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

**SECTION 1. DEFINITIONS AND FINDINGS.** The terms below have following meanings, unless the text specifically indicates otherwise:

"Act" shall mean Chapter 1371, Texas Government Code.

"Advance" shall mean (i) all Advances and Bank Loans as defined in and made pursuant to the terms and conditions of the Revolving Credit Agreement and (ii) any obligations of the City to the Bank under the Revolving Credit Agreement or the Fee Letter.

"Agreement" shall mean the Revolving Credit Agreement between the City and the Bank, together with any Bank Note, and any amendments or supplements.

"Authorized Denomination" shall mean (i) with respect to Commercial Paper Notes, \$100,000 or integral multiples of \$1,000 in excess of \$100,000 and (ii) with respect to Direct Purchase Notes, \$1,000,000 or integral multiples of \$100,000 in excess of \$1,000,000.

"Authorized Representative" shall mean one or more of the following officers or employees of the City, acting in concert or individually: the City Manager, any Assistant City Manager, the Chief Financial Officer of the City, any Deputy Chief Financial Officer, the City Treasurer, any Deputy City Treasurer or any other officer or employee of the City designated in writing by the City Manager or the Chief Financial Officer of the City, and approved by council, to act as an Authorized Representative.

"Bank" shall mean JPMorgan Chase Bank, National Association and its successors and assigns under the Agreement and the Note Purchase Agreement.

"Bank Note" shall mean a promissory note or notes issued pursuant to the Ordinance and the Revolving Credit Agreement (including any Bank Note, as defined in a Revolving Credit Agreement) to evidence and secure Advances and term loans made by the Bank, having the terms and characteristics contained in, and issued in accordance with, the Revolving Credit Agreement.

38 "Bonds" shall mean a series or issue of bonds, notes, or similar obligations (other than  
39 the Program Notes, the Bank Note or the Revolving Credit Agreement) issued or incurred  
40 by the City after the passage of the Ordinance, payable from and secured solely by a lien  
41 on and pledge of the Net Revenues of the Systems, superior, equal, or subordinate in rank  
42 and dignity to the lien and pledge securing the payment of the Prior Lien Bonds or the  
43 Subordinate Lien Bonds.

44  
45 "Business Day" shall mean any day (a) when (i) the office of the Bank is not  
46 authorized or required to be closed and (ii) banks are not authorized to be closed in the City  
47 and (b) when banks or the New York Stock Exchange are not authorized to be closed in  
48 New York, New York.

49  
50 "City" shall mean the City of Austin, Texas.

51  
52 "Code" shall mean the Internal Revenue Code of 1986.

53  
54 "Commercial Paper Notes" shall mean Program Notes issued as commercial paper  
55 notes pursuant to the terms of the Ordinance and shall include, except when the context  
56 otherwise requires, the Bank Note.

57  
58 "Commitment" shall \$81,657,535, mean the maximum amount available to be drawn  
59 under the Revolving Credit Agreement for the payment of the principal of and interest on  
60 the Commercial Paper Notes, as this amount may be reduced and reinstated from time to  
61 time as provided in the Revolving Credit Agreement.

62  
63 "Contractual Obligations" shall mean those obligations (i) issued or incurred by the  
64 City payable from the Net Revenues of the Electric Light and Power System and the Net  
65 Revenues of the Waterworks and Sewer System, (ii) incurred pursuant to express charter  
66 or statutory authority and (iii) which by the terms of the ordinance authorizing their  
67 issuance or the incurring of the obligation provide for payments to be made by the City for  
68 their retirement or payment to be equally and ratably secured with the Prior Lien Bonds by  
69 a lien on and pledge of the Net Revenues of the Systems.

70  
71 "Council" or "council" shall mean the governing body of the City.

72  
73 "Dealer" shall mean the entity designated in **Section 39(c)**.

74  
75 "Dealer Agreement" shall mean the agreement authorized to be entered into by  
76 **Section 39(c)**, as from time to time amended or supplemented.

78 "Designated Office" means, with respect to the Commercial Paper Notes, the  
79 corporate trust office of the Paying Agent/Registrar designated as the place for payment,  
80 transfer and exchange of the Commercial Paper Notes, initially, the corporate trust office  
81 of the Paying Agent/Registrar in New York, New York; and, with respect to the Direct  
82 Purchase Notes, the corporate office of the Note Paying Agent designated as the place for  
83 payment, transfer and exchange of the Direct Purchase Notes, initially, the corporate trust  
84 office of the Note Paying Agent in Newark, Delaware.

85  
86 "Direct Purchase Payment Fund" shall mean the account so designated in **Section 17**.

87 "Direct Purchase Notes" shall mean Program Notes issued as direct purchase notes  
88 pursuant to the terms of this Ordinance to be purchased by the Bank in accordance with the  
89 terms of the Note Purchase Agreement.

90  
91 "DTC" shall mean The Depository Trust Company, New York, New York.

92  
93 "DTC Participant" shall mean the securities brokers and dealers, banks, trust  
94 companies, clearing corporations and certain other organizations on whose behalf DTC  
95 was created to hold securities to facilitate the clearance and settlement of securities  
96 transactions among DTC Participants.

97  
98 "Electric Fund" shall mean the fund so designated in **Section 26**.

99  
100 "Electric Light and Power System" shall mean all properties, facilities and plants  
101 currently owned, operated and maintained by the City, wholly or partially in participation  
102 with others, for the generation, transmission, supply and distribution of electrical energy  
103 and power, together with all future extensions, improvements, replacements and additions  
104 to, and all replacements of, the properties, facilities and plants; provided that,  
105 notwithstanding the foregoing, and to the extent authorized or permitted by law, the term  
106 "Electric Light and Power System" shall not include facilities of any kind (including any  
107 electric power generating and transmission facilities) which are declared not to be a part of  
108 the Electric Light and Power System and which are acquired or constructed by the City, or  
109 in participation with others, with the proceeds from the issuance of "Special Facilities  
110 Bonds," which are defined as being special revenue obligations of the City which are not  
111 Prior Lien Bonds, Subordinate Lien Bonds or Separate Lien Obligations but which are  
112 payable from and secured by other liens on and pledges of any revenues, sources or  
113 payments not pledged to the payment of Prior Lien Bonds, Subordinate Lien Bonds or  
114 Separate Lien Obligations including, but not limited to, special contract revenues or  
115 payments received from any other legal entity in connection with the special facilities.  
116

117 "Eligible Investments" shall mean any or all of the authorized investments described  
118 in the Public Funds Investment Act, Chapter 2256, Texas Government Code, in which the  
119 City may purchase, sell and invest its funds and funds under its control.  
120

121 "Eligible Project" shall mean the acquisition or construction of improvements,  
122 additions or extensions for the Systems, including capital assets and facilities incident and  
123 related to their operation, maintenance and administration, all as provided in the Act.  
124

125 "Fee Letter" shall mean the fee letter between the City and the Bank in connection  
126 with the Revolving Credit Agreement and the Note Purchase Agreement.

127 "Fiscal Year" shall mean the twelve month financial accounting period used by the  
128 City in connection with the operation of the Systems, which may be any twelve consecutive  
129 month period established by the City.  
130

131 "Gross Revenues of the Systems" and "Gross Revenues" shall mean, with respect to  
132 the Electric Light and Power System or the Waterworks and Sewer System, all income,  
133 receipts and revenues of every nature derived or received from the operation and ownership  
134 (excluding refundable meter deposits, restricted gifts and grants and proceeds derived from  
135 the sale or other disposition of all or part of the City's participating interest in the South  
136 Texas Project and revenues, sources or payment from facilities acquired or constructed  
137 with Special Facilities Bonds) of the respective system, including earnings and income  
138 derived from the investment or deposit of moneys in any special funds or accounts created  
139 and established by the City for the payment and security of the Prior Lien Bonds, the  
140 Subordinate Lien Bonds or the Separate Lien Obligations.  
141

142 "Holder" or "Noteholder" shall mean any person, firm, association, or corporation who  
143 is in possession of any Program Note drawn, issued or endorsed to that person, firm,  
144 association or corporation or to the order of that person, firm, association or corporation or  
145 to bearer or in blank, including, unless the context shall otherwise require, the Bank.  
146

147 "Issuing and Paying Agent," "Paying Agent/Registrar" or "Registrar" shall mean the  
148 agent appointed pursuant to **Section 3A**, or any successor to the agent.  
149

150 "Issuing and Paying Agency Agreement" shall mean the agreement authorized to be  
151 entered into by **Section 39(a)**, as from time to time amended or supplemented.  
152

153 "Maintenance and Operating Expenses" shall mean, with respect to the Electric Light  
154 and Power System or the Waterworks and Sewer System, all current expenses of operating  
155 and maintaining the respective system, including all salaries, labor, materials, repairs and  
156 extensions necessary to render efficient service; provided, however, that only repairs and  
157 extensions, as in the judgment of council, reasonably and fairly exercised, are necessary to

maintain the operations and render adequate service to the City and its inhabitants, or as might be necessary to meet some physical accident or condition which would otherwise impair the Priority Lien Obligations shall be deducted in determining Net Revenues. Depreciation shall never be considered as an expense of Maintenance and Operation. Maintenance and Operating Expenses shall include payment under contracts for the purchase of power and energy, water supply or other materials, goods or services for the Systems to the extent authorized by law and the provisions of the contract.

"Maximum Interest Rate" shall mean 12%.

"Maximum Maturity Date" shall mean September 30, 2037.

"MSRB" shall mean the Municipal Securities Rulemaking Board.

"Net Revenues" and "Net Revenues of the Systems" shall mean, with respect to the Electric Light and Power System or the Waterworks and Sewer System, Gross Revenues of the respective system minus the respective system's Maintenance and Operating Expenses.

"Note Construction Account" shall mean the account so designated in **Section 18**.

"Note Paying Agent" shall mean, with respect to the Direct Purchase Notes, JP Morgan Chase Bank, National Association.

"Note Paying Agent Agreement" shall mean the agreement authorized to be entered into by **Section 39(b)**, as from time to time amended or supplemented.

"Note Payment Fund" shall mean the fund so designated in **Section 16**.

"Note Purchase Agreement" shall mean the Note Purchase Agreement between the City and the Bank, pursuant to which the purchase of Direct Purchase Notes shall be governed, and as from time to time amended, restated or supplemented.

"Ordinance" shall mean this ordinance.

"Outstanding Taxable Commercial Paper Notes" shall mean those commercial paper notes issued under authority of Ordinance No. 20140828-076 that are outstanding on the Business Day prior to the effective date of the Revolving Credit Agreement.

"Pledged Revenues" and "Pledged Revenues of the Systems" shall mean (i) the Net Revenues of the Systems, plus (ii) any additional revenues, income, or other resources, including, without limitation, any grants, donations, or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which in the future may, at the option of the City, be pledged

to the payment of the Priority Lien Obligations, the Program Notes and the Tax-Exempt Program Notes, the repayment of Advances and any other obligations of the City to the Bank under the Agreement, the Note Purchase Agreement and the Fee Letter, and the repayment of Tax-Exempt Advances under the Tax-Exempt Agreement.

"Prior Lien Bonds" shall mean:

*City of Austin, Texas Combined Utility Systems Revenue Refunding Bonds, Series 1990-B, dated February 1, 1990; and*

*City of Austin, Texas Combined Utility Systems Revenue Refunding Bonds, Series 1994, dated September 1, 1994.*

"Priority Lien Obligations" shall mean, collectively, the Prior Lien Bonds, the Subordinate Lien Bonds and the Separate Lien Obligations.

"Program Notes" shall mean the Commercial Paper Notes and the Direct Purchase Notes issued as notes pursuant to the terms of this Ordinance.

"Project Costs" shall mean all costs and expenses incurred in relation to Eligible Projects, including, without limitation, design, planning, engineering and legal costs, acquisition costs of land, interests in land, right-of-way and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an Eligible Project; financing costs, including interest during construction and thereafter, underwriter's discount and/or fees for legal, financial, and other professional services; and reimbursement for Project Costs attributable to Eligible Projects incurred prior to the issuance of any Notes.

"Regulations" shall mean all applicable temporary, proposed and final regulations and procedures promulgated under the Code or the Internal Revenue Code of 1954, to the extent applicable to the Code.

"Revolving Credit Agreement" shall mean the Agreement and any other agreement by and between the City and a liquidity provider executed and delivered in substitution for or replacement of the Agreement providing a credit or liquidity facility supporting the Commercial Paper Notes, including any Bank Notes to be issued and delivered under the agreement evidencing any loans made or to be made to the City, providing additional security and liquidity for the payment of the Program Notes, and as from time to time the agreement may be amended, restated or supplemented.

"Separate Lien Obligations" shall mean those obligations (i) issued or incurred by the City payable solely from the Net Revenues of either the Electric Light and Power System or the Net Revenues of the Waterworks and Sewer System, but not both, (ii) incurred pursuant to express charter or statutory authority and (iii) which by the terms of the

ordinance authorizing their issuance or the incurring of the obligations provide for payments to be made by the City for their retirement or payment to be secured solely by a lien on and pledge of the Net Revenues of the Electric Light and Power System or the Net Revenues of the Waterworks and Sewer System, but not both, of equal dignity with the lien on and pledge of Net Revenues securing the payment of the Subordinate Lien Bonds.

"Similarly Secured Notes" shall mean the Program Notes and the Tax-Exempt Program Notes, payable from and secured by a parity lien on and pledge of Pledged Revenues.

"South Texas Project" shall mean the City's ownership interest in two nuclear steam electric generating units and related land and facilities, as more particularly defined in the South Texas Project Participation Agreement effective as of December 1, 1973, as amended.

"Subordinate Lien Bonds" shall mean:

*City of Austin, Texas, Subordinate Lien Revenue Refunding Bonds, Series 1998, dated October 1, 1998.*

"Systems" shall mean, collectively, the Electric Light and Power System and the Waterworks and Sewer System.

"Tax-Exempt Advances" shall mean advances made under the Tax-Exempt Agreement.

"Tax-Exempt Agreement" shall mean Revolving Credit Agreement dated as of \_\_\_\_\_ 1, 2017 by and between the City and the Bank, as amended and supplemented from time to time, executed to provide liquidity for the Tax-Exempt Program Notes issued as commercial paper notes.

"Tax-Exempt Note Purchase Agreement" shall mean the Note Purchase Agreement between the City and the Bank, pursuant to which the purchase of the Tax-Exempt Direct Purchase Notes shall be governed, as from time to time amended and supplemented.

"Tax-Exempt Program Notes" shall mean the "City of Austin, Texas Combined Utility Systems Tax-Exempt Program Notes" authorized by Ordinance No. 2017\_\_\_\_-\_\_\_\_, and as from time to time amended or supplemented by council, and authorized to be issued in the forms of commercial paper notes and direct purchase notes.

"Water and Sewer Fund" shall mean the fund so designated in **Section 26**.

"Waterworks and Sewer System" means all properties, facilities and plants currently owned, operated and maintained by the City for the supply, treatment and transmission of

258 treated potable water and the collection, treatment and disposal of water-carried wastes,  
259 together with all future extensions, improvements, replacements and additions; provided,  
260 however, that notwithstanding the foregoing, and to the extent authorized or permitted by  
261 law, the term "Waterworks and Sewer System" shall not include facilities of any kind  
262 which are declared not to be a part of the Waterworks and Sewer System and which are  
263 acquired or constructed by or on behalf of the City with the proceeds from the issuance of  
264 "Special Facilities Bonds," which are defined as being special revenue obligations of the  
265 City which are not Prior Lien Bonds, Subordinate Lien Bonds or Separate Lien Obligations  
266 but which are payable from and secured by other liens on and pledges of any revenues,  
267 sources or payments, not pledged to the payment of Prior Lien Bonds, the Subordinate Lien  
268 Bonds or Separate Lien Obligations including, but not limited to, special contract revenues  
269 or payments received from any other legal entity in connection with the special facilities.

270 Terms not defined by, but used in, the Ordinance shall have the meanings given in  
271 the Note Purchase Agreement or the Revolving Credit Agreement, as the context requires.

272 The authorized amount of Program Notes to be issued and sold shall be limited to  
273 \$75,000,000 at any one time outstanding.

274 In accordance with the provisions of the Act, council delegates to each Authorized  
275 Representative the authority to effect the issuance and sale of Program Notes, either in the  
276 form of Commercial Paper Notes or Direct Purchase Notes, all within certain specified  
277 parameters set forth in the Ordinance. The sale of Commercial Paper Notes or Direct  
278 Purchase Notes on the terms determined by an Authorized Representative is in the best  
279 interests of the City.

280 If appropriate in the context of the Ordinance, words of the singular number shall be  
281 considered to include the plural, words of the plural number shall be considered to include  
282 the singular, and words of the masculine, feminine or neuter gender shall be considered to  
283 include the other genders. Unless the context requires otherwise, all references in the  
284 Ordinance to designated Sections and other subdivisions are to the Sections and other  
285 subdivisions of the Ordinance. References to any named person means that party and its  
286 successors and assigns. References to officials and officers mean the person holding the  
287 position in a permanent, acting or interim capacity. References to any constitutional,  
288 statutory or regulatory provision means the provision as it exists on the date council passed  
289 the Ordinance and any future amendments to or successor provisions of the constitutional,  
290 statutory or regulatory provision.

291 **SECTION 2. AUTHORIZATION – DESIGNATION – PRINCIPAL AMOUNT**  
292 **- PURPOSE.** Acting under authority of the Act, council authorizes the issuance of  
293 Program Notes, designated the “**CITY OF AUSTIN, TEXAS COMBINED UTILITY**  
294 **SYSTEMS TAXABLE PROGRAM NOTES**”. The Program Notes may be issued in an  
295 aggregate principal amount not to exceed **SEVENTY FIVE MILLION DOLLARS**



296 **(\$75,000,000)** at any one time outstanding for the purpose of financing Project Costs of  
297 Eligible Projects and to refinance, renew or refund Program Notes issued under the  
298 Ordinance, Outstanding Taxable Commercial Paper Notes or Priority Lien Obligations  
299 issued for Eligible Projects.

300 Program Notes issued under authority of the Ordinance shall consist of (i)  
301 Commercial Paper Notes and (ii) Direct Purchase Notes. Commercial Paper Notes shall be  
302 designated as "CITY OF AUSTIN, TEXAS COMBINED UTILITY SYSTEMS  
303 TAXABLE PROGRAM NOTES, COMMERCIAL PAPER SUB-SERIES." Direct  
304 Purchase Notes shall be designated as "CITY OF AUSTIN, TEXAS COMBINED  
305 UTILITY SYSTEMS TAXABLE PROGRAM NOTES, DIRECT PURCHASE SUB-  
306 SERIES."

307 In connection with the issuance of Commercial Paper Notes, a Bank Note may be  
308 issued and shall initially be issued in an amount equal to the Commitment, reflecting the  
309 maximum principal amount of Commercial Paper Notes that may be issued under this  
310 Ordinance, plus interest thereon, calculated on the basis of a 365-day year, for two hundred  
311 seventy (270) days at the Maximum Interest Rate, for the purpose of evidencing Advances  
312 to retire maturing Commercial Paper Notes and all other obligations of the City under the  
313 Agreement; all in accordance with and subject to the terms, conditions and limitations  
314 contained in the Ordinance and, with respect to the Bank Note, the Revolving Credit  
315 Agreement. Any portion of outstanding Commercial Paper Notes to be paid from money  
316 on deposit in the Note Payment Fund held by the Issuing and Paying Agent on the day of  
317 calculation and from the available proceeds of Commercial Paper Notes or Priority Lien  
318 Obligations or other obligations of the City issued on the day of calculation, the proceeds  
319 of which are deposited in the Note Payment Fund on the day of calculation, shall not be  
320 considered Outstanding. The authority to issue Commercial Paper Notes from time to time  
321 under the provisions of the Ordinance shall exist until the Maximum Maturity Date,  
322 regardless of whether prior to the Maximum Maturity Date there are at any time no  
323 outstanding Commercial Paper Notes. Commercial Paper Notes may not be issued to  
324 refinance or refund Priority Lien Obligations or Direct Purchase Notes without the prior  
325 approval of council and the Bank.

326 In connection with the issuance of Direct Purchase Notes, the terms of the Note  
327 Purchase Agreement shall govern the conditions to their issuance. Any portion of  
328 outstanding Direct Purchase Notes to be paid from money on deposit in the Direct Purchase  
329 Payment Fund on the day of calculation and from the available proceeds of Direct Purchase  
330 Notes or Priority Lien Obligations or other obligations of the City issued on the day of  
331 calculation, the proceeds of which are deposited in the Direct Purchase Payment Fund on  
332 the day of calculation, shall not be considered Outstanding. The authority to issue Direct  
333 Purchase Notes from time to time under the provisions of the Ordinance shall exist until  
334 the Maximum Maturity Date, regardless of whether prior to the Maximum Maturity Date

there are at any time no outstanding Direct Purchase Notes. Direct Purchase Notes shall not have a stated maturity in excess of three hundred sixty (360) days. Direct Purchase Notes may not be issued to refinance or refund Priority Lien Obligations or Commercial Paper Notes without the prior approval of council and the Bank.

In connection with the refinancing or refunding of Program Notes, Outstanding Taxable Commercial Paper Notes, Priority Lien Obligations and any other authorized obligations of the System, including interest, the Program Notes, Outstanding Taxable Commercial Paper Notes, Priority Lien Obligations and any other authorized obligations of the System shall qualify as "obligations", as defined in the Act, at the time any refinancing or refunding occurs. The refunding or refinancing, other than a simultaneous refunding, of Program Notes, Outstanding Taxable Commercial Paper Notes, Priority Lien Obligations and other obligations of the System, to the extent then required by applicable law, shall be by means of a gross defeasance established at the time of the issuance of the refunding commercial paper notes or direct purchase notes, and the selection of Program Notes, Outstanding Taxable Commercial Paper Notes, Priority Lien Obligations and any other authorized obligations of the Systems to be so refunded or refinanced shall be made in the manner council determines.

**SECTION 3A. TERMS APPLICABLE TO THE COMMERCIAL PAPER NOTES.** Subject to the limitations contained in the Ordinance, Program Notes issued as Commercial Paper Notes shall be dated on or before, and within thirty (30) days of, their date of issuance (Note Date), as determined by an Authorized Representative; shall bear interest at a fixed rate or rates per annum computed on the basis of actual days elapsed and a 365-day year (but in no event in any case to exceed the Maximum Interest Rate) as may be determined by an Authorized Representative or the Dealer acting at the request of an Authorized Representative; and all Commercial Paper Notes shall mature on or before the Maximum Maturity Date.

Subject to the Maximum Interest Rate limitation, Commercial Paper Notes may be issued without a fixed numerical rate of interest for their stated term to bear interest in accordance with any clearly stated formula or method of calculation set forth in the Commercial Paper Note as determined by an Authorized Representative.

Subject to applicable terms, limitations and procedures contained in the Ordinance, Commercial Paper Notes may be sold at public or private sale and at par (within the interest rate restrictions provided in the Ordinance) as an Authorized Representative shall approve at the time of sale.

Council confirms that U.S. Bank National Association shall serve as Issuing and Paying Agent, Paying Agent/Registrar and Registrar for the Commercial Paper Notes, and the City covenants to keep and maintain with the Registrar at its Designated Office books and records (Registration Books) for the registration, payment, transfer and exchange of

the Commercial Paper Notes, all as provided in the Ordinance and reasonable rules and regulations as the Registrar may prescribe. The City covenants to maintain and provide a Registrar at all times while the Commercial Paper Notes are outstanding, which shall be a national or state banking association or corporation or trust company organized and doing business under the laws of the United States of America or of any state and authorized under its laws to exercise trust powers. Should a change in the Paying Agent/Registrar for the Commercial Paper Notes occur, the City agrees to promptly cause a written notice to be (i) sent to the Bank, the Dealer and to each registered owner of the Commercial Paper Notes then Outstanding by United States mail, first-class postage prepaid, and (ii) published in a financial newspaper or journal of general circulation in The City of New York, New York, once during each calendar week for at least two calendar weeks; provided, however, publication of notice is not required if notice is sent to each Holder of the Commercial Paper Notes. The notice shall give the address of the successor Paying Agent/Registrar. Council may appoint a successor Paying Agent/Registrar without the consent of the Holders.

The Commercial Paper Notes shall be issued in registered form, without coupons; provided, however, Commercial Paper Notes may be registered to bearer. The principal of and interest on the Commercial Paper Notes shall be payable in lawful money of the United States of America, without exchange or collection charges to the Holder of the Commercial Paper Note; principal is to be payable upon presentation and surrender of the Commercial Paper Note at the Designated Office and interest is to be payable to the registered owner thereof (when registered other than to bearer) either (i) by check sent by United States mail, first-class postage prepaid, to the address of the registered owner appearing on the Registration Books of the City maintained by the Registrar or (ii) by any other method, acceptable to the Issuing and Paying Agent, requested by the Holder, but interest on a Commercial Paper Note registered to bearer shall be payable only upon presentation of the Commercial Paper Note at the Designated Office.

A copy of the Registration Books shall be provided to the City by the Paying Agent/Registrar, by means of telecommunications equipment or other means as are mutually agreed to, within two Business Days of either the opening of the Registration Books or any change in the Registration Books.

The City and the Paying Agent/Registrar may treat the bearer (in the case of Commercial Paper Notes so registered) or the registered payee as the absolute owner of any Commercial Paper Note for the purpose of receiving payment and for all purposes, and the City and the Paying Agent/Registrar shall not be affected by any notice or knowledge to the contrary.

If an Authorized Representative determines that it is possible and desirable to provide for a book-entry only system of Commercial Paper Note registration with DTC, the

411 Authorized Representative, acting for and on behalf of the City, is authorized to approve,  
412 execute, and deliver a Letter of Representations to DTC and to enter into any other  
413 agreement and execute any instrument as is necessary to implement a book-entry only  
414 system, with approval to be conclusively evidenced by the execution by the Authorized  
415 Representative of the agreement or instrument. Under the initial book-entry only system  
416 with DTC, no physical Commercial Paper Note certificates will be delivered to DTC. The  
417 execution and delivery to the Issuing and Paying Agent, as custodian for DTC, of a master  
418 note (Master Note) with respect to the Commercial Paper Notes, is approved. The  
419 ownership of the Commercial Paper Notes held in the book-entry-only system shall be  
420 registered in the name of Cede & Co., as nominee of DTC, which will serve as the initial  
421 securities depository for the Commercial Paper Notes. Ownership of beneficial interests  
422 in the Commercial Paper Notes shall be shown by book-entry on the system maintained  
423 and operated by DTC and DTC Participants, and transfers of ownership of beneficial  
424 interests shall be made only by DTC and the DTC Participants by book-entry. The City  
425 and the Issuing and Paying Agent have no responsibility for DTC's book-entry system.  
426 DTC will be required to maintain records of the positions of the DTC Participants in the  
427 Commercial Paper Notes, and the DTC Participants and persons acting through the DTC  
428 Participants will be required to maintain records of the purchasers of beneficial interests in  
429 the Commercial Paper Notes. During any period when a book-entry only system is in  
430 effect, except as provided above, the Commercial Paper Notes shall not be transferable or  
431 exchangeable, except for transfer to another securities depository or to another nominee of  
432 a securities depository.

433 With respect to Commercial Paper Notes registered in the name of DTC or its  
434 nominee, neither the City nor the Issuing and Paying Agent shall have any responsibility  
435 or obligation to any DTC Participant or to any person on whose behalf a DTC Participant  
436 holds an interest in the Commercial Paper Notes. Without limiting the immediately  
437 preceding sentence, neither the City nor the Issuing and Paying Agent shall have any  
438 responsibility or obligation with respect to (i) the accuracy of the records of DTC or any  
439 DTC Participant with respect to any ownership interest in the Commercial Paper Notes,  
440 (ii) the delivery to any DTC Participant or any other person, other than a registered owner  
441 of the Commercial Paper Notes, as shown on the Registration Books, of any notice with  
442 respect to the Commercial Paper Notes, and (iii) the payment to any DTC Participant or  
443 any other person, other than a registered owner of the Commercial Paper Notes, as shown  
444 in the Registration Books, of any amount with respect to principal of or interest on the  
445 Commercial Paper Notes.

446 Whenever, during the term of the Commercial Paper Notes, the beneficial ownership  
447 thereof is determined by a book entry at DTC, the requirements in the Ordinance of  
448 holding, registering, delivering, exchanging, or transferring the Commercial Paper Notes  
449 shall be deemed modified to require the appropriate person or entity to meet the

requirements of DTC as to holding, registering, delivering, exchanging, or transferring the book-entry to produce the same effect.

The City or DTC each may determine to discontinue the book-entry only system and, unless a new book-entry only system is put in place, physical certificates in the form set forth in **Exhibit A** shall be provided to the beneficial owners of the Commercial Paper Notes.

If at any time, DTC ceases to hold the Commercial Paper Notes, all references to DTC in the Ordinance shall be of no further force or effect.

Whenever the beneficial ownership of the Commercial Paper Notes is determined by a book-entry at DTC, delivery of Commercial Paper Notes for payment at maturity shall be made pursuant to DTC's payment procedures as are in effect from time to time and the DTC Participants shall transmit payment to beneficial owners whose Commercial Paper Notes have matured. The City and each of the Issuing and Paying Agent, the Bank and the Dealer are not responsible for transfer of payment to the DTC Participants or beneficial owners.

**SECTION 3B. TERMS APPLICABLE TO THE DIRECT PURCHASE NOTES.** Subject to the limitations contained in the Ordinance and the Note Purchase Agreement, Program Notes issued as Direct Purchase Notes shall be dated on or before, and within thirty (30) days of, their date of issuance (Note Date), as determined by an Authorized Representative; shall bear interest and mature as set forth in the Note Purchase Agreement (but in no event in any case shall the interest payable on the Direct Purchase Notes exceed the amount determined at the Maximum Interest Rate); and all Direct Purchase Notes shall mature on or before the Maximum Maturity Date.

Direct Purchase Notes may be sold to the Bank at par (within the interest rate restrictions provided in the Ordinance and the Note Purchase Agreement).

JPMorgan Chase Bank, National Association shall serve as Note Paying Agent for the Direct Purchase Notes, and the City covenants to keep and maintain with the Note Paying Agent at its Designated Office books and records (Registration Books) for the registration, payment, transfer and exchange of the Direct Purchase Notes, all as provided in the Ordinance and reasonable rules and regulations as the Note Paying Agent may prescribe. The City covenants to maintain and provide a Note Paying Agent at all times while the Direct Purchase Notes are outstanding, which shall be a national or state banking association or corporation or trust company organized and doing business under the laws of the United States of America or of any state and authorized under its laws to exercise trust powers. Should a change in the Note Paying Agent for the Direct Purchase Notes occur, the City agrees to promptly cause a written notice to be sent to the Bank by United States mail, first-class postage prepaid. The notice shall give the address of the successor

Note Paying Agent. Council may not appoint a successor Note Paying Agent without the consent of the Bank.

The Direct Purchase Notes shall be issued to the Bank in registered form, without coupons. The principal of and interest on the Direct Purchase Notes shall be payable in lawful money of the United States of America, without exchange or collection charges to the Holder of the Direct Purchase Note; principal is to be payable upon presentation and surrender of the Direct Purchase Note at the Designated Office and interest is to be payable to the registered owner thereof either (i) by check sent by United States mail, first-class postage prepaid, to the address of the registered owner appearing on the Registration Books of the City maintained by the Note Paying Agent or (ii) by any other method, acceptable to the Note Paying Agent, requested by the Holder.

A copy of the Registration Books shall be provided to the City by the Note Paying Agent, by means of telecommunications equipment or other means as are mutually agreed to, within two Business Days of either the opening of the Registration Books or any change in the Registration Books.

The City and the Note Paying Agent may treat the registered payee as the absolute owner of any Direct Purchase Note for the purpose of receiving payment and for all purposes, and the City and the Note Paying Agent shall not be affected by any notice or knowledge to the contrary. Direct Purchase Notes will not be issued in book-entry form.

**SECTION 4. PROGRAM NOTES.** Commercial Paper Notes are authorized to be issued and sold and delivered from time to time in principal amounts as determined by an Authorized Representative in Authorized Denominations, numbered in ascending consecutive numerical order in the order of their issuance and to mature and become due and payable on the dates as an Authorized Representative shall determine at the time of sale; provided, however, that no Commercial Paper Note shall (i) mature after the Maximum Maturity Date, (ii) have a term in excess of two hundred seventy (270) days or (iii) be issued in a manner that would cause the City to violate the covenants set forth in **Section 7**. Interest, if any, on Commercial Paper Notes shall be payable at maturity with principal.

Direct Purchase Notes are authorized to be issued and sold and delivered from time to time in principal amounts as determined by an Authorized Representative in Authorized Denominations, numbered in ascending consecutive numerical order in the order of their issuance and to mature and become due and payable on the dates as an Authorized Representative shall determine at the time of sale; provided, however, that no Direct Purchase Note shall (i) mature after the Maximum Maturity Date, (ii) have a term in excess of three hundred sixty (360) days or (iii) be issued in a manner that would cause the City to violate the covenants set forth in **Section 7**. Interest on Direct Purchase Notes shall be payable on the dates and in the manner set forth in the Note Purchase Agreement.

An Authorized Representative will notify the Bank and the Dealer of each new issuance of Program Notes and confirm that at the time of the new issuance (after giving effect to the new issuance), the aggregate principal amount of Program Notes and Advances outstanding does not exceed \$75,000,000.

## SECTION 5: ISSUANCE AND SALE OF PROGRAM NOTES.

(a) *Completion of Commercial Paper Notes.* Commercial Paper Notes shall be completed and delivered by the Issuing and Paying Agent in accordance with telephonic, electronic or written instructions of the Authorized Representative and the Issuing and Paying Agent Agreement. To the extent instructions are not written, they shall be confirmed in writing by the Authorized Representative within twenty-four (24) hours. The instructions shall specify the Commercial Paper Notes to be sold and the principal amounts, dates of issue, maturities, rates of discount or interest, or the formula or method of calculating interest and the basis upon which it is to be computed, and other terms and conditions which may be determined by the Authorized Representative at the time of sale of the Commercial Paper Notes. The instructions shall include the purchase price of the Commercial Paper Notes, and, if the Commercial Paper Notes are not held in accordance with a book-entry only system, a request that the Issuing and Paying Agent authenticate the Commercial Paper Notes by counter signature of its authorized officer or employee and deliver them to the named purchaser upon receipt of payment in accordance with the custom then prevailing in the New York financial market in regard to the Commercial Paper Notes. The rules of the New York Clearinghouse shall apply. The instructions shall also contain provisions representing that all action on the part of the City necessary for the valid issuance of the Commercial Paper Notes then to be issued has been taken, that all provisions of Texas and federal law necessary for the valid issuance of the Commercial Paper Notes have been complied with, if applicable, and that the Commercial Paper Notes in the hands of the Holders will be valid and enforceable obligations of the City according to their terms, subject to the exercise of judicial discretion in accordance with general principles of equity and bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights to the extent constitutionally applicable. The instructions shall also certify that:

(i) no Event of Default under **Section 31** has occurred and is continuing as of the date of the instructions and that the Issuing and Paying Agent has not received a Notice of No-Issuance (as defined in the Agreement);

(ii) the City has been advised by Bond Counsel that the projects to be financed with the proceeds of the Commercial Paper Notes will constitute Eligible Projects or that the obligations to be refunded were issued in connection with Eligible Projects;

(iii) the City is in compliance with the covenants set forth in **Sections 7, 22, 25, 26, and 28** as of the date of the instructions;

(iv) the sum of the interest payable on the Commercial Paper Note will not exceed a yield (calculated on the principal amount of the Commercial Paper Note on the basis of actual number of days elapsed, and a 365-day year) to the maturity date of the Commercial Paper Note in excess of the Maximum Interest Rate;

(v) all action on the part of the City necessary for the valid issuance of the Commercial Paper Notes then to be issued has been taken;

(vi) all provisions of Texas and federal law necessary for the valid issuance of the Commercial Paper Notes have been complied with;

(vii) the Commercial Paper Notes held by the Holders will be valid and enforceable obligations of the City according to their terms, subject to the exercise of judicial discretion in accordance with general principles of equity and bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights, to the extent constitutionally applicable; and

(viii) any and all conditions to the issuance of Commercial Paper Notes under the Revolving Credit Agreement have been fully satisfied.

(b) *Execution of Revolving Credit Agreement.* Upon its execution and delivery, the Revolving Credit Agreement is in full force and effect and loans may be made in accordance with the terms of the Revolving Credit Agreement.

(c) *Completion of Direct Purchase Notes.* Direct Purchase Notes shall be completed and delivered by the Note Paying Agent in accordance with telephonic, electronic or written instructions of the Authorized Representative and the Note Paying Agent Agreement. To the extent instructions are not written, they shall be confirmed in writing by the Authorized Representative within twenty-four (24) hours. The instructions shall specify the Direct Purchase Notes to be sold and the principal amounts, dates of issue, maturities, and other terms and conditions which may be determined by the Authorized Representative at the time of sale of the Direct Purchase Notes. The Direct Purchase Notes will bear interest at the rates and in the manner set forth in the Note Purchase Agreement. The instructions shall include the purchase price of the Direct Purchase Notes, and a request that the Note Paying Agent authenticate the Direct Purchase Notes by counter signature of its authorized officer or employee and deliver them to the named purchaser upon receipt of payment. The instructions shall also contain provisions representing that all action on the part of the City necessary for the valid issuance of the Direct Purchase Notes then to be



issued has been taken, that all provisions of Texas and federal law necessary for the valid issuance of the Direct Purchase Notes have been complied with, if applicable, and that the Direct Purchase Notes in the hands of the Bank will be valid and enforceable obligations of the City according to their terms, subject to the exercise of judicial discretion in accordance with general principles of equity and bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights to the extent constitutionally applicable. The instructions shall also certify that:

(i) no Event of Default under **Section 31** has occurred and is continuing as of the date of the instructions;

(ii) the City has been advised by Bond Counsel that the projects to be financed with the proceeds of the Direct Purchase Notes will constitute Eligible Projects or that the obligations to be refunded were issued in connection with Eligible Projects;

(iii) the City is in compliance with the covenants set forth in **Sections 7, 25, 26, and 28** as of the date of the instructions;

(iv) any and all conditions to the issuance of Direct Purchase Notes under the Note Purchase Agreement have been fully satisfied;

(v) all action on the part of the City necessary for the valid issuance of the Direct Purchase Notes then to be issued has been taken;

(vi) all provisions of Texas and federal law necessary for the valid issuance of the Direct Purchase Notes have been complied with; and

(vii) the Direct Purchase Notes held by the Bank will be valid and enforceable obligations of the City according to their terms, subject to the exercise of judicial discretion in accordance with general principles of equity and bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights, to the extent constitutionally applicable.

(d) *Execution of Note Purchase Agreement.* Upon its execution and delivery, the Note Purchase Agreement is in full force.

#### **SECTION 6: PROCEEDS OF SALE OF PROGRAM NOTES. (a)**

*Commercial Paper Note Proceeds.* The proceeds of the sale of any Commercial Paper Notes (net of all expenses and costs of sale and issuance) shall be applied for any or all of the following purposes as directed by an Authorized Representative:

(i) Proceeds shall first be used for the payment of outstanding Commercial Paper Notes at or prior to maturity and the repayment in full of Advances and any other amounts due under the Revolving Credit Agreement shall be deposited to the Note Payment Fund;

(ii) Proceeds not retained in the Note Payment Fund as provided in subparagraph (i) above shall be transferred and deposited to the Note Construction Account and used and applied in accordance with the provisions of **Section 18**; and

(iii) Proceeds to be used for the payment of outstanding Priority Lien Obligations (if prior approval is given by council and the Bank) or Outstanding Taxable Commercial Paper Notes shall be transferred to the appropriate account or fund established pursuant to the proceedings authorizing the issuance of the Priority Lien Obligations or the Outstanding Taxable Commercial Paper Notes, as applicable.

(b) *Direct Purchase Note Proceeds.* The proceeds of the sale of any Direct Purchase Notes (net of all expenses and costs of sale and issuance) shall be applied for any or all of the following purposes as directed by an Authorized Representative:

(i) Proceeds shall first be used for the payment of outstanding Direct Purchase Notes at or prior to maturity and the payment in full of any amounts due under the Note Purchase Agreement shall be deposited to the Direct Purchase Payment Fund;

(ii) Proceeds not retained in the Direct Purchase Payment Fund as provided in subparagraph (i) above shall be transferred and deposited to the Note Construction Account and used and applied in accordance with the provisions of **Section 18**; and

(iii) Proceeds to be used for the payment of outstanding Priority Lien Obligations (if prior approval is given by council and the Bank) or Outstanding Taxable Commercial Paper Notes shall be transferred to the appropriate account or fund established pursuant to the proceedings authorizing the issuance of the Priority Lien Obligations or the Outstanding Taxable Commercial Paper Notes, as applicable.

**SECTION 7: LIMITATION ON ISSUANCE.** Unless council amends the Ordinance in accordance with the provisions of **Section 35**, the City covenants that there will not be issued and outstanding at any time under the Ordinance more than \$75,000,000 in aggregate principal amount of Program Notes. For purposes of this **Section 7** any portion of outstanding Program Notes to be paid from money on deposit in the Note Payment Fund (in the case of Commercial Paper Notes) or the Direct Purchase Payment Fund (in the case of Direct Purchase Notes), and available proceeds of Program Notes or Bonds shall not be considered outstanding on that day. Any improvement or extension to the Systems to be funded with Program Notes must qualify as an Eligible Project, and the

City shall not direct the Issuing and Paying Agent to issue Commercial Paper Notes that mature after the Maximum Maturity Date.

While the Revolving Credit Agreement is in effect and supports the payment of all or any principal amount of the Commercial Paper Notes, the City covenants and agrees that the total principal amount of all Commercial Paper Notes outstanding at any one time and the total amount of interest accrued or to accrue on the Commercial Paper Notes shall not exceed the Commitment.

**SECTION 8: PUNCTUAL PAYMENT.** The City will punctually pay or cause to be paid the principal of and interest on the Program Notes and the Bank Note (but only from the sources pledged by the Ordinance), in conformity with the Program Notes, the Ordinance, the Revolving Credit Agreement or the Note Purchase Agreement.

**SECTION 9: PAYMENT AND PERFORMANCE ON BUSINESS DAYS.** Whenever under the terms of the Ordinance or the Program Notes, the performance date of any of their provisions, including the payment of principal of or interest on the Program Notes, shall occur on a day other than a Business Day, then performance, including the payment of principal of and interest on the Program Notes, need not be made on that day but may be performed or paid on the next succeeding Business Day with the same force and effect as if made on that day.

**SECTION 10: FORM OF PROGRAM NOTES.** (a) *Commercial Paper Notes.* The Commercial Paper Notes and the Certificate of Authentication to appear on each of the Commercial Paper Notes shall be substantially in the form set forth in **Exhibit A**, with appropriate insertions, omissions, substitutions and other variations as are permitted or required by the Ordinance, and may have letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and legends and endorsements as may be approved by an Authorized Representative. The Commercial Paper Notes shall be printed, lithographed, or engraved or produced in any other similar manner, or typewritten, all as determined and approved by an Authorized Representative.

If Commercial Paper Notes are issued in book-entry only form pursuant to **Section 3A**, they shall be issued in the form of the Master Note approved by council pursuant to the Ordinance, to which there shall be attached the form of Commercial Paper Note as prescribed above, and council declares that the provisions of the Commercial Paper Note are incorporated into and shall be a part of the Master Note. Council declares that the Ordinance and the form of Commercial Paper Note shall constitute the "underlying records" referred to in the Master Note. Notwithstanding the provisions of **Section 11**, the Master Note may be executed on behalf of the City with the manual signature of the City Manager or the Chief Financial Officer of the City.

(b) *Direct Purchase Notes.* The Direct Purchase Notes and the Certificate of Authentication to appear on each of the Direct Purchase Notes shall be substantially in the form set forth in **Exhibit B**, with appropriate insertions, omissions, substitutions and other variations as are permitted or required by the Ordinance, and may have letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and legends and endorsements as may be approved by an Authorized Representative. The Direct Purchase Notes shall be printed, lithographed, or engraved or produced in any other similar manner, or typewritten, all as determined and approved by an Authorized Representative.

**SECTION 11: EXECUTION - AUTHENTICATION.** Under authority granted by Section 1371.055, Texas Government Code, the Program Notes shall be executed on behalf of the City by the Mayor, and attested by the City Clerk under its seal reproduced or impressed thereon, all as provided in **Section 10** (or in case of the Master Note and the Bank Note, executed on behalf of the City by the City Manager or the Chief Financial Officer of the City). The signatures appearing on the Program Notes (including the Master Note) may be manual or facsimile. Program Notes bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the date of passage of the Ordinance are duly executed on behalf of the City, regardless of whether any individual ceases to hold office at the time of the initial sale and delivery of Program Notes or at the time Program Notes are delivered in future sales, exchanges and transfers, all as authorized and provided in Section 1371.055 and Chapter 1206, Texas Government Code.

No Commercial Paper Note shall be entitled to any right or benefit under the Ordinance, or be valid or obligatory for any purpose, unless there appears on the Commercial Paper Note a certificate of authentication executed by the Paying Agent/Registrar by manual signature, or, in the case of the Master Note, the Paying Agent/Registrar has executed the Master Note, and the execution of any Commercial Paper Note by the Paying Agent/Registrar is the only evidence necessary for the Commercial Paper Note to be duly certified or registered and delivered.

No Direct Purchase Note shall be entitled to any right or benefit under the Ordinance, or be valid or obligatory for any purpose, unless there appears on the Direct Purchase Note a certificate of authentication executed by the Note Paying Agent by manual signature, and the execution of any Direct Purchase Note by the Note Paying Agent is the only evidence necessary for the Direct Purchase Note to be duly certified or registered and delivered.

768        **SECTION 12: NOTES MUTILATED, LOST, DESTROYED OR STOLEN.** If  
769 any Program Note shall become mutilated, the City, at the expense of the Holder of the  
770 Program Note, shall execute and deliver a new Program Note of like tenor and number in  
771 exchange and substitution for the Program Note so mutilated, but only upon surrender to  
772 the City of the Program Note so mutilated. If any Program Note shall be lost, destroyed or  
773 stolen, evidence of the loss, destruction or theft may be submitted to the City and, if  
774 evidence be satisfactory to it and indemnity satisfactory to it shall be given, the City, at the  
775 expense of the owner, shall execute and deliver a new Program Note of like tenor in lieu  
776 of and in substitution for the lost, destroyed or stolen Program Note. Neither the City nor  
777 the Paying Agent/Registrar, in the case of a Commercial Paper Note, or the Note Paying  
778 Agent, in the case of a Direct Purchase Note, shall be required to treat both the original  
779 Program Note and any duplicate Program Note as being outstanding for the purpose of  
780 determining the principal amount of Program Notes which may be issued hereunder, but  
781 both the original and the duplicate Program Note shall be treated as one and the same.

782        **SECTION 13: NEGOTIABILITY, REGISTRATION AND**  
783 **EXCHANGEABILITY.** The obligations issued under the Ordinance, including the Bank  
784 Note, shall be, and shall have all of the qualities and incidents of, a negotiable instrument  
785 under the laws of the State of Texas, and each successive Holder, in accepting any  
786 obligation, agrees that the obligations shall be and have all of the qualities and incidents of  
787 a negotiable instrument under the laws of the State of Texas.

788        The Registration Books relating to the registration, payment and transfer or  
789 exchange of the Commercial Paper Notes shall at all times be kept and maintained by the  
790 City at the Designated Office of the Registrar, and the Registrar shall obtain, record and  
791 maintain in the Registration Books the name and address of each registered owner of the  
792 Commercial Paper Notes, except for Commercial Paper Notes registered to bearer, issued  
793 under the Ordinance, and the Registrar shall provide the information to the City as  
794 described in **Section 3A**. Any Commercial Paper Note may, in accordance with its terms  
795 and the terms of the Ordinance, be transferred or exchanged for Commercial Paper Notes  
796 of like tenor and character and in Authorized Denominations upon the Registration Books  
797 by the Holder in person or by its duly authorized agent, upon surrender of the Commercial  
798 Paper Note to the Registrar for cancellation, accompanied by a written instrument of  
799 transfer or request for exchange duly executed by the Holder or by its duly authorized  
800 agent, in form satisfactory to the Registrar.

801  
802        Upon surrender for transfer of any Commercial Paper Note at the Designated Office  
803 of the Registrar, the Registrar shall register and deliver, in the name of each designated  
804 transferee (or to bearer, as appropriate), one or more new Commercial Paper Notes  
805 executed on behalf of, and furnished by, the City of like tenor and character and in  
806 Authorized Denominations and having the same maturity, bearing interest at the same rate

807 or rates and of a like aggregate principal amount as the Commercial Paper Note or  
808 Commercial Paper Notes surrendered for transfer.

809  
810 Commercial Paper Notes may be exchanged for other Commercial Paper Notes of  
811 like tenor and character and of Authorized Denominations and having the same maturity,  
812 bearing the same rate or rates of interest and of like aggregate principal amount as the  
813 Commercial Paper Notes surrendered for exchange, upon surrender of the Commercial  
814 Paper Notes to be exchanged at the Designated Office of the Registrar. Whenever any  
815 Commercial Paper Notes is surrendered for exchange, the Registrar shall register and  
816 deliver new Commercial Paper Notes of like tenor and character as the Commercial Paper  
817 Notes exchanged, executed on behalf of, and furnished by, the City to the Holder requesting  
818 the exchange.

819  
820 The City and the Registrar may charge the Noteholder a sum sufficient to reimburse  
821 them for any expenses incurred in making any exchange or transfer after the first exchange  
822 or transfer. The Registrar or the City may also require payment from the Holder of a sum  
823 sufficient to cover any tax, fee or other governmental charge that may be imposed in  
824 relation thereto. These charges and expenses shall be paid before a new Commercial Paper  
825 Note shall be delivered.

826  
827 New Commercial Paper Notes delivered upon any transfer or exchange shall be valid  
828 obligations of the City, evidencing the same debt as the Commercial Paper Notes  
829 surrendered, shall be secured by the Ordinance and shall be entitled to all of the security  
830 and benefits of the Ordinance to the same extent as the Commercial Paper Notes  
831 surrendered.

832  
833 The City reserves the right to change the registration and transferability provisions  
834 of the Commercial Paper Notes at any time on or prior to the delivery of Commercial Paper  
835 Notes in order to comply with applicable laws and regulations of the United States in effect  
836 at the time of their issuance.

837  
838 The Note Paying Agent shall maintain the Registration Books for the Direct  
839 Purchase Notes in the manner provided in the Note Paying Agent Agreement.

840  
841 **SECTION 14: CANCELLATION.** All Commercial Paper Notes which at maturity  
842 are surrendered to the Paying Agent/Registrar for the collection of the principal and interest  
843 due and payable or are surrendered for transfer or exchange pursuant to the provisions of  
844 the Ordinance shall, upon payment or issuance of new Commercial Paper Notes, be  
845 cancelled by the Paying Agent/Registrar, and the Paying Agent/Registrar shall transmit to  
846 the City a certificate identifying the Commercial Paper Notes that have been duly cancelled  
847 and destroyed.

848  
849 All Direct Purchase Notes which at maturity are surrendered to the Note Paying Agent  
850 for the collection of the principal and interest due and payable or are surrendered for  
851 transfer or exchange pursuant to the provisions of the Ordinance shall, upon payment or  
852 issuance of new Direct Purchase Notes, be cancelled by the Note Paying Agent, and the  
853 Note Paying Agent shall transmit to the City a certificate identifying the Direct Purchase  
854 Notes that have been duly cancelled and destroyed.

855  
856 **SECTION 15: FISCAL AND OTHER AGENTS.** The City may from time to time  
857 appoint and provide for the payment of additional fiscal, paying or other agents and trustees  
858 as council determines are necessary or appropriate in connection with the Program Notes.

859 **SECTION 16: NOTE PAYMENT FUND.** The creation, establishment and  
860 maintenance of a separate and special fund designated as the "**City of Austin, Texas**  
861 **Combined Utility Systems Taxable Program Notes, Commercial Paper Sub-Series**  
862 **Note Payment Fund**" (Note Payment Fund) with the Issuing and Paying Agent is  
863 confirmed. Moneys on deposit in the Note Payment Fund shall be used to pay principal of  
864 and interest on Commercial Paper Notes as the same shall become due and payable as  
865 provided in the Ordinance and to repay any Advances and any other obligations of the City  
866 to the Bank under the Revolving Credit Agreement (evidenced by the Bank Note).  
867 Amounts remaining in the Note Payment Fund not then necessary for the payment of  
868 Commercial Paper Notes or the repayment of Advances may be transferred to the Note  
869 Construction Account (created pursuant to **Section 18**) at the request of an Authorized  
870 Representative; provided, that if any amount is due and payable under the Bank Note or  
871 the Revolving Credit Agreement, no amounts shall be transferred to the Note Construction  
872 Account without the prior written consent of the Bank.

873 Additionally all proceeds of Advances shall be deposited into the Note Payment  
874 Fund and used to pay the principal of and interest on the Commercial Paper Notes.

875  
876 Pending the expenditure of moneys in the Note Payment Fund for authorized  
877 purposes, moneys deposited therein may be invested at the direction of the City Treasurer  
878 or the designee thereof in Eligible Investments; provided, that moneys received by the City  
879 under the terms of the Revolving Credit Agreement and moneys received in connection  
880 with a rollover of Commercial Paper Notes shall remain uninvested. Any investment  
881 income shall be deposited, as received, into the Electric Fund or the Water and Sewer Fund  
882 established by ordinances authorizing the issuance of the Prior Lien Bonds and shall not  
883 be considered an amount held in the Note Payment Fund.

884  
885 **SECTION 17. DIRECT PURCHASE PAYMENT FUND.** The creation,  
886 establishment and maintenance on the records of the City of a separate and special fund  
887 designated as the "**City of Austin, Texas Combined Utility Systems Taxable Program**

888 **Notes, Direct Purchase Sub-Series Payment Fund"** (Direct Purchase Payment Fund) is  
889 confirmed. Moneys on deposit in the Direct Purchase Payment Fund shall be used to pay  
890 principal of and interest on Direct Purchase Notes as the same shall become due and  
891 payable as provided in the Ordinance and the Note Purchase Agreement. The City agrees  
892 that it will timely transfer funds to the Note Paying Agent in amounts sufficient to pay the  
893 interest on and principal of the Direct Purchase Notes when due, no later than the date  
894 payment of principal and interest is due and payable. Amounts remaining in the Direct  
895 Purchase Payment Fund not then necessary for the payment of Direct Purchase Notes may  
896 be transferred to the Note Construction Account at the request of an Authorized  
897 Representative.

898 Pending the expenditure of moneys in the Direct Purchase Payment Fund for  
899 authorized purposes, moneys deposited therein may be invested at the direction of the City  
900 Treasurer or the designee thereof in Eligible Investments. Any investment income shall be  
901 deposited, as received, into the Electric Fund or the Water and Sewer Fund established by  
902 ordinances authorizing the issuance of the Prior Lien Bonds and shall not be considered an  
903 amount held in the Direct Purchase Payment Fund.  
904

905 **SECTION 18: NOTE CONSTRUCTION ACCOUNT.** The creation, establishment  
906 and maintenance of a separate account designated as the "**City of Austin, Texas**  
907 **Combined Utility Systems Program Notes Note Construction Account**" (Note  
908 Construction Account) is confirmed. The Note Construction Account shall be held by the  
909 City with the City's depository bank, currently JPMorgan Chase Bank, National  
910 Association. The City shall account for moneys deposited into the Note Construction  
911 Account from Commercial Paper Notes and Direct Purchase Notes issued. Moneys  
912 deposited in the Note Construction Account shall be expended to pay for Project Costs,  
913 and to refund Priority Lien Obligations or Program Notes issued in connection with  
914 Eligible Projects, and shall not be used for any other purpose, except as provided below,  
915 and pending their expenditure, moneys therein may be invested at the direction of the City  
916 Treasurer of the City or his designee in Eligible Investments. Any investment income  
917 received (except as otherwise required to be rebated to the United States of America in  
918 accordance with the provisions of **Section 29**) shall be deposited, as received, into the  
919 Electric Fund or the Water and Sewer Fund established by ordinances authorizing the  
920 issuance of the Prior Lien Bonds and shall not be considered an amount held in the Note  
921 Construction Account.

922 Amounts on deposit in the Note Construction Account funded with proceeds of  
923 Commercial Paper Notes and designated by an Authorized Representative as eligible to  
924 pay interest during construction and up to one year after construction is completed may be  
925 transferred from time to time at the direction of an Authorized Representative to the credit  
926 of the Note Payment Fund for use in accordance with the terms of **Section 16**. Any  
927 amounts that were funded with the proceeds of Commercial Paper Notes remaining in the



928 Note Construction Account after the payment of all Project Costs shall be paid into the  
929 Note Payment Fund and used either for the payment of the maturities of the Commercial  
930 Paper Notes coming due as may be selected by an Authorized Representative or for the  
931 payment of Advances or other amounts owing under the Agreement. In the event no  
932 Commercial Paper Notes are Outstanding and there are no outstanding Advances or other  
933 amounts owing under the Agreement, any amounts in the Note Construction Account that  
934 were originally provided from the proceeds of Commercial Paper Notes not anticipated to  
935 be needed to pay Project Costs shall be transferred to the debt service fund established for  
936 the payment of the Bonds, when issued.

937 Amounts on deposit in the Note Construction Account funded with proceeds of Direct  
938 Purchase Notes and designated by an Authorized Representative as eligible to pay interest  
939 during construction and up to one year after construction is completed may be transferred  
940 from time to time at the direction of an Authorized Representative to the credit of the Direct  
941 Purchase Payment Fund for use in accordance with the terms of **Section 17**. Any amounts  
942 that were funded with the proceeds of Direct Purchase Notes remaining in the Note  
943 Construction Account after the payment of all Project Costs shall be paid into the Direct  
944 Purchase Payment Fund and used for the payment of the maturities of the Direct Purchase  
945 Notes coming due as may be selected by an Authorized Representative. In the event no  
946 Direct Purchase Notes are Outstanding, any amounts in the Note Construction Account  
947 that were originally funded from the proceeds of Direct Purchase Notes not anticipated to  
948 be needed to pay Project Costs shall be transferred to the debt service fund established for  
949 the payment of the Bonds, when issued.

950  
951 **SECTION 19: PLEDGE; PAYMENTS.** The Program Notes (including the Bank  
952 Note) and any obligations of the City to the Bank under the Revolving Credit Agreement,  
953 the Note Purchase Agreement and the Fee Letter are obligations of the City payable from  
954 and secured solely by the pledged funds pursuant to the Ordinance. The City agrees to  
955 make payments into the Note Payment Fund and the Direct Purchase Payment Fund at the  
956 times and in the amounts as are necessary to provide for the full payment of the principal  
957 of and the interest on the Commercial Paper Notes and the Direct Purchase Notes, as the  
958 case may be, when due, and the repayment of Advances made under and pursuant to the  
959 Revolving Credit Agreement and any obligations of the City to the Bank under the  
960 Revolving Credit Agreement, the Note Purchase Agreement and the Fee Letter.

961  
962 To provide security for the payment of the principal of and interest on  
963 the Commercial Paper Notes and any other amounts due under the Revolving Credit  
964 Agreement as the same shall become due and payable, the City grants a lien on and pledge  
965 of, subject only to the provisions of the Ordinance permitting the application of the sources  
966 listed for purposes and on the terms and conditions set forth in the Ordinance, (i) the  
967 proceeds from (a) the sale of bonds issued and to be used to pay outstanding Commercial  
968 Paper Notes and (b) the sale of Commercial Paper Notes issued pursuant to the Ordinance

and to be used to refund outstanding Commercial Paper Notes, (ii) Advances, (iii) the amounts held in the Note Payment Fund until those amounts are used for authorized purposes, (iv) the Pledged Revenues of the Systems, however, (a) on a parity with the lien and pledge securing the payment of the Direct Purchase Notes, the Tax-Exempt Program Notes and the Tax-Exempt Advances and the lien and pledge securing the payment of Advances made under and pursuant to the Revolving Credit Agreement, and (b) subordinate to the lien on and pledge securing the payment of Priority Lien Obligations, and (v) the amounts remaining on deposit in the Note Construction Account after the payment of all Project Costs. Council declares that the principal of and interest on the Commercial Paper Notes and any other amounts due under the Revolving Credit Agreement shall be and are hereby equally and ratably secured by and payable from a lien on and pledge of the sources identified in clauses (i), (ii), (iii), (iv) and (v) subject and subordinate only to the exceptions noted above.

To provide security for the payment of the principal of and interest on Advances and any other amounts due under the Revolving Credit Agreement and the Fee Letter as the same shall become due and payable, the City grants a lien on and pledge of the Pledged Revenues, subject only to the provisions of the Ordinance permitting the application of Pledged Revenues for purposes and on the terms and conditions set forth in the Ordinance; however, this lien on and pledge of the Pledged Revenues, and the lien and pledge securing the Commercial Paper Notes, the Direct Purchase Notes, the Tax-Exempt Program Notes and the Tax-Exempt Advances is subordinate only to the lien on and pledge of the Pledged Revenues securing the payment of Priority Lien Obligations and the debt service and reserve funds relating to the Priority Lien Obligations, and being on a parity and of equal dignity with the lien and pledge securing the payment of the Program Notes and the Tax-Exempt Program Notes. It is ordained that the payment obligations under the Bank Note are secured by a lien on Pledged Revenues, and as provided in Chapter 1208, Texas Government Code, the lien is valid, binding and fully perfected on the passage of the Ordinance without physical delivery or transfer of control of the Pledged Revenues, the filing of the Ordinance or any other act.

To provide security for the payment of the principal of and interest on the Direct Purchase Notes and any other amounts due under the Note Purchase Agreement and the Fee Letter as the same shall become due and payable, the City grants a lien on and pledge of, subject only to the provisions of the Ordinance permitting the application of the sources listed for purposes and on the terms and conditions set forth in the Ordinance, (i) the proceeds from (a) the sale of bonds issued and to be used to pay outstanding Direct Purchase Notes and (b) the sale of Direct Purchase Notes issued pursuant to the Ordinance and to be used to refund outstanding Direct Purchase Notes, (ii) the amounts held in the Direct Purchase Payment Fund until those amounts are used for authorized purposes, (iii) the Pledged Revenues of the Systems, however, (a) on a parity with the lien and pledge

1010 securing the payment of the Commercial Paper Notes, the Tax-Exempt Program Notes and  
1011 the Tax-Exempt Advances and the lien and pledge securing the payment of Advances made  
1012 under and pursuant to the Revolving Credit Agreement, and (b) subordinate to the lien on  
1013 and pledge securing the payment of Priority Lien Obligations, and (iv) the amounts  
1014 remaining on deposit in the Note Construction Account after the payment of all Project  
1015 Costs. Council declares that the principal of and interest on the Direct Purchase Notes shall  
1016 be and are hereby equally and ratably secured by and payable from a lien on and pledge of  
1017 the sources identified in clauses (i), (ii), (iii) and (iv) subject and subordinate only to the  
1018 exceptions noted above.

1019  
1020 Consistent with the provisions of **Section 27**, the City intends to refinance Program  
1021 Notes issued from time to time pursuant to the terms of the Ordinance through the issuance  
1022 of refunding bonds issued under authority of Chapter 1207, Texas Government Code, and  
1023 the Program Notes so refunded shall be treated as having the intended terms and payment  
1024 schedule of the refunding bonds issued under Chapter 1207, Texas Government Code, as  
1025 provided in Section 1371.057(c), Texas Government Code.

1026  
1027 Chapter 1208, Texas Government Code, applies to the issuance of the Program Notes  
1028 and the pledge of the Pledged Revenues granted by the City, and the pledge is valid,  
1029 effective and perfected. If Texas law is amended at any time while the Program Notes or  
1030 the Bank Note are outstanding or any amount is owing under the Agreement, the Note  
1031 Purchase Agreement or the Fee Letter such that the pledge of the Pledged Revenues granted  
1032 by the City is to be subject to the filing requirements of Chapter 9, Texas Business &  
1033 Commerce Code, then to preserve to the Noteholders and the Bank the perfection of the  
1034 security interest in the pledge, the City agrees to take measures as it determines are  
1035 reasonable and necessary under Texas law to comply with the applicable provisions of  
1036 Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security  
1037 interest in the pledge to occur.

1038  
1039 **SECTION 20: FUNDS SECURED.** Moneys in all funds and accounts, to the extent  
1040 not invested, shall be secured in the manner prescribed by law for securing moneys of the  
1041 City.

1042  
1043 **SECTION 21: REVOLVING CREDIT AGREEMENT.** The Revolving Credit  
1044 Agreement and the Fee Letter, substantially in the forms attached to the Ordinance as  
1045 **Exhibit C**, are approved, and shall be entered into with the Bank. Upon the approval by  
1046 the City Attorney, evidenced by executing the Revolving Credit Agreement, the City  
1047 Manager is authorized to execute and deliver the Revolving Credit Agreement, the Fee  
1048 Letter and the Related Documents (as defined in the Revolving Credit Agreement), and the  
1049 City Clerk or Deputy City Clerk is authorized to place the City seal on these instruments.

The City reserves the right to issue Commercial Paper Notes without credit or liquidity support, as provided in **Section 22(b)**.

**SECTION 22: MAINTENANCE OF AVAILABLE CREDIT AND LIQUIDITY FACILITIES REQUIREMENT.** (a) Except as provided in **Section 22(b)**, the City covenants that at all times up to and including the Maximum Maturity Date, unless the Commercial Paper Notes are no longer outstanding, it will maintain credit or liquidity facilities with banks, assuming that all then outstanding Commercial Paper Notes were to become due and payable immediately, in amounts available for borrowing under the credit or liquidity facilities sufficient at that time to pay principal and interest of all Commercial Paper Notes. No Commercial Paper Note shall be issued if after giving effect to its issuance and, if applicable, the immediate application of its proceeds to retire other Commercial Paper Notes secured by the credit or liquidity facility, the aggregate principal amount of all Commercial Paper Notes secured by the credit or liquidity facility would exceed the amount of the Commitment under the credit or liquidity facility. The availability for borrowing of amounts under the credit or liquidity facilities may be subject to reasonable conditions precedent, including, but not limited to, bankruptcy of the City. In furtherance of this covenant, the City agrees that it will not issue any Commercial Paper Notes or make any borrowings which will result in a violation of the covenant, will not amend the Revolving Credit Agreement in a manner which will cause a violation of the covenant and, if and to the extent necessary to maintain compliance with the covenant, will arrange for new credit or liquidity facilities.

(b) The provisions of **Section 22(a)** notwithstanding, council may amend the Ordinance, in accordance with the provisions of **Section 35**, to provide that Commercial Paper Notes issued under authority of the Ordinance may be issued without support of liquidity and/or credit facilities. To exercise the authority reserved by this **Section 22(b)**, the City shall provide written notice to the Dealer, the Issuing and Paying Agent and the Rating Agencies (as defined in the Issuing and Paying Agent Agreement) of council's determination to amend the Ordinance to permit Commercial Paper Notes to be issued without liquidity and/or credit support. This notice shall be provided no later than ninety (90) days prior to the proposed date council is to consider for adoption an ordinance amending the Ordinance for the purpose described in this **Section 22(b)**. The City shall cause written notice to be provided to the Noteholders no less than fifteen (15) days prior to the date council enacts the amendatory ordinance. No amendatory ordinance shall be adopted if, on or before the date council considers the amendatory ordinance, the ratings to be assigned to the Commercial Paper Notes not being supported by a liquidity and/or credit facility are lower than A-1 or its equivalent. Commercial Paper Notes issued under the Ordinance with liquidity and/or credit facility support shall be retired in full either through the issuance of Bonds or with the proceeds of Commercial Paper Notes issued without the support of a liquidity and/or credit facility.

1092  
1093       **SECTION 23: ORDINANCE TO CONSTITUTE A CONTRACT; EQUAL**  
1094 **SECURITY.** In consideration of the acceptance of the Program Notes and the Bank Note  
1095 by those who shall hold the same from time to time, the Ordinance constitutes a contract  
1096 between the City and the Holders from time to time of the Program Notes and the Bank  
1097 (with respect to the Bank Note) and the pledge made in the Ordinance by the City and the  
1098 covenants and agreements set forth in the Ordinance to be performed by the City shall be  
1099 for the equal and proportionate benefit, security and protection of all Holders of the  
1100 Program Notes and the Bank Note, without preference, priority or distinction as to security  
1101 or otherwise of any of the Program Notes or the Bank Note authorized by the Ordinance  
1102 over any of the others by reason of time of issuance, sale or maturity or otherwise for any  
1103 cause, except as expressly provided in or permitted by the Ordinance or, with respect to  
1104 Advances, the Revolving Credit Agreement.  
1105

1106       **SECTION 24: APPLICATION OF PRIOR COVENANTS.** The covenants and  
1107 agreements (to the extent the same do not conflict with the covenants and agreements in  
1108 the Ordinance) contained in the ordinances authorizing the issuance of the Priority Lien  
1109 Obligations are incorporated by reference into the Ordinance and are for the benefit and  
1110 protection of the Bank and its rights under and pursuant to the Revolving Credit Agreement  
1111 and the Note Purchase Agreement in like manner as applicable to the Priority Lien  
1112 Obligations; provided, however, in the event of any conflict between the terms, covenants  
1113 and agreements contained in the Ordinance and the terms, covenants and agreements  
1114 contained in the ordinances authorizing the issuance of the Priority Lien Obligations, the  
1115 provisions of the ordinances authorizing the issuance of the Priority Lien Obligations shall  
1116 control.  
1117

1118       **SECTION 25: RATES AND CHARGES.** The City hereby agrees and reaffirms its  
1119 covenants to the holders of the Priority Lien Obligations and covenants to the Bank that it  
1120 will at all times maintain rates and charges for the services furnished, provided, and  
1121 supplied by the Electric Light and Power System and the Waterworks and Sewer System  
1122 which shall comply with the provisions of ordinances authorizing the issuance of the  
1123 Priority Lien Obligations, be reasonable and non-discriminatory and produce Gross  
1124 Revenues in each Fiscal Year from each of the Systems sufficient:

- 1125       (1) To pay the respective system's Maintenance and Operating Expenses,
- 1126       (2) To produce Net Revenues of the Systems, collectively or individually, as the  
1127 case may be, sufficient (i) to pay the amounts required to be deposited in any reserve or  
1128 contingency fund and interest and sinking fund maintained for the payment and security of  
1129 the Priority Lien Obligations and (ii) to satisfy any annual debt service coverage  
1130 requirement specified in the ordinances authorizing the issuance of Priority Lien  
1131 Obligations.

1132  
1133 (3) To comply with any provisions contained in the Revolving Credit Agreement  
1134 and the Note Purchase Agreement and to the extent the same are incurred or reasonably  
1135 anticipated to be paid with Pledged Revenues, to pay the interest on and principal of the  
1136 Similarly Secured Notes or the repayment of Advances or the Bank Note or the Direct  
1137 Purchase Notes and any other amounts due the Bank under the Revolving Credit  
1138 Agreement, the Note Purchase Agreement and the Fee Letter as and when the same shall  
1139 become due; and

1140  
1141 (4) any other legal debt or obligation of the Systems, either or both, as and when  
1142 the same shall become due.

1143 **SECTION 26: SYSTEM FUNDS.** The City reaffirms its covenants to the holders  
1144 of the Priority Lien Obligations, and covenants to the Holders of the Program Notes and to  
1145 the Bank, as follows:  
1146

1147 (a) Gross Revenues of the Electric Light and Power System shall be, as collected,  
1148 deposited into a separate account maintained with a depository bank of the City and known  
1149 as the “Electric Light and Power System Fund” (Electric Fund) and Gross Revenues of the  
1150 Electric Light and Power System shall be kept separate and apart from all other funds of  
1151 the City. All revenues deposited in the Electric Fund shall be pledged and appropriated to  
1152 the extent required for the following uses and order of precedence:  
1153

1154 **FIRST:** To the payment of all necessary and reasonable Maintenance and Operating  
1155 Expenses of the Electric Light and Power System, and expenses required by statute to be a  
1156 first charge on and claim against its Gross Revenues.  
1157

1158 **SECOND:** To the payment of the amounts required to be deposited in the special  
1159 funds or accounts created for the payment and security of the Priority Lien Obligations in  
1160 accordance with the provisions of the ordinances authorizing the issuance of the Priority  
1161 Lien Obligations.  
1162

1163 **THIRD:** On a pro rata basis, to the payment of the amounts required to be deposited  
1164 in the Note Payment Fund, the Direct Purchase Payment Fund, and the debt service  
1165 payment funds established for the Tax-Exempt Program Notes, to the extent the principal  
1166 of and interest on the Commercial Paper Notes, as the same becomes due and payable, are  
1167 not paid with Advances.  
1168

1169 (b) Gross Revenues of the Waterworks and Sewer System shall be, as collected,  
1170 deposited into a separate account maintained with a depository bank of the City and known  
1171 as the “Water and Sewer System Fund” (Water and Sewer Fund) and Gross Revenues of  
1172 the Waterworks and Sewer System shall be kept separate and apart from all other funds of

the City. All revenues deposited in the Water and Sewer Fund shall be pledged and appropriated to the extent required for the following uses and order of precedence:

FIRST: To the payment of all necessary and reasonable Maintenance and Operating Expenses of the Waterworks and Sewer System, and expenses required by statute to be a first charge on and claim against its Gross Revenues.

SECOND: To the payment of the amounts required to be deposited in the special funds or accounts created for the payment and security of the Priority Lien Obligations in accordance with the provisions of the ordinances authorizing the issuance of the Priority Lien Obligations.

THIRD: On a pro rata basis, to the payment of the amounts required to be deposited in the Note Payment Fund, the Direct Purchase Payment Fund, and the debt service payment funds established for the Tax-Exempt Program Notes, to the extent, with respect to amounts required to be deposited in the Note Payment Fund, the principal of and interest on the Commercial Paper Notes, as the same becomes due and payable, are not paid with Advances.

(c) Any Net Revenues remaining in the Electric Fund or the Water and Sewer Fund after satisfying the priority payments, or making adequate and sufficient provision for the their payment, and after paying all other amounts due under the Revolving Credit Agreement, the Note Purchase Agreement and the Fee Letter, may be appropriated and used for any other City purpose permitted by law.

**SECTION 27: BONDS.** The City hereby acknowledges that the Program Notes are being issued as bond anticipation notes, and the City in good faith shall endeavor to sell a sufficient principal amount of Bonds in order to have funds available, together with other available moneys, to pay the principal and interest on the Program Notes, or any renewals of the Program Notes (including the Bank Note), as the same shall become due, and any other amounts due under the Agreement, the Note Purchase Agreement and the Fee Letter. The City does not reasonably expect to pay the principal and interest on the Program Notes (including the Bank Note) with Pledged Revenues.

**SECTION 28: COMPLIANCE WITH PRIORITY LIEN OBLIGATION ORDINANCES AND OTHER DOCUMENTS.** The City will comply with the terms and provisions of the ordinances authorizing the Priority Lien Obligations, and any other ordinance or contract to which the City is a party, the non-compliance with which would materially adversely affect the ability of the City to make payments on the Program Notes (including the Bank Note) when due.

1214           **SECTION 29: PROGRAM NOTES NOT TAX EXEMPT.** The Program Notes  
1215 are not obligations described in section 103 of the Code, the interest on which is not  
1216 includable in the "gross income" of the holder for purposes of federal income taxation.  
1217

1218           **SECTION 30: ONGOING CONTINUING DISCLOSURE COVENANT.** To the  
1219 extent required by the provisions of Rule 15c2-12 (Rule) promulgated by the U.S.  
1220 Securities and Exchange Commission, the City agrees to enter into an agreement to file  
1221 financial information and operating data with respect to the Commercial Paper Notes with  
1222 the Electronic Municipal Marketplace Access (EMMA) system administered by the  
1223 MSRB. The City agrees to provide the Bank a written copy of the City's continuing  
1224 disclosure undertaking filings in connection with its Separate Lien Obligations that it files  
1225 with the MSRB.  
1226

1227           **SECTION 31: EVENTS OF DEFAULT.** If one or more of the following events  
1228 shall occur:  
1229

1230           (a) if default in the due and punctual payment of any installment of principal of  
1231 and interest on any Program Note occurs, when and as the same shall become due and  
1232 payable, whether at maturity, by declaration or otherwise;  
1233

1234           (b) an "Event of Default" shall have occurred and be continuing under the  
1235 Revolving Credit Agreement and notice, if required under the terms of the Revolving  
1236 Credit Agreement, of the event shall have been furnished to the City by the Bank;  
1237

1238           (c) (i) an "Event of Default" as defined in the Tax-Exempt Agreement shall have  
1239 occurred and be continuing under the Tax-Exempt Agreement and notice, if required under  
1240 the terms of the Tax-Exempt Agreement, of the event shall have been furnished to the City  
1241 in accordance with the terms of the Tax-Exempt Agreement or (ii) an "Event of Default"  
1242 as defined in the Tax-Exempt Note Purchase Agreement shall have occurred and be  
1243 continuing under the Tax-Exempt Note Purchase Agreement and notice, if required under  
1244 the terms of the Tax-Exempt Note Purchase Agreement, of the event shall have been  
1245 furnished to the City in accordance with the terms of the Tax-Exempt Note Purchase  
1246 Agreement;  
1247

1248           (d) an "Event of Default" shall have occurred and be continuing under the Note  
1249 Purchase Agreement and notice, if required under the terms of the Note Purchase  
1250 Agreement, of the event shall have been furnished to the City by the Bank;  
1251

1252           (e) if default by the City in the performance or observance of any other of the  
1253 covenants, agreements or conditions on its part in the Ordinance or in the Commercial  
1254 Paper Notes occurs, and the default shall continue for a period of sixty (60) days after



written notice has been received by the City from the Bank, a Holder of the Program Notes, the Dealer or the Issuing and Paying Agent; provided, however, if the default cannot be cured within the sixty (60) day period but corrective action to cure the default is commenced and diligently pursued by the City until the default is corrected, the default shall not be an Event of Default; and provided, further, that so long as the Agreement is in effect and the Bank has not failed to honor a properly presented and conforming request for an Advance under the Agreement, no Event of Default shall be deemed to have occurred under this clause (d) unless the notice provided above to the City has been consented to in writing by the Bank;

(f) if there shall occur the dissolution (without a successor being named to assume the rights and obligations) or liquidation of the City or the filing by the City of a voluntary petition in bankruptcy, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceeding for the adjustment of its debts instituted under the provisions of the Bankruptcy Code, as amended, or under any similar act in any jurisdiction which may be in effect or enacted; or

(g) if an order or decree shall be entered, with the consent or acquiescence of the City, appointing a receiver or receivers of the Systems, or any part of the Systems, or of the rents, fees, charges or other revenues of the Systems, or if an order or decree, having been entered without the consent or acquiescence of the City shall not be vacated or discharged or stayed within ninety (90) days of its entry;

then any event described above is an "Event of Default" under the Ordinance.

**SECTION 32: SUITS AT LAW OR IN EQUITY AND MANDAMUS.** In case any Event of Default occurs, then the Holder of any Program Note at the time outstanding, is entitled to proceed to protect and enforce its rights by appropriate judicial proceeding as the Holder or the Bank, respectively, determines most effectual to protect and enforce its rights, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in the Ordinance, or in aid of the exercise of any power granted in the Ordinance, or to enforce any other legal or equitable right vested in the Holders of any Program Notes by the Ordinance or the Program Notes or by law. The provisions of the Ordinance shall be a contract with each and every Holder of Program Notes and the duties of the City shall be enforceable by any Noteholder or the Bank, respectively, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

1295        **SECTION 33: REMEDIES NOT EXCLUSIVE.** No remedy conferred upon or  
1296 reserved to the Bank or the Holders of Program Notes by the Ordinance is intended to be  
1297 exclusive of any other remedy, and every remedy shall be cumulative, and may be  
1298 exercised at any time or from time to time, and as often as may be necessary, by the Bank  
1299 or the Holder of any one or more of the Program Notes.

1300  
1301        **SECTION 34: SUPPLEMENTAL ORDINANCES.** Except as permitted by the  
1302 Ordinance, including **Section 28**, with respect to the issuance or incurrence of additional  
1303 obligations of the City secured by the Pledged Revenues, the City will not adopt any  
1304 supplemental ordinances with respect to the Pledged Revenues, pursuant to the ordinances  
1305 authorizing the issuance of Priority Lien Obligations or otherwise, without the prior written  
1306 consent of the Bank.

1307  
1308        **SECTION 35: AMENDMENTS OR MODIFICATIONS WITHOUT**  
1309 **CONSENT OF HOLDERS OF PROGRAM NOTES.** The Ordinance and the rights and  
1310 obligations of the City and of the Holders of Program Notes may be modified or amended  
1311 at any time by a supplemental ordinance, without notice to or the consent of any Holders,  
1312 but only to the extent permitted by law, and, subject to the rights of the Bank and the  
1313 Holders of the Program Notes:

1314  
1315        (1) to add to the covenants and agreements of the City in the Ordinance, other  
1316 covenants and agreements thereafter to be observed, or to surrender any right or power  
1317 herein reserved to or conferred upon the City by the Ordinance;

1318  
1319        (2) to increase the principal amount of Similarly Secured Notes that may be  
1320 outstanding at any one time under the terms of the ordinances authorizing the issuance of  
1321 Similarly Secured Notes, or to issue additional commercial paper notes under the Act;  
1322 provided that, with respect to the Commercial Paper Notes, the City satisfies either (i) the  
1323 requirements of **Section 22(a)** in providing liquidity or credit support with respect to the  
1324 increased principal amount of Commercial Paper Notes authorized to be outstanding at any  
1325 one time or (ii) the requirements of **Section 22(b)** to issue the increased principal amount  
1326 of Commercial Paper Notes without liquidity and/or credit support;

1327  
1328        (3) to cure any ambiguity or inconsistency, or to cure or correct any defective  
1329 provision contained in the Ordinance, upon receipt by the City of an approving opinion of  
1330 Bond Counsel, that the amendment is necessary or advisable, and will more clearly express  
1331 the intent of the Ordinance;

1332  
1333        (4) to effect changes council determines are necessary or advisable in connection  
1334 with exercising the authority reserved to the City in **Section 22(b)**; or  
1335

(5) to supplement the security for the Notes, replace or provide additional credit or liquidity facilities, make changes, modifications or amendments as may be necessary or desirable in order to obtain the approval of the Ordinance by the Attorney General of Texas, as required by **Section 42**, or to obtain or maintain the granting of a rating on the Program Notes by a nationally recognized municipal bond rating agency, or change the form of the Program Notes, or make any other changes in the provisions that are necessary or desirable and which shall not materially adversely affect the security, rights or interests of the Bank or the Holders of the Program Notes;

provided, however, that no amendment to the Ordinance or of the Program Notes is permitted to:

- (A) Make any change in the maturity of any outstanding Program Notes or the Bank Note;
- (B) Reduce the rate of interest borne by any outstanding Program Notes or the Bank Note;
- (C) Reduce the amount of the principal payable on any outstanding Program Notes or the Bank Note;
- (D) Modify the terms of payment of principal of or interest on the outstanding Program Notes or the Bank Note, or impose any conditions with respect to their payment;
- (E) Affect the security, rights or interests of the Bank or the Holders of less than all of the outstanding Program Notes; or
- (F) Reduce or restrict the pledge made pursuant to **Section 19** for payment of the Program Notes or the Bank Note;

and provided, further, that no change, modification or amendment shall be made in the Ordinance or become valid and effective (i) without the approval of the change, modification or amendment by the Attorney General of the State of Texas, to the extent required by the Act, and (ii) without the prior written consent of the Bank (which, in the case of an amendment authorizing an increase in the principal amount of Program Notes at any one time outstanding, shall mean the written consent of the Bank providing, as of the effective date of the authority to issue additional Program Notes in excess of the maximum principal amount of Program Notes then authorized at any one time to be outstanding, the liquidity or credit support, if any, required by **Section 22(a)**).

1375           **SECTION 36: ADDITIONAL ACTIONS; EXTENSION OF CURRENT**  
1376 **LETTER OF CREDIT SUPPORTING THE TAXABLE COMMERCIAL PAPER**  
1377 **NOTES.** (a) Additional Actions. Any Authorized Representative, the Mayor, the City  
1378 Clerk, and the other officers of the City, each are authorized, jointly and severally, to do  
1379 any and all things and to execute and deliver any and all certificates, instruments and other  
1380 documents which they may deem necessary or advisable in order to consummate the  
1381 issuance, sale and delivery of the Program Notes and to effectuate the purposes of the  
1382 Ordinance, the Revolving Credit Agreement, the Fee Letter, the Dealer Agreement, the  
1383 Issuing and Paying Agent Agreement, the Note Purchase Agreement, the Note Paying  
1384 Agent Agreement and the Offering Memorandum. By passing the Ordinance, council  
1385 authorizes the payment of the fees and expenses incurred and to be paid by the City in  
1386 connection with the issuance, sale and delivery of the Program Notes and the execution  
1387 and delivery of the Revolving Credit Agreement, the Fee Letter, the Dealer Agreement, the  
1388 Note Purchase Agreement, the Note Paying Agent Agreement, and the Issuing and Paying  
1389 Agent Agreement, including, without limitation, fees of Rating Agencies.

1390  
1391           (b) Extension of Current Letter of Credit Supporting the Taxable Commercial Paper  
1392 Notes. Council authorizes the extension of the expiration date of the letter of credit  
1393 supporting the Taxable Commercial Paper Notes upon the determination by an Authorized  
1394 Representative that an extension is necessary and in the best interests of the City. Any  
1395 Authorized Representative, the Mayor, the City Clerk, and the other officers of the City,  
1396 each are authorized, jointly and severally, to do any and all things and to execute and  
1397 deliver any and all certificates, instruments and other documents deemed necessary or  
1398 advisable in order to extend the current letter of credit beyond its expiration date of October  
1399 15, 2017.

1400  
1401           **SECTION 37: LIMITATION OF BENEFITS WITH RESPECT TO THE**  
1402 **ORDINANCE.** With the exception of the rights or benefits expressly conferred by the  
1403 Ordinance, nothing expressed or contained in, or implied from the provisions of, the  
1404 Ordinance or the Program Notes is intended or should be construed to confer upon or give  
1405 to any person other than the City, the Holders of the Program Notes, the Bank, the Issuing  
1406 and Paying Agent, the Note Paying Agent, and the parties to the Dealer Agreement and the  
1407 Revolving Credit Agreement, any legal or equitable right, remedy or claim under or by  
1408 reason of or in respect to the Ordinance or any of its covenants, conditions, stipulations,  
1409 promises, agreements or provisions. The Ordinance and all of the covenants, conditions,  
1410 stipulations, promises, agreements and provisions are intended to be and shall be for and  
1411 inure to the sole and exclusive benefit of the City, the Holders of the Program Notes, the  
1412 Issuing and Paying Agent, the Note Paying Agent, and the parties to the Dealer Agreement  
1413 and the Revolving Credit Agreement.

1414  
1415           **SECTION 38: [RESERVED].**

SECTION 39: **ISSUING AND PAYING AGENT AGREEMENT; NOTE PAYING AGENT AGREEMENT; DEALER AGREEMENT; NOTE PURCHASE AGREEMENT.** (a) *Issuing and Paying Agent Agreement.* The Issuing and Paying Agent Agreement by and between the City and U.S. Bank National Association, relating to the Commercial Paper Notes, substantially in the form to the Ordinance as **Exhibit D**, is approved as to form and content, and, upon the approval of the City Attorney, whose approval shall be evidenced by executing the Issuing and Paying Agent Agreement, the City Manager is authorized to execute the Issuing and Paying Agent Agreement for and on behalf of the City, and the City Clerk or Deputy City Clerk is authorized to place the City seal on the Issuing and Paying Agent Agreement. Any Authorized Representative is hereby authorized to enter into any supplemental agreement with the Issuing and Paying Agent or with any successor Issuing and Paying Agent in order to implement the functions of the Issuing and Paying Agent or Registrar with respect to the Commercial Paper Notes. Any successor Issuing and Paying Agent shall be a financial institution of recognized national standing organized and existing under the laws of the United States of America or the State of Texas and which has trust powers. The successor Issuing and Paying Agent shall have assumed the duties of the Issuing and Paying Agent to be replaced before it shall be relieved of the obligation to perform the duties as Issuing and Paying Agent, and the successor Issuing and Paying Agent shall have executed an agreement substantially in the same form and substance as the Issuing and Paying Agent Agreement approved by the Ordinance.

(b) *Note Paying Agent Agreement.* The Note Paying Agent Agreement by and between the City and JPMorgan Chase Bank, National Association, relating to the Direct Purchase Notes, substantially in the form to the Ordinance as **Exhibit E**, is approved as to form and content, and, upon the approval of the City Attorney, whose approval shall be evidenced by executing the Note Paying Agent Agreement, the City Manager is authorized to execute the Note Paying Agent Agreement for and on behalf of the City, and the City Clerk or Deputy City Clerk is authorized to place the City seal on the Note Paying Agent Agreement. Any Authorized Representative is hereby authorized to enter into any supplemental agreement with the Note Paying Agent or with any successor Note Paying Agent in order to implement the functions of the Note Paying Agent with respect to the Direct Purchase Notes. Any successor Note Paying Agent shall be a financial institution of recognized national standing organized and existing under the laws of the United States of America or the State of Texas and which has trust powers. The successor Note Paying Agent shall have assumed the duties of the Note Paying Agent to be replaced before it shall be relieved of the obligation to perform the duties as Note Paying Agent, and the successor Note Paying Agent shall have executed an agreement substantially in the same form and substance as the Note Paying Agent Agreement approved by the Ordinance.

1456 (c) *Dealer Agreement.* Council confirms the appointment of Goldman, Sachs & Co.  
1457 to continue to serve as the dealer for the Commercial Paper Notes (Dealer). The Dealer  
1458 Agreement by and between the City and the Dealer pertaining to the sale, from time to  
1459 time, of Program Notes or the purchase of Commercial Paper Notes from the City, at a fee  
1460 as set forth in the Dealer Agreement, substantially in the form to the Ordinance as **Exhibit**  
1461 **F**, is approved as to form and content, and, upon the approval of the Dealer Agreement by  
1462 the City Attorney, whose approval shall be evidenced by executing the Dealer Agreement,  
1463 the City Manager is authorized to execute and deliver the Dealer Agreement for and on  
1464 behalf of the City, and the City Clerk or Deputy City Clerk is authorized to place the City  
1465 seal on the Dealer Agreement. Any Authorized Representative is hereby authorized to  
1466 enter into any supplemental agreement with the Dealer or with any successor Dealer in  
1467 order to implement the functions of the Dealer with respect to the Commercial Paper Notes.  
1468

1469 (d) *Note Purchase Agreement.* The Note Purchase Agreement by and between the  
1470 City and the Bank, relating to the sale and purchase of Direct Purchase Notes, substantially  
1471 in the form to the Ordinance as **Exhibit G**, is approved as to form and content, and, upon  
1472 the approval of the City Attorney, whose approval shall be evidenced by executing the  
1473 Note Purchase Agreement, the City Manager is authorized to execute the Note Purchase  
1474 Agreement for and on behalf of the City, and the City Clerk or Deputy City Clerk is  
1475 authorized to place the City seal on the Note Purchase Agreement. Any Authorized  
1476 Representative is hereby authorized to enter into any supplemental agreement with the  
1477 Bank or with any successor to the Bank in order to implement the functions of the Bank  
1478 with respect to the purchase and sale of Direct Purchase Notes.  
1479

1480 **SECTION 40: OPINION OF BOND COUNSEL.** The City shall cause the legal  
1481 opinion of Bond Counsel as to the validity of the Program Notes to be furnished to any  
1482 Holder without cost. In connection with the annual updating of the Offering Memorandum  
1483 (as provided in accordance with **Section 41**) if required by the Dealer Agreement, an annual  
1484 updated opinion of Bond Counsel shall be furnished, at the cost of the City or the Dealer,  
1485 as may be requested by either the City or the Dealer.  
1486

1487 **SECTION 41: USE OF OFFERING MEMORANDUM.** The use by the Dealer  
1488 of the Offering Memorandum, prepared by the Dealer in consultation with Authorized  
1489 Representatives, in connection with the sale of Program Notes, and the distribution of the  
1490 Offering Memorandum by the Dealer, is approved. Any Authorized Representative is  
1491 hereby authorized to provide to the Dealer information as may be necessary, in the  
1492 reasonable judgment of the Dealer, to prepare and update, on an annual basis, the Offering  
1493 Memorandum.  
1494

1495 **SECTION 42: APPROVAL OF ATTORNEY GENERAL.** The Authorized  
1496 Representative shall submit the Ordinance and a transcript of proceedings to the Attorney

General of the State of Texas for approval, as required by the Act. No Program Notes shall be sold or delivered by an Authorized Representative until the Attorney General of the State of Texas shall have approved the Ordinance, the Agreement, the Note Purchase Agreement and other agreements and proceedings as may be required by the Act. Council authorizes the payment of the fee of the Office of the Attorney General of the State of Texas for the examination of the proceedings relating to the issuance of the Program Notes, in the amount determined in accordance with the provisions of Section 1202.004, Texas Government Code.

**SECTION 43: SEVERABILITY.** If any one or more of the covenants, agreements or provisions contained in the Ordinance shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason be held invalid, then those covenants, agreements or provisions shall be null and void and shall be separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions of, or of the Notes issued under, the Ordinance.

**SECTION 44: EXPIRATION OF AUTHORITY UNDER ORDINANCE NO. 20140828-076.** Upon the effective date of the Revolving Credit Agreement, the authority of the City to issue commercial paper notes under Ordinance No. 20140828-076 shall expire.

**SECTION 45: EFFECTIVE DATE.** The Ordinance is passed on one reading as authorized by Section 1201.028, Texas Government Code, and is effective immediately upon its passage.

**PASSED AND APPROVED**

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\_\_\_\_\_, 2017

\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne M. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk