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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:

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

“Beneficial Owner” shall have the meaning given in Section 7 of the Forty-Sixth Supplement.

“Board Resolution” means Resolution No. 16-076 adopted by the Texas Water Development Board on July 21, 2016, as amended by Resolution No. 17-087 adopted by the Texas Water Development Board on July 20, 2017, and by Resolution No. 18-095 adopted by the Texas Water Development Board on July 26, 2018, approving the purchase of the Bonds from the City.

“Bonds” means the “CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE BONDS, SERIES 2023A (SWIRFT)” authorized for issuance by the Forty-Sixth 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 1206” means V.T.C.A., Government Code, Chapter 1206.

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

“Chapter 1502” means V.T.C.A., Government Code, Chapter 1502.

“Chapter 2256” means V.T.C.A., Government Code, Chapter 2256.

“Chapter 2257” means V.T.C.A., Government Code, Chapter 2257.

“Code” means the Internal Revenue Code of 1986.

“Construction Fund” shall have the meaning given in Section 36 of the Forty-Sixth Supplement.

“Delivery Date” means the date all or any portion of the Bonds are delivered to the Purchaser in exchange for the agreed purchase price of the delivered Bonds.

“Forty-Sixth Supplement” means this Ordinance No. 20231019 authorizing the issuance of the Bonds.

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

“Initial Bond” shall have the meaning given in Section 9 of the Forty-Sixth Supplement.

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

“Paying Agent/Registrar” means Wilmington Trust, N.A., Dallas, Texas.

“Previously Issued Parity Water/Wastewater Obligations” means the outstanding (1) City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2010”, (2) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2010B (Direct Subsidy-Build America Bonds)”, (3) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2012”, (4) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2013A”, (5) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2014”, (6) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2015A”, (7) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2016”, (8) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2016A”, (9) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2017”, (10) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2017A”, (11) “City of Austin, Texas Water and Wastewater System Revenue Bonds, Series 2018”, (12) “City of Austin, Texas Water and Wastewater System Revenue Bonds, Series 2019”, (13) “City of Austin, Texas Water and Wastewater System Revenue Bonds, Series 2020A”, (14) “City of Austin, Texas Water and Wastewater System Revenue Bonds, Series 2020B”, (15) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2020C”, (16) “City of

Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2020D”, (17) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2021”, (18) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2021A”, (19) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2021B”, (20) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2021C”, (21) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2021D (CWSRF)”, (22) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2021E (DWSRF)”, (23) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2022”, (24) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2022A (SWIRFT)”, (25) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2022B (DWSRF)”, (26) “City of Austin, Texas, Water and Wastewater System Revenue Bonds, Series 2022C (CWSRF)”, and (27) “City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2023 (Forward Delivery)”.

“Prior Supplements” mean Ordinances Nos. 20080306-052, 20080306-053, 20101118-074, 20111103-051, 20120628-101, 20130620-074, 20140522-040, 20150604-038, 20160421-011, 20161020-002, 20170622-016, 20171012-002, 20181018-004, 20191003-002, 20200123-106, 20200123-107, 20200927-057, 20201029-041, 20201210-004, 20201210-005, 20211014-004, 20211014-005, 20211014-006, 20211014-009, 20220915-003, 20221013-002, 20221013-003 and 20221013-004 authorizing the issuance of the Previously Issued Parity Water/Wastewater Obligations.

“Purchaser” or “TWDB” means the Texas Water Development Board.

“Security Register” shall have the meaning given in Section 5 of the Forty-Sixth Supplement.

“State” means the State of Texas.

“State Water Plan” means the State’s comprehensive water plan prepared, developed, formulated and adopted by the Texas Water Development Board under authority of Subchapter C of Chapter 16, Texas Water Code.

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

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 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 aggregate principal amount of \$18,000,000 and designated the “CITY OF AUSTIN, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE BONDS, SERIES 2023A (SWIRFT)” (the “Bonds”), for the purpose of improving and extending the Water/Wastewater System by financing projects that are part of the State Water Plan, and paying costs of issuance, in conformity with the Constitution and laws of the State, including Chapter 1502.

SECTION 3: FULLY REGISTERED OBLIGATIONS–AUTHORIZED DENOMINATIONS – STATED MATURITIES - DATE. The Bonds shall be issued as fully registered obligations, without coupons, 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 Forty-Sixth Supplement). The Bonds shall bear interest on the unpaid principal amounts from the date and at the rate(s) per annum as specified in Section 4 below (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 May 15, 2024, until maturity or prior redemption, as provided in the FORM OF BOND.

SECTION 4: PRINCIPAL PAYMENTS AND INTEREST RATES; REDEMPTION.

(a) The Bonds shall be dated September 27, 2023 (the “Dated Date”), shall be in any Authorized Denomination, shall bear interest from their Delivery Date in the manner described in the FORM OF BOND at the rates per annum, and the principal on the Bonds shall mature on November 15 in each of the years and in the amounts, respectively, set forth in Schedule I attached to this Forty-Sixth Supplement.

(b) The City may redeem Bonds prior to their scheduled maturity on the dates and in the manner set forth in the FORM OF BOND. If less than all of the maturities of the Bonds are redeemed by the City, the City shall determine the maturities and amounts to be redeemed and shall direct the Paying Agent/Registrar to call Bonds by lot within a maturity and in a principal amount for redemption. Notice of any redemption shall be given in the manner set forth in the FORM OF BOND. Notice of any redemption also shall be given by United States mail, first class postage prepaid, (i) at least 30 days prior to the scheduled redemption date to the MSRB and to any national information service that disseminates redemption

145 notices, and (ii) at least 90 days prior to the scheduled redemption date to the
146 TWDB. Any notice sent to the MSRB and to any national information service that
147 disseminates redemption notices must be sent so that the notice is received at least
148 two days prior to the general mailing of notice as set forth in the FORM OF
149 BOND.

150 (c) Each redemption notice, whether required in the FORM OF BOND or
151 otherwise by this Forty-Sixth Supplement, shall contain a description of the Bonds
152 to be redeemed, including the complete name of the Bonds, the series, the date of
153 issue, the interest rate, the maturity date, the CUSIP number, if any, the amounts
154 called for redemption, the publication and mailing date for the notice, the date of
155 redemption, the redemption price, the name of the Paying Agent/Registrar and the
156 address at which the Bond may be redeemed including a contact person and
157 telephone number. All redemption payments made by the Paying Agent/Registrar
158 to the registered owners of the Bonds shall include a CUSIP number relating to
159 each amount paid to such registered owner.
160

161 **SECTION 5: TERMS OF PAYMENT - PAYING AGENT**
162 **/REGISTRAR.** The principal of, premium, if any, and the interest on the Bonds,
163 due and payable by reason of maturity, redemption or otherwise, shall be payable
164 only to the Holders appearing on the registration and transfer books maintained by
165 the Paying Agent/Registrar and the payment shall be in any coin or currency of the
166 United States of America, which at the time of payment is legal tender for the
167 payment of public and private debts, and shall be without exchange or collection
168 charges to the Holders.

169 The selection and appointment of the Paying Agent/Registrar for the Bonds
170 is approved and confirmed. Books and records relating to the registration,
171 payment, exchange and transfer of the Bonds (the "Security Register") shall at all
172 times be kept and maintained on behalf of the City by the Paying Agent/Registrar,
173 all as provided in the Forty-Sixth Supplement, in accordance with the terms and
174 provisions of a "Paying Agent/Registrar Agreement," substantially in the form of
175 paying agent agreements previously approved by council in connection with the
176 issuance of public securities, and such reasonable rules and regulations as the
177 Paying Agent/Registrar and the City may prescribe. The City covenants to
178 maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid
179 and discharged, and any successor Paying Agent/Registrar shall be a bank, trust
180 company, financial institution or other entity qualified and authorized to serve in
181 such capacity and perform the duties and services of Paying Agent/Registrar.
182 Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to
183 promptly cause a written notice of the change to be sent to each Holder by United
184 States Mail, first class postage prepaid, which notice shall also give the address of
185 the new Paying Agent/Registrar.

186 If required by law, the City shall not execute the Paying Agent/Registrar
187 Agreement unless the Paying Agent/Registrar has confirmed to the City that it has
188 made disclosure filings to the Texas Ethics Commission in accordance with
189 Section 2252.908, Texas Government Code. Within 30 days of receipt of the
190 disclosure filings from the Paying Agent/Registrar, the City will submit a copy of
191 the disclosure filings to the Texas Ethics Commission.

192 Principal of and premium, if any, on the Bonds shall be payable at the Stated
193 Maturities or redemption of the Bonds, only upon presentation and surrender of the
194 Bonds to the Paying Agent/Registrar at its designated office in Dallas, Texas (the
195 "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the
196 Holders whose names appear in the Security Register at the close of business on
197 the Record Date (the last Business Day of the month next preceding each interest
198 payment date), and interest shall be paid by the Paying Agent/Registrar (i) by
199 check sent United States Mail, first class postage prepaid, to the address of the
200 Holder recorded in the Security Register or (ii) by such other method, acceptable to
201 the Paying Agent/Registrar, requested by, and at the risk and expense of, the
202 Holder. If the date for the payment of the principal of or interest on the Bonds is a
203 day other than a Business Day, then the date for payment shall be the next
204 succeeding Business Day; and payment on that date shall have the same force and
205 effect as if made on the original date payment was due. If TWDB is the Beneficial
206 Owner of 100% in aggregate principal amount of the Bonds then Outstanding,
207 principal shall be paid to TWDB by wire transfer, at no expense to TWDB.

208 In the event of a non-payment of interest on one or more maturities on a
209 scheduled payment date, and for 30 days thereafter, a new record date for the
210 interest payment for the maturity or maturities (a "Special Record Date") will be
211 established by the Paying Agent/Registrar, if and when funds for the payment of
212 interest have been received from the City. Notice of the Special Record Date and
213 of the scheduled payment date of the past due interest (which shall be 15 days after
214 the Special Record Date) shall be sent at least five Business Days prior to the
215 Special Record Date by United States Mail, first class postage prepaid, to the
216 address of each Holder of such maturity or maturities appearing on the Security
217 Register at the close of business on the last Business Day next preceding the date
218 of mailing of the notice.

219 **SECTION 6: REGISTRATION-TRANSFER-EXCHANGE OF BONDS**
220 **- PREDECESSOR BONDS.** The Paying Agent/Registrar shall obtain, record,
221 and maintain in the Security Register the name and address of each registered
222 owner of the Bonds issued under the provisions of the Forty-Sixth Supplement.
223 Any Bond may, in accordance with its terms and the terms of the Forty-Sixth
224 Supplement, be transferred or exchanged for Bonds of other authorized
225 denominations upon the Security Register by the Holder, in person or the Holder's

226 authorized agent, upon surrender of the Bond to the Paying Agent/Registrar for
227 cancellation, accompanied by a written instrument of transfer or request for
228 exchange executed by the Holder or the Holder's authorized agent, in form
229 satisfactory to the Paying Agent/ Registrar.

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

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

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

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

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

265 shall be deemed to evidence the same obligation as the mutilated, lost, destroyed,
266 or stolen Bond.

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

272 The Paying Agent/Registrar for the Bonds shall act as the closing agent for
273 the delivery of the Bonds to the TWDB, and in connection therewith, the Paying
274 Agent/Registrar understands the Bonds are to be delivered to the TWDB using the
275 book-entry only system provided by DTC.

276
277 The City agrees to deliver to the Paying Agent/Registrar one initial Bond,
278 numbered T-1, as provided in Section 9 of the Forty-Sixth Supplement, and
279 registered to the TWDB following the approval by the Attorney General of the
280 State and the registration by the Comptroller of Public Accounts. Proceeds from
281 the Bonds will be held in escrow and disbursed to the City in accordance with
282 procedures approved by the TWDB.

283
284 **SECTION 7: BOOK-ENTRY-ONLY TRANSFERS AND**
285 **TRANSACTIONS.** Notwithstanding the provisions contained in Sections 4, 5 and
286 6 of the Forty-Sixth Supplement relating to the payment, and transfer/exchange of
287 the Bonds, the City approves and authorizes the use of the “Book-Entry-Only”
288 securities clearance, settlement and transfer system provided by The Depository
289 Trust Company, New York, New York (“DTC”), a limited purpose trust company
290 organized under the laws of the State of New York, in accordance with the
291 operational arrangements referenced in the Blanket Issuer Letter of Representation,
292 by and between the City and DTC (the “Depository Agreement”).

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

301 In the event DTC determines to discontinue serving as securities depository
302 for the Bonds or otherwise ceases to provide book-entry clearance and settlement
303 of securities transactions in general or the City determines that DTC is incapable of
304 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 Forty-Sixth 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 Dated 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 Purchaser 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 Forty-Sixth 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 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. The Bonds shall be initially issued as a single fully registered bond, payable in the aggregate principal amount of the Bonds, and numbered T-1 (the "Initial Bond"). The Initial Bond shall be registered in the name of the Purchaser or its designee. The Initial Bond shall be submitted to the Office of the Attorney General of the State for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State and delivered to the Purchaser. Any time after the delivery of the Initial Bond, the Paying Agent/Registrar, pursuant to written instructions from the Purchaser, or its designee, shall cancel the Initial Bond delivered and exchange for the Initial Bond 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 Purchaser, or its 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, 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 Forty-Sixth Supplement, with appropriate insertions, omissions, substitutions, and other variations as are permitted or required by the Forty-Sixth 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 (CUSIP) 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 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 Forty-Sixth 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 Forty-Sixth Supplement for all purposes, except to the extent modified and supplemented by the Prior Supplements and the Forty-Sixth 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. 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 Forty-Sixth 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 Forty-Sixth Supplement. 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 Forty-Sixth Supplement without physical delivery or transfer of control of the Net Revenues, the filing of the Forty-Sixth 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 Forty-Sixth 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 Purchaser.

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 Purchaser 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 certain of the Previously Issued Water/Wastewater Obligations, the Required Reserve Amount is funded with cash and Credit Facilities originally issued by Ambac Assurance Corporation and XL Capital Assurance Inc.

The Reserve Fund shall be funded with proceeds of the Bonds, in the amount described in the letter of instructions executed in accordance with Section 26 of the Forty-Sixth Supplement, and in accordance with the Board Resolution.

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 Bond is 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 Forty-Sixth Supplement 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,

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

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

504 (g) to otherwise restrict the use of the proceeds of the Bonds or amounts
505 treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not
506 otherwise contravene the requirements of section 148 of the Code (relating to
507 arbitrage);

508 (h) to refrain from using the proceeds of the Bonds or the proceeds of any
509 prior bonds to pay debt service on another issue more than ninety (90) days after
510 the issuance of the Bonds in contravention of section 149 of the Code (relating to
511 advance refundings); and

512 (i) to pay to the United States of America at least once during each five-
513 year period (beginning on the Delivery Date of the Bonds) an amount that is at
514 least equal to 90 percent of the "excess earnings", within the meaning of section
515 148(f) of the Code, and to pay to the United States of America, not later than 60
516 days after the Bonds have been paid in full, 100 percent of the amount then
517 required to be paid as a result of Excess Earnings under section 148(f) of the Code.

518 The City understands that the term "proceeds" includes "disposition
519 proceeds" as defined in the Treasury Regulations and, in the case of a refunding
520 bond, transferred proceeds (if any) and proceeds of the refunded bonds expended
521 prior to the date of the issuance of the Bonds. It is the understanding of the City
522 that these covenants are intended to assure compliance with the Code and any
523 regulations or rulings promulgated by the U.S. Department of the Treasury
524 pursuant to the Code. In the event that regulations or rulings are hereafter
525 promulgated which modify or expand provisions of the Code, as applicable to the
526 Bonds, the City will not be required to comply with any covenant contained in this
527 Section to the extent that the failure to comply, in the opinion of nationally-rec-
528 ognized bond counsel, will not adversely affect the exemption from federal income
529 taxation of interest on the Bonds under section 103 of the Code. In the event that
530 regulations or rulings are hereafter promulgated which impose additional
531 requirements which are applicable to the Bonds, the City agrees to comply with the
532 additional requirements to the extent necessary, in the opinion of nationally-recog-
533 nized bond counsel, to preserve the exemption from federal income taxation of
534 interest on the Bonds under section 103 of the Code. In furtherance of the
535 foregoing, the Mayor, the City Manager or Acting or Interim City Manager, any
536 Assistant City Manager, the Chief Financial Officer of the City, any Deputy
537 Financial Officer of the City and the City Treasurer may execute any certificates or

538 other reports required by the Code and make such elections, on behalf of the City,
539 which may be permitted by the Code as are consistent with the purpose for the
540 issuance of the Bonds. In order to facilitate compliance with the above clause (i), a
541 "Rebate Fund" is established by the City for the sole benefit of the United States of
542 America, and the Rebate Fund shall not be subject to the claim of any other person,
543 including without limitation the registered owners of the Bonds. The Rebate Fund
544 is established for the additional purpose of compliance with section 148 of the
545 Code.

546 **SECTION 16A: ALLOCATION OF, AND LIMITATION ON,**
547 **EXPENDITURES FOR THE BOND-FINANCED PROPERTY;**
548 **DISPOSITION OF BOND-FINANCED PROPERTY.**

549 The City covenants to account for on its books and records the expenditure
550 of proceeds from the sale of the Bonds and any investment earnings thereon to be
551 used for the improvement and extension of the System (referred to in this Section
552 as a "Project") by allocating proceeds to expenditures within 18 months of the later
553 of the date that (a) the expenditure on a Project is made or (b) each such Project is
554 completed. The foregoing notwithstanding, the City shall not expend such
555 proceeds or investment earnings more than 60 days after the later of (a) the fifth
556 anniversary of the Delivery Date of the Bonds or (b) the date the Bonds are retired,
557 unless the City obtains an opinion of nationally-recognized bond counsel
558 substantially to the effect that such expenditure will not adversely affect the tax-
559 exempt status of the Bonds. For purposes of this Section, the City shall not be
560 obligated to comply with this covenant if it obtains an opinion of nationally-
561 recognized bond counsel to the effect that such failure to comply will not adversely
562 affect the excludability for federal income tax purposes from gross income of the
563 interest.

564
565 The City covenants that the property constituting the Project will not be sold
566 or otherwise disposed in a transaction resulting in the receipt by the City of cash or
567 other compensation, unless the City obtains an opinion of nationally-recognized
568 bond counsel substantially to the effect that the sale or other disposition will not
569 adversely affect the tax-exempt status of the Bonds. The portion of the property
570 comprising personal property and disposed of in the ordinary course of business
571 shall not be treated as a transaction resulting in the receipt of cash or other
572 compensation. The City shall not be obligated to comply with this covenant if it
573 obtains an opinion of nationally-recognized bond counsel to the effect that the
574 failure to comply will not adversely affect the excludability for federal income tax
575 purposes from gross income of the interest.

576
577 **SECTION 17: AMENDMENT OF FORTY-SIXTH SUPPLEMENT.**
578

(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 Forty-Sixth Supplement which may be deemed necessary or desirable by the City; provided, however, nothing contained in the Forty-Sixth Supplement shall permit or be construed to permit the amendment of the terms and conditions in the Forty-Sixth 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 Forty-Sixth 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.

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

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

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

639 (1) To add to the covenants and agreements of the City
640 contained in the Forty-Sixth Supplement, other covenants and
641 agreements thereafter to be observed, grant additional rights or
642 remedies to the owners of the Bonds or to surrender, restrict or limit
643 any right or power reserved in the Forty-Sixth Supplement to or
644 conferred upon the City;

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

652 (3) To modify any of the provisions of the Forty-Sixth
653 Supplement in any other respect whatever, provided that any
654 modification shall be, and be expressed to be, effective only after all
655 the Bonds outstanding at the date of the adoption of the modification
656 shall cease to be outstanding;

657 (4) To make amendments to the Forty-Sixth Supplement as may
658 be required, in the opinion of Bond Counsel, to ensure compliance
659 with sections 103 and 141 through 150 of the Code and the
660 regulations promulgated under and applicable to those sections and
661 regulations;

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

669 (6) To make amendments to the 46th Supplement as permitted
670 by Section 21(e) of the Forty-Sixth Supplement;

671 (7) To make changes, modifications or amendments as may be
672 necessary or desirable to obtain the approval of the Bonds from the
673 Attorney General of Texas, to obtain or maintain the granting of a
674 rating on the Bonds by a Rating Agency or to obtain or maintain a
675 Credit Agreement or a Credit Facility; and

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

682 Notice of an amendment may be published by the City in the manner described in
683 clause (b) of this Section; provided, however, that the publication of a notice shall
684 not constitute a condition precedent to the adoption of an amendatory ordinance
685 and the failure to publish a notice shall not adversely affect the implementation of
686 an amendment as adopted pursuant to the amendatory ordinance.

687 (g) Ownership. For the purpose of this Section, the ownership and other
688 matters relating to all Bonds shall be established by the Security Register
689 maintained by the Paying Agent/Registrar. Furthermore, the owner of any Bonds
690 insured as to the payment of principal of and interest shall be deemed to be the
691 insurance company providing the insurance coverage on the Bonds; provided, the
692 amendment to the Forty-Sixth Supplement is an amendment that can be made with
693 the consent of a majority in Outstanding Principal Amount of the Bonds and the

694 insurance company is not in default with respect to its obligations under its
695 insurance policy, if any.

696 **SECTION 18: FINAL DEPOSITS; GOVERNMENT OBLIGATIONS.**

697 All or any of the Bonds shall be deemed to be paid, retired and no longer
698 outstanding within the meaning of the Forty-Sixth Supplement when payment of
699 the principal of, and redemption premium, if any, on the Bonds, plus interest on the
700 Bonds to the due date (whether the due date is by reason of maturity or otherwise)
701 either (i) shall have been made or caused to be made in accordance with the terms
702 of the Bonds, or (ii) shall have been provided by irrevocably depositing with, or
703 making available to, the Paying Agent/Registrar, in trust and irrevocably set aside
704 exclusively for this payment, (1) money sufficient to make the payment or
705 (2) Government Obligations, certified by an independent public accounting firm of
706 national reputation, to mature as to principal and interest in amounts and at the
707 times as will insure the availability, without reinvestment, of sufficient money to
708 make this payment, and all necessary and proper fees, compensation and expenses
709 of the Paying Agent/Registrar with respect to which the deposit is made shall have
710 been paid or the payment provided for the satisfaction of the Paying
711 Agent/Registrar. Once a Bond shall be deemed to be paid under the Forty-Sixth
712 Supplement, it shall no longer be secured by or entitled to the benefit of the Forty-
713 Sixth Supplement, the Master Ordinance or a lien on and pledge of the Net
714 Revenues of the Water/Wastewater System, and shall be entitled to payment solely
715 from the money or Government Obligations.

716 Any moneys so deposited with the Paying Agent/Registrar, or an authorized
717 escrow agent, may at the direction of the City also be invested in Government
718 Obligations, maturing in the amounts and at the times as set forth in this Section,
719 and all income from all Government Obligations not required for the payment of
720 the Bonds, the redemption premium, if any, and interest on the Bonds, with respect
721 to which the money has been so deposited, shall be turned over to the City or
722 deposited as directed by the City. The City covenants that no deposit will be made
723 or accepted under clause (ii) of this Section and no use made of any deposit which
724 would cause the Bonds to be treated as arbitrage bonds within the meaning of
725 section 148 of the Code.

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

733 **SECTION 19: DAMAGED, MUTILATED, LOST, STOLEN, OR**
734 **DESTROYED BONDS.** In the event any Outstanding Bond is damaged,
735 mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be
736 printed, executed, and delivered, a new bond of the same principal amount,
737 maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed
738 Bond, in replacement for the Bond in the manner provided in this Section. An
739 application for the replacement of damaged, mutilated, lost, stolen, or destroyed
740 Bonds shall be made to the Paying Agent/Registrar. In every case of loss, theft, or
741 destruction of a Bond, the applicant for a replacement bond shall furnish to the
742 City and to the Paying Agent/Registrar security or indemnity as may be required
743 by them to save each of them harmless from any loss or damage with respect
744 thereto. Also, in every case of loss, theft, or destruction of a Bond, the applicant
745 shall furnish to the City and to the Paying Agent/Registrar evidence to their
746 satisfaction of the loss, theft, or destruction of the Bond, as the case may be. In
747 every case of damage or mutilation of a Bond, the applicant shall surrender to the
748 Paying Agent/Registrar for cancellation the Bond so damaged or mutilated. Prior
749 to the issuance of any replacement bond, the Paying Agent/Registrar shall charge
750 the owner of the Bond with all legal, printing, and other expenses in connection
751 with this issuance. Every replacement bond issued pursuant to the provisions of
752 this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall
753 constitute a contractual obligation of the City whether the lost, stolen, or destroyed
754 Bond shall be found at any time, or be enforceable by anyone, and shall be entitled
755 to all the benefits of the Forty-Sixth Supplement equally and proportionately with
756 any and all other Bonds issued under the Forty-Sixth Supplement.

757 Notwithstanding the preceding provisions of this Section, in the event any
758 Bond shall have matured, and no default has occurred which is then continuing in
759 the payment of the principal of, redemption premium, if any, or interest on the
760 Bond, the City may authorize the payment of the same (without surrender of the
761 Bond except in the case of a damaged or mutilated Bond) instead of issuing a
762 replacement Bond, provided security or indemnity is furnished as above provided
763 in this Section. Furthermore, in accordance with Chapter 1206 (specifically
764 Section 1206.022), this Section shall constitute authority for the issuance of any
765 replacement bond without necessity of further action by the governing body of the
766 City or any other body or person, and the duty of the replacement of Bonds is
767 authorized and imposed upon the Paying Agent/Registrar, and the Paying
768 Agent/Registrar shall authenticate and deliver replacement bonds in the form and
769 manner and with the effect, as provided in Section 6 of the Forty-Sixth Supplement
770 for Bonds issued in exchange for other Bonds.

771 **SECTION 20: FORTY-SIXTH SUPPLEMENT TO CONSTITUTE A**
772 **CONTRACT; EQUAL SECURITY.** In consideration of the acceptance of the
773 Bonds by the Holders from time to time, the Forty-Sixth Supplement shall be

774 deemed to be and shall constitute a contract between the City and the Holders from
775 time to time of the Bonds and the pledge made in the Forty-Sixth Supplement by
776 the City and the covenants and agreements set forth in the Forty-Sixth Supplement
777 to be performed by the City shall be for the equal and proportionate benefit,
778 security, and protection of all Holders, without preference, priority, or distinction
779 as to security or otherwise of any of the Bonds authorized under the Forty-Sixth
780 Supplement over any of the others by reason of time of issuance, sale, or maturity
781 or otherwise for any cause whatsoever, except as expressly provided in or
782 permitted by the Forty-Sixth Supplement.

783 **SECTION 21: CONTINUING DISCLOSURE UNDERTAKING.**

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

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

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

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

791 (b) Annual Reports. The City shall provide annually to the MSRB (1)
792 within six months after the end of each fiscal year ending in or after 2023, financial
793 information and operating data with respect to the City of the general type included
794 in the final Official Statement and which is described in **Exhibit B** to the Forty-
795 Sixth Supplement, and (2) if not provided as part of the financial information and
796 operating data, audited financial statements of the City, when and if available.
797 Any financial statements provided shall be prepared in accordance with the
798 accounting principles described in **Exhibit B** to the Forty-Sixth Supplement, or
799 other accounting principles as the City may be required to employ from time to
800 time pursuant to state law or regulation, and audited, if the City commissions an
801 audit of the statements and the audit is completed within twelve months after the
802 end of each fiscal year ending in or after 2023. If audited financial statements of
803 the City are not available by the end of the 12 month period, the City will provide
804 notice that the audited financial statements are not available, and will provide
805 unaudited financial statements by the end of the 12 month period and audited
806 financial statements for the applicable fiscal year when and if the audited financial
807 statements become available.

808 If the City changes its fiscal year, it will notify the MSRB of the change (and
809 of the date of the new fiscal year end) prior to the next date by which the City

810 otherwise would be required to provide financial information and operating data
811 pursuant to this Section.

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

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

- 819 (1) Principal and interest payment delinquencies;
- 820 (2) Non-payment related defaults, if material;
- 821 (3) Unscheduled draws on debt service reserves reflecting financial
822 difficulties;
- 823 (4) Unscheduled draws on credit enhancements reflecting financial
824 difficulties;
- 825 (5) Substitution of credit or liquidity providers, or their failure to perform;
- 826 (6) Adverse tax opinions, the issuance by the Internal Revenue Service of
827 proposed or final determinations of taxability, Notices of Proposed
828 Issue (IRS Form 5701-TEB), or other material notices or
829 determinations with respect to the tax status of the Bonds, or other
830 material events affecting the tax status of the Bonds;
- 831 (7) Modifications to rights of holders of the Bonds, if material;
- 832 (8) Bond calls, if material, and tender offers;
- 833 (9) Defeasances;
- 834 (10) Release, substitution, or sale of property securing repayment of the
835 Bonds, if material;
- 836 (11) Rating changes;
- 837 (12) Bankruptcy, insolvency, receivership, or similar event of the City,
838 which shall occur as described below;
- 839 (13) The consummation of a merger, consolidation, or acquisition
840 involving the City or the sale of all or substantially all of its assets,
841 other than in the ordinary course of business, the entry into a
842 definitive agreement to undertake such an action or the termination of
843 a definitive agreement relating to any such actions, other than
844 pursuant to its terms, if material;
- 845 (14) Appointment of a successor or additional trustee or the change of
846 name of a trustee, if material;
- 847 (15) Incurrence of a Financial Obligation of the Obligated Person, if
848 material, or agreement to covenants, events of default, remedies,
849 priority rights, or other similar terms of a Financial Obligation of the

850 Obligated Person, any of which affect security holders, if material;
851 and
852 (16) Default, event of acceleration, termination event, modification of
853 terms, or other similar event under the terms of a Financial Obligation
854 of the Obligated Person, and which reflect financial difficulties.
855

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

859 For these purposes, any event described in the immediately preceding
860 paragraph 12 is considered to occur when any of the following occur: the
861 appointment of a receiver, fiscal agent, or similar officer for the City in a
862 proceeding under the United States Bankruptcy Code or in any other proceeding
863 under state or federal law in which a court or governmental authority has assumed
864 jurisdiction over substantially all of the assets or business of the City, or if
865 jurisdiction has been assumed by leaving the existing governing body and officials
866 or officers in possession but subject to the supervision and orders of a court or
867 governmental authority, or the entry of an order confirming a plan of
868 reorganization, arrangement, or liquidation by a court or governmental authority
869 having supervision or jurisdiction over substantially all of the assets or business of
870 the City.

871 As used in paragraphs 15 and 16 above, the term "Financial Obligation"
872 means: (i) a debt obligation; (ii) a derivative instrument entered into in connection
873 with, or pledged as security or a source of payment for, an existing or planned debt
874 obligation; or (iii) a guarantee of (i) or (ii), however, the term Financial Obligation
875 shall not include Municipal Securities as to which a final official statement has
876 been provided to the MSRB consistent with the Rule; the term "Municipal
877 Securities" means securities which are direct obligations of, or obligations
878 guaranteed as to principal or interest by, a state or any political subdivision thereof,
879 or any agency or instrumentality of a state or any political subdivision thereof, or
880 any municipal corporate instrumentality of one or more states and any other
881 Municipal Securities described by Section 3(a)(29) of the Securities Exchange Act
882 of 1934, as the same may be amended from time to time; and the term "Obligated
883 Person" means the City.
884

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

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

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

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

918 No default by the City in observing or performing its obligations under this
919 Section shall constitute a breach of or default under the Forty-Sixth Supplement for
920 purposes of any other provision of the Forty-Sixth Supplement.

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

923 Should the Rule be amended to obligate the City to make filings with or
924 provide notices to entities other than the MSRB, the City agrees to undertake the
925 obligation in accordance with the Rule as amended.

926 Notwithstanding any provisions in the Forty-Sixth Supplement to the
927 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 Forty-Sixth 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 (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 and set forth in the Board Resolution (other than acceleration), 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 Forty-Sixth 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 Forty-Sixth 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 Forty-Sixth 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.

968 **SECTION 23: SALE OF BONDS.** The Bonds are to be sold by the City to
969 the Purchaser for the price of par. The Bonds have been purchased by the
970 Purchaser pursuant to the Board Resolution. The Initial Bond shall be registered in
971 the name of the Texas Water Development Board. The Private Placement
972 Memorandum prepared in connection with the sale of the Bonds to the Purchaser,
973 in substantially the form attached to the Forty-Sixth Supplement, is approved. The
974 City has determined, based upon the advice provided by its financial advisor, that
975 acceptance of the purchase price for the Bonds is on terms advantageous to, and in
976 the best interests of, the City.

977 It is the intent of the parties to the sale of the Bonds that if TWDB ever
978 determines to sell all or a part of the Bonds, it shall notify the City at least 60 days
979 prior to the sale of the Bonds of the decision to sell the Bonds.

980 Payment of amounts due and owing on the Bonds to the TWDB shall be
981 made by wire transfer, at no expense to the TWDB, as provided in the FORM OF
982 BOND.

983
984 By agreeing to the purchase the Bonds, the TWDB agrees that the bond
985 proceeds shall be deposited into the escrow fund established in the Escrow
986 Agreement between the City and Wilmington Trust, N.A., Dallas, Texas, and that
987 the procedures set forth in Section 5 of the Forty-Sixth Supplement satisfy the
988 Board Resolution.

989
990 Proceeds from the sale of the Bonds shall be held at a designated state
991 depository or other properly chartered and authorized institution in accordance
992 with Chapter 2256 and Chapter 2257.

993
994 **SECTION 24: ADDITIONAL COVENANTS.** In connection with the sale
995 of the Bonds to the TWDB, the City covenants as follows:

996 (a) Compliance with TWDB Rules and Regulations. The City covenants
997 to comply with the rules and regulations of the TWDB, and to maintain insurance
998 on the Water/Wastewater System in an amount as may be required by TWDB, as
999 further addressed in this Section.

1000 (b) Audits. For so long as the State owns any Bond, the City shall mail a
1001 copy of the audit required by the Master Ordinance to the TWDB. The audit shall
1002 be performed by an independent certified public accountant, a firm of independent
1003 certified public accountants, or a licensed professional auditor, in accordance with
1004 generally accepted accounting principles applicable to governmental entities such
1005 as the City. In addition, monthly operating statements for the Water/Wastewater
1006 System shall be maintained by the City and made available, on request, to the
1007 TWDB as long as the State owns any Bond, and the monthly operating statement

shall be in such detail as requested by the Development Fund Manager of the TWDB until the Development Fund Manager of the TWDB waives this requirement.

(c) Final Accounting. The City shall render, and submit within 60 days of the completion of the project, a final accounting to the TWDB in reference to the total cost incurred by the City for improvements and extensions to the Water/Wastewater System which were financed by the issuance of the Bonds, together with a copy of "as built" plans of the improvements and extensions upon completion.

(d) Defeasance. Should the City exercise its right under the Master Ordinance to effect the defeasance of the Bonds, the City agrees that it will provide the TWDB with written notice of any defeasance.

(e) Segregation of Funds. The City covenants that proceeds of the Bonds shall remain separate and distinct from other sources of funding from the date of the TWDB commitment through costing and final disbursement.

(f) Environmental Indemnity. Proceeds from the Bonds shall not be used by the City when sampling, testing, removing, or disposing of contaminated soils and/or media at the project site. To the extent permitted by law, the City agrees to indemnify, hold harmless, and protect the TWDB from any and all claims, causes of action, or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, and disposition of any contaminated sewage sludge, contaminated sediments, and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials, and employees as a result of activities relating to the project funded with proceeds of the Bonds.

(g) Environmental Determination. In connection with the project financed with the Bonds, the City agrees to implement any environmental determination issued by the Executive Administrator of TWDB to satisfy the environmental review requirements set forth in 31 Texas Administrative Code 371.

(h) Insurance. The City agrees that it will maintain insurance on the Water/Wastewater System in an amount sufficient to protect TWDB's interest in the project financed with the proceeds of the Bonds. The City may self-insure in respect to satisfying this covenant.

(i) Water Conservation Program. The City has implemented or will implement an approved water conservation program in compliance with 31 Texas Administrative Code 371.71(a)(2)(F).

(j) City will not Purchase TWDB Bonds. The City agrees that it or any related party to the City will not purchase, as an investment or otherwise, bonds issued by TWDB including, without limitation, bonds issued by TWDB, the proceeds of which were used by TWDB to purchase the Bonds.

(k) Compliance with Federal Contracting Law. The City acknowledges that it has a legal obligation to comply with any applicable requirements of federal law relating to contracting with disadvantaged business enterprises, and the City shall report to the TWDB the amount of Bond proceeds, if any, that were used to compensate historically underutilized businesses that worked on the project, in accordance with 31 TAC § 363.1312.

(l) Compliance with State Contracting Law. The City acknowledges that it has a legal obligation to comply with any applicable requirements of State law, including, without limitation, Section 15.435 of the Texas Water Code, relating to contracting with historically underutilized businesses.

(m) Form 8038-G. The City will cause to be filed a Form 8038-G, consistent with the requirements of section 149(e) of the Code.

SECTION 25: CONTROL AND CUSTODY OF BONDS. The City Manager or Acting or Interim 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 pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchaser.

Furthermore, the Mayor, Mayor Pro Tem, City Manager or Acting or Interim City Manager, any Assistant City Manager, Chief Financial Officer, any Deputy Financial Officer, City Clerk, Deputy City Clerk, City Treasurer, and City Attorney or Acting or Interim City Attorney, or 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 Purchaser following the sale.

SECTION 26: PROCEEDS OF SALE. The proceeds from the sale of the Bonds shall be used in the manner described in the letter of instructions executed by the City.

1089 **SECTION 27: LEGAL OPINION.** The obligation of the Purchaser to
1090 accept delivery of the Bonds is subject to being furnished a final opinion of
1091 McCall, Parkhurst & Horton L.L.P., approving the Bonds as to their validity, the
1092 opinion to be dated and delivered as of the Delivery Date and payment for the
1093 Bonds. A true and correct reproduction of the opinion is authorized to be printed
1094 on the definitive Bonds or an executed counterpart of the opinion shall accompany
1095 the global Bonds deposited with DTC.

1096 **SECTION 28: CUSIP NUMBERS.** CUSIP numbers may be printed or
1097 typed on the definitive Bonds. It is expressly provided, however, that the presence
1098 or absence of CUSIP numbers on the definitive Bonds shall be of no significance
1099 or effect as regards the legality thereof and neither the City nor attorneys approving
1100 the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly
1101 printed or typed on the definitive Bonds.

1102 **SECTION 29: PAYMENT AND PERFORMANCE ON BUSINESS**
1103 **DAYS.** Whenever under the terms of the Forty-Sixth Supplement or the Bonds,
1104 the performance date of any provision of the Forty-Sixth Supplement or the Bonds,
1105 including the payment of principal of or interest on the Bonds, shall occur on a day
1106 other than a Business Day, then performance, including the payment of principal of
1107 and interest on the Bonds, need not be made on that day but may be performed or
1108 paid, as the case may be, on the next succeeding Business Day with the same force
1109 and effect as if made on the date of performance or payment.

1110 **SECTION 30: LIMITATION OF BENEFITS WITH RESPECT TO**
1111 **THE FORTY-SIXTH SUPPLEMENT.** With the exception of the rights or
1112 benefits expressly conferred in the Forty-Sixth Supplement, nothing expressed or
1113 contained in the Forty-Sixth Supplement or implied from the provisions of the
1114 Forty-Sixth Supplement or the Bonds is intended or should be construed to confer
1115 upon or give to any person other than the City, the Holders, and the Paying
1116 Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason
1117 of or in respect to the Forty-Sixth Supplement or any covenant, condition,
1118 stipulation, promise, agreement, or provision contained in the Forty-Sixth
1119 Supplement. The Forty-Sixth Supplement and all of the covenants, conditions,
1120 stipulations, promises, agreements, and provisions of the Forty-Sixth Supplement
1121 are intended to be and shall be for and inure to the sole and exclusive benefit of the
1122 City, the Holders, and the Paying Agent/Registrar as provided in the Forty-Sixth
1123 Supplement and in the Bonds.

1124 **SECTION 31: NOTICES TO HOLDERS - WAIVER.** Wherever the
1125 Forty-Sixth Supplement provides for notice to Holders of any event, the notice
1126 shall be sufficiently given (unless otherwise expressly provided in the Forty-Sixth
1127 Supplement) if in writing and sent by United States Mail, first class postage

1128 prepaid, to the address of each Holder appearing in the Security Register at the
1129 close of business on the Business Day next preceding the mailing of the notice.

1130 In any case where notice to Holders is given by mail, neither the failure to
1131 mail the notice to any particular Holders nor any defect in any notice so mailed
1132 shall affect the sufficiency of the notice with respect to all other Bonds. Where the
1133 Forty-Sixth Supplement provides for notice in any manner, the notice may be
1134 waived in writing by the Holder entitled to receive the notice, either before or after
1135 the event with respect to which notice is given, and the waiver shall be the
1136 equivalent of the notice. Waivers of notice by Holders shall be filed with the
1137 Paying Agent/Registrar, but a filing shall not be a condition precedent to the
1138 validity of any action taken in reliance upon the waiver.

1139 **SECTION 32: GOVERNING LAW.** The Forty-Sixth Supplement shall be
1140 construed and enforced in accordance with the laws of the State and the United
1141 States of America.

1142 **SECTION 33: EFFECT OF HEADINGS.** The Section headings in the
1143 Forty-Sixth Supplement are for convenience of reference only and shall not affect
1144 the construction of the Forty-Sixth Supplement.

1145 **SECTION 34: CONSTRUCTION OF TERMS.** If appropriate in the
1146 context of the Forty-Sixth Supplement, words of the singular number shall be
1147 considered to include the plural, words of the plural number shall be considered to
1148 include the singular, and words of the masculine, feminine or neuter gender shall
1149 be considered to include the other genders. References to any named person shall
1150 mean that person and his or her successors and assigns. References to any
1151 constitutional, statutory or regulatory provision means the provision as it exists on
1152 the date the Forty-Sixth Supplement is adopted by council. Any reference to the
1153 payment of principal in the Forty-Sixth Supplement shall include the payment of
1154 any mandatory sinking fund redemption payments as described in the Forty-Sixth
1155 Supplement. Any reference to "FORM OF BOND" refers to the form of the Bonds
1156 in **Exhibit A** to the Forty-Sixth Supplement.

1157 **SECTION 35: SEVERABILITY.** If any provision of the Forty-Sixth
1158 Supplement or its application to any circumstance shall be held to be invalid, the
1159 remainder of the Forty-Sixth Supplement and its application to other circumstances
1160 shall nevertheless be valid, and council declares that the Forty-Sixth Supplement
1161 would have been enacted without such invalid provision.

1162 **SECTION 36: CONSTRUCTION FUND.** A fund entitled the "City of
1163 Austin, Texas Water and Wastewater System Series 2023A (SWIRFT) Revenue
1164 Bonds Construction Fund (the "Construction Fund") is created. Money in the
1165 Construction Fund shall be maintained at an official depository bank of the City.

The proceeds of the Bonds shall be deposited into the Construction Fund and used by the City for payment of the costs of funding projects that are part of the State Water Plan to extend and improve the Water/Wastewater System, including any costs for engineering, financing, financial consultation, administrative, auditing and legal expenses. Amounts in the Construction Fund shall be used to pay costs timely, in compliance with applicable federal and State law.

Any surplus proceeds, including the investment earnings derived from the investment of monies on deposit in the Construction Fund, from the Bonds remaining on deposit in the Construction Fund after completing the improvements and extensions to the System and upon the completion of the final accounting as described in Section 24 of the Forty-Sixth Supplement, shall be transferred to the Debt Service Fund to redeem the Bonds owned by TWDB, unless the Executive Administrator of TWDB approves the use of the surplus proceeds to pay eligible costs of improving or extending the System by funding projects that are a part of the State Water Plan.

SECTION 37: COMPLIANCE WITH CITY HUB REQUIREMENTS.

The City acknowledges and confirms that it is in compliance with any and all requirements of its ordinances for the use of historically underutilized businesses.

SECTION 38: PUBLIC MEETING. It is officially found that the meeting at which the Forty-Sixth 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 Forty-Sixth Supplement, was given; all as required by Chapter 551.

SECTION 39: EFFECTIVE DATE. This Forty-Sixth 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.

[Execution page follows]

PASSED AND APPROVED
_____, 2023

CITY OF AUSTIN, TEXAS

KIRK WATSON
Mayor

APPROVED:

ATTEST:

ANNE L. MORGAN
City Attorney

MYRNA RIOS
City Clerk

(City Seal)

SCHEDULE I

<u>Year (11/15)</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		
2043		

EXHIBIT A

FORM OF BOND

REGISTERED
NO. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF AUSTIN, TEXAS,
WATER AND WASTEWATER SYSTEM
REVENUE BOND, SERIES 2023A (SWIRFT)

Delivery Date: November 16, 2023 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 Delivery Date of this Bond specified above at the per annum rate of interest specified above; such interest being payable on May 15, 2024, 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 Forty-

Sixth Supplemental Ordinance to the Master Ordinance (the "Forty-Sixth 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. The foregoing notwithstanding, so long as the Texas Water Development Board ("TWDB") is the beneficial owner of 100% in aggregate principal amount of the Bonds then outstanding, payment of principal of the Bonds shall be made thereto by wire transfer, at no expense to the TWDB. 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 dated September 27, 2023, issued in the aggregate principal amount of \$18,000,000 (the "Bonds") for the purpose of (i) extending and improving the City's combined water and wastewater system through the financing of projects that are part of the State of Texas' comprehensive water plan approved pursuant to Subchapter C of Chapter 16, Texas Water Code, (ii) funding a reserve fund for the Bonds, and (iii) paying the costs of issuance associated with the Bonds. The Bonds shall be issued in any denomination or denominations in any integral multiple of \$5,000 within a maturity (an "Authorized Denomination"). All capitalized terms not defined herein shall have the same meaning as given said terms in the Master Ordinance or the Forty-Sixth Supplement.

The Bonds maturing on and after November 15, 2034, 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 May 15, 2034, 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 Forty-Sixth Supplement. 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 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 Denomination 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 Master Ordinance and the Forty-Sixth Supplement. 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 Master Ordinance and the Forty-Sixth Supplement. 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 Master Ordinance and the Forty-Sixth Supplement, 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 either the Master Ordinance or the Forty-Sixth Supplement 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 Master Ordinance and the Forty-Sixth Supplement may be discharged at or prior to the maturity of this Bond, and this Bond deemed to be no longer Outstanding under the Master Ordinance and the Forty-Sixth Supplement; and for the other terms and provisions contained in the Master Ordinance and the Forty-Sixth Supplement. Capitalized terms used in this Bond have the same meanings assigned in the Master Ordinance and the Forty-Sixth Supplement.

This Bond, subject to certain limitations contained in the Forty-Sixth Supplement, 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, the Master Ordinance and the Forty-Sixth Supplement; 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, the Master Ordinance and the Forty-Sixth Supplement 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

Kirk Watson
Mayor, City of Austin, Texas

COUNTERSIGNED:

Myrna Rios
City Clerk, City of Austin, Texas

(SEAL)

REGISTRATION CERTIFICATE OF COMPTROLLER OF PUBLIC ACCOUNTS

I CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and registered by the Comptroller of Public Accounts of the State of Texas.

Comptroller of Public Accounts
of the State of Texas

A-7

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 Forty-Sixth Supplement; 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 Dallas, Texas is the Designated Payment/Transfer Office for this Bond.

WILMINGTON TRUST, N.A.,
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.

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

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

Registered Owner: Texas Water Development Board

Principal Amount: Eighteen Million Dollars

Delivery Date: November 16, 2023

THE CITY OF AUSTIN, IN TRAVIS, WILLIAMSON AND HAYS COUNTIES, TEXAS (the "City") promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on November 15 in each of the years and in principal installments in accordance with the following schedule:

<u>Year (11/15)</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		
2043		

and to pay interest thereon from the delivery date specified above, on May 15, 2024, and semiannually on each November 15 and May 15 thereafter to the maturity date specified above, or to the date of redemption prior to maturity, at the interest rate per annum specified above. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

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Exhibit B

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 21 of the Forty-Sixth Supplement.

Annual Financial Information 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 within the following tables in the main text of the Official Statement relating to the sale of the City of Austin, Texas Water and Wastewater System Revenue Refunding Bonds, Series 2023 (FORWARD DELIVERY) (the “Official Statement”): (1) “WATER SYSTEM – Historical Water Pumpage,” (2) “WATER SYSTEM – Projected Water Pumpage,” (3) “WATER SYSTEM – Information Concerning Water Sales,” (4) “WATER SYSTEM – Large Water Customers,” (5) “WASTEWATER SYSTEM – Historical Wastewater Flows,” (6) “WASTEWATER SYSTEM – Projected Wastewater Flows,” (7) “COMBINED WATER AND WASTEWATER SYSTEM INFORMATION– Water Service Rates,” (8) “COMBINED WATER AND WASTEWATER SYSTEM INFORMATION – Wastewater Service Rates,” (9) “COMBINED WATER AND WASTEWATER SYSTEM INFORMATION – Analysis of Water Bills,” (10) “COMBINED WATER AND WASTEWATER SYSTEM INFORMATION – Analysis of Wastewater Bills,” (11) “ELECTRIC UTILITY SYSTEM – Generation Facilities,” (12) “AUSTIN ENERGY’S CUSTOMER STATISTICS – Five Year Electric Customer Statistics,” (13) “AUSTIN ENERGY’S CUSTOMER STATISTICS – Generation and Use Data,” (14) “DISCUSSION OF OPERATING STATEMENT – The Electric Utility System and Water and Wastewater System,” (15) “ELECTRIC UTILITY SYSTEM – Customer Base–Average Monthly Number of Customers,” (16) “ELECTRIC UTILITY SYSTEM – Fuel Supply,” (17) “AUSTIN ENERGY’S CUSTOMER RATES – Typical Monthly Residential Electric Bills of Large Texas Cities, (18) Austin Energy’s approved rate schedules incorporated into this document by reference as described in the applicable Pricing Certificate and “AUSTIN ENERGY’S CUSTOMER STATISTICS – Electric Rates,” (19) “AUSTIN ENERGY’S CUSTOMER STATISTICS – GreenChoice® Energy Rider,” (20) “COMPARATIVE ANALYSIS OF ELECTRIC UTILITY SYSTEM AND WATER AND WASTEWATER SYSTEM OPERATIONS,” (21) “OPERATING STATEMENT ELECTRIC UTILITY SYSTEM AND WATER AND WASTEWATER SYSTEM,” (22) The table of annual results of the City’s

annexations in “THE CITY – Annexations,” and (23) “INVESTMENTS – Current Investments.”

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.