

**ORDINANCE NO. 20140522-040**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF  
CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM  
REVENUE REFUNDING BONDS, SERIES 2014.**

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

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

“Bond Purchase Agreement” means the Bond Purchase Agreement related to the sale of the Bonds, between the City and the Underwriters.

“Bonds” means the “CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2014” authorized for issuance by the Twenty-Third Supplement.

“Business Day” means a day other than a Sunday, Saturday, a legal holiday, or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

“Chapter 9” means V.T.C.A., Business & Commerce Code, Chapter 9.

“Chapter 551” means V.T.C.A., Government Code, Chapter 551.

“Chapter 1201” means V.T.C.A., Government Code, Chapter 1201.

“Chapter 1204” means V.T.C.A., Government Code, Chapter 1204.

“Chapter 1206” means V.T.C.A., Government Code, Chapter 1206.

“Chapter 1207” means V.T.C.A., Government Code, Chapter 1207.

“Chapter 1208” means V.T.C.A., Government Code, Chapter 1208.

“Chapter 1371” means V.T.C.A., Government Code, Chapter 1371.

“Code” means the Internal Revenue Code of 1986.

“Holders” means the registered owners or holders of the Bonds.

“Master Ordinance” means Ordinance No. 000608-56A passed by council on June 8, 2000.

“Paying Agent/Registrar” means U.S. Bank National Association, or other financial institution specified in the Bond Purchase Agreement.

“Previously Issued Parity Water/Wastewater Obligations” means the outstanding (1) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2001C”, (2) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2002A”, (3) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2004A”, (4) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2005”, (5) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2005A”, (6) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2006”, (7) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2006A”, (8) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2007”, (9) “City of Austin, Texas, Water and Wastewater System Variable Rate Revenue Refunding Bonds, Series 2008”, together with certain regularly scheduled payments under the Series 2008 Interest Rate Management Agreement and the Series 2008 Liquidity Agreement (as these terms are defined in Ordinance No. 20080306-053), (10) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2009”, (11) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2009A”, (12) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2010”, (13) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2010A”, (14) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2010B (Direct Subsidy-Build America Bonds)”, (15) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2011”, (16) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2012”, and (17) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2013A”.

“Prior Supplements” mean Ordinances Nos. 020718-15, 030206-35, 040930-83, 050519-37, 051020-051, 20051117-060, 20061116-051, 20071108-081, 20080306-052, 20080306-053, 20081211-77, 20091105-051, 20091217-004, 20101118-074, 20111103-051, 20120628-101 and 20130620-074 authorizing the issuance of the Previously Issued Parity Water/Wastewater Obligations.

“Refunded Bonds” means the principal amount of each of the series of bonds identified in **Schedule I** attached to the Twenty-Third Supplement and specified in the Bond Purchase Agreement.

“Refunded Notes” means the principal amount of the Series A Notes as specified in the Bond Purchase Agreement.

"Refunded Obligations" means collectively, the Refunded Bonds and the Refunded Notes.

"Security Register" shall have the meaning given in Section 4 of the Twenty-Third Supplement.

"Series A Notes" means the City of Austin, Texas Combined Utility Systems Commercial Paper Notes, Series A, up to an aggregate principal amount of \$350,000,000 to finance the costs of additions, improvements and extensions to the City's water and wastewater system and the City's electric light and power system.

"Twenty-Third Supplement" means this Ordinance No. 20140522-040 authorizing the issuance of the Bonds.

"Underwriters" means the investment banking firms purchasing the initial offering of the Bonds, as described in the Bond Purchase Agreement.

The terms used in the Twenty-Third Supplement and not otherwise defined shall have the meanings given in the Master Ordinance or the Prior Supplements.

In accordance with the provisions of Chapter 1207, the City is authorized to issue refunding bonds and deposit the proceeds of sale directly with any place of payment for the Refunded Obligations, or other authorized depository, and such deposit, when made in accordance with Chapter 1207, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations.

In accordance with the provisions of Chapter 1371, the City has authorized by ordinance and provided for the issuance and sale of the Series A Notes and the refunding of the Series A Notes for the purposes of converting the Refunded Notes into long-term fixed rate debt of the City and restructuring the debt payable from the revenues of the System is in the best interest of the City, and the manner in which the refunding of the Refunded Notes is being executed does not make it practicable to make the determinations otherwise required by Section 1207.008(a)(2), Texas Government Code.

In accordance with the provisions of Chapter 1207, council is delegating to the Pricing Officer (as defined below) the authority to establish the terms and details related to the issuance and sale of the Bonds including: (i) the principal amount of the Refunded Notes and the Refunded Bonds to be refunded; (ii) the form and designation of the Bonds; (iii) the principal amount of the Bonds and the amount of the Bonds to mature in each year; (iv) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of the Bonds; and (v) any other details relating to the issuance, sale, delivery, and/or exchange of the Bonds, all within certain specified parameters set forth in the Twenty-Third Supplement. In the Bond Purchase Agreement, the Pricing Officer shall determine, based upon advice provided by the City's financial

advisor, that acceptance of the purchase price for the Bonds is in the best interests of the City.

The Refunded Notes should be refunded and refinanced into long term obligations at this time to enable the City's Water and Wastewater Department to continue utilizing its allocated share of Series A Notes and it is a public purpose and in the best interests of the City to refund the Refunded Bonds in order to achieve a present value debt service savings. The savings shall be included in a certificate to be executed by the Pricing Officer, all in accordance with the provisions of Section 1207.007, Texas Government Code, and Section 4 of the Twenty-Third Supplement.

The Bonds shall be secured by a lien on and pledge of the Net Revenues on parity with the outstanding "Parity Water/Wastewater Obligations" issued in accordance with and under the terms and provisions of the Master Ordinance and the Prior Supplements. There are no Previously Issued Separate Lien Obligations outstanding. Council affirms that the Master Ordinance provides that no additional revenue obligations shall be issued on parity with the Prior First Lien Obligations or the Prior Subordinate Lien Obligations.

**SECTION 2: AUTHORIZATION – DESIGNATION – PRINCIPAL AMOUNT - PURPOSE.** Revenue bonds of the City shall be and are authorized to be issued in the maximum aggregate principal amount determined as provided in Section 4 of the Twenty-Third Supplement and designated the "CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2014" (the "Bonds"), for the purpose of refinancing and refunding the Refunded Obligations identified in the Bond Purchase Agreement, and paying costs of issuance, in conformity with the Constitution and laws of the State of Texas, including Chapter 1207.

**SECTION 3: FULLY REGISTERED OBLIGATIONS-AUTHORIZED DENOMINATIONS – STATED MATURITIES - DATE.** The Bonds shall be issued as fully registered obligations, without coupons, shall be dated as provided in the Bond Purchase Agreement (the "Bond Date") and shall be in denominations of \$5,000 or any integral multiple thereof (within a Stated Maturity), shall be numbered consecutively from R-1 upward (except as provided in Section 9 of the Twenty-Third Supplement) and shall become due and payable on May 15 and/or November 15 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the details of the Bonds as set forth in the Bond Purchase Agreement.

The Bonds shall bear interest on the unpaid principal amounts from the date and at the rate(s) per annum as specified in the Bond Purchase Agreement (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on May 15 and November 15 in each year, commencing on the date specified in the Bond Purchase Agreement, until maturity or prior redemption.

#### **SECTION 4: DELEGATION OF AUTHORITY TO PRICING OFFICER.**

(a) As authorized by Section 1207.007, Texas Government Code, the City Manager or Chief Financial Officer of the City (any one of them, the "Pricing Officer") is authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in the Twenty-Third Supplement, including selection of the principal amount of the Refunded Notes to be refunded, the specified maturities or series in whole or in part of the Refunded Bonds to be refunded, determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the first interest payment date, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the designation of a paying agent/registrar, if different from the Paying Agent/Registrar, and all other matters relating to the issuance, sale, and delivery of the Bonds, all of which shall be specified in the Bond Purchase Agreement, provided that:

(i) the aggregate original principal amount of the Bonds shall not exceed \$310,000,000;

(ii) the Bonds shall bear interest at a rate not greater than 15.0% per annum and the net effective interest rate (as defined in Chapter 1204) for the Bonds shall not exceed 15.0%;

(iii) With respect to the Bonds issued to refund the Refunded Bonds, the refunding must produce a net present value debt service savings of at least 4.25%, net of any contribution by the City; and

(iv) the maximum maturity for the Bonds shall not extend beyond November 15, 2045.

The execution of the Bond Purchase Agreement shall evidence the sale date of the Bonds by the City to the Underwriters.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. This delegation shall expire if not exercised by the Pricing Officer on or prior to January 31, 2015. The Bonds shall be sold by negotiated sale to the Underwriters, at such price and with and subject to such terms as set forth in the Bond Purchase Agreement.

## **SECTION 5: TERMS OF PAYMENT - PAYING AGENT /REGISTRAR.**

The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the Holders appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of U.S. Bank National Association, Houston, Texas, to serve as Paying Agent/Registrar for the Bonds is approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided in the Twenty-Third Supplement, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached as **Exhibit C**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Pricing Officer is authorized to execute and deliver this Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice of the change to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or redemption of the Bonds, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated office in Houston, Texas (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose names appear in the Security Register at the close of business on the Record Date (the last Business Day of the month next preceding each interest payment date), and interest shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds is a day other than a Business Day, then the date for payment shall be the next succeeding Business Day; and payment on that date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities on a scheduled payment date, and for thirty (30) days thereafter, a new record date for the interest

payment for the maturity or maturities (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (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 Holder of such maturity or maturities appearing on the Security Register at the close of business on the last Business Day next preceding the date of mailing of the notice.

**SECTION 6: REGISTRATION-TRANSFER-EXCHANGE OF BONDS - PREDECESSOR BONDS.** The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Bonds issued under the provisions of the Twenty-Third Supplement. Any Bond may, in accordance with its terms and the terms of the Twenty-Third Supplement, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his or her authorized agent, upon surrender of the Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange executed by the Holder or by his or her authorized agent, in form satisfactory to the Paying Agent/ Registrar.

Upon surrender for transfer of any Bond (other than the Initial Bond(s) authorized in Section 9 of the Twenty-Third Supplement) at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds executed on behalf of, and furnished by, the City of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) authorized in Section 9 of the Twenty-Third Supplement) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of, and furnished by, the City, to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under the Twenty-Third Supplement, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds under this Section shall be made without expense or service charge to the Holder, except as otherwise provided in the Twenty-Third Supplement, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer under the provisions of the Twenty-Third Supplement are defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the Bond or Bonds registered and delivered in the exchange or transfer. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered under Section 19 of the Twenty-Third Supplement and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for redemption of the Bond; provided, however, this limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

#### **SECTION 7: BOOK-ENTRY-ONLY TRANSFERS AND TRANSACTIONS.**

Notwithstanding the provisions contained in Sections 4, 5 and 6 of the Twenty-Third Supplement relating to the payment, and transfer/exchange of the Bonds, the City approves and authorizes the use of the "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representation, by and between the City and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC, who shall hold the Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and



provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. The Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of the Bonds not held by DTC under the Depository Agreement shall be made in accordance with the provisions of Sections 4, 5 and 6 of the Twenty-Third Supplement.

**SECTION 8: EXECUTION - REGISTRATION.** The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal reproduced or impressed on the Bonds and countersigned by the City Clerk. The signature of the officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be executed on behalf of the City, notwithstanding that those individuals or either of them shall cease to hold the offices at the time of delivery of the Bonds to the Underwriters and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201.

No Bond shall be entitled to any right or benefit under the Twenty-Third Supplement, or be valid or obligatory for any purpose, unless there appears on the Bond either a certificate of registration substantially in the form provided in the FORM OF BOND, manually executed by the Comptroller of Public Accounts of the State of Texas or his or her authorized agent, or a certificate of registration substantially in the form provided in the FORM OF BOND, manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either certificate upon any Bond signed shall be conclusive evidence, and the only evidence, that the Bond has been certified, registered and delivered.

**SECTION 9: INITIAL BOND(S).** The Bonds shall be initially issued either (i) as a single fully registered bond in the total principal amount specified in the Bond Purchase Agreement with principal installments to become due and payable as provided in the Bond Purchase Agreement and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each stated maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (the "Initial Bond(s)"). In either case, the Initial Bond(s) shall be registered in the name of the Underwriters or their designee. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Underwriters. Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the Underwriters, or their designee, shall cancel the Initial Bond(s) delivered and exchange for the Initial Bond(s) definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses

identified for the Holders; all pursuant to and in accordance with such written instructions from the Underwriters, or their designee, and any other information and documentation as the Paying Agent/Registrar may reasonably require.

**SECTION 10: FORMS.** The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of Registration, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in the FORM OF BOND set forth in **Exhibit A** to the Twenty-Third Supplement, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by the Twenty-Third Supplement, and may have such 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 any other legends and endorsements (including insurance legends in the event the Bonds, or any maturities of the Bonds, are purchased with insurance and any reproduction of an opinion of counsel) as may be established by the City or determined by the officers executing the Bonds as evidenced by their execution of the Bonds. Any portion of the text of any Bond may be set forth on the reverse of the Bond, with an appropriate reference on the face of the Bond.

The definitive Bonds and the Initial Bond(s) shall be printed, lithographed, or engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing the Bonds as evidenced by their execution of the Bonds.

**SECTION 11: CRITERIA FOR ISSUANCE OF PARITY WATER/WASTEWATER OBLIGATIONS.** The City has provided certain criteria and established certain covenants and agreements in relation to the issuance of Parity Water/Wastewater Obligations of the Water/Wastewater System pursuant to the Master Ordinance and Prior Supplements. The Twenty-Third Supplement provides for the authorization, issuance, sale, delivery, form, characteristics, provisions of payment, and security of the Bonds which are Parity Water/Wastewater Obligations. The Master Ordinance is incorporated by reference and made a part of the Twenty-Third Supplement for all purposes, except to the extent modified and supplemented by the Prior Supplements and the Twenty-Third Supplement, and the Bonds are declared to be Parity Water/Wastewater Obligations under the Master Ordinance and Prior Supplements. The City determines that it will have sufficient funds to meet the financial obligations of the Water/Wastewater System, including sufficient Net Revenues to pay the Annual Debt Service Requirements of the Bonds and the Previously Issued Parity Water/Wastewater Obligations and to meet all financial obligations of the City relating to the Water/Wastewater System.

**SECTION 12: PLEDGE.** Subject to the prior claim and lien on the Net Revenues of the Water/Wastewater System to the payment and security of the Prior First

Lien Obligations currently Outstanding, including the funding and maintenance of the special funds established and maintained for the payment and security of the Prior First Lien Obligations, the Net Revenues of the Water/Wastewater System are pledged to the payment of the Bonds, and the Bonds, together with the Prior Subordinate Lien Obligations and the Previously Issued Parity Water/Wastewater Obligations currently Outstanding, shall be equally and ratably secured by a parity lien on and pledge of the Net Revenues of the Water/Wastewater System in accordance with the terms of the Master Ordinance and the Twenty-Third Supplement. Additionally, the Bonds and the Previously Issued Parity Water/Wastewater Obligations shall be equally and ratably secured by a lien on the funds, if any, deposited to the credit of the Debt Service Fund in accordance with the terms of the Master Ordinance, the Prior Supplements and the Twenty-Third Supplement. It is ordained that the Parity Water/Wastewater Obligations, and the interest on the Parity Water/Wastewater Obligations, shall constitute a lien on the Net Revenues of the Water/Wastewater System and be valid and binding and fully perfected from and after the date of adoption of the Twenty-Third Supplement without physical delivery or transfer or transfer of control of the Net Revenues, the filing of the Twenty-Third Supplement or any other act, all as provided in Chapter 1208. The owners of the Parity Water/Wastewater Obligations shall never have the right to demand payment out of funds raised or to be raised by taxation, or from any source other than specified in the Master Ordinance, the Prior Supplements and the Twenty-Third Supplement.

Chapter 1208 applies to the issuance of the Bonds and the pledge of the Net Revenues of the Water/Wastewater System granted by the City under this Section 12, and the pledge is valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Net Revenues of the Water/Wastewater System granted by the City under this Section 12 is to be subject to the filing requirements of Chapter 9, then to preserve to the registered owners of the Bonds the perfection of the security interest in the pledge, the City agrees to take 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 to occur.

**SECTION 13: DEBT SERVICE FUND.** By reason of the issuance of the Bonds, the City need not establish any special accounts within the Debt Service Fund and following the delivery of the Bonds, the City agrees and covenants that in addition to the deposits for the payment of the Previously Issued Parity Water/Wastewater Obligations there shall be deposited to the credit of the Debt Service Fund an amount equal to one hundred percent (100%) of the amount required to fully pay the interest on and principal of the Bonds falling due on or before each maturity, mandatory redemption date and interest payment date, and such deposits shall be made in substantially equal monthly

amounts on or before the 14th day of each month beginning on or before the 14th day of the month next following the month the Bonds are delivered to the Underwriters.

The required monthly deposits to the Debt Service Fund for the payment of principal of and interest on the Bonds shall continue to be made in the manner provided in this Section until such time as (i) the total amount on deposit in the Debt Service Fund is equal to the amount required to fully pay and discharge all Parity Water/Wastewater Obligations then Outstanding or (ii) the Bonds are no longer outstanding, *i.e.*, fully paid as to principal and interest or all the Bonds have been refunded.

Any accrued interest received from the Underwriters shall be deposited in the Debt Service Fund, and shall be taken into consideration and reduce the amount of the monthly deposits that would otherwise be required to be deposited to the credit of the Debt Service Fund from the Net Revenues of the Water/Wastewater System.

**SECTION 14: RESERVE FUND.** In accordance with the provisions of the Prior Supplements authorizing the issuance of the Previously Issued Water/Wastewater Obligations, the Required Reserve Amount is funded with cash and Credit Facilities originally issued by MBIA Insurance Corporation, Financial Security Assurance Inc., Ambac Assurance Corporation and XL Capital Assurance Inc.

Acting in accordance with the provisions of the Master Ordinance, specifically Section 8 of the Master Ordinance, the City is exercising the authority to determine in a Supplement that it is not necessary for the Bonds to be secured by the Reserve Fund established for the benefit of the owners of the Parity Water/Wastewater Obligations. The City shall not make deposits of any Reserve Fund Obligations to the credit of the Reserve Fund for the benefit of the Bonds, and the City shall not be required, but reserves the right in the future, to make deposits of Reserve Fund Obligations to the credit of the Reserve Fund with respect to the Bonds.

Furthermore, in accordance with Section 10(d) of the Master Ordinance, council finds that the Gross Revenues will be sufficient to meet the obligations of the Water/Wastewater System, including sufficient Net Revenues to satisfy the Annual Debt Service Requirements of Parity Water/Wastewater Obligations currently Outstanding and the financial obligations of the City under any Credit Facility entered into with the Credit Facility providers.

**SECTION 15: PAYMENT OF BONDS.** On or before the first scheduled interest payment date, and on or before each subsequent interest payment date and principal payment date while any of the Bonds are Outstanding, the City shall cause an amount to be transferred to the Paying Agent/Registrar in immediately available funds from the Debt Service Fund sufficient to pay the interest on and the principal amount of the Bonds, as shall become due on each payment date, respectively, at maturity or by

redemption prior to maturity. The Paying Agent/Registrar shall destroy all paid Bonds and furnish the City with an appropriate certificate of cancellation or destruction.

## **SECTION 16: COVENANTS TO MAINTAIN TAX-EXEMPT STATUS.**

The City covenants to refrain from any action which would adversely affect, or to take any action to assure, the treatment of the Bonds as obligations described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(a) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use", as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds are so used, that amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(b) to take any action to assure that in the event that the "private business use" described in subsection (a) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate", within the meaning of section 141(b)(3) of the Code, to the governmental use;

(c) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any), is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(d) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(a) of the Code;

(e) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(f) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Bonds, other than investment property acquired with --

(1) proceeds of the Bonds invested for a reasonable temporary period, until such proceeds are needed for the purpose for which the Bonds are issued,

(2) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(g) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(h) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "excess earnings", within the meaning of section 148(f) of the Code, and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of a refunding bond, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of the issuance of the Bonds. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally-recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally-recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of the foregoing, the Mayor, the City Manager, any Assistant City Manager, the Chief Financial Officer of the City, any Deputy Financial Officer of the City and the City Treasurer may execute any certificates or other reports required by the Code and make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds. In order to facilitate compliance with the above clause (h), a "Rebate

Fund" is established by the City for the sole benefit of the United States of America, and the Rebate Fund shall not be subject to the claim of any other person, including without limitation the registered owners of the Bonds. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

#### **SECTION 16A: DISPOSITION OF BOND-FINANCED PROPERTY.**

The City covenants that the property constituting an improvement to the City originally financed with the proceeds of the Refunded Obligations will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel substantially to the effect that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds or the Refunded Obligations. The portion of the property comprising personal property and disposed of in the ordinary course of business shall not be treated as a transaction resulting in the receipt of cash or other compensation. The City shall not be obligated to comply with this covenant if it obtains an opinion of nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

#### **SECTION 17: AMENDMENT OF TWENTY-THIRD SUPPLEMENT.**

(a) Required Owner Consent for Amendments. The owners of a majority in Outstanding Principal Amount of the Bonds shall have the right from time to time to approve any amendment to the Twenty-Third Supplement which may be deemed necessary or desirable by the City; provided, however, nothing contained in the Twenty-Third Supplement shall permit or be construed to permit the amendment of the terms and conditions in the Twenty-Third Supplement so as to:

- (1) Make any change in the maturity of any of the Outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the Outstanding Bonds;
- (3) Reduce the amount of the principal payable on the Bonds;
- (4) Modify the terms of payment of principal of, premium, if any, or interest on the Outstanding Bonds or impose any conditions with respect to such payment;
- (5) Affect the rights of the owners of less than all of the Bonds then Outstanding;
- (6) Amend this subsection(a) of this Section; or
- (7) Change the minimum percentage of the principal amount of Bonds necessary for consent to any amendment;

unless such amendment or amendments be approved by the owners of all of the Bonds affected by the change or amendment then Outstanding.

(b) Notice of Amendment Requiring Consent. If at any time the City shall desire to amend the Twenty-Third Supplement under this Section, the City shall cause notice of the proposed amendment to be published in a financial newspaper or journal published in The City of New York, New York, and a newspaper of general circulation in the City, once during each calendar week for at least two successive calendar weeks. The notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the notice is on file with the Paying Agent/Registrar for the Bonds. Publication is not required, however, if notice in writing is given by United States Mail, first class postage prepaid, to each owner of the Bonds.

(c) Time Period for Obtaining Consent. If within one year from (i) the date of the first publication of notice or (ii) the date of the mailing by the Paying Agent/Registrar of written notice to the owners of the Bonds, whichever date first occurs if both methods of giving notice are used, the City shall receive an instrument or instruments executed by the owners of at least a majority in Outstanding Principal Amount of the Bonds consenting to and approving such amendment in substantially the form of the copy of such instrument on file with each Paying Agent/Registrar, the governing body of the City may pass the amendatory ordinance in substantially the same form.

(d) Revocation of Consent. Any consent given by the owner of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date for measuring the one year period to obtain consents noted in paragraph (c) above, and shall be conclusive and binding upon all future owners of the same Bonds during such period. At any time after six months from the date for measuring the one year period to obtain consents noted in paragraph (c) above, consent may be revoked by the owner who gave the consent, or by a successor in title, by filing written notice with the Paying Agent/Registrar for the Bonds and the City, but revocation shall not be effective if the owners of at least a majority in Outstanding Principal Amount of the then Outstanding Bonds as determined in accordance with this Section have, prior to the attempted revocation, consented to and approved the amendment.

(e) Implementation of Amendment. Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, the Twenty-Third Supplement shall be deemed to be amended, and the respective rights, duties and obligations of the City under the Twenty-Third Supplement and all the owners of then Outstanding Bonds shall be determined, exercised and enforced in all respects in accordance with the amendment.

(f) Amendment without Consent. The preceding provisions of this Section notwithstanding, the City by action of its governing body may amend the Twenty-Third Supplement for any one or more of the following purposes:

- (1) To add to the covenants and agreements of the City contained in the Twenty-Third Supplement, other covenants and agreements thereafter to



be observed, grant additional rights or remedies to the owners of the Bonds or to surrender, restrict or limit any right or power reserved in the Twenty-Third Supplement to or conferred upon the City;

(2) To make provision for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained in the Twenty-Third Supplement, or in regard to clarifying matters or questions arising under the Twenty-Third Supplement, as are necessary or desirable and not contrary to or inconsistent with the Twenty-Third Supplement and which shall not adversely affect the interests of the owners of the Bonds then Outstanding;

(3) To modify any of the provisions of the Twenty-Third Supplement in any other respect whatever, provided that such modification shall be, and be expressed to be, effective only after all the Bonds outstanding at the date of the adoption of such modification shall cease to be outstanding;

(4) To make amendments to the Twenty-Third Supplement as may be required, in the opinion of Bond Counsel, to ensure compliance with sections 103 and 141 through 150 of the Code and the regulations promulgated under and applicable to such sections and regulations;

(5) To make changes, modifications or amendments as may be necessary or desirable to allow the owners of the Bonds to avail themselves of a book-entry system for payments, transfers and other matters relating to the Bonds, which changes, modifications or amendments are not contrary to or inconsistent with other provisions of the Twenty-Third Supplement and which shall not adversely affect the interests of the owners of the Bonds;

(6) To make amendments to the Twenty-Third Supplement as permitted by Section 21(e) of the Twenty-Third Supplement;

(7) To make changes, modifications or amendments as may be necessary or desirable to obtain or maintain the granting of a rating on the Bonds by a Rating Agency or to obtain or maintain a Credit Agreement or a Credit Facility; and

(8) To make changes, modifications or amendments as may be necessary or desirable, which shall not adversely affect the interests of the owners of the Bonds, in order, to the extent permitted by law, to facilitate the economic and practical utilization of interest rate swap agreements, foreign currency exchange agreements, or similar types of agreements with respect to the Bonds. Notice of an amendment may be published by the City in the

manner described in clause (b) of this Section; provided, however, that the publication of a notice shall not constitute a condition precedent to the adoption of an amendatory ordinance and the failure to publish a notice shall not adversely affect the implementation of an amendment as adopted pursuant to the amendatory ordinance.

(g) Ownership. For the purpose of this Section, the ownership and other matters relating to all Bonds shall be established by the Security Register maintained by the Paying Agent/Registrar. Furthermore, the owner of any Bonds insured as to the payment of principal of and interest shall be deemed to be the insurance company providing the insurance coverage on the Bonds; provided the amendment to the Twenty-Third Supplement is an amendment that can be made with the consent of a majority in Outstanding Principal Amount of the Bonds and the insurance company is not in default with respect to its obligations under its insurance policy, if any.

**SECTION 18: FINAL DEPOSITS; GOVERNMENT OBLIGATIONS.** All or any of the Bonds shall be deemed to be paid, retired and no longer outstanding within the meaning of the Twenty-Third Supplement when payment of the principal of, and redemption premium, if any, on the Bonds, plus interest on the Bonds to the due date (whether the due date is by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms of the Bonds, or (ii) shall have been provided by irrevocably depositing with, or making available to, the Paying Agent/Registrar, in trust and irrevocably set aside exclusively for this payment, (1) money sufficient to make the payment or (2) Government Obligations, certified by an independent public accounting firm of national reputation, to mature as to principal and interest in amounts and at the times as will insure the availability, without reinvestment, of sufficient money to make this payment, and all necessary and proper fees, compensation and expenses of the Paying Agent/Registrar with respect to which the deposit is made shall have been paid or the payment thereof provided for the satisfaction of the Paying Agent/Registrar. Once a Bond shall be deemed to be paid under the Twenty-Third Supplement, it shall no longer be secured by or entitled to the benefit of the Twenty-Third Supplement, the Master Ordinance or a lien on and pledge of the Net Revenues of the Water/Wastewater System, and shall be entitled to payment solely from the money or Government Obligations.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, may at the direction of the City also be invested in Government Obligations, maturing in the amounts and at the times as set forth in this Section, and all income from all Government Obligations not required for the payment of the Bonds, the redemption premium, if any, and interest on the Bonds, with respect to which the money has been so deposited, shall be turned over to the City or deposited as directed by the City. The City covenants that no deposit will be made or accepted under clause (ii) of

this Section and no use made of any deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of section 148 of the Code.

Notwithstanding any other provisions of the Twenty-Third Supplement, all money or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of the Bonds, the redemption premium, if any, and interest on the Bonds, shall be applied to and used for the payment of the Bonds, the redemption premium, if any, and interest on the Bonds and the income on the money or Government Obligations shall not be considered to be "Gross Revenues" under the Twenty-Third Supplement.

**SECTION 19: DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.** In the event any Outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for the Bond in the manner provided in this Section. An application for the replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the applicant for a replacement bond shall furnish to the City and to the Paying Agent/Registrar security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, 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 Bond, as the case may be. In every case of damage or mutilation of a Bond, the applicant shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated. Prior to the issuance of any replacement bond, the Paying Agent/Registrar shall charge the owner of the Bond with all legal, printing, and other expenses in connection therewith. Every replacement bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of the Twenty-Third Supplement equally and proportionately with any and all other Bonds issued under the Twenty-Third Supplement.

Notwithstanding the preceding provisions of this Section, in the event any Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender of the Bond except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section. Furthermore, in accordance with Chapter 1206 (specifically Section 1206.022), this Section shall constitute authority for the issuance of any replacement bond without necessity of further action by the

governing body of the City or any other body or person, and the duty of the replacement of Bonds is authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver replacement bonds in the form and manner and with the effect, as provided in Section 6 of the Twenty-Third Supplement for Bonds issued in exchange for other Bonds.

**SECTION 20: TWENTY-THIRD SUPPLEMENT TO CONSTITUTE A CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the Bonds by the Holders from time to time, the Twenty-Third Supplement shall be deemed to be and shall constitute a contract between the City and the Holders from time to time of the Bonds and the pledge made in the Twenty-Third Supplement by the City and the covenants and agreements set forth in the Twenty-Third Supplement to be performed by the City shall be for the equal and proportionate benefit, security, and protection of all Holders, without preference, priority, or distinction as to security or otherwise of any of the Bonds authorized under the Twenty-Third Supplement over any of the others by reason of time of issuance, sale, or maturity thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by the Twenty-Third Supplement.

**SECTION 21: CONTINUING DISCLOSURE UNDERTAKING.**

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2-12, as amended from time to time.

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

(b) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year ending in or after 2014, financial information and operating data with respect to the City of the general type included in the final Official Statement and which is described in **Exhibit B** to the Twenty-Third Supplement, and (2) if not provided as part of the financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles described in **Exhibit B** to the Twenty-Third Supplement, or other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of the statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available by the required time, the City will provide unaudited financial information

of the type included in the Official Statement by the required time and audited financial statements when and if the audited financial statements become available.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 Business Days after occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) 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 Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, 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; and
- (14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material.

For these purposes, any event described in the immediately preceding paragraph 12

is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States 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 the existing governing body and officials or officers 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.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this Section by the time required by this Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices, and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section with respect to the City and the Bonds while, but only while, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) of this Section of any Bond calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, 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 Section and does not undertake to provide any other information that may be relevant or material to a complete presentation of the financial results, condition, or prospects of the City or the State of Texas or undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided in this Section. The City does not make any representation or warranty concerning the information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND 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 SECTION, 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 Section shall constitute a breach of or default under the Twenty-Third Supplement for purposes of any other provision of the Twenty-Third Supplement.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

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 the obligation in accordance with the Rule as amended.

Notwithstanding any provisions in the Twenty-Third Supplement to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting 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 Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of the amendment, 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 the Twenty-Third Supplement that authorizes the amendment) of the Outstanding Bonds consent to the amendment or (b) a Person that is unaffiliated with the City and the State of Texas (such as nationally recognized bond counsel) determines that the amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that the provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in the offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

**SECTION 22: REMEDY IN EVENT OF DEFAULT.** In addition to all rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Debt Service Fund as required by the Twenty-Third Supplement or the Master Ordinance, (b)

defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in the Twenty-Third Supplement or the Master Ordinance or (c) the City declares bankruptcy, the Holders of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in the Twenty-Third Supplement or the Master Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence in such default, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

The specific remedy provided in this Section shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

### **SECTION 23: SALE OF BONDS; OFFICIAL STATEMENT APPROVAL.**

The Bonds are to be sold by the City to the Underwriters in accordance with the Bond Purchase Agreement. The terms and provisions of the Bond Purchase Agreement are to be determined by the Pricing Officer, in accordance with Sections 3 and 4 of the Twenty-Third Supplement. With regard to the terms and provisions of the Bond Purchase Agreement, the Pricing Officer may come to an agreement with the Underwriters on the following, among other matters:

- (1) The details of the purchase and sale of the Bonds;
- (2) The details of the public offering of the Bonds by the Underwriters;
- (3) The details of an Official Statement (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the City's compliance with the Rule;
- (4) A security deposit for the Bonds;
- (5) The representations and warranties of the City to the Underwriters;
- (6) The details of the delivery of, and payment for, the Bonds;
- (7) The Underwriters' obligations under the Bond Purchase Agreement;
- (8) The certain conditions to the obligations of the City under the Bond Purchase Agreement;
- (9) Termination of the Bond Purchase Agreement;
- (10) Particular covenants of the City;
- (11) The survival of representations made in the Bond Purchase Agreement;
- (12) The payment of any expenses relating to the Bond Purchase Agreement;
- (13) Notices; and
- (14) Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.



The Pricing Officer may execute the Bond Purchase Agreement for and on behalf of the City and as the act and deed of council.

The Mayor and City Clerk of the City may manually or electronically execute and deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement, prepared in connection with the offering of the Bonds by the Underwriters, in final form as may be required by the Underwriters, and the final Official Statement in the form and content as approved by the Pricing Officer or as manually or electronically executed by the City officials shall be deemed to be approved by council and constitute the Official Statement authorized for distribution and use by the Underwriters.

**SECTION 24: ESCROW AGREEMENT.** An "Escrow Agreement" (the "Escrow Agreement") by and between the City and an authorized escrow agent (the "Escrow Agent"), if an agreement is required in connection with the issuance of the Bonds, in substantially the form of escrow agreements previously approved by council in connection with the refunding of outstanding obligations, is approved. The Escrow Agreement is authorized to be finalized and executed by the Pricing Officer for and on behalf of the City and as the act and deed of this council; and the Escrow Agreement as executed by the Pricing Officer shall be deemed approved by the council and constitute the Escrow Agreement approved by the Twenty-Third Supplement. With regard to the finalization of certain terms and provisions of the Escrow Agreement, a Pricing Officer is authorized to come to an agreement with the Escrow Agent on the following details, among other matters:

- (a) The identification of the Refunded Bonds;
- (b) The creation and funding of the Escrow Fund or Funds; and
- (c) The Escrow Agent's compensation, administration of the Escrow Fund or Funds, and the settlement of any paying agents' charges relating to the Refunded Bonds.

Furthermore, appropriate officials of the City in cooperation with the Escrow Agent are authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchasers for deposit to the credit of the "CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2014 ESCROW FUND" (referred to as the "Escrow Fund"), all as contemplated and provided in Chapter 1207, the Twenty-Third Supplement, the Bond Purchase Agreement, and the Escrow Agreement.

On or immediately prior to the date of the delivery of the Bonds to the Underwriters, the Pricing Officer shall also cause to be deposited (and is authorized to

cause to be deposited) with the Escrow Agent from moneys on deposit in the debt service fund(s) maintained for the payment of the Refunded Bonds an amount which, together with the proceeds of sale, and the investment earnings thereon, will be sufficient to pay in full the Refunded Bonds (or the amount of accrued interest due thereon) scheduled to mature and authorized to be redeemed on the earliest date established in the Bond Purchase Agreement for the redemption of any of the Refunded Bonds (or the earliest date of payment, to be made from moneys in the Escrow Fund(s), as established in the Bond Purchase Agreement, of the amount of accrued interest due thereon).

**SECTION 25: REFUNDED BONDS.** (a) In order to provide for the refunding, discharge, and retirement of the Refunded Bonds, the Refunded Bonds, identified, described, and in the amounts set forth in the Bond Purchase Agreement, are called for redemption on the first date(s) the Refunded Bonds are subject to redemption or such other date specified by the Pricing Officer in the Bond Purchase Agreement at the price of par plus accrued interest to the redemption dates, and notice of such redemption shall be given in accordance with the applicable provisions of the ordinance(s) adopted by council, which authorized the issuance of the Refunded Bonds. The Pricing Officer is authorized and directed to issue or cause to be issued a Notice of Redemption for each series of the Refunded Bonds in substantially the form(s) required by the ordinance(s) which authorized the issuance of the Refunded Bonds, to each and every paying agent/registrar for Refunded Bonds, in accordance with the redemption provisions applicable to each series of the Refunded Bonds.

(b) Each paying agent/registrar for Refunded Bonds is directed to provide the appropriate notice(s) of redemption as required by the respective ordinances authorizing the Refunded Bonds and is directed to make appropriate arrangements so that the Refunded Bonds may be redeemed on the redemption date.

(c) The source of funds for payment of the principal of and interest on the Refunded Bonds on their respective maturity or redemption dates shall be from the funds deposited with the Escrow Agent or the paying agent/registrar for the Refunded Bonds pursuant to the provisions of Chapter 1207, the Twenty-Third Supplement and the Bond Purchase Agreement.

**SECTION 26: CONTROL AND CUSTODY OF BONDS.** The City Manager of the City shall be and is authorized to take and have charge of all necessary orders and records pending the sale of the Bonds, and shall take and have charge and control of the Initial Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Underwriters.

Furthermore, the Mayor, Mayor Pro Tem, City Manager, any Assistant City Manager, Chief Financial Officer, any Deputy Financial Officer, City Clerk, City

Treasurer and City Attorney, any one or more of these officials, are authorized and directed to furnish and execute any documents relating to the City and its financial affairs as may be necessary for the sale of the Bonds, the approval of the Attorney General and registration by the Comptroller of Public Accounts and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for their delivery to the Underwriters following the sale.

**SECTION 27: PROCEEDS OF SALE.** Immediately following the delivery of the Bonds, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance and any accrued interest received from the Underwriters) shall be deposited with (i) US Bank National Association (the "Deposit Agent") for the payment and discharge of the Refunded Notes, or (ii) the Escrow Agent for application and disbursement in accordance with the provisions of the Escrow Agreement or deposited with the paying agent/registrar for the Refunded Bonds for the payment and redemption of the Refunded Bonds. The proceeds of sale of the Bonds not so deposited with the Escrow Agent (or the paying agent/registrar for the Refunded Bonds) for the refunding of the Refunded Bonds or with the Deposit Agent for the refunding of the Refunded Notes shall be disbursed for payment of costs of issuance, or deposited in the Debt Service Fund for the Bonds, all in accordance with written instructions from the City or its financial advisor. Accrued interest, if any, received from the Underwriters shall be deposited to the credit of the Debt Service Fund, and premium, if any, received from the Underwriters as part of the purchase price of the Bonds shall be used in a manner consistent with Chapter 1201 (specifically Section 1201.041(d)).

Furthermore, appropriate officials of the City in cooperation with the Deposit Agent and the Escrow Agent, as applicable, are authorized and directed to make the necessary arrangements for the deposit of funds for the payment of the Refunded Obligations, all as contemplated and provided in Chapter 1207 and the Twenty-Third Supplement.

Additionally, the Pricing Officer shall determine the amount of any City contribution to the refunding from moneys on deposit in the interest and sinking fund(s) maintained for the payment of the applicable Refunded Obligations.

**SECTION 28: LEGAL OPINION.** The obligation of the Underwriters to accept delivery of the Bonds is subject to being furnished a final opinion of McCall, Parkhurst & Horton L.L.P., approving the Bonds as to their validity, the opinion to be dated and delivered as of the date of delivery and payment for the Bonds. A true and correct reproduction of the opinion is authorized to be printed on the definitive Bonds or an executed counterpart of the opinion shall accompany the global Bonds deposited with DTC.

**SECTION 29: CUSIP NUMBERS.** CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

**SECTION 30: PAYMENT AND PERFORMANCE ON BUSINESS DAYS.** Whenever under the terms of the Twenty-Third Supplement or the Bonds, the performance date of any provision of the Twenty-Third Supplement or the Bonds, including the payment of principal of or interest on the Bonds, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Bonds, need not be made on that day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

**SECTION 31: LIMITATION OF BENEFITS WITH RESPECT TO THE TWENTY-THIRD SUPPLEMENT.** With the exception of the rights or benefits expressly conferred in the Twenty-Third Supplement, nothing expressed or contained in the Twenty-Third Supplement or implied from the provisions of the Twenty-Third Supplement or the Bonds is intended or should be construed to confer upon or give to any person other than the City, the Holders, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to the Twenty-Third Supplement or any covenant, condition, stipulation, promise, agreement, or provision contained in the Twenty-Third Supplement. The Twenty-Third Supplement and all of the covenants, conditions, stipulations, promises, agreements, and provisions of the Twenty-Third Supplement are intended to be and shall be for and inure to the sole and exclusive benefit of the City, the Holders, and the Paying Agent/Registrar as provided in the Twenty-Third Supplement and in the Bonds.

**SECTION 32: NOTICES TO HOLDERS-WAIVER.** Wherever the Twenty-Third Supplement provides for notice to Holders of any event, the notice shall be sufficiently given (unless otherwise expressly provided in the Twenty-Third Supplement) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the Business Day next preceding the mailing of the notice.

In any case where notice to Holders is given by mail, neither the failure to mail the notice to any particular Holders nor any defect in any notice so mailed shall affect the sufficiency of the notice with respect to all other Bonds. Where the Twenty-Third Supplement provides for notice in any manner, the notice may be waived in writing by the Holder entitled to receive the notice, either before or after the event with respect to which notice is given, and the waiver shall be the equivalent of the notice. Waivers of

notice by Holders shall be filed with the Paying Agent/Registrar, but a filing shall not be a condition precedent to the validity of any action taken in reliance upon the waiver.

**SECTION 33: GOVERNING LAW.** The Twenty-Third Supplement shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 34: EFFECT OF HEADINGS.** The Section headings in the Twenty-Third Supplement are for convenience of reference only and shall not affect the construction of the Twenty-Third Supplement.

**SECTION 35: CONSTRUCTION OF TERMS.** If appropriate in the context of the Twenty-Third Supplement, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders. References to any named person shall mean that person and his or her successors and assigns. References to any constitutional, statutory or regulatory provision means the provision as it exists on the date the Twenty-Third Supplement is adopted by council. Any reference to the payment of principal in the Twenty-Third Supplement shall include the payment of any mandatory sinking fund redemption payments as described in the Twenty-Third Supplement. Any reference to "FORM OF BOND" refers to the form of the Bonds in **Exhibit A** to the Twenty-Third Supplement.

**SECTION 36: SEVERABILITY.** If any provision of the Twenty-Third Supplement or its application to any circumstance shall be held to be invalid, the remainder of the Twenty-Third Supplement and its application to other circumstances shall nevertheless be valid, and council declares that the Twenty-Third Supplement would have been enacted without such invalid provision.

**SECTION 37: INSURANCE.** The Bonds may but are not required to be sold with the principal of and interest being insured by a qualified municipal bond insurance provider. The Pricing Officer is authorized to make the selection of municipal bond insurance (if any) for the Bonds and to determine the provisions of any commitment for the municipal bond insurance. The Pricing Officer is authorized to execute any agreement with a qualified municipal bond insurance provider in connection with obtaining municipal bond insurance. In addition, if municipal bond insurance is obtained, the City will comply with the conditions applicable to the Bonds as set forth in the commitment or agreement entered into with the provider, as if the conditions were incorporated in the Twenty-Third Supplement.

**SECTION 38: PRIOR ACTIONS.** On June 20, 2013, council adopted Ordinance No. 20130620-075, defined as the "Twenty-Third Supplement". Since bonds

authorized by Ordinance No. 20130620-075 were not sold on or before December 31, 2013, by its terms Ordinance No. 20130620-075 is null and void.

**SECTION 39: PUBLIC MEETING.** It is officially found that the meeting at which the Twenty-Third Supplement is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including the Twenty-Third Supplement, was given; all as required by Chapter 551.


**SECTION 40: EFFECTIVE DATE.** This Twenty-Third Supplement is passed on one reading as authorized by Chapter 1201 (specifically Section 1201.028), and shall be effective immediately upon its passage and adoption.

**PASSED AND APPROVED**

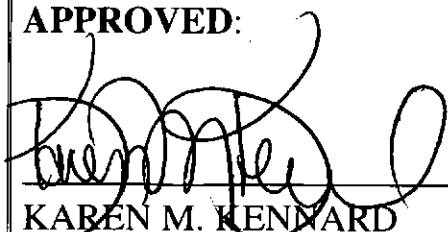
**CITY OF AUSTIN, TEXAS**

\_\_\_\_\_, May 22, 2014

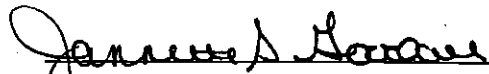
§  
§  
§

  
\_\_\_\_\_  
LEE LEFFINGWELL  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
KAREN M. KENNARD  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
JANNETTE S. GOODALL  
City Clerk

(City Seal)



## **SCHEDULE I**

### **SCHEDULE OF REFUNDED BONDS**

**CITY OF AUSTIN, TEXAS SUBORDINATE LIEN REVENUE REFUNDING BONDS, SERIES 1998A, bonds maturing on May 15, 2028, aggregating \$9,725,000 in principal amount; REDEMPTION PRICE: par plus accrued interest; REDEMPTION DATE: \_\_\_\_\_.**

**CITY OF AUSTIN, TEXAS WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2005A, all bonds maturing on May 15 in each of the years 2016 through 2035, aggregating \$105,780,000 in principal amount; REDEMPTION PRICE: par plus accrued interest; REDEMPTION DATE: \_\_\_\_\_.**

EXHIBIT A

FORM OF BOND

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF AUSTIN, TEXAS,  
WATER AND WASTEWATER SYSTEM  
REVENUE REFUNDING BOND,  
SERIES 2014

Bond Date: \_\_\_\_\_, 2014      Interest Rate: \_\_\_\_\_      Stated Maturity: \_\_\_\_\_      CUSIP NO: \_\_\_\_\_

Registered Owner:

Principal Amount: \_\_\_\_\_ DOLLARS

The City of Austin (the "City"), a body corporate and municipal corporation in the Counties of Travis, Williamson and Hays, State of Texas, for value received promises to pay to the registered owner named above, or their registered assigns (the "Registered Owner"), solely from the revenues identified in this Bond, on the Stated Maturity date specified above the Principal Amount stated above (or so much of the Principal Amount as shall not have been paid upon prior redemption), and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on the unpaid Principal Amount of this Bond from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the \_\_\_\_\_) at the per annum rate of interest specified above; such interest being payable on \_\_\_\_\_, 20\_\_\_\_ and on each succeeding November 15 and May 15 until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or redemption to the Registered Owner, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing on this Bond, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount of



this Bond may be accomplished without presentation and surrender of this Bond. Interest is payable to the Registered Owner of this Bond (or one or more Predecessor Bonds, as defined in the Twenty-Third Supplement) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the last business day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when 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 when 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. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner of this Bond and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds") for the purpose of refinancing and refunding the Refunded Obligations (identified and defined in the Twenty-Third Supplement), in conformity with the Constitution and laws of the State of Texas, including V.T.C.A., Government Code, Chapter 1207, and pursuant to a Master Ordinance and Twenty-Third Supplement adopted by the City Council of the City (collectively referred to as the "Ordinances").

[The Bonds maturing on the dates identified below (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Debt Service Fund established and maintained for the payment of the Bonds in the Master Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

<u>Term Bonds due Redemption Date</u>	<u>Principal Amount</u>	<u>Term Bonds due Redemption Date</u>	<u>Principal Amount</u>
	\$ ,000		\$ ,000
	\$ ,000		\$ ,000
	\$ ,000		\$ ,000
	\$ ,000		\$ ,000
			\$ ,000

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least fifty days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not previously credited against a mandatory redemption requirement.]<sup>1</sup>

The Bonds maturing on and after \_\_\_\_\_, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on \_\_\_\_\_ or on any date thereafter at the redemption price of par plus accrued interest thereon to the redemption date.

Not less than thirty days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinances. If a Bond (or any portion of its principal sum) shall have been called for redemption and notice of such redemption given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to

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<sup>1</sup> To conform to the provisions of the Bond Purchase Agreement

be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinances for the then unredeemed balance of the principal sum of such Bond or Bonds will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within forty-five days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless the Paying Agent/Registrar has received funds sufficient to pay the principal and premium, if any, and interest on the Bonds to be redeemed before giving of a notice of redemption, the notice may state the City may condition redemption on the receipt of such funds by the Paying Agent/Registrar 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 conditional notice of 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 Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, that the Bonds have not been redeemed.

The Bonds are special obligations of the City payable solely from and, together with the Prior Subordinate Lien Obligations and the Previously Issued Parity Water/Wastewater Obligations currently Outstanding, equally and ratably secured by a parity lien on and pledge of, the Net Revenues of the Water/Wastewater System in the manner provided in the Ordinances. Additionally, the Bonds and Previously Issued Parity Water/Wastewater Obligations referenced above shall be equally and ratably secured by a parity lien on the funds, if any, deposited to the credit of the Debt Service Fund in accordance with the terms of the Ordinances. **THE BONDS ARE NOT SECURED BY A LIEN ON THE RESERVE FUND ESTABLISHED FOR THE BENEFIT OF CERTAIN OF THE PREVIOUSLY ISSUED PARITY WATER/WASTEWATER OBLIGATIONS, AND THE TWENTY-THIRD SUPPLEMENT DOES NOT**

**REQUIRE THE CITY TO FUND THE RESERVE FUND FOR THE BENEFIT OF THE HOLDERS OF THE BONDS.** The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the Water/Wastewater System, except with respect to the Net Revenues. The Holder of this Bond shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the related terms and conditions, the City has reserved the right to issue additional revenue obligations payable from and equally and ratably secured by a parity lien on and pledge of the Net Revenues of the Water/Wastewater System, in the same manner and to the same extent as the Bonds.

Reference is made to the Ordinances, copies of which are on file with the Paying Agent/Registrar, and to all of the provisions of which the Holder by the acceptance of this Bond assents, for definitions of terms; the description of and the nature and extent of the security for the Bonds; the properties constituting the Water/Wastewater System; the Net Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinances may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made in the Ordinances may be discharged at or prior to the maturity of this Bond, and this Bond deemed to be no longer Outstanding under the Ordinances; and for the other terms and provisions contained in the Ordinances. Capitalized terms used in this Bond have the same meanings assigned in the Ordinances.

This Bond, subject to certain limitations contained in the Ordinances, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar executed by the Registered Owner, or the authorized agent of the Registered Owner. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the Registered Owner of this Bond whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest on this Bond, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal of this Bond at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of non-payment of interest on a scheduled payment date and for thirty days after such event, 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 (which shall be fifteen days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is certified, recited, represented and covenanted that the City is a duly organized and legally existing municipal corporation under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinances; that the Bonds do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by a pledge of the Net Revenues of the Water/Wastewater System. In case any provision in this Bond or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired. The terms and provisions of this Bond and the Ordinances shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be executed under the official seal of the City.

CITY OF AUSTIN, TEXAS

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Mayor

COUNTERSIGNED:

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City Clerk

(SEAL)

## REGISTRATION CERTIFICATE OF COMPTROLLER OF PUBLIC ACCOUNTS

A-8

Form of Certificate of Paying Agent/Registrar to Appear on Definitive Bonds only.

**REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR**

This Bond has been issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinances; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in \_\_\_\_\_ is the Designated Payment/Transfer Office for this Bond.

\_\_\_\_\_, as Paying  
Agent/Registrar

Registration date:

\_\_\_\_\_

By \_\_\_\_\_  
Authorized Signature



FORM OF ASSIGNMENT.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number (\_\_\_\_\_  
\_\_\_\_\_) the within Bond and all rights under this Bond, and irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration of the Bonds, with full power of substitution in the premises.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature guaranteed:

\_\_\_\_\_  
NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

## **Exhibit B**

### **DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

The following information is referred to in Section 21 of the Twenty-Third Supplement.

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with Section 21 are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

The quantitative financial information and operating data with respect to the City set forth in Tables One through Sixteen B in the main text of the Official Statement.

The financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.

#### **Accounting Principles**

The accounting principles referred to in Section 21 are the accounting principles described in the notes to the financial statements referred to in the third paragraph under the heading "Annual Financial Statements and Operating Data" above.

**EXHIBIT C**  
**FORM OF PAYING AGENT/REGISTRAR AGREEMENT**

# DRAFT

## PAYING AGENT/REGISTRAR AGREEMENT

THIS PAYING AGENT/REGISTRAR AGREEMENT (the "Agreement"), dated as of the \_\_\_\_ day of June, 2014, is by and between the City of Austin, Texas (the "City") and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America (together with any successor, the "Bank");

### WITNESSETH:

WHEREAS, the City is authorized to issue the obligations described in Exhibit A hereto (the "Securities") in accordance with the ordinance adopted by the City on May 22, 2014, and incorporated herein for all purposes (referred to herein collectively as the "Ordinance");

WHEREAS, the City desires that the Securities be issued in fully registered form with privileges of transfer and exchange as herein provided, and as authorized in the Ordinance;

WHEREAS, the City has authorized the issuance of the Securities subject to the terms of the Ordinance and, to provide for registration, payment, transfer, exchange, and replacement of the Securities, the City has authorized the execution and delivery of this Agreement;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, and subject to the conditions herein set forth, the City and the Bank agree as follows:

### ARTICLE ONE

#### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

##### SECTION 1.01. Definitions.

The terms defined in this Article shall have the meaning set out below unless the context requires a different meaning:

"Agreement" means this agreement as originally executed or as it may from time to time be supplemented, modified, or amended.

"Authentication Certificate" has the meaning given said term in Section 2.01.

"Bank" means the entity named as the "Bank" in the first paragraph of this Agreement or a successor Bank selected in accordance with the applicable provisions of this Agreement.

"Business Day" means a day that is not a Saturday, Sunday, a legal holiday, or a day on which banking institutions in New York, New York or the city where the Designated Payment/Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

"City" means the City of Austin, Texas.

"City Request" and "City Order" means a written request or order signed in the name of the City by the Mayor, City Manager, any Assistant City Manager, the Chief Financial Officer, any Deputy Financial Officer, the City Treasurer, the City Clerk or any Deputy City Clerk, any one or more of said officials, and delivered to the Bank.

"Code" means the Internal Revenue Code of 1986, as amended.

"Comptroller's Registration Certificate" has the meaning given said term in Section 2.01.

"Designated Payment/Transfer Office" means the corporate trust office of the Paying Agent/Registrar designated as the place of payment, transfer and exchange of the Securities, initially, the corporate trust office of the Paying Agent/Registrar in Houston, Texas.

"Holder" when used with respect to any Security, means the Person in whose name such Security is registered in the Registration Books.

"Interest Payment Date" means the Stated Maturity of an installment of interest on any Securities.

"Maturity" when used with respect to any Security means the date on which the principal of such Security becomes due and payable as therein provided, whether at the Stated Maturity or by call for redemption or otherwise.

"Ordinance" means the ordinance authorizing the issuance of the Securities, adopted by the City on May 22, 2014, and incorporated herein for all purposes.

"Person" means any entity, individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any governmental agency or political subdivision.

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security, and, for purposes of this definition, any Security authenticated and delivered under Section 5.02 in lieu of a mutilated, lost, destroyed or stolen Security shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Security.

"Record Date" for the interest payable on an Interest Payment Date means the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

"Redemption Date" when used with respect to any Security to be redeemed means the date fixed for such redemption pursuant to the terms thereof, the Ordinance and this Agreement.

"Redemption Price" when used with respect to any Security to be redeemed means the price at which it is to be redeemed pursuant to terms thereof, excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

"Registration Books" has the meaning stated in Section 5.01.

"Securities" means the obligations issued by the City that are to be governed by this Agreement, as described in Exhibit A attached hereto.

"Stated Maturity" when used with respect to any Security or any installment of interest thereon means the date specified in such Security as the fixed date on which the principal of such Security or such installment of interest is due and payable.

SECTION 1.02. Written Communication.

Any request, demand, authorization, direction, notice, consent, waiver, or other written communication provided or permitted by this Agreement to be made upon, given or furnished to, or filed with

A. the City, shall be sufficient for every purpose hereunder if in writing and mailed, first-class, postage prepaid, to the City addressed to it at City Hall, 301 West Second Street, Austin, Texas 78701, or at any other address previously furnished to the Bank in writing by the City, and

B. the Bank, shall be sufficient for every purpose hereunder if in writing and mailed, first-class, postage prepaid (and properly referred to this Agreement or the Securities), to the Bank addressed to it at 5555 San Felipe, 11th Floor, Houston, Texas 77056, or at any other address previously furnished to the City in writing by the Bank.

SECTION 1.03. Notice to Holders; Waiver.

Where this Agreement provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise expressly provided herein) if in writing and mailed, first-class, postage prepaid, to each Holder, at the address of such Holder as it appears in the Registration Books.

In any case where notice to Holders is given by mail, neither the failure to mail such notice nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to all other Holders. Where this Agreement provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Bank, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 1.04. Effect of Headings.

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 1.05. Successors and Assigns.

All covenants and agreements in this Agreement by the City or the Bank shall bind its successors and assigns.

SECTION 1.06. Severability Clause.

In case any provision of this Agreement, the Ordinance, or the Securities or any application thereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions and applications of this Agreement shall not in any way be affected or impaired thereby.

SECTION 1.07. Amendment.

This Agreement may be amended only by an agreement in writing by both of the parties hereto.

SECTION 1.08. Benefits of Agreement.

Nothing in this Agreement or in the Securities, expressed or implied, shall give to any Person other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim under this Agreement.

SECTION 1.09. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

ARTICLE TWO

THE SECURITIES

SECTION 2.01. Forms Generally.

The Securities, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas (the "Comptroller's Registration Certificate"), the Paying Agent/Registrar's Authentication Certificate (the "Authentication Certificate"), and the Assignment to be printed on each of the Securities, shall be substantially in the forms set forth in the Ordinance with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by the Ordinance and this Agreement, and may have such letters, numbers, or other marks of identification, and the Securities may have such legends and endorsements thereon (including any reproduction of an opinion of counsel) as may, consistently herewith, be established by the Ordinance or determined by the officers executing such Securities as evidenced by their execution of such Securities.

SECTION 2.02. Execution, Registration, Delivery, and Dating.

The Securities shall be executed on behalf of the City as provided in the Ordinance.

No Security shall be entitled to any right or benefit under this Agreement or the Ordinance, or be valid or obligatory for any purpose, unless there appears on such Security either the Comptroller's Registration Certificate, executed by the Comptroller of Public Accounts of the State of Texas or the duly authorized agent thereof, by manual signature, or the Authentication Certificate, executed by the Bank, by manual signature, and either such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly certified or registered or delivered.

SECTION 2.03. Cancellation.

All Securities surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Bank, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Bank and, if not already cancelled, shall be promptly cancelled by the Bank. The City may at any time deliver to the Bank for cancellation any Securities previously certified or registered and delivered which the City may have acquired in any manner whatsoever and all Securities so delivered shall be promptly cancelled by the Bank. No Security shall be registered in lieu of or in exchange for any

Security cancelled as provided by this Agreement. All cancelled Securities held by the Bank shall be disposed of as directed by City Request.

SECTION 2.04. Persons Deemed Owners.

The City, the Bank, and any agent of the City or the Bank may treat the Person in whose name any Security is registered as the owner of such Security for the purpose of receiving payment of the principal (and Redemption Price, if applicable) of and interest on such Security and for all other purposes whatsoever whether or not such Security be overdue, and, to the extent permitted by law, none of the City, the Bank, and any such agent shall be affected by notice to the contrary.

ARTICLE THREE

PAYMENT OF SECURITIES

SECTION 3.01. Payment of Interest.

Interest on any Security of any series which is payable on any Interest Payment Date shall be paid to the Holder of such Security as determined at the close of business on the Record Date.

Such interest shall be paid by the Bank by check mailed to the Holder at the address of such Holder as it appears on the Security Register, or by such other customary banking arrangements to which the Holder and the Bank may agree, but solely from funds collected from the City for such purpose.

Each Security delivered under this Agreement upon transfer or in exchange for or in lieu of any other Security shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security and each such Security shall bear interest from such date so that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

SECTION 3.02. Payment of Principal and Redemption Price.

Principal (and the Redemption Price, if applicable) of each Security shall be paid by the Bank to the Holder at the Maturity thereof, but solely from funds collected from the City for such purpose, upon presentation and surrender of such Security to the Bank for cancellation. All Securities presented and surrendered for payment shall be delivered to the Designated Payment/Transfer Office.

SECTION 3.03. City to Deposit Funds.

The City will duly and punctually deposit with the Bank, at the Designated Payment/Transfer Office, on or before each Stated Maturity of interest on Securities and each Maturity of Securities, money sufficient to pay the principal (and Redemption Price, if applicable) of and interest on the Securities when due.



## ARTICLE FOUR

### REDEMPTION OF SECURITIES

#### SECTION 4.01. General Applicability of Article.

If the Securities are to be redeemed before their Stated Maturity, they shall be redeemed in accordance with their terms and the Ordinance.

#### SECTION 4.02. Election to Redeem; Notice to Bank.

The exercise by the City of its option to redeem any Securities shall be evidenced by City action consistent with the provisions of the Ordinance. In case of any redemption at the election of the City of less than all of the outstanding Securities, the City shall, at least 45 days prior to the Redemption Date (unless a shorter notice shall be satisfactory to the Bank), notify the Bank of such Redemption Date and of the principal amount of Securities of each Stated Maturity to be redeemed, and the Redemption Price to be paid to the Holders.

#### SECTION 4.03. Notice of Redemption.

Notice of redemption shall be given by the Bank in the name and at the expense of the City, prior to the Redemption Date, to each Person entitled to receive notice of such redemption at the times and in the manner required by the Ordinance.

All notices of redemption shall contain a description of the Securities to be redeemed including the complete name of the Securities, the Series, the date of issue, the interest rate, the Maturity, the CUSIP number, the amounts called of each Security, the publication and mailing date for the notice, the date of redemption, the Redemption Price, the name of the Bank and the address at which the Security may be redeemed including a contact person and telephone number.

## ARTICLE FIVE

### REGISTRATION, TRANSFER, EXCHANGE, AND REPLACEMENT OF SECURITIES

#### SECTION 5.01. Registration, Transfer, and Exchange.

The Bank shall keep at the Designated Payment/Transfer Office a register (herein referred to as the "Registration Books") in which, subject to such reasonable regulations as the City or the Bank may prescribe, the Bank shall provide for the registration of the Securities and registration of transfers of the Securities as herein provided.

Upon surrender for transfer or exchange of any Security at the Designated Payment/Transfer Office of the Bank, the Bank shall register and deliver, in the name of the designated transferee or transferees, one or more new fully registered Securities of the same maturity, of any authorized denomination, and of a like aggregate principal amount, all in accordance with the terms of the Ordinance.

Every Security presented or surrendered for transfer or exchange shall be duly endorsed (if so required by the Bank) or be accompanied by a written instrument of transfer in form satisfactory to the Bank duly executed by the Holder or the attorney thereof duly authorized in writing.

Neither the City nor the Bank shall be required (i) to issue, transfer, or exchange any Security subject to redemption during a period beginning at the opening of business thirty (30) days before the day of the first mailing of a notice of redemption of Securities and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any Security after it is so selected for redemption, in whole or in part, prior to the redemption date; except that at the option of the Holder of at least \$1,000,000 in principal amount of a series of Securities, the Bank is required to transfer or exchange any such Security which has been selected in whole or in part for redemption upon the surrender thereof.

In the event that the use of book-entry transfers for the Securities is discontinued, the City shall provide an adequate inventory of Security certificates to facilitate transfers and exchanges. The Bank covenants that it will maintain Security certificates in safekeeping and will use reasonable care in maintaining such condition in safekeeping, which shall be not less than the care it maintains for debt securities of other governments or corporations for which it serves as registrar, or which it maintains for its own securities.

The Bank as Registrar will maintain the records of the Registration Books in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain the Registration Books in any form other than those which the Bank has currently available and currently utilizes at the time.

The Registration Books may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

#### SECTION 5.02. Mutilated, Destroyed, Lost, and Stolen Securities.

If (i) any mutilated Security is surrendered to the Bank, or the City and the Bank receive evidence to their satisfaction of the destruction, loss or theft of any Security, and (ii) there is delivered to the City and the Bank such security or indemnity as may be required by them to save each of them harmless, then, the City shall execute and upon its request the Bank shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Security (but only upon surrender of such Security if such Security is mutilated), a new Security of the same series and maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding, in accordance with the Ordinance.

In case any such mutilated, destroyed, lost or stolen Security shall have matured and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Securities, the City in its discretion may by City Request have the Bank pay such Security instead of issuing a new Security, provided security or indemnity is furnished to the City and the Bank as may be required by them to save each of them harmless from any loss or damage with respect thereto, all in accordance with the Ordinance.

#### SECTION 5.03. List of Holders.

The Bank will provide the City at any time requested by the City, upon payment of the agreed upon fee, a copy of the information contained in the Registration Books. The City may also inspect the information in the Registration Books at any time the Bank is customarily open for business, provided

that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the content of the Registration Books to any Person other than pursuant to a City Request or other than to an authorized officer or employee of the City, except upon receipt of a subpoena or court order or as otherwise required by law. Upon receipt of a subpoena or court order the Bank will notify the City so that the City may contest the subpoena or court order.

#### SECTION 5.04. Surety Bond.

The City hereby accepts the Bank's current blanket bond for lost, stolen or destroyed Securities (and any future substitute blanket bond for lost, stolen or destroyed Securities that the Bank may arrange with sufficient coverage to protect the City in the opinion of the Bank) and agrees that the coverage under any such blanket bond is acceptable to it and meets the City's requirements as to security or indemnity. The Bank need not notify the City of any changes in the security or other company giving such bond or the terms of any such bond. The blanket bond then utilized for the purpose of lost, stolen, or destroyed certificates by the Bank is available for inspection by the City on request.

#### SECTION 5.05. Transaction Information to City.

The Bank will, within a reasonable time after receipt of written request from the City, furnish the City information as to the Securities it has paid, Securities it has delivered upon the transfer or exchange of any Security, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost or stolen Securities.

### ARTICLE SIX

#### RIGHTS AND OBLIGATIONS OF BANK

#### SECTION 6.01. Certain Duties and Responsibilities.

##### A. The Bank:

1. shall perform the duties imposed on the Bank under the Ordinance.
2. shall exercise reasonable care in the performance of its duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Bank; and
3. in the absence of bad faith on its part, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Bank and conforming to the requirements of this Agreement, but in the case of any opinions which by any provision hereof are specifically required to be furnished to the Bank, shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement.

B. No provision of this Agreement shall be construed to relieve the Bank from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct except that:

1. this Subsection shall not be construed to limit the effect of Subsection A of this Section; and

2. the Bank shall not be liable for any error of judgment made in good faith by any officer thereof, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

C. Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Bank shall be subject to the provisions of this Section.

D. By executing this Agreement, the Bank hereby represents that it has received certified copies of the Ordinance.

#### SECTION 6.02. Certain Rights of Bank.

Except as otherwise provided in Section 6.01 hereof:

A. the Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, coupon or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties;

B. the Bank may consult with legal counsel and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered, or omitted by the Bank hereunder in good faith and in reliance thereon;

C. the Bank shall not be bound to make any investigation into the facts of matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, coupon or other paper or document, but the Bank, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Bank shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records, and premises of the City, personally or by agent or attorney; and

D. the Bank may execute any of the trusts or powers hereunder or perform any of the duties hereunder either directly or by or through agents or attorneys, and the Bank shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed hereunder with due care by it.

#### SECTION 6.03. Not Responsible for Recitals.

The recitals contained in the Securities, except the Authentication Certificate signed by the Bank, shall be taken as the statements of the City, and the Bank assumes no responsibility for their correctness.

#### SECTION 6.04. May Hold Securities.

The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and otherwise deal with the City with the same rights it would have if it were not serving as paying agent, transfer agent, bond registrar, authenticating agent, or in any other capacity hereunder.

#### SECTION 6.05. Money Deposited with Bank.

Money deposited by the City with the Bank for payment of principal (or Redemption Price, if applicable) of or interest on any Securities shall be segregated from other funds of the Bank and the City and shall be held in trust for the benefit of the Holders of such Securities.

All money deposited with the Bank hereunder shall be secured in the manner and to the fullest extent required by law for the security of funds of the City, including specifically to provide for the collateralization of funds not covered by federal deposit insurance.

Amounts held by the Bank which represent principal of and interest on the Securities remaining unclaimed by the owner after the expiration of three (3) years from the date such amounts have become due and payable shall be reported and disposed of by the Bank in accordance with the provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

The Bank shall be under no liability for interest on any money received by it hereunder.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the City, act as trustee under indentures authorizing other bond transactions, or act in any other capacity not in conflict with its duties hereunder.

#### SECTION 6.06. Compensation and Reimbursement.

The City agrees:

A. to pay to the Bank from time to time reasonable compensation for all services rendered by it hereunder, which compensation shall be established initially for the Securities in accordance with the schedule attached as Exhibit B, which is made a part hereof for all purposes;

B. except as otherwise expressly provided herein, to reimburse the Bank upon its request for all reasonable expenses, disbursements, and advances incurred or made by the Bank in accordance with any provisions of this Agreement, except to the extent (i) covered by the compensation established pursuant to Subsection A of this Section or (ii) any such expense, disbursement, or advance as may be attributable to the negligence or bad faith of the Bank; and

C. to the extent permitted by law, to indemnify the Bank for, and to hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with the administration or performance of its duties and obligations hereunder, including the costs and expenses of defending itself (including counsel fees) against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

#### SECTION 6.07. Resignation and Removal.

The Bank may resign from its duties hereunder at any time by giving not less than sixty (60) days written notice thereof to the City, with such resignation effective upon the appointment of a successor thereto.

The Bank may be removed from its duties hereunder at any time with or without cause by the City designating a successor upon not less than sixty (60) days written notice; provided, however, that no

such removal shall become effective until such successor shall have accepted the duties of the Bank hereunder by written instrument.

Upon the effective date of such resignation or removal (or any earlier date designated by the City in case of resignation) the Bank shall, upon payment of all its fees, charges, and expenses then due, transfer and deliver to, or upon the order of, the City all funds, records, and Securities held by it (except any Securities owned by the Bank as Holder or pledgee), under this Agreement.

If the Bank shall resign or be removed, the City shall promptly appoint and engage a successor to act in the place of the Bank hereunder, which appointment shall be effective as of the effective date of the resignation or removal of the Bank. Such successor shall immediately give notice of its substitution hereunder in the name of the City to the Holders, including the name of the successor to the Bank and the address of its principal office and office of payment as provided in the Ordinance.

#### SECTION 6.08. Merger, Conversion, Consolidation, or Succession.

Any corporation into which the Bank may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank hereunder without the execution or filing of any paper or any further acts on the part of either of the parties hereto. In case any Security shall have been registered, but not delivered, by the Bank then in office, any successor by merger, conversion, or consolidation to such authenticating Bank may adopt such registration and deliver the Security so registered with the same effect as if such successor Bank had itself registered such Securities.

#### SECTION 6.09. Bank Not a Trustee.

This Agreement shall not be construed to require the Bank to enforce any remedy which any Holder may have against the City during any default or event of default under any agreement between any Holder and the City, including the Ordinance, or to act as trustee for such Holder.

#### SECTION 6.10. Bank Not Responsible for Securities.

The Bank shall not be accountable for the use of any Securities or for the use on application of the proceeds thereof.

#### SECTION 6.11. Adjudication and Interpleader.

The City and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State of Texas and the County where either the Designated Payment/Transfer Office or the administrative offices of the City is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 1.02 of this Agreement shall constitute adequate service. The City and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction within the State of Texas to determine the rights of any Person claiming any interest herein.

**SECTION 6.12. Bank's Funds Not Used.**

No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights of powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

The Bank shall in no event be liable to the City, any Holder, or any other Person for any amount due on any Security from its own funds.

**SECTION 6.13. Depository Trust Company Services.**

It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for The Depository Trust Company services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the operational arrangements which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time and notification of redemptions and calls.

**SECTION 6.14. Reporting Requirements.**

To the extent required by the Code or the Treasury Regulations, the Bank shall report the amount of interest paid or the amount treated as interest accrued on the Securities which is required to be reported by the Holders on their returns of federal income tax, or assure that such a report is made, to the Holders and the Internal Revenue Service.

**SECTION 6.15. Entire Agreement.**

This Agreement and the Ordinance constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Ordinance, the Ordinance shall govern.

**SECTION 6.16. Counterparts.**

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, and their respective seals to be hereunto affixed and attested, all as of the day and year first above written.

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
City Manager

Address: 301 West Second Street  
Austin, Texas 78701

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

U.S. BANK NATIONAL ASSOCIATION

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

Address: 5555 San Felipe, 11th Floor,  
Houston, Texas 77056

Attention: Corporate Trust Group



EXHIBIT A

CITY OF AUSTIN, TEXAS WATER AND WASTEWATER SYSTEM REVENUE  
REFUNDING BONDS, SERIES 2014, ISSUED IN THE AGGREGATE PRINCIPAL  
AMOUNT OF \$\_\_\_\_\_.

**EXHIBIT B**

**FEE SCHEDULE  
BOND REGISTRAR, TRANSFER AGENT, AND PAYING AGENT**