

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF SAN MARCOS,
TEXAS COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF
OBLIGATION, SERIES 2018; AND OTHER RELATED MATTERS**

WHEREAS, on the 21st day of August, 2018, the City Council of the City of San Marcos (the "City" or the "Issuer") adopted a resolution authorizing and directing notice of its intention to issue the Certificates of Obligation in an amount not to exceed \$1,935,000, to be published in a newspaper as required by Section 271.049 of the Texas Local Government Code; and

WHEREAS, said notice was published in the *San Marcos Daily Record*, as required by Section 271.049 of the Texas Local Government Code, on August 26, 2018 and September 2, 2018; and

WHEREAS, no petition, signed by 5% of the qualified electors of the Issuer as permitted by Section 271.049 of the Texas Local Government Code protesting the issuance of such Certificates of Obligation, has been filed; and

WHEREAS, the Certificates of Obligation hereinafter authorized are to be issued and delivered pursuant to Subchapter C of Chapter 271 of the Texas Local Government Code; and

WHEREAS, there are presently no outstanding obligations issued by the City or secured, by a pledge of ad valorem taxes together with an unlimited pledge of, and lien on, the surplus revenues; and

WHEREAS, there are presently outstanding Combination Tax & Revenue Certificates of Obligation, Series 2008A, Combination Tax & Revenue Certificates of Obligation, Series 2009, General Obligation Bonds, Series 2009, General Obligation Refunding Bonds, Series 2009, Tax and Revenue Refunding Bonds, Series 2009, Combination Tax & Revenue Certificates of Obligation, Taxable Series 2010, General Obligation Refunding Bonds, Series 2010, General Obligation Refunding Bonds, Series 2011, Combination Tax & Revenue Certificates of Obligation, Taxable Series 2011, General Obligation Refunding Bonds, Series 2012, Combination Tax & Revenue Certificates of Obligation, Taxable Series 2013, General Obligation Refunding Bonds, Series 2013, General Obligation Refunding Bonds, Taxable Series 2013, Combination Tax & Revenue Certificates of Obligation, Series 2014, General Obligation Refunding Bonds, Series 2014, General Obligation Refunding Bonds, Series 2014A, General Obligation Refunding Bonds, Taxable Series 204B, Combination Tax & Revenue Certificates of Obligation, Series 2015, General Obligation Refunding Bonds, Series 2016, Combination Tax & Revenue Certificates of Obligation, Series 2016, Combination Tax & Revenue Certificates of Obligation, Series 2017, Combination Tax & Revenue Certificates of Obligation, Series 2018 and General Obligation Bonds, Series 2018 (collectively, the "Outstanding Tax Obligations");

WHEREAS, there are presently outstanding Waterworks & Wastewater System Revenue Bonds, Series 2015, Waterworks & Wastewater System Revenue Bonds, Series 2017A and Waterworks & Wastewater System Revenue Bonds, Series 2017B (collectively, the "Outstanding Revenue Obligations", and collectively with the Outstanding Tax Obligations, the "Outstanding Obligations");

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code; and

WHEREAS, it is considered to be in the best interest of the City that the interest bearing Certificates of Obligation be issued.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

Section 1. AUTHORIZATION OF CERTIFICATES OF OBLIGATION. That the Issuer's Certificates of Obligation, to be designated the "City of San Marcos, Texas Combination Tax and Surplus Revenues Certificates of Obligation, Series 2018" (the "Certificates"), are hereby authorized to be issued and delivered in the principal amount of \$1,935,000, for the purpose of paying contractual obligations incurred in connection with: (1) planning, acquisition, design and construction of certain drainage and flood control improvements to include nonpoint source pollution flood mitigation improvements and acquisitions of land; and (2) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation and other matters related thereto. The term "Certificates" as used in this Ordinance shall mean and include collectively the Certificates of Obligation initially issued and delivered pursuant to this Ordinance and all substitute Certificates of Obligation exchanged therefor, as well as all other substitute Certificates of Obligation and replacement Certificates of Obligation issued pursuant hereto, and the term "Certificate" shall mean any of the Certificates.

Section 2. DATE, DENOMINATIONS, NUMBERS AND MATURITIES. That the Certificates shall initially be issued, sold and delivered hereunder as one fully registered certificate, without interest coupons, dated October 30, 2018, in the principal amount stated above, numbered T-1, with certificates issued in replacement thereof being in the denominations and principal amounts hereinafter stated and numbered consecutively from R-1 upward, payable to the respective registered owners thereof (with the initial certificate being made payable to the initial purchaser as described in Section 18 hereof), or to the registered assignee or assignees of said certificates or any portion or portions thereof (in each case, the "Registered Owner"), and said certificates shall mature and be payable serially on August 15 in each of the years and in the principal amounts as follows:

<u>YEAR</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>YEAR</u>	<u>PRINCIPAL AMOUNT (\$)</u>
2019	\$95,000	2029	\$95,000
2020	90,000	2030	95,000
2021	90,000	2031	100,000
2022	90,000	2032	100,000
2023	90,000	2033	100,000
2024	90,000	2034	100,000
2025	90,000	2035	105,000
2026	90,000	2036	105,000
2027	95,000	2037	110,000
2028	95,000	2038	110,000

The Certificates shall be issued in denominations of \$5,000 or any integral multiple thereof (an "Authorized Denomination").

Section 3. REDEMPTION. The Certificates are subject to optional redemption as described in the FORM OF CERTIFICATE set forth in Section 6 of this Ordinance.

Section 4. INTEREST. That the Certificates scheduled to mature during the years, respectively, set forth below shall bear interest from the date set forth in the FORM OF CERTIFICATE set forth in Section 6 of this Ordinance to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the following schedule:

<u>YEAR</u>	<u>INTEREST RATE</u>	<u>YEAR</u>	<u>INTEREST RATE</u>
2019	0.260%	2029	1.340%
2020	0.430	2030	1.420
2021	0.520	2031	1.480
2022	0.620	2032	1.530
2023	0.720	2033	1.580
2024	0.820	2034	1.630
2025	0.920	2035	1.680
2026	1.030	2036	1.730
2027	1.150	2037	1.780
2028	1.240	2038	1.820

Interest on the Certificates shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Said interest shall be payable to the registered owner of any such Certificate in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in this Ordinance.

Section 5. CHARACTERISTICS OF THE CERTIFICATES. *Registration, Transfer, Conversion and Exchange; Authentication.* (a) The City shall keep or cause to be kept at the designated office for payment of Regions Bank, Houston, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion, and exchange of the Certificates ("Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions, and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions, and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Certificates shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any

other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange, and delivery of a substitute Certificate or Certificates shall be paid as provided in the FORM OF CERTIFICATE set forth in this Ordinance. Registration of assignments, transfers, conversions, and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 5(c), an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) *Payment of Certificates and Interest.* The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment ("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 15 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 Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) *In General.* The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the Registered Owners thereof, (ii) may be transferred and assigned, (iii) may be converted and exchanged for other Certificates, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) shall be payable as to the principal of and interest on, and (vii) shall be administered, and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect

as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificates initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) *Substitute Paying Agent/Registrar.* The City covenants with the Registered Owners of the Certificates that at all times while the Certificates are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective (a) when a substitute Paying Agent/Registrar has been appointed by the City and such appointment is accepted and (b) notice has been given to the Registered Owners of the appointment thereof, but such effective date shall not disrupt, delay, or otherwise adversely affect payment of the Certificates. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) *Book-Entry-Only System.* The Certificates issued in exchange for the Certificates initially issued as provided in Section 5(h) shall be issued in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co. as nominee of DTC and except as provided in subsection (f) hereof, all of the Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Certificates, including any notice of

redemption, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of, premium, if any, or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal, premium, if any, and interest, with respect to such Certificate, for the purposes of registering transfers with respect to such Certificates, and for all other purposes of registering transfers with respect to such Certificates, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Certificates only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in the Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to the Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) *Successor Securities Depository; Transfer Outside Book-Entry-Only System.* In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Certificates, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Registered Owner transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

So long as the Texas Water Development Board is an owner of any outstanding Certificate, the City will not discontinue the DTC book-entry system without prior written notice to and consent of the Texas Water Development Board.

(g) *Payments to Cede & Co.* Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York ("DTC"), all payments with respect to principal of, premium, if any, and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(h) *Initial Certificate.* The Certificates herein authorized shall be initially issued as a fully registered certificate, being one in the denomination of the applicable principal amount and the initial Certificate shall be registered in the name of the Purchaser or the designees thereof as set forth in Section 18 hereof. The initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchaser. Immediately after the delivery of the initial Certificate, the Paying Agent/Registrar shall cancel the initial Certificate delivered hereunder and exchange therefor Certificates in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co., as nominee of DTC.

(i) *Cancellation of Certificates.* All Certificates paid in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated, registered, and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment, redemption, exchange, or replacement. The Registrar shall furnish the City with appropriate certificates of destruction of such Certificates.

Section 6. FORM OF CERTIFICATES. That the form of the Certificates, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Initial Certificate initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance:

(a) FORM OF CERTIFICATE

NO. _____ \$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTIES OF HAYS, CALDWELL AND GUADALUPE
CITY OF SAN MARCOS, TEXAS COMBINATION TAX
AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION,
SERIES 2018

**MATURITY
DATE**

**INTEREST
RATE**

**DATE OF
ORIGINAL ISSUE**

**CUSIP
NO.**

October 30, 2018

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

ON THE MATURITY DATE specified above, the City of San Marcos, in Hays, Caldwell and Guadalupe Counties, Texas (the "Issuer"), being a political subdivision and municipal

corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Date of Original Issue at the Interest Rate per annum specified above. Interest is payable on February 15, 2019, and semiannually on each August 15 and February 15 thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. At maturity or redemption prior to maturity, the principal of this Certificate shall be paid to the registered owner hereof upon presentation and surrender of this Certificate at the designated corporate trust office in Houston, Texas (the "Designated Trust Office") of Regions Bank, which is the "Paying Agent/Registrar" for this Certificate. The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Certificate (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class, postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the last business day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. Any accrued interest due at maturity or upon redemption of this Certificate as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for payment at the Designated Trust Office of the Paying Agent/Registrar. The foregoing notwithstanding, so long as the Texas Water Development Board is the registered owner of 100% in aggregate principal amount of the Certificates then outstanding, payment of principal and interest on the Certificates shall be made thereto by wire transfer, at no expense to the Texas Water Development Board. The Issuer covenants with the registered owner of this Certificate that on or before each principal and interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due. All Certificates of this Series are issuable solely as fully registered certificates, without interest coupons, in any integral multiple of \$5,000 (an "Authorized Denomination").

IN THE EVENT OF NON-PAYMENT of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest ("Special Payment Date", which shall be 15 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 registered owner of a Certificate appearing on the Registration Books kept by the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing of such notice.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is one of a Series of Certificates dated October 30, 2018, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$1,935,000, for the purpose of paying contractual obligations incurred in connection with: (1) planning, acquisition, design and construction of certain drainage and flood control improvements to include nonpoint source pollution flood mitigation improvements and acquisitions of land; and (2) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation and other matters related thereto.

ON AUGUST 15, 2028, or on any date thereafter, the Certificates of this Series maturing on and after August 15, 2029 may be redeemed prior to their scheduled maturities, at the option of the City, in inverse order of maturity with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Certificates, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000).

AS PROVIDED IN THE ORDINANCE, this Certificate may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate registered owner, assignee, or assignees, as the case may be, having the same maturity date, and bearing interest at the same rate, in any Authorized Denomination as requested in writing by the appropriate registered owner, assignee, or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar at its Designated Trust Office for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar at its Designated Trust Office, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any Authorized Denomination to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be transferred and registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of

this Certificate or any portion or portions hereof from time to time by the registered owner. The foregoing notwithstanding, in the case of the exchange of an assigned and transferred Certificate or Certificates or any portion or portions thereof, such fees and charges of the Paying Agent/Registrar will be paid by the Issuer. The one requesting such exchange shall pay the Paying Agent/Registrar's reasonable standard or customary fees and charges for exchanging any Certificate or portion thereof. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, or exchange as a condition precedent to the exercise of such privilege. In any circumstance, neither the Issuer nor the Paying Agent/Registrar shall be required (1) to make any transfer or exchange during a period beginning at the opening of business 30 days before the day of the first mailing of a notice of redemption of the Certificates and ending at the close of business on the day of such mailing, or (2) to transfer or exchange any Certificates so selected for redemption when such redemption is scheduled to occur within 30 calendar days.

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

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

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Certificate have been performed, existed, and been done in accordance with law; that this Certificate is a direct obligation of said Issuer, issued on the full faith and credit thereof, and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Issuer, and have been pledged for such payment, within the limit prescribed by law; and that surplus revenues from the operation of the System, as defined in the Ordinance, remaining after payment of all operation and maintenance expenses thereof and any other obligations heretofore or hereafter incurred to which such revenues have been encumbered by a lien on and pledge of such revenues superior to the lien on and pledge of such revenues to the Certificates, have been pledged as additional security for the Certificates.

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

IN WITNESS WHEREOF, this Certificate has been signed with the manual or facsimile signature of the Mayor of the Issuer and attested by the manual or facsimile signature of the City

Clerk, and the official seal of the Issuer has been duly affixed to, or impressed, or placed in facsimile, on this Certificate.

City Clerk, City of San Marcos

Mayor, City of San Marcos

(CITY SEAL)

(b) FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

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

Dated _____

Regions Bank, Houston, Texas
Paying Agent/Registrar

By: _____
Authorized Representative

(c) FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner of this Certificate of Obligation, or duly authorized representative or attorney thereof, hereby assigns this Certificate of Obligation to

and hereby irrevocably constitutes and appoints

attorney, to transfer the registration of this Certificate of Obligation on the Paying Agent/Registrar's Registration Books with full power of substitution in the premises.

Dated _____

NOTICE: This signature must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: This signature must correspond with the name of the Registered Owner appearing on the face of this Certificate of Obligation in every particular without alteration or enlargement or any change whatsoever.

(d) Initial Certificate Insertions.

(i) The Initial Certificate shall be in the form set forth in paragraph (a) of this Section, except that:

- A. immediately under the name of the Certificate, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and "CUSIP NO. _____" deleted;
- B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF SAN MARCOS, TEXAS (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on August 15 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>
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(Information to be inserted from Sections 3 and 4 hereof.)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Original Issue Date specified above at the respective Interest Rate per annum specified above. Interest is payable on February 15, 2019 and semiannually on each August 15 and February 15 thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

- C. the Initial Certificate shall be numbered T-1.

(ii) The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Certificate in lieu of the Authentication Certificate of the Paying Agent/Registrar:

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	'	
OF PUBLIC ACCOUNTS	'	REGISTER NO. _____
THE STATE OF TEXAS	'	

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Certificate, and that this Certificate has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this _____.

(SEAL)

Comptroller of Public Accounts of the State of Texas

Section 7. DEFINITIONS. That the terms "Certificates" and "Certificates of Obligation" shall mean the City of San Marcos, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Series 2018, authorized to be issued and delivered by this Ordinance; the term "Surplus Revenues" shall mean those revenues from the operation of the System remaining after payment of all operation and maintenance expenses thereof and other obligations heretofore or hereafter incurred to which such revenues have been encumbered by a lien on and pledge of such revenues superior to the lien on and pledge of such revenues to the Certificates; the term "System" shall mean the City's combined water and wastewater system; the term "TWDB" shall mean the Texas Water Development Board, or any successor agency thereto; the term "Initial Certificate" means the Certificate described in Sections 5(h), 6(d) and 15 of this Ordinance.

Section 8. INTEREST AND SINKING FUND; TAX LEVY. (a) That a special fund or account, to be designated the "City of San Marcos, Texas Series 2018 Certificates of Obligation Interest and Sinking Fund" (the "Interest and Sinking Fund") is hereby created and shall be established and maintained by the Issuer. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the Issuer, and shall be used only for paying the interest on and principal of the Certificates. All ad valorem taxes levied and collected for and on account of the Certificates shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Certificates are outstanding and unpaid, the governing body of the Issuer shall compute and ascertain the rate and amount of ad valorem tax, based on the latest approved tax rolls of the Issuer, with full allowances being made for tax delinquencies and the cost of tax collections, which will be sufficient to raise and produce the money required to pay the interest on the Certificates as such interest comes due, and to provide a sinking fund to pay the principal of the Certificates as such principal matures, but never less than 2% of the original amount of the Certificates as a sinking fund each year. Said rate and amount of ad valorem tax is

hereby ordered to be levied against all taxable property in the Issuer for each year while any of the Certificates are outstanding and unpaid, and said ad valorem tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. Said ad valorem taxes necessary to pay the interest on and principal of the Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) To the extent necessary, the payments into the Interest and Sinking Fund as hereinabove required shall be made from funds derived from taxation. For each year that the Certificates are outstanding, prior to the time taxes are to be levied for such year, the City shall establish, adopt and maintain an annual budget that provides for either the monthly deposit of sufficient Surplus Revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Certificates. The amount of taxes to be provided annually for the payment of principal of and interest on the Certificates shall be determined and accomplished as follows: the Issuer=s annual budget shall reflect (i) the amount of the debt service requirements to become due on the Certificates in the next succeeding fiscal year of the Issuer, (ii) the amount on deposit in the Interest and Sinking Fund, as of the date such budget is approved (after giving effect to any payments required to be made during the remainder of the then current fiscal year of the Issuer), and (iii) the amount of Surplus Revenues estimated and budgeted to be available for the payment of such debt service requirements on the Certificates during the next succeeding fiscal year of the Issuer. The amount required to be provided in the succeeding fiscal year of the Issuer from ad valorem taxes shall be the amount, if any, the debt service requirements on the Certificates in such fiscal year exceed the sum of (i) the amount shown to be on deposit in the Interest and Sinking Fund at the time the annual budget is approved, and (ii) the Surplus Revenues shown to be budgeted and available for payment of such debt service requirements. Following final approval of the Issuer=s annual budget, the City Council of the Issuer shall levy an ad valorem tax at a rate sufficient to produce taxes in the amount so determined, to be used for the purpose of paying the principal of and interest on the Certificates in the next succeeding fiscal year of the Issuer. However, if Surplus Revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund

(c) In accordance with the foregoing, the Issuer hereby covenants and agrees to transfer and deposit to the Interest and Sinking Fund each month an amount not less than 1/12th of the annual debt service on the Certificates until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Certificates; further, the Issuer shall not transfer any funds, including Surplus Revenues, from the utility fund to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Certificates for the then-current fiscal year, less any of such amount for which ad valorem taxes have been levied for such fiscal year, has been deposited in the Interest and Sinking Fund.

(d) Chapter 1208, Texas Government Code, applies to the issuance of the Certificates and the pledge of the taxes and Surplus Revenues granted by the Issuer under Sections 8 and 9 of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid, such that the pledge of the taxes and Surplus Revenues granted by the Issuer under Sections 8 and 9 of this Ordinance is to be subject to the

filing requirements of Chapter 9, Texas Business & Commerce Code, then, in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 9. REVENUES; RATES AND CHARGES. (a) That the Certificates of Obligation are additionally secured by and shall be payable from the Surplus Revenues. The Surplus Revenues are pledged by the Issuer pursuant to authority of Chapter 1502, Texas Government Code.

(b) The City covenants and agrees with the holders of the Certificates that it will at all times charge and collect rates and charges in connection with its ownership and operation of the System as will be at least sufficient to produce revenues, after payment of the costs of operating and maintaining the System, in an amount not less than 1.10 times debt service requirements of all outstanding debt of the Issuer which is secured in whole or in part by a pledge of revenues of the System, for which the City is budgeting the repayment of such obligations from the revenues of the System, or the City shall prepare and provide documentation to any holder of a Certificate who requests same, which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds except System rates and charges, sufficient for the repayment of System debt service requirements.

Section 10. SECURITY FOR FUNDS. That the Interest and Sinking Fund created by this Ordinance shall be secured in the manner and to the fullest extent permitted or required by law for the security of public funds, including the Public Funds Collateral Act, Chapter 2257, Government Code, as amended, as applicable, and the Interest and Sinking Fund shall be used only for the purposes and in the manner permitted or required by this Ordinance.

Section 11. CONSTRUCTION FUND. (a) That there is hereby created, established and maintained on the books of the City, a separate fund to be entitled the "City of San Marcos, Texas Series 2018 Certificates of Obligation Construction Fund" (hereinafter called the "Construction Fund").

(b) Proceeds of the Certificates deposited for credit to the Construction Fund shall be used by the City for payment of the costs of paying contractual obligations incurred in connection with: (1) planning, acquisition, design and construction of certain drainage and flood control improvements to include nonpoint source pollution flood mitigation improvements and acquisitions of land, and (2) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuance in connection with the Certificates.

(c) Any surplus proceeds, including the investment earnings derived from the investment of monies on deposit in the Construction Fund, from the Certificates remaining on deposit in the Construction Fund after completing the improvements described herein and upon the completion of the final accounting as described in Section 16(c) hereof, shall be transferred to the Interest and Sinking Fund to (1) redeem, in inverse order of maturity, the Certificates owned by TWDB; (2) pay capitalized interest, if any, or principal on Certificates owned by TWDB; or, (3) pay for eligible project costs as authorized by the Executive Administrator. The foregoing notwithstanding, it is further provided, however, that any interest earnings on monies on deposit in the

Construction Fund which are required to be rebated to the United States of America pursuant to Section 14 hereof in order to prevent the Certificates from being arbitrage Certificates shall be transferred to the "Rebate Fund" hereinafter established and shall not be considered as interest earnings for purposes of this subsection.

(d) Upon the delivery of the purchase price for the Certificates of Obligation, the proceeds shall be deposited into the Escrow Account and disbursed in accordance with the terms of the "Escrow Agreement" as further described in Section 19 hereof.

(e) The Construction Fund created by this Ordinance shall be secured in the manner and to the fullest extent permitted or required by law for the security of public funds, including the Public Funds Collateral Act, Chapter 2257, Government Code, as amended, as applicable, and the Construction Fund shall be used only for the purposes and in the manner permitted or required by this Ordinance

Section 12. INVESTMENTS. Money in every Fund created by this Ordinance may be invested at the option of the Issuer, and if the Issuer exercises such option, investments must be made as provided in the Public Funds Investment Act, Chapter 2256, Texas Government Code, for the investment of funds of the entities described therein; provided that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times when expected to be needed. Interest and income derived from such deposits and investments shall be credited to the Fund from which the deposit or investment was made and shall be used only for the purpose or purposes for which such Fund is required or permitted to be used, except for interest and income derived from deposits or investments in the Interest and Sinking Fund. Such investments shall be sold promptly when necessary to prevent any default in connection with any Certificates.

Section 13. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES. (a) *Replacement Certificates.* That in the event any outstanding Certificate is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new certificate of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) *Application for Replacement Certificates.* That application for replacement of damaged, mutilated, lost, stolen, or destroyed Certificates shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Certificate, the registered owner applying for a replacement certificate shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Certificate, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) *No Default Occurred.* That notwithstanding the foregoing provisions of this Section, in the event any such Certificate shall have matured, and no default has occurred which is then

continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificate, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement certificate, provided security or indemnity is furnished as above provided in this Section.

(d) *Charge for Issuing Replacement Certificates.* That prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the registered owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen, or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen, or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) *Authority for Issuing Replacement Certificates.* That in accordance with Chapter 1206, Texas Government Code, this Section of this Ordinance shall constitute authority for the issuance of any such replacement certificate without necessity of further action by the Issuer or any other body or person, and the duty of the replacement of such certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates in the form and manner and with the effect, as provided in Section 5(a) of this Ordinance for Certificates issued in conversion and exchange of other Certificates.

Section 14. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES. (a) *Covenants.* The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (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:

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

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed or refinanced 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;

(3) 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 Certificates (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;

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

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

(6) to refrain from using any portion of the proceeds of the Certificates, 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 Certificates, other than investment property acquired with --

(A) proceeds of the Certificates invested for a reasonable temporary period,

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

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

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

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

(9) to assure that the proceeds of the Certificates will be used solely for new money projects; and

(10) to refrain from using the proceeds of the Certificates to pay debt service on another issue of obligations of the City in contravention of section 149(d) of the Code (relating to advance refundings).

(b) *Rebate Fund.* In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the

bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) *Proceeds.* The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding obligations, transferred proceeds (if any) and proceeds of the refunded obligations expended prior to the date of issuance of the Certificates. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

(d) *Allocation Of, and Limitation On, Expenditures for the Project.* The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Order (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) *Disposition of Project.* The City covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the City may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant

if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 15. EXECUTION AND INITIAL REGISTRATION. (a) The Certificates shall be executed on behalf of the City by the Mayor and City Clerk of the City, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Certificates ceases to be such officer before the authentication of such Certificates or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided in this Ordinance, duly authenticated by manual execution of the Paying Agent/Registrar. It shall not be required that the same authorized representative of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Certificates. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Certificate delivered on the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided in this Ordinance, manually executed by the Comptroller of Public Accounts of the State of Texas or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) On the date of delivery, one Initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the Purchaser or its designee, executed by manual or facsimile signature of the Mayor and City Clerk, approved by the Attorney General of Texas and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the Purchaser or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall insert the "Date of Original Issue" thereon, cancel the Initial Certificate and shall complete the "Date of Original Issue" on each of the definitive Certificates, and shall deliver to DTC on behalf of the purchaser one definitive Certificate for each year of maturity of the Certificates in the aggregate principal amount of all Certificates for such maturity, registered in the name of Cede & Co. as nominee for DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Certificates in safekeeping for DTC.

Section 16. COMPLIANCE WITH THE TEXAS WATER DEVELOPMENT BOARD'S RULES AND REGULATIONS. The provisions of this Section shall apply so long as the Certificates are owned by the Texas Water Development Board.

(a) *Annual Audit Reporting.* The City shall provide to the Executive Administrator of the Texas Water Development Board, without the necessity of a written request therefor, a copy of the City's annual audit report, to be submitted without charge, within six months of the close of each City fiscal year.

(b) *As-Built Plans.* The City shall provide to the Texas Water Development Board a full and complete set of "as-built" plans relating to the Project to be financed with the proceeds of the Certificates, promptly upon completion of such Project.

(c) *Final Accounting.* Upon completion of the Project to be financed with the proceeds of the Certificates, the City shall render a final accounting of the cost of such project to the Texas Water Development Board. If the total cost of such project, as finally completed, is less than originally estimated, so that the proper share of the participation by the Texas Water Development Board in such project is reduced, the City shall return to the Texas Water Development Board the amount of such excess to the nearest multiple of the denomination of the Certificates, whereupon the Texas Water Development Board shall cancel and return to the City a like amount of said Certificates held by the Texas Water Development Board. The Certificates to be canceled and returned shall be chosen in inverse order of maturity. The remainder of any such excess, an amount less than \$5,000, shall be deposited into the Interest and Sinking Fund.

(d) *Covenant to Abide with Rules.* The City will abide with all applicable laws of the State of Texas and Rules of the Texas Water Development Board relating to the loan of funds evidenced by the Certificates and the Project for which the Certificates are issued, sold and delivered.

(e) *Insurance.* The City agrees to maintain casualty and other insurance on the System of a kind and in an amount customarily carried by municipal corporations owning and operating similar properties and in an amount sufficient to protect the interests of the TWDB in the Project.

(f) *Records and Accounts.* The City agrees and covenants that it will maintain current, accurate and complete records and accounts regarding the System improvements in accordance with 31 TAC 375.71(a)(2)(G).

(g) *Environmental Determinations.* The City agrees and covenants that it will comply with any special conditions of the Executive Administrator's environmental determination in accordance with 31 TAC 375.71(a)(8).

(h) *Environmental Expenditures.* The City covenants and agrees that none of the proceeds of the Certificates will be expended on costs incurred or to be incurred relating to the sampling, testing, removing or disposing of potentially contaminated soils and/or media at the project site.

(i) *Indemnification.* The City further agrees, to the extent permitted by law and solely from water and wastewater funds provided by the City to indemnify, hold harmless and protect the Texas Water Development Board from any and all claims or causes of action arising from the sampling, analysis, transport, removal and off-site disposition of any contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities related to the City.

(j) *Water Conservation Plan.* The City has agreed to implement the Texas Water Development Board approved water conservation plan.

(k) *Davis-Bacon Act.* The City agrees and covenants that it will comply, and require all contracts and subcontracts for the Project to comply, with the prevailing wage rates in accordance with the Davis-Bacon Act, 40 U.S.C. __ 276aB276a-7.

(l) *Remedies.* The Texas Water Development Board may exercise all remedies available to it in law or equity, and any provision of the Certificates that restricts or limits the Texas Water Development Board's full exercise of these remedies shall be of no force and effect.

(m) *Source Series Bonds.* The City will not acquire any of the Texas Water Development Board's Source Series Bonds in an amount related to the amount of the Certificates to be acquired from the City by the Texas Water Development Board.

(n) *Contract Requirement.* The City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2014 Federal Appropriations Act and related State Revolving Fund Policy Guidelines.

(o) *Approval of Agreement.* The Principal Forgiveness Agreement between the City and the Texas Water Development Board associated with Texas Water Development Board Commitment Number LF1000779 setting out the terms and conditions of the financial assistance between the Texas Water Development Board and the City is approved and the City's Designated Representative is authorized to execute the agreement on behalf of the City.

Section 17. CONTINUING DISCLOSURE OBLIGATION. (a) *Definitions.* That as used in this Ordinance, the following terms have the meanings ascribed to such terms below:

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) *Annual Reports.* The City shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, (1) within six months after the end of any fiscal year, financial information and operating data with respect to the City including financial statements of the City, if audited financial statements of the City are then available, and general financial and operating information included in the application to the Texas Water Development Board for financial assistance and (2) if not provided as part of such financial information and operating data, audited financial statements of the City when and if available. Any financial statements to be so provided shall be (1) prepared in accordance with the accounting principles described in Exhibit "C" hereto, Cor such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within 12 months after any such fiscal year

end, then the City shall provide unaudited financial statements within such 12 month period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements become available.

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

The financial information and operating data to be provided pursuant to this subsection is described in Exhibit "C" and may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet web site or filed with the SEC. All documents provided to the MSRB pursuant to this subsection shall be accompanied by identifying information as prescribed by the MSRB.

(c) *Certain Event Notices.* The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Certificates:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701BTEB) or other material notices or determinations with respect to the tax status of the Certificates, or other events affecting the tax status of the Certificates;
- G. Modifications to rights of holders of the Certificates, if material within the meaning of the federal securities laws;
- H. Bond calls, if material within the meaning of the federal securities laws;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Certificates, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;

M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material within the meaning of the federal securities laws; and

N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.

The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this subsection by the time required. All documents provided to the MSRB pursuant to this subsection shall be accompanied by identifying information as prescribed by the MSRB.

(d) *Limitations, Disclaimers, and Amendments.* The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by this Ordinance of any Bond calls and defeasance that cause the Certificates to be no longer outstanding.

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

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

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Should the Rule be amended to obligate the City to make filings with or provide notices to entities other than the MSRB, the City hereby agrees to undertake such obligation with respect to the Certificates in accordance with the Rule as amended.

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

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (A) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (B) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Certificates. 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 this Section 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. The City may also amend or repeal the provisions of this continuing disclosure requirement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling the Certificates in the primary offering of the Certificates.

Section 18. SALE OF THE CERTIFICATES OF OBLIGATION. (a) The Certificates of Obligation are hereby sold and shall be delivered to the Texas Water Development Board (the "Purchaser") at a price equal to the par amount thereof. The Certificates have been purchased by the Purchaser pursuant to its Resolution No. 18-064, adopted on June 11, 2018, and in accordance with such resolution the Issuer shall pay an origination charge of 1.75% to the Purchaser. It is officially found, determined and declared that the terms of this sale are the most advantageous reasonably obtained. The Issuer hereby approves the Private Placement Memorandum prepared in connection with the issuance of the Certificates. The Certificates shall initially be registered in the name of the Texas Water Development Board or its designee.

(b) The printing of a statement of insurance on the Certificates is hereby authorized, if and to the extent a municipal bond insurance policy is obtained in connection with the sale of the Certificates. The City Manager is hereby authorized to executed any documents necessary in connection with the issuance of such an insurance policy by the issuer thereof.

Section 19. APPROVAL OF ESCROW AGREEMENT AND PAYING AGENT/REGISTRAR AGREEMENT. The Paying Agent/Registrar Agreement by and between the City and Regions Bank, Houston, Texas ("Paying Agent Agreement"), in substantially the form and substance attached hereto as Exhibit "A" is hereby approved and the Mayor is hereby

authorized and directed to complete, amend, modify, and execute the Paying Agent Agreement, as necessary.

The Escrow Agreement by and between the City and Regions Bank, Houston, Texas , as Escrow Agent ("Escrow Agreement") in substantially the form and substance attached hereto as Exhibit "B" is hereby approved, and the Mayor is hereby authorized to complete, amend, modify, and execute the Escrow Agreement, as necessary.

Section 20. AMENDMENTS TO ORDINANCE. The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of but with notice to the Registered Owner, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the Registered Owner, (ii) grant additional rights or security for the benefit of the Registered Owner, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the Registered Owner, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the Registered Owner.

(b) Except as provided in paragraph (a) above, the Registered Owner shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of the Registered Owner, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in the Certificate so as to:

- (1) Make any change in the maturity of any of the outstanding Certificate;
- (2) Reduce the rate of interest borne by any of the outstanding Certificate;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Certificate;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Certificate or any of them or impose any condition with respect to such payment; or
- (5) Change the requirement with respect to obtaining the Registered Owner's consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to the Registered Owner a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such amendment the City shall receive an instrument or instruments executed by the Registered Owner, which

instrument or instruments shall refer to the proposed amendment and shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Certificate shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the Registered Owner pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of such consent and shall be conclusive and binding upon all future Registered Owner of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of said consent by the Registered Owner who gave such consent, or by a successor in title, by filing notice with the City.

(g) For the purposes of establishing ownership of the Certificate, the City shall rely solely upon the registration of the ownership of such Certificate on the Registration Books kept by the Paying Agent/Registrar.

Section 21. INTEREST EARNINGS. That the interest earnings derived from the investment of proceeds from the sale of the Certificates may be used along with other proceeds for the construction of the permanent improvements set forth in Section 1 hereof for which the Certificates are issued; provided that after completion of such permanent improvements, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on proceeds which are required to be rebated to the United States of America pursuant to this Ordinance hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

Section 22. DEFEASANCE. (a) *Defeased Certificates.* That any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this

Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements specified in clauses (i) or (ii) above shall not be irrevocable, provided that, in the proceedings providing for such payment arrangements, the Issuer (1) expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) *Investment in Defeasance Securities.* Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection 22(a)(i) or (ii). All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) *Defeasance Securities Defined.* The term "Defeasance Securities" means (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date on the date the governing body of the Issuer adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

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

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

(f) *Notice.* Upon entering into a Future Escrow Agreement under subsection 22(a)(ii) above defeasing any Certificates for which the TWDB is the holder, the City shall provide the TWDB written notice of such defeasance.

Section 23. PREAMBLE. That the findings set forth in the preamble to this Ordinance are hereby incorporated into the body of this Ordinance and made a part hereof for all purposes.

Section 24. OPEN MEETING. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 25. FURTHER PROCEDURES. That the Mayor, the City Manager, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the initial sale and delivery of the Certificates, the Paying Agent/Registrar Agreement, the Escrow Agreement and the Principal Forgiveness Agreement between the City and TWDB associated with TWDB Commitment Number LF1000779, which is hereby approved. In addition, prior to the initial delivery of the Certificates, the Mayor, the City Manager and Bond Counsel are hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of the bond insurer, if any, or (iii) obtain the approval of the Ordinance by the Texas Attorney General's office.

Section 26. RULES OF CONSTRUCTION. That for all purposes of this Ordinance, unless the context requires otherwise, all references to designated Sections and other subdivisions are to the Sections and other subdivisions of this Ordinance. The titles and headings of the Sections and subsections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision. Except where the context otherwise requires, terms defined in this Ordinance to impart the singular number shall be considered to include the plural number and vice versa. References to any named person means that party and its successors and assigns. References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Ordinance is adopted by the Issuer and any future amendments thereto or successor provisions thereof.

Section 27. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT. To the extent required by Federal law, the City will provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282. The City will obtain a Data Universal Numbering System (DUNS) Number and will register with Central Contractor Registration (CCR), and maintain current registration at all times during which the Certificates are outstanding.

Section 28. STATE AND FEDERAL PROCUREMENT REQUIREMENTS.

Prior to the release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City will provide documentation to TWDB that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program.

Section 29. TIMELY USE OF LOAN PROCEEDS. All proceeds from the sale of the Certificates will be timely and expeditiously used, as required by federal statute and EPA regulations, and the City will adhere to a project schedule, acceptable to the Executive Administrator, that facilitates the timely use of funds and project completion.

PASSED AND APPROVED on the 16th day of October, 2018.

THE CITY OF SAN MARCOS

Mayor, City of San Marcos, Texas

ATTEST:

City Clerk, City of San Marcos, Texas

EXHIBIT "A"

PAYING AGENT/REGISTRAR AGREEMENT

EXHIBIT "B"

ESCROW AGREEMENT

[See Separate Tab This Transcript]

EXHIBIT "C"

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 17 of this Ordinance.

1. Annual Audited Financial Statements of the City.
2. Information of the general type included in the Application to the Texas Water Development Board under the heading:
 - a. Part C: Financial Information

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in paragraph 1 above.