected
26 that DTC will maintain a book-entry system, which will identify ownership of the Obligations in
27 Authorized Denominations, with transfers of ownership being effected on the records of DTC and its
28 participants pursuant to rules and regulations established by them, and that the Obligations initially
29 deposited with DTC shall be immobilized and not be further exchanged for substitute Obligations except
30 as set forth in this Ordinance. The City and the Paying Agent/Registrar are not responsible or liable for
31 any functions of DTC, will not be responsible for paying any fees or charges with respect to its services,
32 will not be responsible or liable for maintaining, supervising, or reviewing the records of DTC or its
33 participants, or protecting any interests or rights of the beneficial owners of the Obligations. It shall be
34 the duty of the DTC Participants, as defined in the Official Statement, to make all arrangements with
35 DTC to establish this book-entry system, the beneficial ownership of the Obligations, and the method of
36 paying the fees and charges of DTC. The City does not represent, nor does it in any way covenant that
37 the initial book-entry system established with DTC will be maintained in the future. Notwithstanding
38 the initial establishment of the foregoing book-entry system with DTC, if for any reason any of the
39 originally delivered Obligations is duly filed with the Paying Agent/Registrar with proper request for
40 transfer and substitution, as provided for in this Ordinance, substitute Obligations will be duly delivered
41 as provided in this Ordinance, and there will be no assurance or representation that any book-entry
42 system will be maintained for the Obligations. In connection with the initial establishment of the
43 foregoing book-entry system with DTC, the City has executed a “Blanket Letter of Representations”
44 prepared by DTC in order to implement the book-entry system described above.

1 **PART 16. DEFEASANCE.**

2 (a) *Defeased Obligations.* Except as otherwise provided in the Pricing Certificate, any
3 Obligation will be treated as a Defeased Obligation, except to the extent provided in subsection (d) of
4 this PART, when payment of the principal of the Obligation, plus interest to the due date (whether the
5 due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in
6 accordance with the terms of this Ordinance, or (ii) shall have been provided for on or before the due
7 date by irrevocably depositing with or making available to the Paying Agent/Registrar or any
8 commercial bank or trust company authorized to serve as escrow agent for the Obligation in accordance
9 with a Future Escrow Agreement for the payment of the Obligation (1) lawful money of the United
10 States of America sufficient to make the payment or (2) Defeasance Securities, certified by an
11 independent public accounting firm of national reputation to mature as to principal and interest in the
12 amounts and at the time as will insure the availability, without reinvestment, of sufficient money to
13 provide for the payment, and when proper arrangements have been made by the City with the Paying
14 Agent/Registrar for the payment of its services until all Defeased Obligations shall have become due and
15 payable. There shall be delivered to the Paying Agent/Registrar a certificate or report from a firm of
16 certified public accountants evidencing the sufficiency of the deposit made pursuant to clause (ii) above.
17 The Paying Agent/Registrar shall also receive an opinion of bond counsel acceptable to the City that
18 reflects this payment does not adversely affect the exclusion under the Code of interest on the Defeased
19 Obligations from the gross income of the holders for federal income taxation purposes. At the time as
20 an Obligation shall be considered to be a Defeased Obligation, the Obligation and the interest on that
21 Obligation shall no longer be secured by, payable from, or entitled to the benefits of the ad valorem
22 taxes levied and pledged as provided in this Ordinance, and the principal and interest shall be payable
23 solely from the money or Defeasance Securities.

24 (b) *Investment in Defeasance Securities.* Any funds deposited with the Paying
25 Agent/Registrar may at the written direction of the City be invested in Defeasance Securities, maturing
26 in the amounts and times as set forth in this Ordinance, and all income from these Defeasance Securities
27 received by the Paying Agent/Registrar that is not required for the payment of the Obligations and
28 interest, with respect to which money has been deposited, shall be turned over to the City, or deposited
29 as directed in writing by the City. Any Future Escrow Agreement pursuant to which the money and/or
30 Defeasance Securities are held for the payment of Defeased Obligations may contain provisions
31 permitting the investment or reinvestment of the moneys in Defeasance Securities or the substitution of
32 other Defeasance Securities upon the satisfaction of the requirements described in subsections (a) (i) or
33 (ii) of this PART. All income from the Defeasance Securities received by the Paying Agent/Registrar
34 which is not required for the payment of the Defeased Obligations, with respect to which money has
35 been so deposited, shall be remitted to the City or deposited as directed in writing by the City. The
36 Paying Agent/Registrar shall not be liable for any loss pertaining to an investment executed in
37 accordance with written instructions from the City.

38 (c) *Paying Agent/Registrar Services.* Until all Defeased Obligations shall have become due
39 and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for the
40 Defeased Obligations as if they had not been defeased, and the City shall make proper arrangements to
41 provide and pay for the services as required by this Ordinance.

42 (d) *Selection of Obligations for Defeasance.* In the event that the City elects to defease less
43 than all of the principal amount of Obligations of a maturity, the Paying Agent/Registrar shall select, or

1 cause to be selected, the amount of Obligations by the random method as it considers fair and
2 appropriate.

3 **PART 17. DEFAULT AND REMEDIES.**

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

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

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

12 (b) *Remedies for Default.*

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

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

24 (c) *Remedies Not Exclusive.*

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

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

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

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

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

3 **PART 18. OFFICIALS MAY ACT ON BEHALF OF THE CITY.**

4 (a) The Mayor, the Mayor Pro Tem, the City Clerk, the City Manager, any Assistant City
5 Manager, the Chief Financial Officer, or any Deputy Chief Financial Officer, and all other officers,
6 employees, and agents of the City, and each of them, shall be authorized, empowered, and directed to do
7 and perform all acts and things and to execute, acknowledge, and deliver in the name and under the seal
8 and on behalf of the City all instruments as may be necessary or desirable in order to carry out the terms
9 and provisions of this Ordinance, the Obligations, the Pricing Certificate, the Purchase Agreement, the
10 offering documents prepared in connection with the sale of the Obligations, or the Paying
11 Agent/Registrar Agreement. In case any officer whose signature appears on any Obligation shall stop
12 being the officer before the delivery of the Obligation, the signature shall nevertheless be valid and
13 sufficient for all purposes as if he or she had remained in office until the delivery.

14 (b) The Mayor and Mayor Pro Tem are each authorized to make or approve such revisions,
15 additions, deletions, and variations to this Ordinance that, in their judgment and in the opinion of Bond
16 Counsel to the City, may be necessary or convenient to carry out or assist in carrying out the purposes of
17 this Ordinance, the Pricing Certificate, the Purchase Agreement, the Paying Agent/Registrar Agreement,
18 the Preliminary Official Statement and the final Official Statement or as may be required for approval of
19 the Obligations by the Attorney General of Texas.

20 (c) Any duty, responsibility, privilege, power or authority conferred by this Ordinance upon
21 an officer shall extend to an individual who occupies such office in an interim, acting or provisional
22 capacity.

23 **PART 19. RULES OF CONSTRUCTION.**

24 For all purposes of this Ordinance, unless the context requires otherwise, all references to
25 designated PARTS and other subdivisions are to the PARTS and other subdivisions of this Ordinance.
26 Except where the context otherwise requires, terms defined in this Ordinance to impart the singular
27 number shall be considered to include the plural number and vice versa. References to any named
28 person shall mean that party and his or her successors and assigns. Any duty, responsibility, privilege,
29 power or authority conferred by this Ordinance upon an official or officer shall extend to an individual
30 who occupies such office in an interim, acting or provisional capacity. References to any constitutional,
31 statutory or regulatory provision means the provision as it exists on the date this Ordinance is adopted
32 by the City. Any reference to "Form of Obligation" refers to the form of the Obligations in Exhibit A to
33 this Ordinance. The titles and headings of the PARTS and subsections of this Ordinance have been
34 inserted for convenience of reference only and are not a part of this Ordinance and shall not in any way
35 modify or restrict any of its terms or provisions.

36 **PART 20. CONFLICTING ORDINANCES REPEALED.**

37 All ordinances and resolutions or parts in conflict with this Ordinance are repealed.

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PART 21. IMMEDIATE EFFECT.

In accordance with the provisions of Section 1201.028, Texas government Code, this Ordinance is effective immediately upon its adoption by Council.

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DRAFT

1 **PASSED AND APPROVED AND EFFECTIVE AUGUST 17, 2017.**

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Steve Adler,
Mayor,
City of Austin, Texas

6 ATTEST:

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Jannette S. Goodall,
City Clerk,
City of Austin, Texas

(SEAL)

11 APPROVED:

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Anne L. Morgan,
City Attorney,
City of Austin, Texas

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