

ORDINANCE NO. 20220901-__

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF AUSTIN, TEXAS CERTIFICATES OF OBLIGATION, TAXABLE SERIES 2022; ESTABLISHING PARAMETERS FOR THE SALE OF THE CERTIFICATES; APPROVING RELATED DOCUMENTS; ENACTING OTHER PROVISIONS RELATED TO THE CERTIFICATES; AND DECLARING AN IMMEDIATE EFFECTIVE DATE

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

PART 1. FINDINGS.

On June 16, 2022, Council of the City authorized and directed that a notice of its intention to issue the Certificates (hereinafter defined) be published in a newspaper as required by Section 271.049 of the Texas Local Government Code; and

The notice was published in *The Austin American-Statesman*, as required by Section 271.049 of the Texas Local Government Code, on June 24, 2022 and July 1, 2022; and

No petition, signed by 5% of the qualified electors of the City as permitted by Section 271.049 of the Texas Local Government Code protesting the issuance of the Certificates, has been filed; and

No bond proposition to authorize the issuance of bonds for the same purpose as any of the projects being financed with the proceeds of the Certificates was submitted to the voters of the City during the preceding three years and failed to be approved; and

Council is now authorized and empowered to proceed with the issuance and sale of the Certificates pursuant to Subchapter C of Chapter 271 of the Texas Local Government Code; and

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

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

PART 2. DEFINITIONS.

The terms used in this Ordinance have the following meanings:

“Authentication Certificate” means the Paying Agent/Registrar’s Authentication Certificate, in the form identified in the Form of Certificate.

“Authorized Denomination” means \$5,000 or any integral multiple of \$5,000.

46 “Authorized Representative” means the City Manager or Acting or Interim City Manager
47 or the Chief Financial Officer of the City.

48 “Bidding Instructions” means the bidding instructions prepared in connection with the sale
49 of the Certificates pursuant to a competitive sale.

50
51 “Business Day” means a day other than a Saturday, a Sunday, a legal holiday, or a day on
52 which banking institutions are authorized by law or executive order to close in the City or the city
53 where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located.

54 “Certificates” means the certificates of obligation of the City to be issued under authority
55 of this Ordinance, including the Initial Certificate.

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

57 “Chapter 363” means Chapter 363 of the Texas Health and Safety Code.

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

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

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

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

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

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

64 “Comptroller” means the Comptroller of Public Accounts of the State of Texas.

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

66 “Defeasance Securities” means (i) direct, noncallable obligations of the United States of
67 America, including obligations that are unconditionally guaranteed by the United States of
68 America and (ii) noncallable obligations of an agency or instrumentality of the United States of
69 America, including obligations that are unconditionally guaranteed or insured by the agency or
70 instrumentality and that, on the date of approval of the proceedings authorizing the issuance of the
71 refunding bonds, are rated as to investment quality by a nationally recognized investment rating
72 firm not less than “AAA” or its equivalent.

73 “Defeased Certificate” means any Certificate and the interest on the Certificate that is
74 considered to be paid, retired and no longer outstanding under the terms of this Ordinance,
75 specifically PART 17 of this Ordinance.

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

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

80 “Event of Default” has the meaning described in PART 18 of this Ordinance.

81 “Expiration Date” means March 1, 2023.

82 “Future Escrow Agreement” means an escrow agreement or other similar instrument with
83 respect to Defeased Certificates.

84 “Initial Certificate” has the meaning described in PART 12 of this Ordinance.

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

87 “MSRB” means the Municipal Securities Rulemaking Board.

88 “Official Bid Form” means the bid form to be submitted by bidders seeking to purchase
89 the Certificates pursuant to a competitive sale.

90 “Paying Agent/Registrar” means _____, and its successors and assigns as
91 provided in the Paying Agent/Registrar Agreement.

92 “Paying Agent/Registrar Agreement” means the agreement between the City and the
93 Paying Agent/Registrar with respect to the Certificates in the form approved by an Authorized
94 Representative, and any successor agreement.

95 “Project” means a project for which proceeds of the Certificates are spent consistent with
96 the purposes described in clause (a) of PART 3 of this Ordinance.

97 “Purchase Agreement” shall mean the Purchase Agreement among the Issuer and the
98 Underwriters, pertaining to the purchase of the Certificates sold pursuant to a negotiated sale.

99
100 “Registered Owner” means the owner of any Certificate as recorded in the Registration
101 Books.

102 “Registration Books” means the books or records of registration and transfer of the
103 Certificates maintained by the Paying Agent/Registrar.

104 “Rule” means SEC Rule 15c2-12.

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

106 “Surplus Revenues” shall mean those revenues from the operation of the City’s solid waste
107 disposal system remaining after payment of all operation and maintenance expenses of the system
108 and other obligations incurred to which the revenues have been or shall be encumbered by a lien
109 on and pledge of such revenues superior to the lien on and pledge of the revenues to the
110 Certificates.

111 “Underwriters” shall mean the investment banking firm or firms named in a Purchase
112 Agreement, if any, relating to the sale of Certificates pursuant to a negotiated sale or the entity or

entities listed in the Official Bid Form, if any, accepted by the City as the best bid for the Certificates pursuant to a competitive sale.

PART 3. CERTIFICATES AUTHORIZED.

The Certificates shall be issued in accordance with the Constitution, laws of the State of Texas, and the Charter of the City, in one or more series, in the aggregate principal amount not to exceed \$16,500,000 for the purposes of (a) financing the Projects described in Schedule I and (b) paying the costs of issuance associated with the sale of the Certificates. The aggregate principal amount and the designation of Certificates issued pursuant to this Ordinance shall be set forth in the Bidding Instructions and the Official Bid Form or the Purchase Agreement. The Certificates shall be numbered consecutively from R-1 upward, except the Initial Certificate shall be numbered T-1.

PART 4. SALE PARAMETERS.

(a) The Certificates shall be issued in any Authorized Denomination as fully registered obligations, without interest coupons, payable to the respective initial registered owners of the Certificates, or to the registered assignee or assignees of the Certificates, maturing not later than 40 years from their issue date, payable serially or otherwise on the dates, in the years and in the principal amounts, and dated and numbered, all as set forth in the Official Bid Form or Purchase Agreement.

(b) In accordance with Chapter 1371, each Authorized Representative, acting for and on behalf of the City, is authorized to seek competitive bids for the sale of the Certificates authorized to be sold by this Ordinance, and is hereby authorized to prepare and distribute the Bidding Instructions and the Official Bid Form with respect to seeking competitive bids for the sale of the Certificates. Each Authorized Representative, acting for and on behalf of the City, is authorized to negotiate with the Underwriters to complete a negotiated sale of the Certificates pursuant to the terms and conditions of the Purchase Agreement. The Bidding Instructions or the Purchase Agreement shall contain the terms and conditions relating to the sale of the Certificates, including the date bids for the purchase of the Certificates are to be received, the date of the Certificates, any additional designation or title by which the Certificates shall be known, the aggregate principal amount of the Certificates to be sold, the price at which the Certificates will be sold, the years in which the Certificates will mature, the rate or rates of interest to be borne by each such maturity, the interest payment periods, and all other matters relating to the issuance, sale and delivery of the Certificates so sold including, without limitation, the use of municipal bond insurance for the Certificates. The Certificates shall bear interest at the rates per annum set forth in the Official Bid Form accepted as the best bid or the Purchase Agreement. The interest on the Certificates shall be payable to the Registered Owner of any Certificate on the dates and in the manner provided in Exhibit A. Interest on the Certificates shall be payable on the dates set forth in the Official Bid Form or Purchase Agreement, until maturity or prior redemption. Each Authorized Representative, acting for and on behalf of the City, is hereby authorized to receive and accept bids for the sale of Certificates in accordance with the Bidding Instructions on such date as determined by an Authorized Representative or to negotiate the sale of the Certificates pursuant to the terms of the Purchase Agreement. The Certificates shall be sold at a competitive or negotiated sale at such price as an Authorized Representative of the City shall determine to be the most advantageous to the City, which determination shall be evidenced by the execution of the

Official Bid Form submitted by the best and winning bidder or the Purchase Agreement. One Certificate in the principal amount maturing on each maturity date as set forth in the Official Bid Form or Purchase Agreement shall be delivered to the Underwriters, and the Underwriters shall have the right to exchange such Certificates as provided in PART 7 of this Ordinance without cost. Exhibit A shall be revised to reflect the terms of the sale of the Certificates as reflected in the Official Bid Form accepted as the best bid for the Certificates or the Purchase Agreement. The Certificates shall initially be registered in the name as set forth in the Official Bid Form or Purchase Agreement. In case any officer whose signature shall appear on the Certificates shall cease to be such officer before the delivery of the Certificates, the signature shall be valid and sufficient for all purposes the same as if the officer had remained in office until delivery. An Authorized Representative shall not execute the Official Bid Form or the Purchase Agreement unless the applicable Underwriter has confirmed to an Authorized Representative that either it has made disclosure filings to the Texas Ethics Commission in accordance with Section 2252.908, Texas Government Code or is exempt from making such filings under Section 2252.908(c)(4), Texas Government Code. Within thirty (30) days of receipt of any disclosure filings from the best bidder for the Certificates, the City will acknowledge such disclosure filings in accordance with the rules of the Texas Ethics Commission. Any finding or determination made by an Authorized Representative relating to the issuance and sale of the Certificates shall have the same force and effect as a finding or determination made by Council; *provided*, that (i) the price to be paid for the Certificates shall not be less than 95% of the aggregate principal amount of the Certificates sold, plus accrued interest, if any, (ii) the Certificates shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, (iii) the Certificates shall not have a final maturity beyond September 1, 2042, and (iv) prior to the execution of the Official Bid Form or the Purchase Agreement by an Authorized Representative, the Certificates shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long-term debt instruments.

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

It is in the best interests of the City for the Certificates to be sold through a competitive or negotiated sale, and Council authorizes each Authorized Representative, individually but not collectively, to execute the Official Bid Form or Purchase Agreement to evidence the acceptance by the City of the terms and conditions relating to the sale of the Certificates, at the price the Authorized Representative executing the Official Bid Form or Purchase Agreement determines to be the most advantageous to the City. The conditions set forth in PART 13 of this Ordinance must be met prior to any Authorized Representative executing the Official Bid Form to evidence the acceptance by the City of the best and winning bid submitted or the Purchase Agreement.

The authority of an Authorized Representative to execute the Official Bid Form or Purchase Agreement shall expire at 11:59 p.m. on the Expiration Date. Certificates sold pursuant to the Bidding Instructions and an Official Bid Form or the Purchase Agreement executed on or before the Expiration Date may be delivered after the Expiration Date.

In establishing the aggregate principal amount of the Certificates of any series, the Authorized Representative shall establish an amount which shall be sufficient (together with any

premium received from the sale of the Certificates) to provide for the purposes for which the Certificates are authorized. The Certificates shall be sold at such price, with and subject to such terms, as set forth in the Bidding Instructions and the Official Bid Form or the Purchase Agreement.

(c) Any finding or determination made by an Authorized Representative relating to the issuance and sale of the Certificates and the execution of the Official Bid Form or Purchase Agreement shall have the same force and effect as a finding or determination made by Council.

PART 5. REDEMPTION PROVISIONS.

(a) The Certificates may be subject to redemption, at the option of the City, prior to their stated maturities to the extent and in the manner provided in the Bidding Instructions and the Official Bid Form or the Purchase Agreement. The years of maturity of the Certificates called for redemption at the option of the City prior to stated maturity shall be selected by the City. The Certificates or any portion redeemed within a maturity shall be selected by lot, or other customary random selection method, by the Paying Agent/Registrar; *provided*, that during any period in which ownership of the Certificates is determined only by a book entry at DTC, if fewer than all of the Certificates of the same maturity and bearing the same interest rate are to be redeemed, the particular Certificates of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and DTC.

(b) The Certificates may be subject to mandatory sinking fund redemption prior to their stated maturities, to the extent and in the manner provided in the Official Bid Form or Purchase Agreement.

(c) At least 30 days before the date fixed for redemption, the City shall cause a written notice of the redemption to be deposited in the United States mail, first-class postage prepaid, addressed to each Registered Owner at the address shown on the Registration Books. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates which are to be redeemed, plus accrued interest to the date fixed for redemption. If the notice of redemption is given, and if provision for payment is made, all as provided above, the Certificates, or the portions of the Certificates, which are to be redeemed, automatically shall be redeemed prior to their scheduled maturities, and shall not bear interest after the date fixed for their redemption, and shall not be regarded as outstanding except for the right of the Registered Owner to receive the redemption price plus accrued interest to the date fixed for redemption from the Paying Agent/Registrar out of the funds provided for payment. The Paying Agent/Registrar shall record in the Registration Books all redemptions of principal of the Certificates or any portion of the principal. If a portion of any Certificate shall be redeemed, one or more substitute Certificates having the same maturity date, bearing interest at the same rate, in any Authorized Denomination, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion of the Certificates, will be issued to the Registered Owner upon the surrender for cancellation, at the expense of the City, all as provided in this Ordinance. In addition, the City shall cause the Paying Agent/Registrar to give notice of any redemption in the manner set forth in PART 5. The failure to cause notice to be given, however, or any defect in the notice, shall not affect the validity or effectiveness of the redemption. Unless the Paying Agent/Registrar has received funds sufficient to pay the redemption price of the Certificates to be redeemed before giving of a notice of redemption, the notice of redemption may state the City may condition redemption on the receipt by the Paying

Agent/Registrar of sufficient funds on or before the date fixed for the redemption, or on the satisfaction of any other prerequisites set forth in the notice of redemption. If a notice of conditional redemption is given and such prerequisites to the redemption and sufficient funds are not received, the notice shall be of no force and effect, the City shall not redeem the Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, that the Certificates have not been redeemed.

(d) If a notice of redemption is given and sufficient funds are not received for the payment of the required redemption price for the Certificates which are to be redeemed, the notice shall be of no force and effect, the City shall not redeem the Certificates, and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, that the Certificates have not been redeemed.

(e) Each redemption notice required by this Ordinance shall contain a description of the Certificates to be redeemed, including the complete name of the Certificates, the series, the date of issue, the interest rate, the maturity date, the CUSIP number, the amounts of the Certificates called for redemption, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Certificate may be redeemed, including a contact person and telephone number. This notice may also state that the redemption is conditioned upon receipt of sufficient funds for the payment of the required redemption price for the Certificates which are to be redeemed by the date fixed for redemption. All redemption payments made by the Paying Agent/Registrar to the Registered Owner of the Certificates shall include CUSIP numbers relating to each amount paid to such Registered Owner.

PART 6. INTEREST.

The Certificates shall bear interest at the rates per annum set forth in the Official Bid Form or Purchase Agreement. The interest shall be payable to the Registered Owner of any Certificate in the manner provided and on the dates stated in the Official Bid Form or Purchase Agreement. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

PART 7. ADDITIONAL CHARACTERISTICS OF THE CERTIFICATES.

(a) The City shall keep, or cause to be kept, at the Designated Payment/Transfer Office, the Registration Books, and the Paying Agent/Registrar shall act as the registrar and transfer agent for the City to keep books or records and make the transfers and registrations under the reasonable regulations as the City and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make transfers and registrations as provided in this Ordinance. It shall be the duty of the Paying Agent/Registrar to obtain from the Registered Owner and record in the Registration Books the address of the Registered Owner to which payments with respect to the Certificates shall be mailed, as provided in this Ordinance. The City, or its designee, shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. Ownership of each Certificate may be transferred in the Registration Books only upon presentation and surrender of the Certificate to the Paying Agent/Registrar for transfer of registration and cancellation, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing the assignment of the Certificate, or any portion of the Certificate, in any Authorized Denomination, to the

assignee or assignees, and the right of the assignee or assignees to have the Certificate or any portion of the Certificate registered in the name of the assignee or assignees. Upon the assignment and transfer of any Certificate, a new substitute obligation or Certificates shall be issued in exchange for the Certificate in the manner provided in this Ordinance.

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

(c) The Paying Agent/Registrar shall act as the paying agent for paying the principal of, premium, if any, and interest on, the Certificates, and to act as the agent of the City to exchange or replace Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all exchanges and replacements, as provided in this Ordinance.

(d) Each Certificate may be exchanged for fully registered Certificates as set forth in this Ordinance. Each Certificate issued and delivered pursuant to this Ordinance, to the extent of the unredeemed principal amount, may, upon surrender at the Designated Payment/Transfer Office, together with a written request duly executed by the Registered Owner or its assignee or assignees, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, at the option of the Registered Owner or its assignee or assignees, as appropriate, be exchanged for fully registered Certificates, without interest coupons, in the form prescribed in the Form of Certificate, in any Authorized Denomination (subject to the requirement stated below that each substitute Certificate shall have a single stated maturity date), as requested in writing by the Registered Owner or its assignee or assignees, in an aggregate principal amount equal to the unredeemed principal amount of any Certificate or Certificates so surrendered, and payable to the appropriate Registered Owner, assignee, or assignees. If a portion of any Certificate is assigned and transferred, each Certificate issued in exchange shall have the same maturity date and bear interest at the same rate as the Certificate for which it is being exchanged. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate. The Paying Agent/Registrar shall exchange or replace Certificates as provided in this Ordinance, and each fully registered Certificate delivered in exchange for or replacement of any Certificate or portion of a Certificate as permitted or required by any provision of this Ordinance shall constitute one of the Certificates for all purposes of this Ordinance and may again be exchanged or replaced. Any Certificate delivered in exchange for or replacement of another Certificate before the first scheduled interest payment date on the Certificates (as stated on the face of the Certificate) shall be dated the same date, but each substitute Certificate delivered on or after the first scheduled interest payment date shall be dated the interest payment date preceding the date on which the substitute Certificate is delivered, unless the substitute Certificate is delivered on an interest payment date, in which case it shall be dated as of the date of delivery; however, if at the time of delivery of any substitute Certificate the interest on the Certificate for which it is being exchanged has not been paid, then the substitute Certificate shall be dated the date to which interest has been paid in full. On each substitute Certificate issued in exchange for or replacement of any Certificate issued under this Ordinance there shall be printed on the Certificate the Authentication Certificate. An authorized representative of the Paying Agent/Registrar shall,

336 before the delivery of any substitute Certificate, date the substitute Certificate in the manner set
337 forth above, and manually sign and date the Authentication Certificate, and no substitute
338 Certificate shall be considered to be issued or outstanding unless the Authentication Certificate is
339 executed. The Paying Agent/Registrar promptly shall cancel all Certificates surrendered for
340 exchange or replacement. No additional ordinances, orders, or resolutions need be passed or
341 adopted by Council or any other body or person to accomplish the exchange or replacement of any
342 Certificate, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery
343 of the substitute Certificates in the manner prescribed in this Ordinance. Pursuant to Chapter 1206,
344 the duty of exchange or replacement of any Certificate is imposed on the Paying Agent/Registrar,
345 and, upon the execution of the Authentication Certificate, the exchanged or replaced obligation
346 shall be valid, incontestable, and enforceable in the same manner and with the same effect as the
347 Initial Certificate. Neither the City nor the Paying Agent/Registrar shall be required to transfer or
348 exchange any Certificate selected for redemption, in whole or in part, within 45 calendar days of
349 the date fixed for redemption; *provided, however*; the limitation of transfer shall not be applicable
350 to an exchange by the Registered Owner of the uncalled principal of a Certificate.

351 (e) All Certificates issued in exchange or replacement of any other Certificate or
352 portion of a Certificate (i) shall be issued in fully registered form, without interest coupons, with
353 the principal of and interest on the Certificates to be payable only to the Registered Owners,
354 (ii) may be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned,
355 (iv) may be exchanged for other Certificates, (v) shall have the characteristics, (vi) shall be signed
356 and sealed, and (vii) the principal of and interest on the Certificates shall be payable, all as
357 provided, and in the manner required or indicated in this Ordinance and the Official Bid Form or
358 Purchase Agreement.

359 (f) The City shall pay the Paying Agent/Registrar's reasonable and customary fees and
360 charges for making transfers of Certificates, but the Registered Owner of any Certificate requesting
361 the transfer shall pay any taxes or other governmental charges required for the transfer. The
362 Registered Owner of any Certificate requesting any exchange shall pay the Paying
363 Agent/Registrar's reasonable and standard or customary fees and charges for exchanging any
364 Certificate or a portion of a Certificate, together with any required taxes or governmental charges,
365 all as a condition precedent to the exercise of the privilege of exchange, except in the case of the
366 exchange of an assigned and transferred Certificate or Certificates or any portion or portions in
367 any Authorized Denomination, the fees and charges will be paid by the City. In addition, the City
368 covenants with the Registered Owners of the Certificates that it will (i) pay the reasonable and
369 standard or customary fees and charges of the Paying Agent/Registrar for its services with respect
370 to the payment of the principal of and interest on the Certificates, when due, and (ii) pay the fees
371 and charges of the Paying Agent/Registrar for services with respect to the transfer or registration
372 of Certificates, and with respect to the exchange of Certificates solely to the extent stated above.

373 (g) An Authorized Representative is authorized to execute and deliver the Paying
374 Agent/Registrar Agreement. The City covenants with the Registered Owners of the Certificates
375 that at all times while the Certificates are outstanding the City will provide a competent and legally
376 qualified bank, trust company, or other entity duly qualified and legally authorized to act as and
377 perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that
378 the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option,
379 change the Paying Agent/Registrar upon not less than 60 days' written notice to the Paying
380 Agent/Registrar. In the event that the entity at any time acting as Paying Agent/Registrar (or its
381 successor by merger, acquisition, or other method) should resign or otherwise stop acting as such,

the City covenants that it will promptly appoint a competent and legally qualified national or state banking institution organized and doing business under the laws of the United States of America or of any state, authorized under the laws to exercise trust powers, subject to supervision or examination by federal or state authority, and whose qualifications substantially are similar to the previous Paying Agent/Registrar to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy of these Registration Books), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice to be sent by the new Paying Agent/Registrar to each Registered Owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be considered to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

PART 8. FORM OF CERTIFICATES.

The Certificates shall be signed with the manual or facsimile signatures of the Mayor and the City Clerk, and the seal of the City shall be affixed or impressed on the Certificates. The form of all Certificates, including the form of the Comptroller's Registration Certificate to accompany the Initial Certificate, the form of the Authentication Certificate, and the Form of Assignment to be printed on each Certificate, shall be, respectively, substantially in the form set forth in Exhibit A, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance and the Official Bid Form or Purchase Agreement.

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

(a) The Interest and Sinking Fund (which may include the designation or title by which a series of Certificates shall be known, as determined pursuant to PART 4(b) of this Ordinance) is created and it shall be established and maintained at an official depository of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City and shall be used only for paying the interest on and principal of the Certificates. All ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any Certificate is outstanding and unpaid, Council shall compute and ascertain the rate and amount of ad valorem tax, based on the latest approved tax rolls of the City, with full allowances being made for tax delinquencies and costs of tax collections, which will be sufficient to raise and produce the money required to pay the interest on the Certificates as the interest comes due, and to provide a sinking fund to pay the principal (including mandatory sinking fund redemption payments, if any) of the Certificates as the principal matures, but never less than 2% of the outstanding principal amount of the Certificates as a sinking fund each year. The rate and amount of ad valorem tax needed to fund this obligation is ordered to be and is hereby levied against all taxable property in the City for each year while any Certificate is outstanding and unpaid, and the ad valorem tax shall be assessed and collected each year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes necessary to pay the interest on and principal of the Certificates, as the interest comes due, and the principal matures or comes due through operation of the mandatory sinking fund redemption, if any, as provided in the Official Bid Form or Purchase Agreement, are pledged for this purpose, within the limit set by law. The City appropriates from current funds on hand and directs the

transfer for deposit into the Interest and Sinking Fund moneys as may be necessary to pay debt service on the Certificates scheduled to occur prior to receipt of taxes levied to pay such debt service. Money in the Interest and Sinking Fund, at the option of the City, may be invested in the securities or Certificates as permitted under applicable law and the City's investment policy. Any securities or Certificates in which money is invested shall be kept and held in trust for the benefit of the owners of the Certificates and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the Interest and Sinking Fund. Interest and income derived from the investment of money in the Interest and Sinking Fund shall be credited to the Interest and Sinking Fund.

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

PART 10. REVENUES; APPLICABILITY OF CHAPTER 1208.

(a) The Certificates are additionally secured by and shall be payable from the Surplus Revenues. The Surplus Revenues are pledged by the City pursuant to authority of Chapter 363, specifically Section 363.135. The City shall promptly deposit the Surplus Revenues on their receipt to the credit of the Interest and Sinking Fund created pursuant to PART 9, to pay the principal and interest on the Certificates. The amount of Surplus Revenues pledged to the payment of the Certificates shall not exceed \$1,000.

(b) Chapter 1208 applies to the issuance of the Certificates and the pledge of ad valorem taxes and the Surplus Revenues granted by the City under PARTS 9 and 10 of this Ordinance, and the pledge is valid, effective, and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid so that the pledge of the ad valorem taxes and Surplus Revenues granted by the City is to be subject to the filing requirements of Chapter 9, then to preserve to the registered owners of the Certificates the perfection of the security interest in the pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9 and enable a filing to perfect the security interest in the pledge.

PART 11. DAMAGED, LOST, STOLEN OR DESTROYED CERTIFICATES.

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

(b) Application for replacement of any damaged, mutilated, lost, stolen, or destroyed Certificate shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Certificate, the applicant for a replacement obligation shall furnish to the City and to the Paying Agent/Registrar the security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect to the Certificate. Also, in every case of loss, theft, or destruction of a Certificate, the applicant shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of the Certificate. In

every case of damage or mutilation of a Certificate, the applicant shall surrender to the Paying Agent/Registrar for cancellation the damaged or mutilated Certificate.

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

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

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

PART 12. SUBMISSION OF PROCEEDINGS TO ATTORNEY GENERAL.

The Mayor, or his designee, and each Authorized Representative, is authorized to have control of the Certificates and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination and approval by the Texas Attorney General and their registration by the Comptroller. The City shall submit a single certificate of obligation to the Texas Attorney General, in the aggregate principal amount of the Certificates sold and containing the interest rates and schedule of principal payment dates, all as set forth in the Official Bid Form or Purchase Agreement (the "Initial Certificate"). Upon registration of the Initial Certificate, the Comptroller (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate accompanying the Initial Certificate, and the seal of the Comptroller shall be impressed, or placed in facsimile, on the Initial Certificate. The Initial Certificate shall be numbered T-1. After registration by the Comptroller, delivery of the Certificates shall be made to the Underwriters, under and subject to the general supervision and direction of the Mayor or an Authorized Representative, against receipt by the City of all amounts due to the City under the terms of sale, and the Initial Certificate shall be cancelled. 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 Certificates, in the amount determined in accordance with the provisions of Section 1202.004, Texas Government Code.

509 **PART 13. SALE OF CERTIFICATES; OFFICIAL STATEMENT.**

510 (a) The Certificates shall be sold to the Underwriters at the price set forth in the Official
511 Bid Form or Purchase Agreement, and delivery of the Certificates to the Underwriters shall be
512 made upon receipt of payment in accordance with the terms of the Official Bid Form or Purchase
513 Agreement. An Authorized Representative is authorized and directed to execute the Official Bid
514 Form or Purchase Agreement on behalf of the City, and the Mayor, Mayor Pro Tem, City Manager
515 or Acting or Interim City Manager, Chief Financial Officer, City Clerk and all other officials,
516 agents and representatives of the City are authorized to execute and deliver such agreements,
517 certificates, instruments and other documents, and do any and all things necessary or desirable to
518 satisfy the conditions set out in the documents, to provide for the issuance and delivery of the
519 Certificates.

520 (b) Council ratifies, authorizes and approves, in connection with the sale of the
521 Certificates, the preparation and distribution of the Preliminary Official Statement and a final
522 Official Statement, substantially in the form of the Preliminary Official Statement, containing
523 additional information and amendments as may be necessary to conform to the terms of the
524 Certificates, this Ordinance and the Official Bid Form or Purchase Agreement, and the Preliminary
525 Official Statement is deemed final as of its date within the meaning and for the purposes of
526 paragraph (b)(1) of the Rule. An Authorized Representative is authorized to approve such
527 amendments and supplements to the Official Statement as either of them shall deem necessary or
528 appropriate. The Mayor and City Clerk are authorized to execute the final Official Statement by
529 manual, facsimile or electronic signature and/or to deliver a certificate pertaining to the final
530 Official Statement as prescribed in the Official Statement or in the Official Bid Form or Purchase
531 Agreement, dated as of the date of payment for and delivery of the Certificates.

532 (c) The Mayor, Mayor Pro Tem, City Manager or Acting or Interim City Manger, City
533 Clerk, Chief Financial Officer and all other officials, agents and representatives of the City are
534 authorized to take actions as any officer, official, agent or representative shall approve in seeking
535 ratings on the Certificates from one or more nationally recognized statistical ratings organizations,
536 or any confirmation of ratings issued by a rating agency, and these actions are ratified and
537 confirmed.

538 (d) Proceeds from the sale of the Certificates shall be disbursed in the amounts and for
539 the purposes set forth in the closing letter of instructions. An Authorized Representative may
540 provide for the establishment of any fund, account or subaccount as deemed necessary or
541 appropriate for the safekeeping and administration of proceeds from the sale of the Certificates
542 pending their disbursement for authorized purposes.

543 (e) An Authorized Representative shall not execute the Official Bid Form or Purchase
544 Agreement unless each of the Underwriters has confirmed to an Authorized Representative that
545 either it has made disclosure filings to the Texas Ethics Commission in accordance with Section
546 2252.908, Texas Government Code or is exempt from making filings under Section
547 2252.908(c)(4), Texas Government Code. Within 30 days of receipt of the execution of the
548 Official Bid Form or Purchase Agreement, disclosure filings received from any of the
549 Underwriters will be acknowledged by the City in accordance with the rules of the Texas Ethics
550 Commission.

551 **PART 14. CERTIFICATES NOT ISSUED AS TAX-EXEMPT OBLIGATIONS.**

552 The City does not intend to issue the Certificates in a manner such that the Certificates
553 would constitute obligations described in section 103(a) of the Code and all applicable temporary,
554 proposed and final regulations and procedures promulgated thereunder or promulgated under the
555 Internal Revenue Code of 1954, to the extent applicable to the Code.

556 **PART 15. CONTINUING DISCLOSURE OBLIGATION.**

557 (a) *Annual Reports.*

558 (i) The City shall provide annually to the MSRB, (A) within six months after
559 the end of each fiscal year of the City, financial information and operating data with respect
560 to the City of the general type included in the final Official Statement authorized by
561 PART 13 of this Ordinance, being information of the type described in the final Official
562 Statement, including financial statements of the City if audited financial statements of the
563 City are then available, and (B) if not provided as part such financial information and
564 operating data, audited financial statements of the City, when and if available. Any
565 financial statements to be provided shall be (x) prepared in accordance with the accounting
566 principles described in the final Official Statement, or such other accounting principles as
567 the City may be required to employ from time to time pursuant to state law or regulation,
568 and in substantially the form included in the final Official Statement, and (y) audited, if the
569 City commissions an audit of its financial statements and the audit is completed within the
570 period during which they must be provided. If the audit of financial statements is not
571 complete within 12 months after any fiscal year end, then the City shall file unaudited
572 financial statements within the 12-month period and audited financial statements for the
573 applicable fiscal year, when and if the audit report on the financial statements becomes
574 available.

575 (ii) If the City changes its fiscal year, it will notify the MSRB of the change
576 (and of the date of the new fiscal year end) before the next date the City would be required
577 to provide financial information and operating data pursuant to this PART.
578

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

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

- 587 (i) Principal and interest payment delinquencies;
588 (ii) Non-payment related defaults, if material;
589 (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
590 (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
591 (v) Substitution of credit or liquidity providers, or their failure to perform;

- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (vii) Modifications to rights of holders of the Certificates, if material;
- (viii) Certificate calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Certificates, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor trustee or change in the name of the trustee, if material;
- (xv) Incurrence of a Financial Obligation of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Obligated Person, any of which affect security holders, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar event under the terms of a Financial Obligation of the Obligated Person, and which reflect financial difficulties.

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

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

As used in clauses (xv) and (xvi) above, the term "Financial Obligation" means: (i) a debt obligation; (ii) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) a guarantee of (i) or (ii); however, the term Financial Obligation shall not include Municipal Securities as to which a final official statement has been provided to the MSRB consistent with the Rule; the term "Municipal Securities" means securities which are direct obligations of, or obligations guaranteed as to principal or interest by, a state or any political subdivision thereof, or any agency or instrumentality

of a state or any political subdivision thereof, or any municipal corporate instrumentality of one or more states and any other Municipal Securities described by Section 3(a)(29) of the Securities Exchange Act of 1934, as the same may be amended from time to time; and the term "Obligated Person" means the City.

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

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

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

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

The provisions of this PART may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this PART, as amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since the offering as well as the changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes an amendment) of the outstanding Certificates consent to the amendment or (b) a person that is unaffiliated with the City (such as nationally-recognized bond counsel) determines that the amendment will not materially impair the interest of the holders and beneficial owners of the Certificates. If the City amends the provisions of this PART, it shall include with the next financial information and operating data provided in accordance with subsection (a) of this PART an explanation, in narrative form, of the reason for

the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that the provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates. Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City agrees to undertake such obligation in accordance with the Rule as amended.

PART 16. DTC REGISTRATION.

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

PART 17. DEFEASANCE.

(a) *Defeased Certificates.* Any Certificate will be treated as a Defeased Certificate, except to the extent provided in subsection (d) of this PART, when payment of the principal of the Certificate, plus interest to the due date (whether the due date be by reason of maturity, redemption

or otherwise) either (i) shall have been made or caused to be made in accordance with the terms of this Ordinance, or (ii) shall have been provided for on or before the due date by irrevocably depositing with or making available to the Paying Agent/Registrar or any commercial bank or trust company authorized to serve as escrow agent for the Certificates in accordance with a Future Escrow Agreement for the payment of the Certificate (1) lawful money of the United States of America sufficient to make the payment or (2) Defeasance Securities to mature as to principal and interest in the amounts and at the time as will ensure the availability, without reinvestment, of sufficient money to provide for the payment, and when proper arrangements have been made by the City with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. There shall be delivered to the Paying Agent/Registrar a certificate of a qualified financial professional or a report from a firm of certified public accountants evidencing the sufficiency of the deposit made pursuant to clause (ii) above. At the time as a Certificate shall be considered to be a Defeased Certificate, the Certificate and the interest on that Certificate shall no longer be secured by, payable from, or entitled to the benefits of the ad valorem taxes levied and pledged as provided in this Ordinance, and the principal and interest shall be payable solely from the money or Defeasance Securities.

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

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

(d) *Selection of Certificates for Defeasance.* In the event that the City elects to defease less than all of the principal amount of Certificates of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, the amount of Certificates by the random method as it considers fair and appropriate.

PART 18. DEFAULT AND REMEDIES.

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

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

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

(b) *Remedies for Default.*

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

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

(c) *Remedies Not Exclusive.*

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

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

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

(iv) None of the members of Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

PART 19. OFFICIALS MAY ACT ON BEHALF OF THE CITY.

(a) The Mayor, the Mayor Pro Tem, the City Clerk, the City Manager or Acting or Interim City Manager, any Assistant City Manager, the Chief Financial Officer, or any Deputy

Chief Financial Officer, and all other officers, employees, and agents of the City, and each of them, shall be authorized, empowered, and directed to do and perform all acts and things and to execute, acknowledge, and deliver in the name and under the seal and on behalf of the City all instruments as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the Official Bid Form or Purchase Agreement, the offering documents prepared in connection with the sale of the Certificates, or the Paying Agent/Registrar Agreement. In case any officer whose signature appears on any Certificate shall stop being the officer before the delivery of the Certificate, the signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until the delivery.

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

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

PART 20. RULES OF CONSTRUCTION.

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

PART 21. CONFLICTING ORDINANCES REPEALED.

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

PART 22. IMMEDIATE EFFECT.

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

[The remainder of this page is intentionally left blank.]

DRAFT

PASSED AND APPROVED AND EFFECTIVE SEPTEMBER 1, 2022.

ATTEST:

Steve Adler,
Mayor, City of Austin, Texas

Myrna Rios,
City Clerk, City of Austin, Texas

(SEAL)

APPROVED:

Deborah Thomas,
Acting City Attorney, City of Austin, Texas

EXHIBIT A

Form of Certificate

NO. R-__

\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AUSTIN, TEXAS
CERTIFICATE OF OBLIGATION, TAXABLE SERIES 2022

Maturity Date

—

Interest Rate

_____%

Dated Date

October __, 2022

CUSIP No.

ON THE MATURITY DATE SPECIFIED ABOVE, THE CITY OF AUSTIN, TEXAS (the “City”), in the Counties of Travis, Williamson and Hays, hereby promises to pay to

or to the registered assignee hereof (either being hereinafter called the “registered owner”) the principal amount of:

_____ DOLLARS

and to pay interest thereon, from the Dated Date specified above, to the Maturity Date specified above, or the date of its redemption prior to scheduled maturity, at the rate of interest per annum specified above, with said interest being payable on March 1, 2023, and semiannually on each September 1 and March 1 thereafter; except that if the Paying Agent/Registrar’s Authentication Certificate appearing on the face of this Certificate is dated later than March 1, 2023, such interest is payable semiannually on each September 1 and March 1 following such date.

INTEREST ON THIS CERTIFICATE shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the registered owner hereof upon presentation and surrender of this Certificate at maturity or redemption prior to maturity at the designated corporate trust office in _____, Texas (the “Designated Payment/Transfer Office”) of _____, which is the “Paying Agent/Registrar” for this Certificate. The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the registered owner hereof as shown by the Registration Books kept by the Paying Agent/Registrar at the close of business on the record date, which is the 15th day of the month next preceding such interest payment date by check, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof at its address as it appears on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. Any accrued interest due at maturity or upon redemption of this Certificate prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for redemption and payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the registered owner of this

Certificate that no later than each principal payment and/or interest payment date for this Certificate it will make available to the Paying Agent/Registrar from the Interest and Sinking Fund as defined by the ordinance authorizing the Certificates (the "Ordinance") the amounts required to provide for the payment, in immediately available funds, of all principal of, premium, if any, and interest on the Certificates, when due.

IN THE EVENT OF A NON-PAYMENT of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest ("Special Payment Date," which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each registered owner of a Certificate appearing on the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

IF THE DATE for the payment of the principal of, premium, if any, or interest on this Certificate shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. Notwithstanding the foregoing, during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

THIS CERTIFICATE is one of a series of Certificates of like tenor and effect except as to number, principal amount, interest rate, maturity and option of redemption, dated as of the Dated Date specified above, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$____, for the purpose of providing funds with which to pay contractual obligations to be incurred by the City, to-wit: making and acquiring various public improvements for the City, as described in the Ordinance, and the payment of fiscal, engineering and legal fees incurred in connection therewith.

ON SEPTEMBER 1, 20____, or on any date thereafter, the Certificates of this series maturing on September 1, 20____, and thereafter may be redeemed prior to their scheduled maturities, at the option of the City, in whole, or in part, at a price equal to the principal amount thereof, without premium, plus accrued interest to the date fixed for redemption. The years of maturity of the Certificates called for redemption at the option of the City prior to stated maturity shall be selected by the City. The Certificates or portions thereof redeemed within a maturity shall be selected by lot or other customary random selection method by the Paying Agent/Registrar; *provided*, that during any period in which ownership of the Certificates is determined only by a book entry at a securities depository for the Certificates, if fewer than all of the Certificates of the same maturity and bearing the same interest rate are to be redeemed, the particular Certificates of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

AT LEAST thirty (30) days prior to the date fixed for any redemption, a written notice of redemption shall be given to the registered owner of each Certificate or a portion thereof being called for redemption by depositing such notice in the United States mail, first class postage prepaid, addressed to each such registered owner at his address shown on the Registration Books of the Paying Agent/Registrar. By the date fixed for any redemption due provision shall be made by the City with the Paying Agent/Registrar for the payment of the required redemption price for this Certificate or the portion hereof which is to be so redeemed, plus accrued interest thereon to the date fixed for redemption. If notice of redemption is given, and if due provision for such payment is made, all as provided above, this Certificate, or the portion hereof which is to be so redeemed, thereby automatically shall be redeemed prior to its scheduled maturity, and shall not bear interest after the date fixed for its redemption, and shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price plus accrued interest to the date fixed for redemption from the Paying Agent/Registrar out of the funds provided for payment. The Paying Agent/Registrar shall record in the Registration Books all redemptions of principal of this Certificate or any portion hereof. If a portion of any Certificate shall be redeemed, a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Ordinance. With respect to any optional redemption of the Certificates, unless certain prerequisites to such optional redemption required by the Ordinance have been met and money sufficient to pay the principal of, premium, if any, and interest on the Certificates to be redeemed will have been received by the Paying Agent/Registrar prior to giving such notice, such notice may state that the optional redemption will, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such money by the Paying Agent/Registrar on or prior to the date fixed for such redemption or upon any prerequisite set forth in the notice of redemption. If a notice of conditional redemption is given and such prerequisites to the redemption are not satisfied, such notice will be of no force and effect, the City will not redeem such Certificates and the Paying Agent/Registrar will give notice in the manner in which the notice of redemption was given, to the effect that such Certificates will not be redeemed.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the denomination of any integral multiple of \$5,000 (an "Authorized Denomination"). As provided in the Ordinance, this Certificate may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate registered owner, assignee, or assignees, as the case may be, having the same maturity date, and bearing interest at the same rate, in any Authorized Denomination as requested in writing by the appropriate registered owner, assignee, or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar at its Designated Payment/Transfer Office for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be transferred and registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying

Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the registered owner. The one requesting such exchange shall pay the Paying Agent/Registrar's reasonable standard or customary fees and charges for exchanging any Certificate or portion thereof. The foregoing notwithstanding, in the case of the exchange of an assigned and transferred Certificate or Certificates or any portion or portions thereof, such fees and charges of the Paying Agent/Registrar will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, or exchange as a condition precedent to the exercise of such privilege. In any circumstance, neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Certificate so selected for redemption, in whole or in part, within forty-five (45) calendar days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the registered owner of the uncalled principal of a Certificate.

WHENEVER the beneficial ownership of this Certificate is determined by a book entry at a securities depository for the Certificates, the foregoing requirements of holding, delivering or transferring this Certificate shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and promptly will cause written notice thereof to be mailed to the registered owners of the Certificates.

IT IS HEREBY CERTIFIED AND RECITED that this Certificate has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Certificate have been performed, existed, and been done in accordance with law; that this Certificate is a direct obligation of the City, issued on the full faith and credit thereof, that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged for such payment, within the limits prescribed by law, and that a limited pledge (not to exceed \$1,000) of the surplus revenues from the operation of the City's solid waste disposal system remaining after payment of all operation and maintenance expenses thereof and any other obligations heretofore or hereafter incurred to which such revenues have been or shall be encumbered by a lien on and pledge of such revenues superior to the lien on and pledge of such revenues to the Certificates, have been pledged as additional security for the Certificates.

BY BECOMING the registered owner of this Certificate, the registered owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Certificate and the Ordinance constitute a contract between each registered owner hereof and the City.

IN WITNESS WHEREOF, this Certificate has been duly executed on behalf of the City, under its official seal, in accordance with law.

Myrna Rios,
City Clerk, City of Austin, Texas

Steve Adler,
Mayor, City of Austin, Texas

(SEAL)

* * * * *

DRAFT

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE:

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Certificate is not accompanied by an
executed Registration Certificate of the Comptroller
of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the proceedings adopted by the City as described in the text of this Certificate; and that this Certificate has been issued in conversion of and exchange for or replacement of a certificate/certificates or a portion of a certificate or certificates of an issue which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____

_____,
Paying Agent/Registrar

By: _____
Authorized Representative

* * * * *

FORM OF COMPTROLLER'S CERTIFICATE
(ATTACHED TO THE INITIAL CERTIFICATE):

OFFICE OF COMPTROLLER :

:

REGISTER NO. _____

STATE OF TEXAS :

:

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion of the Attorney General of the State of Texas approving this Certificate and that this Certificate has been registered this day by me.

WITNESS MY HAND and seal of office at Austin, Texas _____.

Comptroller of Public Accounts of the
State of Texas

(SEAL)

* * * * *

FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or Taxpayer Identification Number of Transferee

/_____/

(please print or typewrite name and address, including zip code of Transferee)

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to register the transfer of the within Certificate on the books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be
guaranteed by a member firm of the
New York Stock Exchange or a
commercial bank or trust company.

NOTICE: The signature above must
correspond with the name of the Registered
Owner as it appears upon the front of this
Certificate in every particular, without
alteration or enlargement or any change
whatsoever.

The Initial Certificate shall be in the form set forth above, except that the form of the single fully registered Initial Certificate shall be modified as follows:

- (i) immediately under the name of the note the headings "Maturity Date", "Interest Rate", "Dated Date" and "CUSIP No." shall be omitted; and
- (ii) Paragraph one shall read as follows:

Registered Owner:

Principal Amount: Sixteen Million Five Hundred Thousand Dollars

Dated Date: October 13, 2022

ON THE MATURITY DATE SPECIFIED ABOVE, THE CITY OF AUSTIN, TEXAS (the "City"), in the Counties of Travis, Williamson and Hays, promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on September 1 in each of the years and in principal installments in accordance with the following schedule:

<u>Maturity</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		

and to pay interest thereon, from the Dated Date specified above, to the Maturity Date specified above, or the date of its redemption prior to scheduled maturity, at the rate of interest per annum specified above, with said interest being payable on March 1, 2023, and semiannually on each September 1 and March 1 thereafter; except that if the Paying Agent/Registrar's Authentication Certificate appearing on the face of this Certificate is dated later than March 1, 2023, such interest is payable semiannually on each September 1 and March 1 following such date.

SCHEDULE I

The following projects are to be funded with the proceeds of the Certificates:

1. The design and construction of Waller Creek Park improvements.
2. Acquisition of and improvements to an existing building for use as a protective shelter for victims of domestic violence.
3. Payment of fiscal, engineering and legal fees incurred in connection with the projects funded with the proceeds of the Certificates.

DRAFT