

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF AUSTIN, TEXAS PUBLIC IMPROVEMENT AND REFUNDING BONDS, SERIES 2015; ESTABLISHING PARAMETERS FOR THE SALE OF THE BONDS; APPROVING RELATED DOCUMENTS; ENACTING OTHER PROVISIONS RELATED TO THE BONDS; AND DECLARING AN IMMEDIATE EFFECTIVE DATE

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

PART 1. FINDINGS.

General obligation bonds of the City were duly and favorably voted, as required by the Constitution and laws of Texas, at elections held in the City on the dates as described in Schedule I to this Ordinance; and

There are presently outstanding certain obligations of the City described in Schedule II attached to this Ordinance (the "Refunding Candidates"), which are eligible to be refunded to achieve debt service savings; and

Council finds that it is necessary and in the best interest of the City that it approve by this Ordinance the issuance and delivery of bonds in accordance with the Constitution and laws of the State of Texas, including specifically Chapters 1207, 1331 and 1371 of the Texas Government Code, and the Home Rule Charter of the City, for the purposes herein provided; and

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

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

PART 2. DEFINITIONS.

The terms used in this Ordinance have the following meanings:

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

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

"Authorized Representative" means the City Manager and the Chief Financial Officer of the City, acting individually but not jointly.

"Bonds" means the bonds of the City to be issued under authority of this Ordinance.

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

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

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

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

4 “Chapter 1207” means Chapter 1207 of the Texas Government Code.

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

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

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

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

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

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

20 “Defeased Bond” means any Bond and the interest on the Bond that is considered to be paid,
21 retired and no longer outstanding under the terms of this Ordinance, specifically PART 17 of this
22 Ordinance.

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

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

27 “Escrow Agent” means U.S. Bank National Association, Houston, Texas.

28 “Escrow Agreement” means the escrow agreement between the City and the Escrow Agent,
29 executed with respect to the Refunded Obligations.

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

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

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

1 “MSRB” means the Municipal Securities Rulemaking Board.

2 “Paying Agent/Registrar” means U.S. Bank National Association, Houston, Texas, or any other
3 bank, trust company, financial institution, or agency named in accordance with the provisions of
4 subsection (g) of PART 7 of this Ordinance.

5 “Paying Agent/Registrar Agreement” means the agreement between the City and the Paying
6 Agent/Registrar with respect to the Bonds in the form approved by the City Manager of the City, and
7 any successor agreement.

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

11 “Project” means a project for which proceeds of the Bonds are spent consistent with the
12 purposes described in clause (a)(i) of PART 3 of this Ordinance.

13 “Purchase Agreement” means the purchase agreement (one or more) between the City and the
14 Underwriters providing for the sale of the Bonds by the City and the purchase of the Bonds by the
15 Underwriters.

16 “Refunded Obligations” means the obligations of the City described in Schedule II and
17 designated in the Pricing Certificate to be refunded by the sale of Bonds.

18 “Refunding Candidates” means the outstanding obligations of the City identified in Schedule II
19 of this Ordinance.

20 “Registered Owner” means the owner of any Bond as recorded in the Registration Books.

21 “Registration Books” means the books or records of registration and transfer of the Bonds
22 maintained by the Paying Agent/Registrar.

23 “Rule” means SEC Rule 15c2-12.

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

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

26 **PART 3. BONDS AUTHORIZED.**

27 The Bonds shall be issued in accordance with the Constitution, laws of the State of Texas, and
28 the Charter of the City, in one or more series, in the aggregate principal amount not to exceed
29 \$279,630,000, consisting of (a) an aggregate principal amount not to exceed \$104,630,000 for the
30 purposes of (i) financing the Projects described in Schedule I and (ii) paying the costs of issuance
31 associated with the sale of the Bonds and (b) an aggregate principal amount not to exceed \$175,000,000
32 for the purposes of (i) refunding the Refunded Obligations and (ii) paying the costs of issuance
33 associated with the sale of the Bonds and the refunding of the Refunded Obligations. The aggregate
34 principal amount and the designation of Bonds issued pursuant to this Ordinance shall be set forth in
35 the Pricing Certificate therefor.

1 **PART 4. SALE PARAMETERS.**

2 (a) The Bonds shall be issued in any Authorized Denomination as fully registered bonds,
3 without interest coupons, payable to the respective initial registered owners of the Bonds, or to the
4 registered assignee or assignees of the Bonds, maturing not later than 40 years from their issue date,
5 payable serially or otherwise on the dates, in the years and in the principal amounts, and dated and
6 numbered, all as set forth in the Pricing Certificate therefor.

7 (b) In accordance with Chapter 1207 and Chapter 1371, Council authorizes each Authorized
8 Representative to act on behalf of the City in selling and delivering the Bonds and carrying out the
9 other procedures specified in this Ordinance, including determining and fixing the number of series and
10 the designation or title by which each series of Bonds shall be known and, with respect to each series of
11 Bonds, the purposes and aggregate principal amount of the Bonds sold, the dated date and the date of
12 delivery of the Bonds sold, the price at which the Bonds will be sold, the years in which the Bonds will
13 mature, the principal amount of Bonds to mature in each of such years, that portion of the Bonds, if
14 any, to be issued as capital appreciation bonds and the maturity amount of any Bonds issued as capital
15 appreciation bonds, the rate or rates of interest to be borne by or accrue on each maturity, the interest
16 payment periods and interest payment dates, the record date, the dates, prices, and terms upon and at
17 which the Bonds shall be subject to redemption (including provisions for optional and mandatory
18 redemption), and all other matters relating to the issuance, sale, and delivery of the Bonds and the
19 refunding of the Refunded Obligations, including, without limitation, obtaining a municipal bond
20 insurance policy in support of the Bonds, all of which shall be specified in the Pricing Certificate;
21 provided, that (i) the price to be paid for the Bonds shall not be less than 95% of the aggregate principal
22 amount of the Bonds sold, plus accrued interest, if any, (ii) the Bonds shall not bear interest at a rate
23 greater than the maximum rate allowed by Chapter 1204, (iii) Bonds sold for the purpose of refunding
24 Refunded Obligations must produce positive gross savings and present value savings, calculated in
25 accordance with GASB Statement No. 7, of at least four and one-fourth percent (4.25%), and (iv) prior
26 to their delivery, the Bonds shall be rated by a nationally recognized rating agency for municipal
27 securities in one of the four highest rating categories for long-term debt instruments.

28 An Authorized Representative may elect not to refund any of the Refunding Candidates, but in
29 no event shall Bonds be issued for the purpose of refunding Refunded Obligations if the refunding of
30 the Refunded Obligations does not result in the minimum savings threshold established by this
31 Ordinance. The Pricing Certificate shall specifically state both the net present value savings and the
32 gross savings realized by the City as a result of refunding the Refunded Obligations.

33 It is in the best interests of the City for the Bonds to be sold through a negotiated sale, and
34 Council authorizes each Authorized Representative to enter into and carry out the Purchase Agreement
35 with the Underwriters pursuant to PART 13 of this Ordinance. Each Authorized Representative may
36 designate underwriters for future series of the Bonds.

37 The authority of an Authorized Representative to execute any Purchase Agreement shall expire
38 at 11:59 p.m. on February 20, 2016 (the "Expiration Date"). Bonds sold pursuant to a Purchase
39 Agreement executed on or before the Expiration Date may be delivered after such date.

40 In establishing the aggregate principal amount of the Bonds of each series, the Authorized
41 Representative shall establish an amount which shall be sufficient to provide for the purposes for which
42 the Bonds are authorized. The Bonds of each series shall be sold at such price, with and subject to such
43 terms, as set forth in the Pricing Certificate therefor.

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

5 **PART 5. REDEMPTION PROVISIONS.**

6 (a) The Bonds may be subject to redemption, at the option of the City, prior to their stated
7 maturities to the extent and in the manner provided in the Pricing Certificate and the Form of Bond.
8 The years of maturity of the Bonds called for redemption at the option of the City prior to stated
9 maturity shall be selected by the City. The Bonds or any portion redeemed within a maturity shall be
10 selected by lot, or other customary random selection method, by the Paying Agent/Registrar; provided,
11 that during any period in which ownership of the Bonds is determined only by a book entry at DTC, if
12 fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed,
13 the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with
14 the arrangements between the City and DTC.

15 (b) The Bonds may be subject to mandatory sinking fund redemption prior to their stated
16 maturities, to the extent and in the manner provided in the Pricing Certificate and the Form of Bond.

17 (c) At least thirty (30) days before the date fixed for redemption, the City shall cause a
18 written notice of the redemption to be deposited in the United States mail, first-class postage prepaid,
19 addressed to each Registered Owner at the address shown on the Registration Books. By the date fixed
20 for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the
21 required redemption price for the Bonds which are to be redeemed, plus accrued interest to the date
22 fixed for redemption. If the notice of redemption is given, and if provision for payment is made, all as
23 provided above, the Bonds, or the portions of the Bonds, which are to be redeemed, automatically shall
24 be redeemed prior to their scheduled maturities, and shall not bear interest after the date fixed for their
25 redemption, and shall not be regarded as outstanding except for the right of the Registered Owner to
26 receive the redemption price plus accrued interest to the date fixed for redemption from the Paying
27 Agent/Registrar out of the funds provided for payment. The Paying Agent/Registrar shall record in the
28 Registration Books all redemptions of principal of the Bonds or any portion of the principal. If a
29 portion of any Bond shall be redeemed, one or more substitute Bonds having the same maturity date,
30 bearing interest at the same rate, in any Authorized Denomination, at the written request of the
31 Registered Owner, and in an aggregate principal amount equal to the unredeemed portion of the Bonds,
32 will be issued to the Registered Owner upon the surrender for cancellation, at the expense of the City,
33 all as provided in this Ordinance. In addition, the City shall cause the Paying Agent/Registrar to give
34 notice of any redemption in the manner set forth in PART 7(h). The failure to cause notice to be given,
35 however, or any defect in the notice, shall not affect the validity or effectiveness of the redemption. If a
36 notice of redemption is given and sufficient funds are not received for the payment of the required
37 redemption price for the Bonds which are to be redeemed, the notice shall be of no force and effect, the
38 City shall not redeem the Bonds, and the Paying Agent/Registrar shall give notice, in the manner in
39 which the notice of redemption was given, that the Bonds have not been redeemed.

40 **PART 6. INTEREST.**

41 The Bonds shall bear interest at the rates per annum set forth in the Pricing Certificate. The
42 interest shall be payable to the Registered Owner of any Bond in the manner provided and on the dates

1 stated in the Pricing Certificate and in the Form of Bond. Interest shall be calculated on the basis of a
2 360-day year consisting of twelve 30-day months.

3 **PART 7. ADDITIONAL CHARACTERISTICS OF THE BONDS.**

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

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

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

34 (d) Each Bond may be exchanged for fully registered obligations as set forth in this
35 Ordinance. Each Bond issued and delivered pursuant to this Ordinance, to the extent of the
36 unredeemed principal amount, may, upon surrender at the Designated Payment/Transfer Office,
37 together with a written request duly executed by the Registered Owner or its assignee or assignees, or
38 its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the
39 Paying Agent/Registrar, at the option of the Registered Owner or its assignee or assignees, as
40 appropriate, be exchanged for fully registered obligations, without interest coupons, in the form
41 prescribed in the Form of Bond, in any Authorized Denomination (subject to the requirement stated
42 below that each substitute Bond shall have a single stated maturity date), as requested in writing by the
43 Registered Owner or its assignee or assignees, in an aggregate principal amount equal to the
44 unredeemed principal amount of any Bond or Bonds so surrendered, and payable to the appropriate

1 Registered Owner, assignee, or assignees. If a portion of any Bond is assigned and transferred, each
2 Bond issued in exchange shall have the same maturity date and bear interest at the same rate as the
3 Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to
4 distinguish it from each other Bond. The Paying Agent/Registrar shall exchange or replace Bonds as
5 provided in this Ordinance, and each fully registered Bond delivered in exchange for or replacement of
6 any Bond or portion of a Bond as permitted or required by any provision of this Ordinance shall
7 constitute one of the Bonds for all purposes of this Ordinance, and may again be exchanged or replaced.
8 Any Bond delivered in exchange for or replacement of another Bond before the first scheduled interest
9 payment date on the Bonds (as stated on the face of the Bond) shall be dated the same date, but each
10 substitute Bond delivered on or after the first scheduled interest payment date shall be dated the interest
11 payment date preceding the date on which the substitute Bond is delivered, unless the substitute Bond is
12 delivered on an interest payment date, in which case it shall be dated as of the date of delivery;
13 however, if at the time of delivery of any substitute Bond the interest on the Bond for which it is being
14 exchanged has not been paid, then the substitute Bond shall be dated the date to which interest has been
15 paid in full. On each substitute Bond issued in exchange for or replacement of any Bond issued under
16 this Ordinance there shall be printed on the Bond the Authentication Certificate. An authorized
17 representative of the Paying Agent/Registrar shall, before the delivery of any substitute Bond, date the
18 substitute Bond in the manner set forth above, and manually sign and date the Authentication
19 Certificate, and no substitute Bond shall be considered to be issued or outstanding unless the
20 Authentication Certificate is executed. The Paying Agent/Registrar promptly shall cancel all Bonds
21 surrendered for exchange or replacement. No additional ordinances, orders, or resolutions need be
22 passed or adopted by Council or any other body or person to accomplish the exchange or replacement
23 of any Bond, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of
24 the substitute Bonds in the manner prescribed in this Ordinance. Pursuant to Chapter 1206, the duty of
25 exchange or replacement of any Bond is imposed on the Paying Agent/Registrar, and, upon the
26 execution of the Authentication Certificate, the exchanged or replaced obligation shall be valid,
27 incontestable, and enforceable in the same manner and with the same effect as the Bonds which
28 originally were delivered pursuant to this Ordinance, approved by the Texas Attorney General, and
29 registered by the Texas Comptroller of Public Accounts. Neither the City nor the Paying
30 Agent/Registrar shall be required to transfer or exchange any Bond selected for redemption, in whole or
31 in part, within 45 calendar days of the date fixed for redemption; provided, however; the limitation of
32 transfer shall not be applicable to an exchange by the Registered Owner of the uncalled principal of a
33 Bond.

34 (e) All Bonds issued in exchange or replacement of any other Bond or portion of a Bond (i)
35 shall be issued in fully registered form, without interest coupons, with the principal of and interest on
36 the Bonds to be payable only to the Registered Owners, (ii) may be redeemed prior to their scheduled
37 maturities, (iii) may be transferred and assigned, (iv) may be exchanged for other Bonds, (v) shall have
38 the characteristics, (vi) shall be signed and sealed, and (vii) the principal of and interest on the Bonds
39 shall be payable, all as provided, and in the manner required or indicated, in the Form of Bond.

40 (f) The City shall pay the Paying Agent/Registrar's reasonable and customary fees and
41 charges for making transfers of Bonds, but the Registered Owner of any Bond requesting the transfer
42 shall pay any taxes or other governmental charges required for the transfer. The Registered Owner of
43 any Bond requesting any exchange shall pay the Paying Agent/Registrar's reasonable and standard or
44 customary fees and charges for exchanging any Bond or a portion of a Bond, together with any required
45 taxes or governmental charges, all as a condition precedent to the exercise of the privilege of exchange,
46 except in the case of the exchange of an assigned and transferred Bond or Bonds or any portion or
47 portions in any Authorized Denomination, the fees and charges will be paid by the City. In addition, the

1 City covenants with the Registered Owners of the Bonds that it will (i) pay the reasonable and standard
2 or customary fees and charges of the Paying Agent/Registrar for its services with respect to the
3 payment of the principal of and interest on the Bonds, when due, and (ii) pay the fees and charges of
4 the Paying Agent/Registrar for services with respect to the transfer or registration of Bonds, and with
5 respect to the exchange of Bonds solely to the extent stated above.

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

28 (h) Each redemption notice, whether required in the Form of Bonds or otherwise by this
29 Ordinance, shall contain a description of the Bonds to be redeemed, including the complete name of the
30 Bonds, the series, the date of issue, the interest rate, the maturity date, the CUSIP number, the amounts
31 of the Bonds called for redemption, the date of redemption, the redemption price, the name of the
32 Paying Agent/Registrar and the address at which the Bond may be redeemed, including a contact
33 person and telephone number. All redemption payments made by the Paying Agent/Registrar to the
34 Registered Owners of the Bonds shall include CUSIP numbers relating to each amount paid to such
35 Registered Owner.

36 **PART 8. FORM OF BONDS.**

37 The Bonds shall be signed with the manual or facsimile signatures of the Mayor and the City
38 Clerk, and the seal of the City shall be affixed or impressed on the Bonds. The form of all Bonds,
39 including the form of the Comptroller's Registration Certificate to accompany the Bonds on the initial
40 delivery, the form of the Authentication Certificate, and the Form of Assignment to be printed on each
41 Bond, shall be, respectively, substantially in the form set forth in Exhibit A, with such appropriate
42 variations, omissions, or insertions as are permitted or required by this Ordinance.

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

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

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

33 (c) Chapter 1208 applies to the issuance of the Bonds and the pledge of ad valorem taxes
34 made under PART 9(a) of this Ordinance, and the pledge is valid, effective, and perfected. If Texas law
35 is amended at any time while any Bond is outstanding and unpaid so that the pledge of ad valorem
36 taxes made by the City under PART 9(a) of this Ordinance is to be subject to the filing requirements of
37 Chapter 9, then to preserve to the Registered Owners of the Bonds the perfection of the security interest
38 in the pledge, the City agrees to take measures as it determines are reasonable and necessary under
39 Texas law to comply with the applicable provisions of Chapter 9 and enable a filing to perfect the
40 security interest in the pledge.

41 **PART 10. DAMAGED, LOST, STOLEN OR DESTROYED BONDS.**

42 (a) In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the
43 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 Ordinance.

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

(c) Notwithstanding clauses (a) and (b), in the event any Bond shall have matured, and there is no continuing default in the payment of the principal of, premium, if any, or interest on the Bond, the City may authorize its payment (without surrender 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 PART.

(d) 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 with the replacement. Every replacement Bond issued pursuant to the provisions of this Ordinance by virtue of the fact that any Bond is damaged, mutilated, lost, stolen, or destroyed shall constitute a contractual obligation of the City whether the damaged, mutilated, lost, stolen, or destroyed Bond shall be found, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

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

PART 11. SUBMISSION OF PROCEEDINGS TO ATTORNEY GENERAL.

The Mayor, or his designee, is authorized to have control of the Bonds and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination and approval by the Texas Attorney General, and their registration by the Texas Comptroller of Public Accounts. Upon registration of the Bonds, the Comptroller (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate accompanying the Bonds, and the seal of the Comptroller shall be impressed, or placed in facsimile, on each certificate. After registration by the Comptroller, delivery of the Bonds shall be made to the Underwriters, under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

PART 12. ESCROW AGREEMENT; REDEMPTION OF REFUNDED OBLIGATIONS.

(a) *Escrow Agreement.* Concurrently with the delivery of the Bonds, the Authorized Representative shall cause to be deposited with the Escrow Agent, from the proceeds from the sale of the Bonds and other available moneys of the City, an amount sufficient to provide for the refunding of

1 the Refunded Obligations in accordance with Chapter 1207. For this purpose, Council authorizes the
2 Authorized Representative to (i) execute the Escrow Agreement, (ii) purchase permitted investments
3 for a defeasance escrow established to defease the Refunded Obligations, execute any and all
4 subscriptions, purchase agreements, commitments, letters of authorization and other documents
5 necessary to effectuate the foregoing and take any action necessary to obtain the securities to be held by
6 the Escrow Agent in accordance with the terms of the Escrow Agreement, and (iii) direct and provide
7 for such contributions to the escrow fund as are provided in the Escrow Agreement. The City Clerk is
8 authorized to attest the Authorized Representative's execution of the Escrow Agreement. The Escrow
9 Agent does not act as a depository for the City.

10 (b) *Redemption of Refunded Obligations.* Council determines that, subject to the delivery of
11 the Bonds, the Refunded Obligations shall be called for redemption at the price(s) and on the date(s) set
12 forth in the Pricing Certificate, all in accordance with the applicable provisions of the proceedings
13 authorizing the issuance of the Refunded Obligations. An Authorized Representative or his designee
14 shall take such actions necessary to cause the required notice of redemption to be given in accordance
15 with the terms of the proceedings for the Refunded Obligations called for redemption.

16 **PART 13. SALE OF BONDS; OFFICIAL STATEMENT.**

17 (a) The Bonds shall be sold to the Underwriters at the price set forth in the Pricing
18 Certificate, and delivery of the Bonds to the Underwriters shall be made upon payment therefor in
19 accordance with the terms of the Purchase Agreement. An Authorized Representative is hereby
20 authorized and directed to execute such Pricing Certificate and Purchase Agreement on behalf of the
21 City, and the Mayor, Mayor Pro Tem, City Manager, Chief Financial Officer, City Clerk, and all other
22 officials, agents and representatives of the City are hereby authorized to execute and deliver such
23 agreements, certificates, instruments and other documents, and do any and all things necessary or
24 desirable to satisfy the conditions set out therein, to provide for the issuance and delivery of the Bonds.

25 (b) Council hereby ratifies, authorizes and approves, in connection with the sale of the
26 Bonds, the preparation and distribution of the Preliminary Official Statement and a final Official
27 Statement, substantially in the form of the Preliminary Official Statement, containing such additional
28 information and amendments as may be necessary to conform to the terms of the Bonds, this Ordinance
29 and the Purchase Agreement, and the Preliminary Official Statement is hereby deemed final as of its
30 date within the meaning and for the purposes of paragraph (b)(1) of the Rule. An Authorized
31 Representative is authorized to approve such amendments and supplements to the Official Statement as
32 either of them shall deem necessary or appropriate. The Mayor and City Clerk are hereby authorized to
33 execute such Official Statement by manual, facsimile or electronic signature and/or to deliver a
34 certificate pertaining to such Official Statement as prescribed therein or in the Purchase Agreement,
35 dated as of the date of payment for and delivery of the Bonds.

36 (c) The Mayor, Mayor Pro Tem, City Manager, City Clerk, Chief Financial Officer and all
37 other officials, agents and representatives of the City are authorized hereby to take such actions as any
38 such officer, official, agent or representative shall approve in seeking ratings on the Bonds from
39 Moody's Investors Service, Fitch Ratings or Standard & Poor's Ratings Services, or any confirmation
40 of such firms' ratings, and such actions are hereby ratified and confirmed.

41 (d) Proceeds from the sale of the Bonds shall be disbursed in the amounts and for the
42 purposes set forth in the Pricing Certificate. An Authorized Representative may provide for the
43 establishment of such funds, accounts or subaccounts as are deemed necessary or appropriate for the

1 safekeeping and administration of proceeds from the sale of the Bonds pending their disbursement for
2 authorized purposes.

3 **PART 14. COVENANTS TO MAINTAIN TAX EXEMPT STATUS.**

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

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

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

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

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

11 “Issue Date” for the Bonds or other obligations of the City is the respective date on which such
12 Bonds or other obligations of the City are delivered against payment therefor.

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

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

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

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

17 “Regulations” means the temporary or final Income Tax Regulations applicable to the Bonds
18 issued pursuant to sections 141 through 150 of the Code. Any reference to a section of the Regulations
19 shall also refer to any successor provision to such section hereafter promulgated by the Internal
20 Revenue Service pursuant to sections 141 through 150 of the Code and applicable to the Bonds.

21 “Yield of”

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

24 (ii) the Bonds shall be computed in accordance with section 1.148-4 of the
25 Regulations.

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

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

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

11 (ii) not directly or indirectly impose or accept any charge or other payment for use of
12 Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of
13 which is to be financed directly or indirectly with such Gross Proceeds (including property
14 financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the
15 Refunded Obligations) other than taxes of general application and interest earned on
16 investments acquired with such Gross Proceeds pending application for their intended purposes.

17 (d) No Private Loan. Except to the extent permitted by section 141 of the Code and the
18 regulations and rulings relating to section 141 of the Code, the City shall not use Gross Proceeds of the
19 Bonds to make or finance loans to any person or entity other than a state or local government. For
20 purposes of the foregoing covenant, Gross Proceeds are considered to be "loaned" to a person or entity
21 if (1) property acquired, constructed or improved with Gross Proceeds (including property financed
22 with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded
23 Obligations) is sold or leased to such person or entity in a transaction which creates a debt for federal
24 income tax purposes, (2) capacity in or service from such property is committed to such person or
25 entity under a take or pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens
26 and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a
27 transaction which is the economic equivalent of a loan.

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

34 (f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code
35 and the regulations and rulings relating to section 149(b) of the Code, the City shall not take or omit to
36 take any action which would cause the Bonds to be federally guaranteed within the meaning of section
37 149(b) of the Code and the regulations and rulings relating to section 149(b) of the Code.

38 (g) Information Report. The City shall timely file with the Secretary of the Treasury the
39 information required by section 149(e) of the Code with respect to the Bonds on such forms and in such
40 place as such Secretary may prescribe.

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

(i) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired with these proceeds.

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

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

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

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

(j) Not Hedge Bonds. The City will not invest more than 50 percent of the Proceeds of the Bonds or any series of the Refunded Obligations (or, if applicable, the obligations refunded by the Refunded Obligations (the "Original Bonds")) in Nonpurpose Investments having a guaranteed yield for four years or more. On the Issue Date of the Bonds and the Refunded Bonds (or, if applicable, the Original Bonds), the City will reasonably expect that at least 85 percent of the Net Sale Proceeds of the Bonds and each series of Refunded Obligation, or, if applicable, the Original Bonds, will or would be used to carry out the governmental purpose of such series within three years after the Issue Date of such series.

PART 15. CONTINUING DISCLOSURE OBLIGATION.

(a) *Annual Reports.*

(i) The City shall provide annually to the MSRB, (A) within six months after the end of each fiscal year of the City, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by PART 13 of this

1 Ordinance, being information of the type described in the Pricing Certificate, including financial
2 statements of the City if audited financial statements of the City are then available, and (B) if
3 not provided as part such financial information and operating data, audited financial statements
4 of the City, when and if available. Any financial statements to be provided shall be (x) prepared
5 in accordance with the accounting principles described in the Pricing Certificate, or such other
6 accounting principles as the City may be required to employ from time to time pursuant to state
7 law or regulation, and in substantially the form included in the Official Statement, and
8 (y) audited, if the City commissions an audit of such financial statements and the audit is
9 completed within the period during which they must be provided. If the audit of such financial
10 statements is not complete within 12 months after any such fiscal year end, then the City shall
11 file unaudited financial statements within such 12-month period and audited financial
12 statements for the applicable fiscal year, when and if the audit report on such statements
13 becomes available.

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

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

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

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

(xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

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

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

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

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

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

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

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

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

14 **PART 16. DTC REGISTRATION.**

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

1 **PART 17. DEFEASANCE.**

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

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

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

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

1 **PART 18. DEFAULT AND REMEDIES.**

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

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

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

10 (b) *Remedies for Default.*

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

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

22 (c) *Remedies Not Exclusive.*

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

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

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

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

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

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

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

18 **PART 20. RULES OF CONSTRUCTION.**

19 For all purposes of this Ordinance, unless the context requires otherwise, all references to
20 designated PARTS and other subdivisions are to the PARTS and other subdivisions of this Ordinance.
21 Except where the context otherwise requires, terms defined in this Ordinance to impart the singular
22 number shall be considered to include the plural number and vice versa. References to any named
23 person shall mean that party and his or her successors and assigns. References to any constitutional,
24 statutory or regulatory provision means the provision as it exists on the date this Ordinance is adopted
25 by the City. Any reference to the payment of principal in this Ordinance shall include the payment of
26 any mandatory sinking fund redemption payments as described in this Ordinance. Any reference to
27 “Form of Bond” refers to the form of the Bonds in Exhibit A to this Ordinance. The titles and headings
28 of the PARTS and subsections of this Ordinance have been inserted for convenience of reference only
29 and are not a part of this Ordinance and shall not in any way modify or restrict any of its terms or
30 provisions.

31 **PART 21. CONFLICTING ORDINANCES REPEALED.**

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

33 **PART 22. IMMEDIATE EFFECT.**

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

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

PASSED AND APPROVED AND EFFECTIVE AUGUST 20, 2015.

Steve Adler,
Mayor,
City of Austin, Texas

ATTEST:

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

(SEAL)

APPROVED:

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