

ORDINANCE

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS AUTHORIZING THE ISSUANCE OF “CITY OF SEGUIN, TEXAS UTILITY SYSTEM REVENUE BONDS, SERIES 2023” (CLEAN WATER STATE REVOLVING FUND); PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS, TOGETHER WITH CERTAIN CURRENTLY OUTSTANDING OBLIGATIONS, BY A FIRST AND PRIOR LIEN ON AND PLEDGE OF THE NET REVENUES OF THE SYSTEM; PROVIDING THE TERMS AND CONDITIONS OF SUCH BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS, INCLUDING THE APPROVAL AND DISTRIBUTION OF A PRIVATE PLACEMENT MEMORANDUM PERTAINING TO THE BONDS; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT; COMPLYING WITH THE REQUIREMENTS OF THE DEPOSITORY TRUST COMPANY’S LETTER OF REPRESENTATIONS; COMPLYING WITH THE REGULATIONS PROMULGATED BY THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE EXECUTION OF ANY NECESSARY ENGAGEMENT AGREEMENTS WITH THE CITY’S FINANCIAL ADVISORS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council (the *City Council*) of the City of Seguin, Texas (the *City* or the *Issuer*) has determined that revenue bonds payable from and equally and ratably secured, together with the currently outstanding revenue bonds (hereinafter defined as the *Previously Issued Bonds*), solely by a first and prior lien on and pledge of the Net Revenues (hereinafter defined) of the City’s combined waterworks, sanitary sewer, and electric light and power system (the *System*) should be issued for the purposes hereinafter described; and

WHEREAS, the City is empowered by the provisions of Chapter 1502, as amended, Texas Government Code and the City’s Home Rule Charter to issue the Bonds; and

WHEREAS, the City intends to utilize the proceeds of the hereinafter-defined Bonds for the purpose of acquiring, purchasing, constructing, improving, extending, renovating, enlarging, equipping, or repairing the System and to pay the costs of issuing the Bonds; and

WHEREAS, the Bonds herein authorized for issuance are to be delivered to the Texas Water Development Board (the *TWDB* or the *Purchasers*) in evidence of a loan commitment received in the aggregate amount of such Bonds; and

WHEREAS, the City Council hereby finds and determines that the Bonds can and should be issued as Additional Parity Bonds (hereinafter defined) on a parity with the Previously Issued

Bonds in that (i) the City is not in default as to any covenant, obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the System that would materially affect the security or payment of such obligations and payments into all special funds or accounts created and established for the payment and security of all outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the System have been made and that the amounts on deposit in such special funds or accounts are the amounts then required to be on deposit therein, (ii) the laws of the State of Texas provide for the issuance of the Bonds, (iii) the City can secure from a Certified Public Accountant a certificate to the effect that, according to the books and records of the City, the Net Earnings of the System, for the Fiscal Year (hereinafter defined) next preceding the date that the Bonds are to be issued are equal to at least (i) 1.40 times the Average Annual Debt Service (hereinafter defined) and (ii) 1.10 times the maximum annual Debt Service (hereinafter defined) of all Bonds Similarly Secured payable from the Net Revenues of the System to be outstanding after the issuance of the Bonds; (iv) the Bonds mature on February 1 or August 1; and (v) this Ordinance provides that the amount to be accumulated and maintained in the Reserve Fund shall be in an amount equal to not less than the Required Reserve after giving effect to the issuance of the Bonds, and provides that any additional amount to be maintained in the Reserve Fund shall be accumulated within sixty (60) months from the date the Bonds are delivered; and

WHEREAS, the City Council hereby finds and determines that this action and the adoption of this Ordinance is in the best interest of the citizens of the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS THAT:

SECTION 1. Authorization - Designation - Principal Amount - Purpose. Revenue bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount of ONE HUNDRED EIGHTY TWO MILLION SEVEN HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$182,760,000), to be designated and bear the title of CITY OF SEGUIN, TEXAS UTILITY SYSTEM REVENUE BONDS, SERIES 2023 (CLEAN WATER STATE REVOLVING FUND) (the *Bonds*), pursuant to an ordinance adopted by the City Council (the *Ordinance*) for the purpose of (i) constructing, acquiring, purchasing, renovating, enlarging, equipping, and improving the City's utility system, (ii) purchasing materials, supplies, equipment, machinery, land, and rights-of-way for authorized needs and purposes relating to the utility system improvements, and (iii) paying the costs related to the issuance of the Bonds. The Bonds shall be payable from and equally and ratably secured, together with the currently outstanding Previously Issued Bonds, solely by a first and prior lien on and pledge of the Net Revenues (hereinafter defined) of the System. The Bonds are authorized to be issued pursuant to the authority conferred by and in conformity with the laws of the State of Texas, particularly Chapter 1502, as amended, Texas Government Code, the City's Home Rule Charter, and the Ordinance.

SECTION 2. Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates - Date. The Bonds are issuable in fully registered form only; shall be dated February 1, 2023 (the *Bond Date*) and shall be in denominations of \$5,000 or any integral multiple thereof shall be lettered "R" and numbered consecutively from One (1) upward; and principal shall become due and payable on February 1 in each of the years and in principal amounts (the *Stated Maturities*) and bear interest on the unpaid principal amounts from the Closing Date (anticipated to occur on or about March 23, 2023), or from the most recent Interest Payment Date

(hereinafter defined) to which interest has been paid or duly provided for, to the earlier of redemption or to Stated Maturity, at the per annum rates, while Outstanding, in accordance with the following schedule:

<u>Year of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
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The Bonds shall bear interest on the unpaid principal amounts from the Closing Date (anticipated to occur on or about March 23, 2023), or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, while Outstanding, at the rates per annum shown in the above schedule (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on February 1 and August 1 in each year (each, an *Interest Payment Date*), commencing August 1, 2023.

SECTION 3. Payment of Bonds - Interest Payments - Paying Agent/Registrar. The principal of, premium, if any, and interest on the Bonds, due and payable by reason of Stated Maturity, redemption, or otherwise, shall be payable, without exchange or collection charges to the Holder (as hereinafter defined), appearing on the registration and transfer books maintained by the Paying Agent/Registrar (hereinafter defined), in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and such payment of principal of and interest on the Bonds shall be without exchange or collection charges to the Holder (as hereinafter defined) of the Bonds.

The selection and appointment of Zions Bancorporation, National Association, Houston, Texas, to serve as the initial Paying Agent/Registrar (the *Paying Agent/Registrar*) for the Bonds is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the corporate trust office of the Paying Agent/Registrar books and records (the *Security Register*) for the registration, payment, and transfer of the Bonds, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement, attached, in substantially final form, as Exhibit A hereto, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The City covenants to maintain and provide a Paying Agent/Registrar at all times while the Bonds are Outstanding, and any successor Paying Agent/Registrar shall be (i) a national or state banking institution or (ii) an association or a corporation organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers. Such Paying Agent/Registrar shall be subject to supervision or examination by federal or state authority and authorized by law to serve as a Paying Agent/Registrar.

The City reserves the right to appoint a successor Paying Agent/Registrar upon providing the previous Paying Agent/Registrar with a certified copy of a resolution or ordinance terminating such agency. Additionally, the City agrees to promptly cause a written notice of this substitution to be sent to each Holder of the Bonds by United States Mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of, premium, if any, and interest on the Bonds, due and payable by reason of Stated Maturity, redemption or otherwise, shall be payable only to the registered owner of the Bonds appearing on the Security Register (the *Holder* or *Holder*s) maintained on behalf of the City by the Paying Agent/Registrar as hereinafter provided (i) on the Record Date (hereinafter defined) for purposes of payment of interest thereon, (ii) on the date of surrender of the Bonds for purposes of receiving payment of principal thereof upon redemption of the Bonds or at the Bonds' Stated Maturity, and (iii) on any other date for any other purpose. The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder as the owner of a Bond for purposes of receiving payment and all other purposes whatsoever, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

Principal of, and premium, if any, on the Bonds shall be payable only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its corporate trust office. Interest on the Bonds shall be paid to the Holder whose name appears in the Security Register at the close of business on the fifteenth day of the month next preceding an Interest Payment Date for the Bonds (the *Record Date*) and shall be paid (i) by check sent by United States Mail, first-class postage prepaid, by the Paying Agent/Registrar, to the address of the Holder appearing in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in

writing by the Holder at the Holder's risk and expense. While the Bonds are held by the Purchasers (as defined in Section 31 hereof), payment of principal of, premium, if any, and interest on the Bonds shall be made by federal funds wire transfer, at no cost to the Purchasers, to an account at a financial institution located in the United States designated by the Purchasers.

If the date for the payment of the principal of, premium, if any, or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the corporate 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 day. The payment on such date shall have the same force and effect as if made on the original date any such payment on the Bonds was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a *Special Record Date*) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4. Redemption.

A. Optional Redemption. The Bonds having Stated Maturities on and after February 1, 2034 shall be subject to redemption prior to Stated Maturity, at the option of the City, on February 1, 2033, or on any date thereafter, as a whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption.

B. Exercise of Redemption Option. At least fifty (50) days prior to a date set for the redemption of Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date set for the redemption thereof. The decision of the City to exercise the right to redeem Bonds shall be entered in the minutes of the City Council of the City.

C. Selection of Bonds for Redemption. If less than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall select at random and by lot the Bonds to be redeemed, provided that if less than the entire principal amount of a Bond is to be redeemed, the Paying Agent/Registrar shall treat such Bond then subject to redemption as representing the number of Bonds Outstanding which is obtained by dividing the principal amount of such Bond by \$5,000.

D. Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Bonds, the Paying Agent/Registrar shall cause a notice of redemption to be sent by United States Mail, first-class postage prepaid, in the name of the City and at the City's expense, by the

Paying Agent/Registrar to each Holder of a Bond to be redeemed, in whole or in part, at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder. This notice may also be published once in a financial publication, journal, or reporter of general circulation among securities dealers in the City of New York, New York (including, but not limited to, *The Bond Buyer* and *The Wall Street Journal*), or in the State of Texas (including, but not limited to, *The Texas Bond Reporter*).

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the corporate trust office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder.

If a Bond is subject by its terms to redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Bond (or the principal amount thereof to be redeemed) so called for redemption shall become due and payable, and if money sufficient for the payment of such Bonds (or of the principal amount thereof to be redeemed) at the then applicable redemption price is held for the purpose of such payment by the Paying Agent/Registrar, then on the redemption date designated in such notice, interest on said Bonds (or the principal amount thereof to be redeemed) called for redemption shall cease to accrue, and such Bonds shall not be deemed to be Outstanding in accordance with the provisions of this Ordinance.

E. Transfer/Exchange. Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond during a period beginning forty-five (45) days prior to the date fixed for redemption of the Bonds or to transfer or exchange any Bond selected for redemption, provided; however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond which is subject to redemption in part.

SECTION 5. Execution - Registration. The Bonds shall be executed on behalf of the City by its Mayor or Mayor Pro Tem, its seal reproduced or impressed thereon, and attested by its City Secretary. The signature of any of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who were, at the time of the Bond Date, the proper officers of the City shall bind the City, notwithstanding that such individuals or either of them shall cease to hold such offices prior to the delivery of the Bonds to the Purchasers (hereinafter defined), all as authorized and provided in Chapter 1201, as amended, Texas Government Code.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 8C, executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent by manual signature, or a certificate of

registration substantially in the form provided in Section 8D, executed by the Paying Agent/Registrar by manual signature, and either such certificate upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified or registered and delivered.

SECTION 6. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of every owner of the Bonds, or, if appropriate, the nominee thereof. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Bond at the corporate trust office of the Paying Agent/Registrar, the City shall execute and the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denomination and having the same Stated Maturity and of a like interest rate and aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds may be exchanged for other Bonds of the same series and of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange upon surrender of the Bonds to be exchanged at the corporate trust office of the Paying Agent/Registrar. Whenever any Bonds are so surrendered for exchange, the City shall execute, and the Paying Agent/Registrar shall register and deliver, the Bonds, to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the corporate trust office of the Paying Agent/Registrar, or be sent by registered mail to the Holder at his request, risk, and expense, and upon the delivery thereof, the same shall be the valid and binding obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered upon such transfer or exchange.

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

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be Predecessor Bonds, evidencing all or a portion, as the case may be, of the same debt evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term Predecessor Bonds shall include any Bond registered and delivered pursuant to Section 30 in lieu of a mutilated, lost, destroyed, or stolen Bond which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

SECTION 7. Initial Bonds. The Bonds herein authorized shall be issued initially either as a single fully-registered Bond in the total principal amount of \$182,760,000 with principal installments to become due and payable as provided in Section 2 and numbered T-1, or as one (1)

fully-registered Bond for each year of Stated Maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (the *Initial Bond*) and, in either case, the Initial Bond shall be registered in the name of the Purchasers or the designee thereof. The Initial Bond shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchasers. Any time after the delivery of the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates, on the unpaid principal amounts from the Closing Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to Stated Maturity, and shall be lettered "R" and numbered consecutively from one (1) upward for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the Purchasers, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 8. Forms.

A. Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including insurance legends in the event the Bonds, or any Stated Maturities thereof, are insured and identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of Bond Counsel (hereinafter referenced) thereon as may, consistent herewith, be established by the City or determined by the officers executing the Bonds as evidenced by their execution thereof. Any portion of the text of any Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds shall be printed, lithographed, or engraved, produced by any combination of these methods, or produced in any other similar manner, all as determined by the officers executing the Bonds as evidenced by their execution thereof, but the Initial Bond submitted to the Attorney General of the State of Texas may be typewritten or photocopied or otherwise reproduced.

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B. Form of Definitive Bond.

REGISTERED
NO.

REGISTERED
PRINCIPAL AMOUNT
\$ _____

United States of America
State of Texas
County of Guadalupe
CITY OF SEGUIN, TEXAS
UTILITY SYSTEM REVENUE BONDS,
SERIES 2023 (CLEAN WATER STATE REVOLVING FUND)

Bond Date:
February 1, 2023

Interest Rate:

Stated Maturity:

CUSIP No.

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Seguin, Texas (the *City*), a body corporate and municipal corporation in the County of Guadalupe, State of Texas, for value received, hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid Principal Amount hereof (computed on the basis of a 360-day year of twelve 30-day months) from the Closing Date (anticipated to occur on or about March 23, 2023), or from the most recent Interest Payment Date to which interest has been paid or duly provided for until such Principal Amount has become due and payment thereof has been made or duly provided for, to the earlier of redemption or Stated Maturity, while Outstanding, at the per annum rate of interest specified above; such interest being payable on February 1 and August 1 of each year commencing August 1, 2023.

Principal and premium, if any, of the Bond shall be payable to the Registered Owner hereof (the *Holder*) upon presentation and surrender, at the corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States Mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by the Holder hereof at the Holder's risk and expense. While the Bonds are held by the Purchasers,

payment of principal of, premium, if any, and interest on the Bonds shall be made by federal funds wire transfer, at no cost to the Purchasers, to an account at a financial institution located in the United States designated by the Purchasers.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$182,760,000 (the *Bonds*) pursuant to an ordinance adopted by the City Council of the City (the *Ordinance*), for the purpose of (i) constructing, acquiring, purchasing, renovating, enlarging, equipping, and improving the City's utility system, (ii) purchasing materials, supplies, equipment, machinery, land, and rights-of-way for authorized needs and purposes relating to the utility system improvements, and (iii) paying the costs related to the issuance of the Bonds. The Bonds are authorized to be issued pursuant to the authority conferred by and in conformity with the laws of the State of Texas, particularly Chapter 1502, as amended, Texas Government Code, the City's Home Rule Charter, and the Ordinance.

The Bonds stated to mature on and after February 1, 2034 may be redeemed prior to their Stated Maturities, at the option of the City, on February 1, 2033, or on any date thereafter, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States Mail, first-class postage prepaid, to Holders of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Ordinance. If this Bond is subject to redemption prior to Stated Maturity and is in a denomination in excess of \$5,000, portions of the principal sum hereof in installments of \$5,000 or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Bond to the Paying Agent/Registrar at its corporate trust office, a new Bond or Bonds of like Stated Maturity and interest rate in any authorized denominations provided in the Ordinance for the then unredeemed balance of the principal sum hereof.

If this Bond (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Bond is called for redemption, in whole or in part, the City or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Bond within fifty (50) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Bonds of this series are special obligations of the City payable from and equally and ratably secured, together with the currently outstanding Previously Issued Bonds, solely by a first and prior lien on and pledge of the net revenues (the *Net Revenues*) derived from the operation of the City's combined electric power, waterworks and sewer system (the *System*). In the Ordinance, the City reserves and retains the right to issue Additional Parity Bonds and Inferior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions, or restrictions set forth in the Ordinance or as may be applicable thereto under law or otherwise. The

Bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the City or System, except with respect to the Net Revenues.

The Holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Reference is hereby made to the Ordinance, copies of which are on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description and nature of the Net Revenues of the System pledged for the payment of the Bonds; the terms and conditions under which the City may issue Additional Parity Bonds and Inferior Lien Obligations; the terms and conditions relating to the transfer or exchange of the Bonds; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Ordinance. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register upon presentation and surrender at the corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Bond as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the City nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a *Special Record Date*) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Bond in order to render the same a legal, valid, and binding special obligation of the City have been performed, exist, and have been done, in regular and due time, form, and manner, as required by law, and that issuance of the Bonds does not exceed any constitutional or statutory limitation; and that due

provision has been made for the payment of the principal of and interest on the Bonds by a pledge of and lien on the Net Revenues of the System. In case any provision in this Bond or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

[The remainder of this page intentionally left blank.]

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

CITY OF SEGUIN, TEXAS

By _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

[The remainder of this page intentionally left blank.]

C. *Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Bond Only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

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

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

WITNESS my signature and seal of office this _____

Comptroller of Public Accounts
of the State of Texas

(SEAL)

*NOTE TO PRINTER: Not to appear on printed Bond.

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

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

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

Registered this date: ZIONS BANCORPORATION, NATIONAL
ASSOCIATION, as Paying Agent/Registrar

By: _____
Authorized Signature
Amegy Bank Division

E. Form of Assignment.

ASSIGNMENT

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

(Social Security or other identifying number): _____
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

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

Signature guaranteed:

[The remainder of this page intentionally left blank.]

F. The Initial Bond shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

(i) immediately under the name of the Bond the headings “Interest Rate” and “Stated Maturity” shall both be completed “as shown below”;

(ii) the first two paragraphs shall read as follows:

Registered Owner: _____

Principal Amount: _____

The City of Seguin, Texas (the *City*), a body corporate and municipal corporation in the County of Guadalupe, State of Texas, for value received, hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above on the first day of February in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

<u>Years of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
-------------------------------------	-----------------------------------	-------------------------------

(Information to be inserted
from schedule in Section 2 hereof)

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Closing Date (anticipated to occur on or about March 23, 2023), or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to the earlier of redemption of Stated Maturity, while Outstanding, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*), commencing August 1, 2023.

Principal of this Bond shall be payable to the Registered Owner hereof (the *Holder*), upon its presentation and surrender, at the corporate trust office of Zions Bancorporation, National Association, Houston, Texas (the *Paying Agent/Registrar*). Interest shall be payable to the Holder of this Bond whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each interest payment date. All payments of principal of and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States Mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof. While the Bonds are held by the Purchasers, payment of principal of, premium, if any, and interest on the Bonds shall be made by federal funds wire transfer, at no cost to the Purchasers, to an account at a financial institution located in the United States designated by the Purchasers.

[END OF FORMS]

G. Insurance Legend. If bond insurance is obtained by the Purchasers or the City for the Bonds, the definitive Bonds and the Initial Bond shall bear an appropriate legend as provided by the bond insurer to appear under the following header:

[BOND INSURANCE] or [STATEMENT OF INSURANCE]

SECTION 9. Definitions. For all purposes of this Ordinance (as defined below), except as otherwise expressly provided or unless the context otherwise requires: the terms defined in this Section have the meanings assigned to them in this Section, and certain terms used in Section 32 and 45 of this Ordinance have the meanings assigned to them in such Section, and all such terms include the plural as well as the singular; all references in this Ordinance to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this Ordinance as originally adopted; and 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.

A. *“Additional Parity Bonds”* - Revenue bonds or other evidences of indebtedness which the City reserves the right to issue or enter into, as the case may be, in the future in accordance with the terms and conditions prescribed therefor and which are equally and ratably secured by a first lien on and pledge of the Net Revenues of the System.

B. *“Authorized Investments”* – The obligations identified in the “Public Funds Investment Act” (V.T.C.A., Government Code, Chapter 2256), as amended.

C. *“Authorized Officials”* – The Mayor, the Mayor Pro Tem, the City Manager, the Assistant City Manager, Finance Director, the City Attorney, and/or the City Secretary.

D. *“Average Annual Debt Service”* - That average amount which, at the time of computation, will be required to pay the Debt Service of obligations when due and derived by dividing the total of such Debt Service by the number of years then remaining before final maturity. Capitalized interest payments provided from bond proceeds shall be excluded in making the aforementioned computation.

E. *“Bonds”* - The “City of Seguin, Texas Utility System Revenue Bonds, Series 2023” (Clean Water State Revolving Fund), dated February 1, 2023, authorized by this Ordinance.

F. *“Bonds Similarly Secured”* - Collectively, the Bonds, the Previously Issued Bonds, and any Additional Parity Bonds.

G. *“City”* - The City of Seguin located in the County of Guadalupe, Texas.

H. *“Closing Date”* – The date of physical delivery of the Initial Bonds in exchange for the payment in full by the Purchasers.

I. *“Debt Service”* - As of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of Bonds Similarly Secured without a fixed numerical rate that such obligations bear, or would have borne, interest at

the highest rate reached, or that would have applied to such obligations (using the index or method for computing interest applicable to such obligations) during the twenty-four (24) month period next preceding the date of computation; further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to maturity, the principal amounts thereof will be redeemed prior to maturity in accordance with the mandatory redemption provisions applicable thereto.

J. “*Fiscal Year*” - The twelve month accounting period used by the City in connection with the operation of the System which may be any twelve consecutive month period established by the City.

K. “*Government Obligations*” - (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; (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 the City Council of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Bonds.

L. “*Gross Revenues*” – All income, receipts and revenues of every nature derived or received from the operation and ownership (excluding refundable meter deposits, restricted gifts and grants in aid of construction) of the System, including earnings and income derived from the investment or deposit of moneys in any special funds or accounts created and established for the payment and security of the Bonds Similarly Secured and other obligations payable solely from and secured only by a lien on and pledge of the Net Revenues.

M. “*Inferior Lien Obligations*” – Any obligations hereafter issued by the City that are payable from or secured by a lien on and pledge of the Net Revenues of the System that is subordinate and inferior to the lien on and pledge thereof securing the payment of any outstanding Bonds Similarly Secured.

N. “*Interest Payment Dates*” – The date interest is payable on the Bonds, being February 1 and August 1 of each year, commencing August 1, 2023, while any of the Bonds remain Outstanding.

O. “*Maintenance and Operating Expenses*” – All current expenses of operating and maintaining the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the City Council, reasonably and fairly exercised, are necessary to maintain the operations and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair obligations payable from Net Revenues shall be deducted in determining “Net Revenues”. Depreciation

charges shall not be considered Maintenance and Operating Expenses. Maintenance and Operating Expenses shall include payments under contracts for the purchase of water supply, treatment of sewage or other materials, goods or services for the System to the extent authorized by law and the provisions of such contract.

P. “*Net Earnings*” – The meaning assigned to such term in Section 18 hereof.

Q. “*Net Revenues*” – Gross Revenues of the System, with respect to any period, after deducting the System’s Maintenance and Operating Expenses during such period.

R. “*Outstanding*” – When used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

(1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds deemed to be paid by the City in accordance with the provisions of Section 28 hereof; and

(3) those Bonds that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 30 hereof.

S. “*Previously Issued Bonds*” – The outstanding and unpaid (1) “City of Seguin, Texas Utility System Revenue Bonds, Series 2014”, dated December 1, 2014, and originally issued in the principal amount of \$21,405,000 (the *Series 2014 Bonds*), (2) “City of Seguin, Texas Utility System Revenue Bonds, Series 2016”, dated January 15, 2016, and originally issued in the principal amount of \$4,430,000 (the *Series 2016 Bonds*), (3) “City of Seguin, Texas Utility System Revenue Bonds, Series 2017”, dated February 1, 2017, and originally issued in the principal amount of \$8,415,000 (the *Series 2017 Bonds*), (4) “City of Seguin, Texas Utility System Revenue Bonds, Series 2018”, dated May 15, 2018 and originally issued in the principal amount of \$9,900,000 (the *Series 2018 Bonds*), (5) “City of Seguin, Texas Utility System Revenue Bonds, Series 2020”, dated January 15, 2020 and originally issued in the principal amount of \$3,550,000 (the *Series 2020 Bonds*), and (6) “City of Seguin, Texas Utility System Revenue Bonds, Series 2021, dated June 1, 2021 and originally issued in the principal amount of \$14,240,000 (the *Series 2021 Bonds*).

T. “*Required Reserve*” – The amount required to be accumulated and maintained in the Reserve Fund under the provisions of Section 13.

U. “*System*” - All properties, facilities and plants currently owned, operated and maintained by the City for the supply, treatment and transmission of treated potable water, the collection, treatment and disposal of watercarried wastes, the generation, transmission and distribution of electricity, together with all future extensions, improvements, replacements and additions thereto; provided, however, that notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term “System” shall not mean to include facilities of any kind which are declared not to be a part of the System and which are acquired or constructed by or on behalf of the City with the proceeds from the issuance of “Special Facilities Bonds”,

which are hereby defined as being special revenue obligations of the City which are not Bonds but which are payable from and secured by other liens on and pledges of any revenues, sources or payments, not pledged to the payment of the Bonds including, but not limited to, special contract revenues or payments received from any other legal entity in connection with such facilities.

V. “TWDB” – The Texas Water Development Board or any successor agency thereto.

SECTION 10. Pledge. (a) The City hereby covenants and agrees that the Net Revenues of the System, with the exception of those in excess of the amounts required for the payment and security of the Bonds Similarly Secured, are hereby irrevocably pledged, to the payment and security of the Previously Issued Bonds, the Bonds, and Additional Parity Bonds, if issued, including the establishment and maintenance of the special funds created and established by the ordinances authorizing the Previously Issued Bonds, and reaffirmed by this Ordinance, all as hereinafter provided, and it is hereby ordained that the Bonds Similarly Secured, and the interest thereon, shall constitute a first lien on the Net Revenues of the System and be valid and binding without any physical delivery thereof or further act by the City, and the lien created hereby on the Net Revenues of the System for the payment and security of the Bonds Similarly Secured shall be prior in right and claim as to any other indebtedness, liability or obligation of the City or the System.

(b) Chapter 1208, as amended, Texas Government Code, applies to the issuance of the Bonds and the pledge of the Net Revenues granted by the City under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the Net Revenues granted by the City 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 Bonds the perfection of the security interest in this pledge, the City Council agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, as amended, Texas Business & Commerce Code and enable a filing to perfect the security interest in this pledge to occur.

SECTION 11. Utility System Fund. The City hereby reaffirms its covenant and agreement that Gross Revenues of the System (excluding earnings and income from investments held for the benefit of special funds created for the payment and security of obligations payable in whole or in part from the Net Revenues) shall be deposited to the credit of an account created by the ordinances authorizing the Previously Issued Bonds and known as the “Utility System Fund” (herein called the *System Fund*). Such revenues of the System shall be kept separate and apart from all other funds of the City and shall be deposited, as collected, in a fund maintained at a depository bank of the City. All revenues deposited in the System Fund shall be pledged and appropriated to the extent required for the following uses and in the order of priority shown:

- FIRST: To the payment of all necessary and reasonable Maintenance and Operating Expenses as defined herein or required by statute to be a first charge on and claim against the Gross Revenues thereof.
- SECOND: To the payment of the amounts required to be deposited in the Bond Fund created and established for the payment of Debt Service on the Bonds Similarly Secured as the same becomes due and payable.

- THIRD: To the payment of the amounts required to be deposited in the Reserve Fund to establish and maintain the Required Reserve in accordance with the provisions of this Ordinance or any other ordinances relating to issuance of Bonds Similarly Secured.

- FOURTH: To the payment of the amounts required to be deposited into the funds created and established for the payment, security, and benefit of any Inferior Lien Obligations as the same become due and payable.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 12. Bond Fund - Excess Bond Proceeds. For purposes of providing funds to pay the principal of and interest on the Bonds Similarly Secured as the same becomes due and payable, the City reaffirms the creation and agrees to maintain a separate and special account or fund known as the “City of Seguin Interest and Sinking Revenue Bond Fund” (the *Bond Fund*). In addition to the deposits required to be made for the payment of the Previously Issued Bonds, the City covenants that there shall be deposited to the credit of the Bond Fund prior to each principal and interest payment date from the Net Revenues an amount equal to one hundred per centum (100%) of the amount required to fully pay the interest on and the principal of the Bonds then falling due and payable, such deposits to pay maturing principal and accruing interest on the Bonds to be made in substantially equal monthly installments on or before the 20th day of each month, beginning on or before the 20th day of the month next following the month the Bonds are delivered to the initial purchaser(s).

The required monthly deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made as hereinabove provided until such time as (i) the total amount on deposit in the Bond Fund and Reserve Fund is equal to the amount required to fully pay and discharge all Outstanding Bonds Similarly Secured (principal and interest) or (ii) the Bonds are no longer Outstanding.

Accrued interest received from the Purchasers shall be taken into consideration and reduce the amount of the monthly deposits hereinabove required to be deposited into the Bond Fund from the Net Revenues of the System. Additionally, any proceeds of the Bonds, and investment income thereon, not expended for authorized purposes shall be deposited into the Bond Fund and shall be taken into consideration and reduce the amount of monthly deposits required to be deposited into the Bond Fund from the Net Revenues of the System.

SECTION 13. Reserve Fund. For purposes of accumulating and maintaining funds as a reserve for the payment of the Bonds Similarly Secured, the City reaffirms the creation and agrees to maintain a separate and special fund or account to be known as the “City of Seguin Revenue Bond Reserve Fund” (the *Reserve Fund*), and all funds deposited to the credit of said Fund (excluding earnings and income derived or received from deposits or investments which may be transferred to the System Fund established in Section 11 hereof during such periods as there is on deposit in the Reserve Fund the Required Reserve) shall be used solely for the payment of the principal of and interest on the Bonds Similarly Secured, when and to the extent other funds available for such purposes are insufficient, and, to the extent an amount is not required for the

maintenance of the Required Reserve, such excess amount may also be used to pay, or provide for the payment of, the final principal amount of a series of Bonds Similarly Secured so that such series of Bonds Similarly Secured is no longer deemed to be “Outstanding” within the meaning of Section 28 hereof.

In accordance with the provisions of the ordinances authorizing the issuance of the Previously Issued Bonds, the total amount ultimately required to be accumulated and maintained in the Reserve Fund is \$2,628,078.88 (the *Old Reserve*). By reason of the issuance of the Bonds, the total amount required to be accumulated and maintained in said Fund is hereby determined to be \$_____ (the *Required Reserve*) which amount shall be accumulated, if necessary (and subject to the further conditions on funding such Reserve Fund as provided in this Section) and is hereby found to equal or exceed the Average Annual Debt Service for the Bonds and the Previously Issued Bonds (calculated on a Fiscal Year basis as of the date the Bonds are to be delivered) and is more than the amount currently on deposit in the Reserve Fund. The Old Reserve for all currently Outstanding Bonds Similarly Secured are funded by separate surety policies: (i) one issued by Build America Mutual, which is attributable and relates to the Series 2014 Bonds, the Series 2016 Bonds, and the Series 2017 Bonds and provides maximum coverage thereunder of \$2,919,075.00, and (ii) one issued by Assured Guaranty Municipal Corp., which is attributable and relates to the Series 2018 Bonds and provides maximum coverage thereunder of \$728,561.00.

When and so long as the cash and investments in the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but, if and when the Reserve Fund at any time contains less than the Required Reserve (other than as the result of the issuance of Additional Parity Bonds as provided in the following paragraph), subject to the provisions of Section 51 hereof, the City covenants and agrees to cure the deficiency in the Required Reserve by making monthly deposits to said Fund from the Net Revenues of the System, such monthly deposits to be in amounts equal to not less than 1/60th of the then total Required Reserve to be maintained in said Fund and made on or before the 20th day of each month until the total Required Reserve then to be maintained in said Fund has been fully restored. The City further covenants and agrees that, subject only to the payments to be made to the Bond Fund, the Net Revenues shall be applied and appropriated and used to establish and maintain the Required Reserve and to cure any deficiency in such amounts as required by the terms of this Ordinance and any other ordinance pertaining to the issuance of Additional Parity Bonds.

As and when Additional Parity Bonds are delivered or incurred, the Required Reserve shall be increased, if required, to an amount equal to not less than the Average Annual Debt Service (calculated on a Fiscal Year basis) for all Bonds Similarly Secured then outstanding, as determined on the date each series of Bonds are delivered or incurred, as the case may be. Any additional amount required to be maintained in the Reserve Fund shall be so accumulated by the deposit in the Reserve Fund of all or any part thereof in cash immediately after the delivery of the then proposed Additional Parity Bonds, or, at the option of the City, by the deposit of monthly installments, made on or before the 20th day of each month following the month of delivery of the Additional Parity Bonds, of not less than 1/60th of the additional amount to be maintained in said Fund by reason of the issuance of the Additional Parity Bonds then being issued (or 1/60th of the balance of the additional amount not deposited immediately in cash).

During such time as the Reserve Fund contains the total Required Reserve, the City may, at its option, withdraw all surplus in the Reserve Fund in excess of the Required Reserve and deposit such surplus in the System Fund.

The City expressly reserves the right at any time to fund the Reserve Fund at the Required Reserve by purchasing an insurance policy that will unconditionally obligate the insurance company or other entity to pay all, or any part thereof, of the Required Reserve in the event funds on deposit in the Bond Fund are not sufficient to pay the debt service requirements on the Bonds. All ordinances adopted after the date hereof authorizing the issuance of Additional Parity Bonds shall contain a provision to this effect.

In the event an insurance policy issued to satisfy all or part of the City's obligation with respect to the Reserve Fund causes the amount then on deposit in the Reserve Fund to exceed the Required Reserve, the City may transfer such excess amount to any fund or account established for the payment of or security for the Bonds (including any escrow established for the final payment of any such obligations pursuant to Chapter 1207, as amended, Texas Government Code) or use such excess amount for any lawful purpose now or hereafter provided by law; provided, however, to the extent that such excess amount represents Bond proceeds, then such amount must be transferred to the Bond Fund or as otherwise permitted in accordance with then applicable Texas law.

Notwithstanding anything to the contrary contained in this Section and except for any reserve fund requirements imposed on the City by the TWDB, the requirements set forth above to fund the Reserve Fund in the amount of the Required Reserve amount shall be suspended for any Bonds Similarly Secured (including the Bonds) for such time as the Net Revenues for each Fiscal Year are equal to at least 110% of the Average Annual Debt Service requirements. In the event that the Net Revenues for any two consecutive Fiscal Years are less than 110% (unless such percentage is below 100% in any Fiscal Year, in which case the hereinafter-specified requirements will commence after such Fiscal Year) of the Average Annual Debt Service requirements, the City will be required to commence making the deposits to the Reserve Fund, as provided above, and to continue making such deposits until the earlier of (i) such time as the Reserve Fund contains the Required Reserve amount or (ii) the Net Revenues for a Fiscal Year have been equal to not less than 110% of the Average Annual Debt Service requirements.

SECTION 14. Depository for Funds - Security. An official depository of the funds of the City shall be the depository for the moneys deposited to the credit of the Funds identified in this Ordinance and moneys deposited to the credit of such Funds, to the extent not invested, shall be secured in the manner prescribed by law for securing other funds of the City.

SECTION 15. Deficiencies - Excess Net Revenues. (a) If on any occasion there shall not be sufficient Net Revenues of the System to make the required deposits into the Bond Fund and the Reserve Fund, then such deficiency shall be cured as soon as possible from the next available Net Revenues of the System, or from any other sources available for such purpose.

(b) Subject to making the required deposits to the Bond Fund and the Reserve Fund when and as required by this Ordinance, or any ordinance authorizing the issuance of Bonds Similarly Secured, the excess Net Revenues may be used by the City for any lawful purpose.

SECTION 16. Payment of Bonds. While any of the Bonds are Outstanding, the Authorized Officials shall cause to be transferred to the Paying Agent therefor, from funds on deposit in the Bond Fund, and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal of the Bonds accrues or matures or comes due by reason of redemption prior to maturity; such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent for the Bonds at the close of the business day next preceding the date of payment for the Bonds.

SECTION 17. Investments. Money in any Fund reaffirmed pursuant to this Ordinance may, at the option of the City, be placed in time deposits, certificates of deposit, guaranteed investment contracts, or similar contractual arrangements and secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type hereinafter described, or be invested, including investments held in book entry form, in direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Farmers Home Administration, Federal Home Loan Mortgage Association, Federal Housing Association, or Participation Certificates in the Federal Assets Financing Trust; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from any Fund will be available at the proper time or times. Such investments (except State and Local Government Series investments held in book entry form, which shall at all times be valued at cost) shall be valued in terms of current market value within 45 days of the close of each Fiscal Year and, with respect to investments held for the account of the Reserve Fund, within 30 days of the date of passage of each ordinance authorizing the issuance of Additional Parity Bonds. All interest and income derived from deposits and investments in the Bond Fund immediately shall be credited to, and any losses debited to, the Bond Fund. All interest and interest income derived from deposits in and investments of the Reserve Fund shall, subject to the limitations provided in Section 13 hereof, be credited to and deposited in the System Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

SECTION 18. Issuance of Additional Parity Bonds. Subject to the provisions hereinafter appearing as to conditions precedent which must be satisfied, the City reserves the right to issue, from time to time as needed, Additional Parity Bonds for any lawful purpose. Such Additional Parity Bonds may be issued in such form and manner as now or hereafter authorized by the laws of the State of Texas for the issuance of evidences of indebtedness or other instruments, and should new methods or financing techniques be developed that differ from those now available and in normal use, the City reserves the right to employ the same in its financing arrangements provided only that the following conditions precedent for the authorization and issuance of the same are satisfied, to wit:

A. The Director of Finance of the City (or other officer of the City then having the primary responsibility for the financial affairs of the City) shall have executed a certificate stating (a) that, to the best of his knowledge and belief, the City is not then in default as to any covenant,

obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the System that would materially affect the security or payment of such obligations and (b) either (i) payments into all special funds or accounts created and established for the payment and security of all outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the System have been made and that the amounts on deposit in such special funds or accounts are the amounts then required to be on deposit therein or (ii) the application of the proceeds of sale of such obligations then being issued will cure any such deficiency.

B. The Additional Parity Bonds shall be scheduled to mature or be payable as to principal on February 1 or August 1 (or both) in each year the same are to be outstanding or during the term thereof.

C. The City has secured a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the Net Earnings, for the preceding Fiscal Year or for 12 consecutive months out of the 15 months immediately preceding the month the ordinance authorizing the issuance of the Additional Parity Bonds is adopted are at least equal to (i) 1.40 times the Average Annual Debt Service for all Bonds Similarly Secured then outstanding after giving effect to the issuance of the Additional Parity Bonds then being issued and (ii) 1.10 times the maximum annual Debt Service payment to be paid in a Fiscal Year for the Bonds Similarly Secured then outstanding after giving effect to the issuance of the Additional Parity Bonds then being issued. In making a determination of the Net Earnings, the Accountant may take into consideration a change in the rates and charges for services and facilities afforded by the System that became effective at least sixty (60) days prior to the last day of the period for which Net Earnings are determined and, for purposes of satisfying the above Net Earnings test, make a pro forma determination of the Net Earnings of the System for the period of time covered by his certification or opinion based on such change in rates and charges being in effect for the entire period covered by the Accountant's certificate or opinion.

D. To pay, together with any other lawfully available funds, any other legally incurred indebtedness payable from the Net Revenues of the System and/or secured by a lien on the System.

As used in this Section, the term "Net Earnings" shall mean the Gross Revenues of the System after deducting the Maintenance and Operating Expenses of the System, but not depreciation charges or expenditures which, under generally accepted accounting principles, should be charged to capital expenditures.

SECTION 19. Refunding Bonds. The City reserves the right to issue refunding bonds to refund all or any part of the outstanding Bonds Similarly Secured (pursuant to any law then available) upon such terms and conditions as the City Council of the City may deem to be in the best interest of the City and its inhabitants, and if less than all such outstanding Bonds Similarly Secured are refunded, the conditions precedent prescribed (for the issuance of Additional Parity Bonds) set forth in subparagraph C of Section 18 shall be satisfied and the Accountant's certificate or opinion required in subparagraph C shall give effect to the Debt Service of the proposed refunding bonds (and shall not give effect to the Debt Service of the Bonds Similarly Secured being refunded following their cancellation or provision being made for their payment).

SECTION 20. Obligations of Inferior Lien and Pledge. The City hereby reserves the right to issue obligations payable from and secured by a lien on and pledge of the Net Revenues of the System, including the Inferior Lien Obligations, junior and subordinate in rank and dignity to the lien and pledge securing the payment of the Bonds Similarly Secured, as may be authorized by the laws of the State of Texas.

SECTION 21. Rates and Charges. That, for the benefit of the Holders of the Bonds and in addition to all provisions and covenants in the laws of the State of Texas and in this Ordinance, the City hereby expressly stipulates and agrees, while any of the Bonds are Outstanding, to establish and maintain rates and charges for facilities and services afforded by the System that are reasonably expected, on the basis of available information and experience and with due allowance for contingencies, to produce Gross Revenues in each Fiscal Year sufficient:

A. To pay Maintenance and Operating Expenses, depreciation charges and replacement and betterment costs,

B. To produce Net Revenues sufficient to pay the principal of and interest on the Bonds Similarly Secured and the amounts required to be deposited in any reserve or contingency fund created for the payment and security of the Bonds Similarly Secured, and other obligations or evidences of indebtedness issued or incurred that are payable only from and secured solely by a lien on and pledge of the Net Revenues of the System, and

C. To produce Net Revenues equal to at least 1.20 times the Debt Service due and payable on the outstanding Bonds Similarly Secured.

SECTION 22. Maintenance and Operation - Insurance. The City shall maintain the System in good condition and operate the System in an efficient manner and at reasonable cost. While any Bonds are Outstanding, 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. The City is in compliance with all franchises, permits and authorizations necessary for the operation of the System and required by any governmental agency; and the City has or will obtain, and shall keep in full force and effect while the Bonds are Outstanding, all franchises, permits, authorizations and approvals required for or with respect to the operation and maintenance of the System.

SECTION 23. Sale or Lease of Properties. The City, to the extent and in the manner authorized by law, may sell or exchange for consideration representing the fair value thereof, as determined by the City Council of the City, any property not necessary or required in the efficient operations of the System, or any equipment not necessary or useful in the operations thereof or which is obsolete, damaged or worn out or otherwise unsuitable for use in the operation of the System. The proceeds of any sale of properties of the System shall be deposited in the System Fund.

SECTION 24. Records and Accounts. The City hereby covenants and agrees that so long as any of the Bonds or any interest thereon remain outstanding, it will keep and maintain separate and complete records and accounts pertaining to the operations of the System in which complete and correct entries shall be made of all transactions relating thereto, as provided by Chapter 1502, as amended, Texas Government Code or other applicable law. The Holder or Holders of any Bonds

Similarly Secured or any duly authorized agent or agents of such Holders shall have the right at all reasonable times to inspect such records, accounts and data relating thereto, and to inspect the System and all properties comprising same. The City further agrees that following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Each such audit, in addition to whatever other matters may be thought proper by the Accountant, shall particularly include the following:

- A. A statement of the income and expenses of the System for such Fiscal Year.
- B. A balance sheet for the System as of the end of such Fiscal Year.
- C. A statement describing the sources and application of funds of the System for such Fiscal Year.
- D. The Accountant's comments regarding the manner in which the City has carried out the requirements of this Ordinance and any other ordinance authorizing the issuance of Bonds Similarly Secured and his recommendations for any changes or improvements in the operations, records and accounts of the System.
- E. A list of insurance policies in force at the end of the Fiscal Year covering the properties of the System, setting out as to each policy the amount thereof, the risk covered, the name of the insurer and the policy's expiration date.

Expenses incurred in making an annual audit of the operations of the System are to be regarded as Maintenance and Operating Expenses. Copies of each annual audit shall be furnished to the Executive Director of the Municipal Advisory Council of Texas at his office in Austin, Texas, the City's Financial Advisor and, upon request, to the original purchaser of the Bonds and subsequent Holders of any of said Bonds. The audits herein required shall be made within 120 days following the close of each Fiscal Year insofar as is possible.

SECTION 25. Special Covenants. The City further covenants and agrees by and through this Ordinance as follows:

- A. It has the lawful power to pledge the Net Revenues of the System to the payment of the Bonds to the extent provided herein and has lawfully exercised said power under the Constitution and laws of the State of Texas, and that the Bonds issued hereunder, together with the Previously Issued Bonds and the Additional Parity Bonds shall be ratably secured in such manner that no one Bond shall have preference over any other Bond of said issues.
- B. The Net Revenues of the System have not been in any manner pledged or encumbered to the payment of any debt or obligation of the City or the System, save and except for the Previously Issued Bonds and the Bonds.
- C. That no free services of the System shall be allowed, and should the City or any of its agents or instrumentalities make use of the services and facilities of the System, payment of the reasonable value thereof shall be made by the City out of funds from sources other than the revenues and income of the System.

D. To the extent that it legally may, the City further covenants and agrees that, so long as any of the Bonds or any interest thereon are Outstanding, no franchise shall be granted for the installation or operation of any waterworks, sewer or electric light and power system other than those owned by the City, and the operation of any such system by anyone other than this City is hereby prohibited; provided, however, when the Previously Issued Bonds issued on or before December 16, 1997 are no longer outstanding, the City expressly reserves the right to eliminate or modify this covenant, at its sole discretion, for any purpose or in order to comply with then existing federal or Texas law.

SECTION 26. Remedy in Event of Default. In addition to all rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Bond Fund or the Reserve Fund as required by this Ordinance or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the Holder or Holders of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in this Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

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

SECTION 27. Special Obligations. The Bonds are special obligations of the City payable from the pledged Net Revenues of the System and the Holders of the Bonds shall never have the right to demand payment thereof out of funds raised or to be raised by taxation.

SECTION 28. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of the Net Revenues of the System under this Ordinance and all other obligations of the City to the Holders shall thereupon cease, terminate, and become void and be discharged and satisfied.

Bonds, or any principal amount(s) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at Stated Maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and/or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any money deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. In the event of a defeasance of the Bonds, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, an independent accounting firm or another qualified third

party concerning the deposit of cash and/or Government Obligations to pay, when due, the principal of, redemption premium (if any), and interest due on any defeased Bonds. As and to the extent applicable, if at all, the City covenants that no deposit of money or Government Obligations will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as arbitrage bonds within the meaning of section 148 of the Code (as defined in Section 32).

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the City, be remitted to the City against a written receipt therefor.

Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem defeased Bonds that is made in conjunction with the payment arrangements specified in (i) or (ii) above shall not be irrevocable, provided that: (1) in the proceedings providing for such defeasance, the City expressly reserves the right to call the defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the defeased Bonds immediately following the defeasance; (3) directs that notice of the reservation be included in any redemption notices that it authorizes; and (4) at the time of the redemption, satisfies the conditions of (i) or (ii) above with respect to such defeased debt as though it was being defeased at the time of the exercise of the option to redeem the defeased Bonds, after taking the redemption into account in determining the sufficiency of the provisions made for the payment of the defeased Bonds.

SECTION 29. Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section. The City, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of Holders holding a majority in aggregate principal amount of the Bonds Similarly Secured then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 30. Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a

replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

SECTION 31. Sale of the Bonds; Approval of Private Placement Memorandum; Use of Bond Proceeds. The sale of the Bonds to the Texas Water Development Board (the *TWDB* or the *Purchasers*, and having all the rights, benefits, and obligations of a Holder) at the price of par, less the origination fee of \$ _____ pursuant to a loan commitment received from the Purchasers is hereby confirmed. The pricing and terms of the sale of the Bonds are hereby found and determined to be the most advantageous reasonably obtainable by the City. Delivery of the Bonds to the Purchasers shall occur as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of loan commitment, and this Ordinance.

The Private Placement Memorandum related to the Bonds and presented to the City Council in connection with this Ordinance is hereby approved. Any Authorized Official is hereby directed to deliver the Private Placement Memorandum to the Purchasers in satisfaction of the prerequisite of the Purchasers to receive the Private Placement Memorandum prior to their purchase of the Bonds.

Proceeds from the sale of the Bonds shall be applied as follows:

(1) Accrued interest on the Bonds, if any, received from the Purchasers shall be deposited into the Bond Fund.

(2) The balance of the proceeds derived from the sale of the Bonds (after paying costs of issuance) shall be deposited into the special construction account to be designated "CITY OF SEGUIN, TEXAS CLEAN WATER STATE REVOLVING FUND PROGRAM LOAN CONSTRUCTION FUND" (the *Construction Fund*) for the receipt and disbursement of all proceeds from the sale of the Bonds and all other funds acquired by the City in connection with the planning and construction of the Project financed, in whole or in part, by the Purchasers pursuant to the loan evidenced by the Bonds. All funds deposited to the credit of the Construction Fund shall be disbursed only for the payment of

costs and expenses incurred in connection with the planning and building of the Project as approved by the Purchasers and as otherwise allowed by the rules and in accordance with the provisions of Chapter 15 or 17 of the Texas Water Code, as amended. The Construction Fund shall be established and maintained at the Depository and shall be invested in accordance with the provisions of Section 17 of this Ordinance or otherwise secured in accordance with the provisions of Section 10 of this Ordinance, but any money deposited into the Construction Fund shall not be commingled with any other funds of the Issuer. Interest earned on the proceeds of the Bonds pending completion of construction of the Project financed with such proceeds shall be accounted for, maintained, deposited, and expended as permitted by the provisions of Chapter 1201, as amended, Texas Government Code, or as required by any other applicable law. Thereafter, such amounts shall be expended in accordance with Section 12 of this Ordinance.

SECTION 32. Covenants to Maintain Tax-Exempt Status.

A. Definitions. When used in this Section, the following terms have the following meanings:

“*Code*” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“*Computation Date*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Gross Proceeds*” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“*Investment*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

“*Rebate Amount*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Regulations*” means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Yield*” of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

B. Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bonds to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

C. No Private Use or Private Payments. Except to the extent it will not cause the Bonds to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

D. No Private Loan. Except to the extent it will not cause the Bonds to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

E. Not to Invest at Higher Yield. Except to the extent it will not cause the Bonds to become “arbitrage bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the

Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, materially exceeds the Yield of the Bonds.

F. Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

G. Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

H. Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Bond Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error

is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

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

J. Bonds Not Hedge Bonds.

(1) The City reasonably expects to spend at least 85% of the spendable proceeds of the Bonds within three years after such Bonds are issued.

(2) Not more than 50% of the proceeds of the Bonds will be invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

K. Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Secretary, City Manager, City Attorney or Director of Finance, either or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document. Such elections shall be deemed to be made on the Closing Date.

SECTION 33. [Reserved].

SECTION 34. Control and Custody of Bonds. The Mayor shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas and shall take and have charge and control of the Bonds pending their approval by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery of the Bonds to the Purchasers.

Furthermore, any Authorized Officials, either or all, are hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Attorney General and their registration by the Comptroller of Public Accounts and, together with the City's financial advisor, bond counsel, and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bonds to the Purchasers.

SECTION 35. Printed Opinion. The Purchasers' obligation to accept delivery of the Bonds is subject to its being furnished a final opinion of Norton Rose Fulbright US LLP, Austin, Texas, as Bond Counsel, approving certain legal matters as to the Bonds, said opinion to be dated and delivered as of the date of initial delivery and payment for such Bonds. Printing of a true and

correct copy of said opinion on the reverse side of each of said Bonds, with appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City is hereby approved and authorized.

SECTION 36. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the City nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 37. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 38. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, bond counsel, Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, bond counsel, the Paying Agent/Registrar, and the Holders.

SECTION 39. Inconsistent Provisions. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 40. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 41. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 42. Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 43. Authorization of Paying Agent/Registrar Agreement. The City Council hereby finds and determines that it is in the best interest of the City to authorize the execution of a Paying Agent/Registrar Agreement concerning the payment, exchange, and transferability of the Bonds. A copy of the Paying Agent/Registrar Agreement is attached hereto, in substantially final form, as Exhibit A and is incorporated by reference to the provisions of this Ordinance.

SECTION 44. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 45. Continuing Disclosure of Information.

A. Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

EMMA means the MSRB's Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) <http://www.emma.msrb.org>.

Financial Obligation means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

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.

Undertaking means the City's continuing disclosure undertaking, described in Subsections B through F below, hereunder accepted and entered into by the City for the purpose of compliance with the Rule.

B. Annual Reports.

The City shall file annually with the MSRB, within six months after the end of each fiscal year of the City ending in or after [2022/2023], financial information and operating data with respect to the City of the general type included in the final Application authorized by Section 31 of this Ordinance, being the information described in Exhibit C hereto. All such information must be filed with MSRB pursuant to its Electronic Municipal Access (EMMA) System. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the City commissions an audit of such financial 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 such period, then the City shall file unaudited financial statements within such period and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such financial statements becomes available. Under current Texas law, including, but not limited to, Chapter 103, as amended, Texas Local Government Code, the City must have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the City Secretary within 180 days after the last day of the City's fiscal year. Additionally, upon the filing of this financial statement and the annual audit, these documents are subject to the Texas Open Records Act, as amended, Texas Government Code, Chapter 552.

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

C. Notice of Certain Events.

The City shall file notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;

- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of 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;
- (14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
- (15) Incurrence of a Financial Obligation of the City material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

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

D. 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 Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit that causes the Bonds to be no longer Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not 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 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 Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH 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.

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 Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of 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 Bonds 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 Bonds. The City may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section

in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, the City 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.

E. Information Format – Incorporation by Reference.

The City information required under this Section shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.

Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

F. General Policies and Procedures Concerning Compliance with the Rule.

Because the issuance of the Bonds is subject to the provisions of the Rule and because the potential “underwriters” in a negotiated sale of the Bonds or the initial purchasers in a competitive sale of the Bonds may be subject to MSRB rules and regulations with respect to such sale (including certain due diligence and suitability requirements, among others), the City hereby adopts the General Policies and Procedures Concerning Compliance with the Rule (the “Policies and Procedures”), attached hereto as Exhibit E, with which the City shall follow to assure compliance with the Undertaking. The City has developed these Policies and Procedures for the purpose of meeting its requirements of the Undertaking and, in connection therewith, has sought the guidance from its internal staff charged with administering the City’s financial affairs, its municipal or financial advisors, its legal counsel (including its Bond Counsel), and its independent accountants (to the extent determined to be necessary or advisable). The Policies and Procedures can be amended at the sole discretion of the City and any such amendment will not be deemed to be an amendment to the Undertaking. Each Authorized Official is hereby authorized to amend the Policies and Procedures as a result of a change in law, a future issuance of indebtedness subject to the Rule, or another purpose determined by the Authorized Official to be necessary or desirable for or with respect to future compliance with the Undertaking.

SECTION 46. Book-Entry Only System.

It is intended that the Bonds will initially be registered so as to participate in a securities depository system (the *DTC System*) with the Depository Trust Company, New York, New York, or any successor entity thereto (*DTC*), as set forth herein. Each Stated Maturity of the Bonds shall

be issued (following cancellation of the Initial Bonds described in Section 7) in the form of a separate single definitive Bond. Upon issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as the nominee of DTC, and all of the Outstanding Bonds shall be registered in the name of Cede & Co., as the nominee of DTC. The City and the Paying Agent/Registrar are authorized to execute, deliver, and take the actions set forth in such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including the Letter of Representations attached hereto as Exhibit D (the *Representation Letter*).

With respect to the Bonds 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 broker-dealer, bank, or other financial institution for which DTC holds the Bonds from time to time as securities depository (a *Depository Participant*) or to any person on behalf of whom such a Depository Participant holds an interest in the Bonds (an *Indirect Participant*). 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 Depository Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository Participant or any other person, other than a registered owner of the Bonds, as shown on the Security Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the delivery to any Depository Participant or any Indirect Participant or any other Person, other than a Holder of a Bond, of any amount with respect to principal of, premium, if any, or interest on the Bonds. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a bond certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest on the Bonds pursuant to this 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 or drafts being mailed to the Holder, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

In the event that (a) the City determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (b) the Representation Letter shall be terminated for any reason, or (c) DTC or the City determines that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City shall notify the Paying Agent/Registrar, DTC, and the Depository Participants of the availability within a reasonable period of time through DTC of bond certificates, and the Bonds shall no longer be restricted to being registered in the name of Cede & Co., as nominee of DTC. At that time, the City may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a securities depository system, as may be acceptable to the City, or such depository's agent or designee, and if the City and the Paying Agent/Registrar do not select such alternate securities depository system then the Bonds may be registered in whatever name or names the Holders of Bonds transferring or exchanging the Bonds shall designate, in accordance with the provisions hereof.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Representation Letter.

SECTION 47. Unavailability of Authorized Publication. If, because of the temporary or permanent suspension of any newspaper, journal, or other publication, or, for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Ordinance shall be given in such other manner and at such time or times as in the judgment of the City or of the Paying Agent/Registrar shall most effectively approximate such required publication and the giving of such notice in such manner shall for all purposes of this Ordinance be deemed to be in compliance with the requirements for publication thereof.

SECTION 48. No Recourse Against City Officials. No recourse shall be had for the payment of principal of, premium, if any, or interest on any Bond or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bond.

SECTION 49. Compliance with Purchasers' Rules and Regulations. The Issuer will comply with all of the requirements contained in the resolution or resolutions adopted by the Purchasers with respect to the issuance of the Bonds. In addition, in compliance with the Purchasers' Clean Water State Revolving Fund Program Rules, the Issuer hereby agrees, consents, and covenants the following:

A. The commitment of the TWDB to purchase the Bonds is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand.

B. The commitment of the TWDB to purchase the Bonds is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas that all of the requirements of the laws under which the Bonds were issued have been complied with; that the Bonds were issued in conformity with the Constitution and laws of the State of Texas; and that the Bonds are valid and binding obligations of the Issuer.

C. The commitment of the TWDB to purchase the Bonds is contingent upon the Issuer's compliance with all applicable requirements contained in 31 TAC Chapter 375.

D. The Bonds may be called for early redemption on any date beginning on or after the first interest payment date which is ten (10) years from the Bond Date, at a redemption price of par, together with accrued interest to the date fixed for redemption, as provided in Section 4.

E. The Issuer shall comply with the requirements of the Rule as if the TWDB were a "Participating Underwriter" within the meaning of the Rule, as provided in Section 45. The Issuer shall further annually submit an audit, prepared by a certified public accountant or firm of certified public accountants, to the TWDB, as provided in Section 24.

F. The Issuer shall maintain and collect sufficient rates and charges to produce System revenues in an amount necessary to meet the debt service requirements of all outstanding debt obligations and to maintain the funds established and required by the Bonds, as provided in Section 21.

G. The Issuer shall use any loan proceeds evidenced by the Bonds that are determined to be "remaining unused funds", which are those funds unspent after the Project (as approved by TWDB) is completed, for enhancements to the Project that are explicitly approved by the

Executive Administrator of the TWDB or, if no enhancements are authorized by the Executive Administrator, the Issuer shall submit a final accounting and disposition of any unused funds. In determining “remaining unused funds”, the Issuer agrees to account for all amounts deposited to the credit of the Construction Fund, including all loan funds extended by the TWDB, all other funds available from the Project as described in the project engineer’s or fiscal representative’s sufficiency of funds statement, and all interest earned by the Issuer on money in the Construction Fund.

H. The Issuer shall use any loan proceeds evidenced by the Bonds that are determined to be “surplus funds” remaining after completion of the Project and completion of a final accounting in a manner as approved by the Executive Administrator.

I. For so long as the TWDB is a Holder of the Bonds, the TWDB may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the TWDB’s full exercise of these remedies shall be of no force and effect, as provided in Section 19.

J. Loan proceeds evidenced by the Bonds are public funds and, as such, shall be held at a designated State depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Chapter 2256, as amended, Texas Government Code, and the Public Funds Collateral Act, Chapter 2257, as amended, Texas Government Code, as provided in Section 26 and in the Escrow Agreement authorized in Section 38 and attached hereto, in substantially final form, as Exhibit B.

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

L. Prior to the Closing Date, the Issuer shall submit documentation evidencing the adoption and implementation of sufficient System rates and charges for the repayment of all System debt service requirements.

M. Prior to the Closing Date, and if not previously provided with the Application, the Issuer shall submit executed contracts for engineering and, if applicable, Financial Advisor and Bond Counsel contracts, for the Project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts shall be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator.

N. Prior to the Closing Date, the Issuer shall execute the Escrow Agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed Escrow Agreement to the TWDB. The Escrow Agreement is authorized herein pursuant to Section 50 and attached hereto, in substantially final form, as Exhibit B.

O. The Issuer shall, if required by the Executive Administrator, execute a separate financing agreement in form and substance acceptable to the Executive Administrator.

P. The Issuer shall comply with all applicable TWDB laws and rules related to the use of the financial assistance.

Q. The Issuer shall comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources.

R. The Issuer's Bond Counsel shall prepare a written opinion that states that the interest on the Bonds is excludable from gross income or is exempt from federal taxation. Bond Counsel may rely on covenants and representations of the Issuer when rendering this opinion.

S. The opinion of Bond Counsel shall also state that the Bonds are not "private activity bonds" within the meaning of section 141 of the Code and the Regulations and rulings thereunder. Bond Counsel may rely on covenants and representations of the Issuer when rendering this opinion.

T. The Issuer shall not use the proceeds of the loan evidenced by the Bonds in a matter that would cause the Bonds to become "private activity bonds" within the meaning of section 141 of the Code and the Regulations and rulings thereunder, as provided in Section 32C.

U. No portion of the proceeds of the loan evidenced by the Bonds will be used, directly or indirectly, in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of section 141 of the Code and the Regulations and rulings thereunder, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the loan (the *Source Series Bonds*), other than Nonpurpose Investments acquired with:

(1) proceeds of the Source Series Bonds invested for a reasonable temporary period of up to three (3) years (reduced by the period of investment by the Purchasers) until such proceeds are needed for the facilities to be financed;

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

(3) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Bonds, 125% of average annual debt service on the Bonds, or 10% of the stated principal amount (or, in the case of a discount, the issue price) of the Bonds.

V. The Issuer shall take all necessary steps to comply with the requirement that certain amounts earned on the investment of gross proceeds of the Bonds be rebated to the federal government in order to satisfy the requirements of section 148 of the Code, as provided in Section 32H.

W. The Issuer shall not take any action that would cause interest on the Bonds to be includable in gross income for federal income tax purposes, as provided in Section 32B.

X. The Issuer will not cause or permit the Bonds to be treated as “federally guaranteed” obligations within the meaning of section 149(b) of the Code, as provided in Section 32F.

Y. The closing transcript of the Issuer shall contain a “No Arbitrage Certificate” or similar “Federal Tax Certificate” setting forth the Issuer’s reasonable expectations regarding the use, expenditure and investment of the proceeds of the Bonds.

Z. The Issuer shall not use proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (related to “advance refundings”).

AA. The closing transcript shall include evidence that the information reporting requirements of section 149(e) of the Code will be satisfied, as provided in Section 32G.

BB. Neither the Issuer nor a related party thereto will acquire any of the TWDB’s Source Series Bonds in an amount related to the amount of the Bonds to be acquired from the Issuer by the TWDB.

CC. The Issuer shall submit outlay reports with sufficient supporting documentation on costs (e.g., invoices, receipts) on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.

DD. All laborers and mechanics employed by contractors and subcontractors for the Project shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the US Department of Labor’s implementing regulations. The Issuer, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with the Davis-Bacon Act. All contracts and subcontracts from the construction of the Project carried out in whole or in part with financial assistance made available by the TWDB to the Issuer as evidenced by the Bonds shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB.

EE. The Issuer shall 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, as amended by Pub. L. 110-252. The Issuer shall obtain a Data Universal Numbering System (*DUNS*) Number and shall register with the System for Award Management (*SAM*), and maintain current registration at all times during which the Bonds are Outstanding.

FF. All loan proceeds evidenced by the Bonds will be timely and expeditiously used, as required by 40 CFR §35.3135(d), and the Issuer will adhere to the approved project schedule.

GG. The Issuer shall abide by all applicable construction requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC §375.3(g) and 33 U.S.C. §1388, and related State Revolving Fund Policy Guidelines.

HH. The Issuer will comply with the requirements set forth in 33 U.S.C. §1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles. These standards and principles also apply to the reporting of underlying infrastructure assets.

II. The Issuer shall submit, prior to the release of funds, a schedule of the useful life of the Project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the Bonds purchased by the TWDB does not exceed 120% of the average projected useful life of the Project, as determined by the schedule.

JJ. Prior to or on the Closing Date, the Issuer shall pay an origination fee to the TWDB calculated pursuant to 31 TAC Chapter 375 and the applicable Intended Use Plan, as provided in Section 26;

KK. At the TWDB's option, the TWDB may fund the financial assistance evidenced by the Bonds with either available cash-on-hand or from bond proceeds. If the financial assistance evidenced by the Bonds is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance evidenced by the Bonds.

LL. Prior to release of funds for professional consultants including, but not limited to, the engineer, Financial Advisor, and Bond Counsel, as appropriate, the Issuer shall provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprise program.

MM. Prior to the release of funds for professional services related to architecture or engineering, including but not limited to, contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. §1102(2)(A)(C), the Issuer shall provide documentation that it has met all applicable federal procurement requirements.

NN. The Issuer will provide the TWDB with copies of "as built plans" pertaining to the projects financed, in whole or in part, with any funds of the TWDB.

OO. The Issue will provide for the accumulation of a reserve fund of no less than average annual debt service requirements, to be accumulated in equal monthly installments over the initial sixty (60) months following the issuance of the Bonds. The average annual debt service requirements on the Bonds is \$639,640.10 and such amount shall be so accumulated into the Reserve Fund by the deposit of monthly installments, made on or before the 20th day of each month following the month of delivery of the Bonds, of not less than 1/60th of the average annual debt service requirements on the Bonds.

SECTION 50. Authorization of Escrow Agreement. The City Council hereby finds and determines that it is in the best interest of the City to authorize the execution of an Escrow Agreement, to comply with the Purchasers' rules and regulations and provide for the installment deliveries of the proceeds of the Bonds to the Purchasers, if any. A copy of the Escrow Agreement

is attached hereto, in substantially final form, as Exhibit B, and is incorporated by reference to the provisions of the this Ordinance for all purposes. Any Authorized Official is authorized to execute the Escrow Agreement as the act and deed of the City Council.

SECTION 51. Reserved.

SECTION 52. Further Procedures. The officers and employees of the City are hereby 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 initial sale and delivery of the Bonds, the Private Placement Memorandum, the Escrow Agreement, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the Mayor, the City Manager, the City Attorney, and Bond Counsel are hereby authorized and directed to approve any technical 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 and as described in the Private Placement Memorandum, (ii) obtain a rating from any of the national bond rating agencies, (iii) obtain a Policy, or (iv) obtain the approval of the Bonds by the Texas Attorney General's office. In case any officer of the City whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 53. Contracts with Financial Advisor and/or Bond Counsel. The City Council authorizes the Mayor, the Mayor Pro Tem, and/or the City Manager, or their designees, to take all actions necessary to execute any necessary financial advisory contracts with SAMCO Capital Markets, Inc., as the financial advisor to the City (the *Financial Advisor*). The City understands that under applicable federal securities laws and regulations that the City must have a contractual arrangement with its Financial Advisor relating to the sale, issuance, and delivery of the Bonds. The prior engagement of Bond Counsel is hereby approved, ratified and confirmed. Any Authorized Official is hereby authorized to execute a letter or agreement with such firm confirming such prior engagement in connection with the issuance of the Bonds.

SECTION 54. City's Consent to Provide Information and Documentation to the Texas MAC. The Municipal Advisory Council of Texas (the *Texas MAC*), a non-profit membership corporation organized exclusively for non-profit purposes described in section 501(c)(6) of the Internal Revenue Code and which serves as a comprehensive financial information repository regarding municipal debt issuers in Texas, requires provision of written documentation regarding the issuance of municipal debt by the issuers thereof. In support of the purpose of the Texas MAC and in compliance with applicable law, the City hereby consents to and authorizes any Authorized Official, Bond Counsel to the City, and/or Financial Advisor to the City to provide to the Texas MAC information and documentation requested by the Texas MAC relating to the Bonds; provided, however, that no such information and documentation shall be provided prior to the Closing Date. This consent and authorization relates only to information and documentation that is a part of the public record concerning the issuance of the Bonds.

SECTION 55. Effective Date. Pursuant to the provisions of Section 1201.028, as amended, Texas Government Code, this Ordinance shall be effective immediately upon adoption, notwithstanding any provision in the City's Home Rule Charter to the contrary concerning a multiple reading requirement for the adoption of ordinances.

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PASSED AND ADOPTED on the 21st day of February, 2023.

CITY OF SEGUIN, TEXAS

Mayor

ATTEST:

City Secretary

(CITY SEAL)

APPROVED AS TO LEGALITY

City Attorney

INDEX TO EXHIBITS

- EXHIBIT A - Paying Agent/Registrar Agreement
- EXHIBIT B – Escrow Agreement
- EXHIBIT C – Description of Annual Financial Information
- EXHIBIT D – DTC Letter of Representations
- EXHIBIT E – General Policies and Procedures Concerning
Compliance with the Rule

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

SEE TAB NO. __

EXHIBIT B

ESCROW AGREEMENT

SEE TAB NO. __

EXHIBIT C

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 45 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Application referred to) below:

1. The City's audited financial statements for the most recently concluded fiscal year or to the extent these audited financial statements are not available, the portions of the unaudited financial statements of the City referenced in the Application, but for the most recently concluded fiscal year.

Accounting Principles

The accounting principles referred to in such Section are generally accepted accounting principles for governmental units as prescribed by the Government Accounting Standards Board from time to time.

EXHIBIT D

DTC LETTER OF REPRESENTATIONS

SEE TAB NO. __

EXHIBIT E

GENERAL POLICIES AND PROCEDURES CONCERNING COMPLIANCE WITH THE RULE

I. Capitalized terms used in this Exhibit have the meanings ascribed thereto in Section 45 of the Ordinance. “Bonds” refer to the Bonds that are the subject of the Ordinance to which this Exhibit is attached.

II. As a capital markets participant, the City is aware of its continuing disclosure requirements and obligations existing under the Rule prior to February 27, 2019, the effective date of the most recent amendment to the Rule (the “Effective Date”), and has implemented and maintained internal policies, processes, and procedures to ensure compliance therewith. Adherence to these internal policies, processes, and procedures has enabled underwriters in non-exempt negotiated sales and initial purchasers in non-exempt competitive sales to comply with their obligations arising under various MSRB rules and regulations concerning due diligence and findings of suitability, among other matters, regarding the City’s compliance with the Rule.

III. The City is aware that the Rule was amended as of the Effective Date (the *Rule Amendment*) and has accommodated this amendment by adding subparagraphs (15) and (16) to Section 45C of the Ordinance, which provisions are a part of the Undertaking.

IV. The City is aware that “participating underwriters” (as such term is defined in the Rule) of the Bonds must make inquiry and reasonably believe that the City is likely to comply with the Undertaking and that the standards for determining compliance have increased over time as a result of, among others, the United States Securities and Exchange Commission’s Municipalities Continuing Disclosure Cooperation Initiative and regulatory commentary relating to the effectiveness of the Rule Amendment.

V. The City now establishes the following general policies and procedures (the “Policies and Procedures”) for satisfying its obligations pursuant to the Undertaking, which policies and procedures have been developed based on the City’s informal policies, procedures, and processes utilized prior to the Effective Date for compliance with the City’s obligations under the Rule, the advice from and discussions with the City’s internal senior staff (including staff charged with administering the City’s financial affairs), its municipal or financial advisors, its legal counsel (including Bond Counsel), and its independent accountants, to the extent determined to be necessary or advisable (collectively, the “Compliance Team”):

1. the City Manager of the City (the “Compliance Officer”) shall be responsible for satisfying the City’s obligations pursuant to the Undertaking through adherence to these Policies and Procedures;
2. the Compliance Officer shall establish reminder or “tickler” systems to identify and timely report to the MSRB, in the format thereby prescribed from time to time, the City’s information of the type described in Section 45B of the Ordinance;
3. the Compliance Officer shall promptly determine the occurrence of any of the events described in Section 45C of the Ordinance;

4. the Compliance Officer shall work with external consultants of the City, as and to the extent necessary, to timely prepare and file with the MSRB the annual information of the City and notice of the occurrence of any of the events referenced in Clauses 2 and 3 above, respectively, the foregoing being required to satisfy the terms of the Undertaking;
5. the Compliance Officer shall establish a system for identifying and monitoring any Financial Obligations, whether now existing or hereafter entered into by the City, and (upon identification) determining if such Financial Obligation has the potential to materially impact the security or source of repayment of the Bonds;
6. upon identification of any Financial Obligation meeting the materiality standard identified in Clause 5 above, the Compliance Officer shall establish a process for identifying and monitoring any City agreement to covenants, events of default, remedies, priority rights, or other similar terms under such Financial Obligation;
7. the Compliance Officer shall establish a process for identifying the occurrence of any default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any Financial Obligation, the occurrence of any of which reflect financial difficulties of the City; and
8. the Compliance Officer shall annually review these Policies and Procedures with the remainder of the Compliance Team, make any modifications on an internal document retained by the Compliance Officer and available to any “participating underwriter” (as defined in the Rule), if requested, and on the basis of this annual review (to the extent determined to be necessary or desirable), seek additional training for herself or himself, as well as other members of the City’s internal staff identified by the Compliance Officer to assist with the City’s satisfaction of the terms and provisions of the Undertaking.